

WINNERS OR LOSERS?
LIBERALIZING PUBLIC SERVICES



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WINNERS OR LOSERS? LIBERALIZING PUBLIC SERVICES

Edited by Ellen Roskam

INTERNATIONAL LABOUR OFFICE ● GENEVA

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Edited by Ellen Roskam

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PREFACE

This publication is part of a two-stage project to examine the impacts of the liberalization of public services on a number of security concerns for workers — their employment security, income security, voice representation security, health and safety, etc. The Socio-Economic Security Programme of the International Labour Organization (ILO) initiated the project and Public Services International (PSI) was happy to respond to its request to collaborate. We believe the results will be of benefit to our 20 million members and their unions in 149 countries. We are indebted to our affiliates who put a great deal of time and careful consideration into answering the detailed and comprehensive questions, and to Education International, which cooperated with us in the survey and chapters on education services.

The results of the survey will appear in a companion volume. This publication represents an important introduction to the survey results, helping to put those results into context. Whilst the survey will offer data and case studies from real life, the chapters in this volume offer an analytical overview of the impacts of various forms of liberalization, deregulation, privatization and new managerialism in many public services. While it is true that a considerable amount has been written about some aspects of so-called reforms in some of these services — health, education, public utilities, for example — much of that literature has focused on the “commercial” aspects — costs, staffing levels and crude estimates of productivity. Even in these areas many of the claims made have been based more on theory and what might happen after the reforms have worked their way through the system. In many cases, where results have not lived up to expectations, this is not laid at the door of the “reforms” but rather at the door of governments who have not gone far or fast enough, or have backed off under pressure from “vested interests”.

The “reformers” tend to select atypical services to prove their point — there is a mountain of literature on reforms in the telecoms sector but, too often, little appreciation that this sector is quite special in the way that new technologies have transformed telecoms and related services. It is assumed that what happened in telecoms can be done elsewhere. Yet, in other services, there is often no new technology and sometimes no data — simply the application of theoretical dictates.

This is especially true in the areas examined in this project: what happens to workers, jobs, and income, working conditions, health and safety, service quality. In that respect, the chapters in this publication are bringing new perspectives, evidence and insights.

PSI hopes that the survey results, put in the context that these chapters provide, will give the ILO, PSI, Education International and other policy-makers a more firm basis from which to evaluate the nature and impact of the reform process. This will help us all provide quality services to a public that expects such services to be delivered by workers who are accountable, with governments, for the way in which such considerable public resources are used.

*Mike Waghorne, Assistant General Secretary,
Alan Leather, Deputy General Secretary,
Public Services International.*

How social services should be delivered and financed has become one of the most sensitive political issues of the early 21st century. In some form or another, the debate has raged for centuries. But the context of “globalization” has made it peculiarly tendentious.

For many decades in the 20th century, it was widely presumed that provision of healthcare, primary and secondary education, pensions and social care, to name the main spheres of social service, would be mainly in the public domain in affluent industrialized societies, and eventually in every part of the world. Then in the 1980s (if not in the 1970s), there was an ideological shift in mainstream thinking. The notion of “pluralism” (public-private mix) was not enough; zealots preached that wholesale “privatization” was the only way to improve efficiency in all respects. The image opened up that the public sector would become a residual one, catering only or largely for those who could not afford a more decent private service.

Since then, debates have raged. They have come a long way since the 1980s. Policymakers and social scientists have wrestled with issues of competition. Should a public social service be exposed to competition from private providers? This is the

essence of what has come to be discussed under the rubric of liberalization, leading to questions over the desirability of foreign competition. A distinct but related debate has been held on whether or not a public service should be subject to commercialization? In other words, should it charge for services, and if so who should pay, how much should they pay and how should they be charged?

Undoubtedly, the last quarter of the 20th century was an era of experimentation as governments tried to devise formulae that could satisfy diverse and often conflicting objectives. Regrettably, the debates have often been bedevilled by charges of ideological heresy, and by conflicting objectives. What has to be emphasized is that the objectives have to be made clearer than they often are in those debates.

A social service is intended to provide a good and improving service, and it was long presumed that the service should be made available on a universal basis. Put bluntly, the ideal has been that the quality of the service should be good and the same — equally good — for the rich as for the poorer members of society. Implicitly, the designers of public social services expected that the service would strengthen a societal sense of social solidarity, in that the less fortunate would gain proportionately more than the more fortunate. And there was recognition that public provision was beneficial because of important externalities, that is, that by providing individuals with a particular service those around him or her were also likely to benefit to some extent as well.

The liberalizers are less impressed by these citizenship arguments than they are by notions of freedom and choice. According to them, people should be free to choose from a range of alternative providers, and they should be able to pay more or less for what they choose, according to their capacity to pay and desire to pay. They believe that a single public provider suffers from a lack of pressure to be efficient and a lack of pressure to provide a “quality service”. The public service acts as a monopsonist and as a monopolist, able to lower the price of products and services supplied to it and to raise the price and lower the quality of services provided by it.

Roughly speaking, one could say that for about 30 years after the Second World War, the former set of universalistic arguments held sway, at least in western Europe and in many parts of the industrializing world. In the last 30 years, the liberalizers have been in the ascendancy. Undoubtedly, the liberalizers have been helped by the huge and growing power of financial interests and multinational corporations eager to participate in the more profitable parts of the service economy. This has excited considerable disquiet around the world. Because so many of the largest actors in the main services have been US corporations — healthcare, education, pensions, etc. — a fear of “Americanization” has developed. Many commentators have come to the conclusion that a major feature of liberalization has been that US standards and models have been spreading to the detriment of local or culturally specific alternatives.

There is obviously an ideological dimension in the liberalization of social services. Thus, cleverly, the private healthcare lobby in the United States has persuaded the public that universal public healthcare would be a threat to freedom of choice. There and elsewhere, defenders of a purely public service would no doubt respond that people are less concerned about choice than about having a good service available as and when they need it. Defenders of liberalization would no doubt hit back by arguing that it is only by having a choice that pressures will be exerted on any provider to make sure the quality and efficiency of the service are high. The debates on this aspect will surely continue, and should be about how best to ensure a high quality, reasonably priced and universal service.

Although rarely articulated as a major motivation, one reason for the liberalization of social services is the belief that it will boost international trade, which in turn will raise economic growth and national incomes. Not surprisingly, US interests have pushed hardest for liberalization for this reason. It has been estimated that free trade has benefited the United States very considerably, and that liberalizing services would have even greater economic gains than the liberalization of manufacturing and farm products. It is less clear whether or not there are, or would be, trade benefits for other parts of the world, particularly developing countries.

The accelerated liberalization of social services has also been linked most recently to the global role of the World Trade Organization (WTO) and, specifically, to the General Agreement on Trade in Services (GATS). It is this that provides the main backdrop for many of the papers in this volume.

The two subjects that have led to this book, and the accompanying survey of social services being conducted at the same time as it was being written, are the impact of liberalization on the security of workers providing social services and the impact on the recipients of the specific services. As far as the former is concerned, it has long been true that in most countries employees in public social services have had reasonably good security, in terms of incomes and benefits by comparison with the average in the country, in terms of employment security, in terms of access to skill training, in access to safe working conditions, in their membership of unions and other mechanisms for giving workers a voice and bargaining position, and in terms of reasonable job mobility within their services. But those comforting patterns have come under strain in recent years.

There is no single reason for that; it is due to a combination of factors. Among them have been the squeeze on public funding of the various services, especially where governments have been obliged by “structural adjustment programmes” to cut back on public social expenditure, or where governments have been encouraged to think that curbing public social spending would be the route to cutting budget deficits or the route to “confidence” in the economy. All of these rationales for the curbs can be contested

from an economic point of view. But what is clear is that the squeeze has been a factor in legitimising the drive for liberalization, and privatization in particular.

Other factors include the belief that the public services suffer from rigidities and in particular labour inflexibility. This notion has been enormously influential in the past two decades or so. It should never be forgotten that it is essential to unpackage this notion. There are many forms of flexibility and there are several ways of achieving the desirable forms of flexibility and of avoiding the undesirable forms. It is when the term is used as a euphemism for reducing the security of workers that it becomes unacceptable and damaging.

In the main, workers in public social services (as elsewhere) are and want to be flexible, in wanting to do their work in a professional way, providing the public with services that they themselves would like to receive. The trouble is that too many have felt that their working lives are being made more insecure and that this impinges on the ability to provide the service they would wish to provide.

With the liberalization and privatization of services, those inside them have become more worried about actual or potential inequalities within them. The claims are numerous, and deserve objective analysis. Do these changes lead to greater differentiation of treatment, with some privileged “insiders” gaining in terms of income, benefit, training and upwards mobility while others become “outsiders”, to be “outsourced” or made precarious by being put on casual or temporary contracts?

While workers in the social services face difficult times as their sectors are restructured, it is also apparent that the liberalization of services is having a profound effect on the recipients and “clients” of those sectors. Usually, the direct costs rise, particularly where there is a conversion from a “free” public service, free at the point of service, to a “user pay” private service. The danger is that the service is directed to those most able to pay, the relatively affluent, to the detriment of those who are poor or unable to provide the service provider with the assurance that they can and will pay.

This applies most in the case of healthcare and educational services. In others, more sinister forms of inequity and inequality may appear, and require careful regulatory monitoring and evaluation. The most prone to moral hazards are the less well-known or advertised areas of liberalization and privatization, such as imprisonment and care work. In such cases, the “client” is rather vulnerable to opportunistic profit-making activities that take scant notice of the need to respect the dignity and needs of those with whom they are dealing.

The following papers are devoted to analyses of international trends in the liberalization of the main social services. They reflect a variety of points of view, and the

views expressed are of those of the authors, and do not reflect any position held by the ILO. What they do is highlight a set of common concerns that deserve to be given more attention in public debates than has so far been the case. The subjects they cover are fundamentally important to all of us, wherever we are living.

*Guy Standing,
Director,
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SECTION I:
EDUCATION

EDUCATION SERVICES LIBERALIZATION

1

by Dave Hill¹

Foreword

This chapter was written in collaboration with Karen Anijar, Chris Brown, Eero Carroll, Adam Davidson-Harden, David Gabbard, Julian Gindin, Larry Kuehn, Christine Lewis, Ahmed Mukhtar, Raul Pardinaz-Solis, Beatriz Quiros, Daniel Schugurensky, Harry Smaller, Bill Templer.

These associates wrote the 11 commissioned case studies for this chapter (nine countries from four continents, one hemispheric region- Latin America, and one economic grouping region-OECD). As such they bear part-responsibility only for the sections that they wrote rather than for the chapter as a whole. In this chapter, I have simply abstracted or summarized sections from some of them, reordering, editing and subtitling on occasion. The three case studies presented here, on the United States, Latin America and England and Wales, are my own summaries and abstractions from the case studies submitted. Some of the 11 case studies will subsequently be published, in full, as separate chapters.

For this chapter, 11 case studies were commissioned by the author. They provide detailed information on the types, extent and effects of the liberalization of schooling and further education. The studies are written by people who, at the time of writing, were academic writers and trade union officials and representatives.

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Thailand	<p><i>Bill Templer</i> (Rajamangala University of Technology, Thailand).</p>
England and Wales	<p><i>Dave Hill</i> (University College Northampton, United Kingdom).</p> <p><i>Christine Lewis</i> (National Officer, UNISON, United Kingdom).</p> <p><i>Chris Brown</i> (Research Officer, National Union of Teachers (NUT) United Kingdom).</p>
United States	<p><i>Karen Anjar</i> (Arizona State University, United States).</p> <p><i>David Gabbard</i> (East Carolina University, United States).</p>

1. Introduction

Education, along with other public and formerly publicly owned services, is being liberalized in many countries. The extent, mechanisms and effects vary. However, this chapter suggests and tests a series of hypotheses.

- Liberalization of schooling and education services has occurred in many countries around the world.
- Particular national and international levers are promoting the liberalization process.
- Educational services are becoming “Americanized” through policies and processes such as privatization, decentralization, deregulation, “new public management” (business management methods), commercialization and marketization.
- Liberalization is making provision of services more unequal and selective rather than universal. This is intensifying race-, gender- and class-based hierarchies, reflected in formally or informally tiered systems of schooling. In less developed countries, services are available mainly to middle-class or wealthier families. In developed countries, the quality and type of schooling is increasingly stratified.
- Liberalization is eroding workers’ securities.
- Liberalization attempts to embed a shift away from universal citizenship rights and identities based on the provision of services towards a system of individual consumer rights and identities. In education, this involves treating young people as “human capital” and preparing them for “jobs” rather than providing broad-based learning and critical awareness.

These aspects and effects of the liberalization of schooling and other education services are part of a wider rejection of some of the social functions of the state by governments, international organizations and business groups. Public services such as education, health and prisons are being, or have been, transformed into “tradable commodities”.

This chapter produces evidence that the liberalization of education increases inequalities within and between countries, reduces the quality of education, is detrimental to democracy and decreases workers’ pay, rights and conditions. Despite this, liberalization has proceeded apace around the globe.

2. Liberalizing policies

Deregulation and decentralization of educational services have opened the way to privatization, commercialization (marketing of products within schools), marketization (marketization of schools within a competitive market or quasi-market), and the introduction of “new public management” (business management methods) into schools, colleges and education services. These policies have been accompanied by cuts in spending on publicly funded schools and further education services, and by a discourse of antagonism to public services, workers and unions.

2.1. Privatization

The private sector is involved in education services almost everywhere, with activities ranging from selling services to educational institutions to managing and owning schools and other facilities. “Peripheral” services such as cleaning, catering, security and reprographics have been privatized within institutions. Nationally, services such as inspection, student fees and loans, and record keeping are increasingly run by private corporations rather than by local or national governments.

Privatization takes many forms in different countries. In the United States, privatization is part of the agenda of US corporations. President George W. Bush has proposed using federal funds for vouchers that students in failing schools (determined by test scores) could use to attend private schools or to receive educational services from private providers (Lipman, 2000). Other government plans that would promote privatization include assistance for charter school start-ups, creating a fund to promote “school choice” and raising the ceiling on tax-free education savings accounts, which could be used for private schools as well as for college tuition.

In the United Kingdom, “peripheral” services such as catering and cleaning were privatized (contracted out) in the 1980s. Since then, school inspection has been privatized, as has the ownership of some state schools, the management of some functions of local education authorities (school districts) and control of the new Academies — privately run but publicly funded secondary schools. These Academies require a private sponsor to contribute £2 million, in return for which the Government contributes over £20 million in capital costs plus the school’s operating costs. Yet the sponsor appoints a majority of the school governors and has the power to vary nationally agreed staff pay and conditions, alter the skill mix of staff and modify the school curriculum.

In Pakistan, private sector involvement in education was widespread prior to 1972, from primary through college levels. In 1972 the Government nationalized all 19,432 private institutions (Niazi and Hameed, 2002). However, it later concluded that the state alone could not provide universal primary education, much less shoulder the cost of the entire education system. It called for private and community involvement in education, and in particular for more private primary schools.

Starting in the mid-1990s, public policy has aimed at mobilizing private sector and civil society organizations in the financing, management and delivery of education. Private schools have mushroomed at all levels, from pre-school to postgraduate studies. There are an estimated 56,000 private institutions currently operating in Pakistan, providing education to about 6 million students (Government of Pakistan, 2004). The Government has resolved to increase private school enrolment from 15 per cent to 40 per cent by 2010 under the Education Sector Reforms project, which is being funded by all major donors including the World Bank (Government of Pakistan, 2002, p. 34). The private institutions are typically “English medium” schools, located in urban areas, and charge high fees

Commercialism

Direct commercial penetration is evident in the increasing use of commercially sponsored materials in the classroom and around the school. Whitty (2000) suggests that some aspects of marketization contribute to privatization in an ideological if not a strictly economic sense, by fostering the belief that the private sector approach is superior to that traditionally adopted in the public sector, requiring public sector institutions to operate more like those in the private sector, and encouraging private (individual/family) decision-making in place of political and professional judgments. The increasing emphasis on competition and choice has also brought with it what Whitty calls a “hidden curriculum” of marketization.

Possibly the most consistent and thorough analysis of “schoolhouse commercialism” (Molnar, 2003; Molnar et al., 2004) identifies the following eight types in the United States, most of which are on the increase:

- corporate sponsorship of school programmes and activities;
 - agreements giving marketers exclusive rights to sell a product or service on school or district grounds;
 - incentive programmes for commercial products or services as rewards for achieving an academic goal;
-

- appropriation of space to sell naming rights¹ or advertising on school premises or property;
- corporate-sponsored educational materials;
- electronic marketing for media such as radio, television and internet companies to target students through schools;
- private management of public schools, public charter schools and the involvement of private for-profit schools in voucher programmes;
- fundraising.

2.2. Decentralization and deregulation

Liberalized education policies promote decentralization. In Latin America, decentralization efforts have been aimed at scaling down the direct responsibility of central governments for different aspects of education and bolstering increased provincial/regional, municipal and private involvement in education (Borón and Torres, 1996; Munín, 1998; Carnoy, 2002).

Another example of decentralization is Norway, where teachers, although employed by the municipalities, had their wages, working hours and work conditions centrally negotiated by the state. This changed unexpectedly in 2003, without discussion, such that from May 2004 all negotiations were to be carried out with the municipalities (Education International, 2004, p.11).

In England and Wales, decentralization of further education colleges (for the 16-19 age group) has eroded worker securities, and there are fears that the new Academies programme will have a similar effect in the secondary school system (see Section 7.3).

2.3 “Are teachers what is wrong with education?”

Teachers are being singled out for special attention in a manner unlike anything that has occurred before. Formerly, improvements to education were often associated with the need to improve conditions for teachers — class sizes, resources, salaries, benefits, pensions and job security. Even when teachers were seen to be in need of further education themselves, governments moved to expand and improve teacher education programmes and/or to offer incentives for

¹ Naming rights are when a person or company sponsors or funds all or part of a project and is given the right to name the building, or facility in the building, etc.

teachers to engage in further study, whether pre-service or in-service. Today, however, teachers are increasingly being criticized. Teachers themselves, it is widely claimed, constitute the main “problem” in education (see Section 7.1).

In Canada and the United States, while prescriptions for improvement vary widely, in many cases the underlying intentions are clear: individual teachers need to be more carefully selected, trained, directed, evaluated, tested and controlled (Holmes Group, 1990; Darling-Hammond and Ball, 1998; OECD, 1998; Ontario Government, 2000). Often, these initiatives are promoted as meeting a need for increased professionalism. In at least two Canadian jurisdictions (British Columbia and Ontario), government-initiated and controlled “colleges of teachers” have been established, with a mandate to control the training, certification and practice of teachers (Ontario Government, 1995). Similar measures have been taken in other countries.

3. Education workers’ social and economic security

3.1. Impact of liberalization on teachers and other education workers

Liberalization in education affects a number of aspects of workers’ securities. It commonly results in increased casualization of labour, the replacement of national pay agreements by local or institution-based bargaining, greater difficulties in securing recognition for trade unions and their right to represent workers, lower pay, increased differentials in pay and conditions through individual performance-related pay, increased intensification of work and, for school teachers and college lecturers in further education (predominantly teaching 16-19 year-olds), decreased autonomy over curriculum, pedagogy and assessment. These developments have been accompanied by increases in levels of report writing, testing, accountability, monitoring and surveillance, both by in-house local management and by government external agencies. Where full-time permanent contracts with publicly managed employers have been replaced by casualized work, and where that work or educational service has been contracted out or otherwise privatized, there has often been a decline in public service morale and standards of provision.

In England and Wales, the experiences of workers in further education colleges since decentralization (known as “incorporation”) in 1993 show clear negative effects on a number of workers’ securities in most of the above areas, including pay, conditions, casualization, intensification of work, facilities for professional development and further training, and working under “new public

management”. The experience for students has been larger classes and a lowering of standards, such as less contact time with staff (Lewis, 2004b).

The seven forms of socio-economic security identified by the ILO’s Socio-Economic Security Programme (ILO, 2002) are:

- labour market security;
- employment security;
- work security;
- job security;
- skill reproduction security;
- income security; and
- representation security.

There is overlap between these types of security; they are analytical categories and affect each other. For example, casualized workers (reduced employment security) are usually paid less and have fewer rights to sick pay, holiday pay and pension and other benefits (reduced income security), and fewer rights to in-service training and career progression (reduced skill reproduction security).

Not only is there an overlap between these different types of securities; all of them are threatened by privatization. In private schools in Pakistan, for example,

The workforce employed in the education sector is inevitably facing a “corporate” rather than a “social” employer. The private schools are mostly profit-seeking entities, thus ignoring workers’ rights to a great extent as in Pakistan private sector employment lacks the international benchmarks of workers’ socio-economic security. Private schools offer 35-80 per cent less salary while pensions, medical and other facilities and group insurance etc. are not taken care of by most schools in the private sector (Mukhtar, 2004).

Information on workers’ securities (salaries, conditions of employment, employment structures, stresses/pressures at work, work identity/status) is often hard to obtain. One reason is that in decentralized systems it is more difficult for unions to gather information (Lewis, 2004a). Another reason is that a number of companies simply refuse to provide it (see Molnar et al., 2004, with respect to the United States). However, some information is collected by, among others, Education International (a federation of teachers’ unions), Public Services International (a federation of public service unions) and the International Labour Organization.

3.2. Labour market security

Labour market security refers to the provision of adequate employment and work opportunities, through high levels of employment ensured by macroeconomic policy. While globally there does not appear to have been a reduction in the full-time equivalent teaching workforce, there has been an identifiable trend in many countries to reduce the number and ratio of full-time jobs in both teaching and ancillary educational services. This is developed under “employment securities” in the next subsection. However, it affects labour market security, insofar as there is decreasing opportunity for full-time and permanent contracted work.

3.3. Employment security

Employment security refers to the terms and conditions of employment, including protection against arbitrary dismissal and employment stability compatible with economic dynamism. This concerns contractual issues in particular, such as full-time or part-time contracts, permanent or short-term contracts, flexi-time, levels of staffing, turnover rates and issues of employment protection.

Employment security has been weakened by liberalization, in particular by casualization. Staff on fixed-term contracts have the least employment security in the sector, and often have inferior terms and conditions to their permanent colleagues. Fixed-term (temporary) contracts, as opposed to permanent contracts:

- leave many staff feeling exposed and undervalued;
- lead to difficulty in obtaining loans, mortgages and other financial benefits;
- lead to significant recruitment and retention problems;
- are discriminatory, as their use disproportionately affects women and minority groups;
- destroy or damage career progression, as individuals find themselves stuck on the lowest pay grades on a succession of short-term contracts that offer little or no room for staff development;
- mean staff coming to the end of contracts must inevitably spend time applying for funding or other posts.

Part-time staff may well not be invited to staff meetings, and in various countries are not entitled to institutional benefits such as holiday pay, paid sick leave or maternity/paternity leave. Finally, most part-time workers are hourly

paid rather than on permanent fractional or full-time contracts and hence have no job security other than that commonly agreed for the year (or other short-term period) ahead. They are second-class citizens in the workplace.

Liberalization of further education (for the 16-19 age group) in England and Wales has taken the form of decentralization of power from democratically elected local authority control to individual boards of governors running further education colleges. At the same time there has been a decline in core funding. This has resulted in increasing casualization, a growing part-time workforce, more use of temporary contracts and an increase in the use of (private) agency staff, who are not eligible for the same employment benefits as staff directly employed (Lewis, 2004b).

In 1995-96 the Further Education Funding Council estimated that 55 per cent of all college staff and 39 per cent of teaching staff worked part-time. This compares to an estimate by the National Association of Teachers in Further and Higher Education (NATFHE) (the college lecturers' union) of 15 per cent part-time working prior to incorporation in 1993.

As well as more part-time employment, the post-incorporation further education sector has made greater use of temporary staff. Using the census returns to the funding council in 1994-95, NATFHE estimated that 42 per cent of staff employed for more than 15 hours per week had temporary contracts. This compared to a national average across all sectors of 9 per cent. NATFHE also suggested that the use of agency staff avoided contractual obligations, citing examples where colleges had dismissed their part-time lecturers and re-employed them through a third-party provider. Many were on lower pay, self-employed and responsible for their own professional indemnity (House of Commons, 1997, col. 1133).

Ten years after incorporation NATFHE noted that core funding had declined by 10 per cent, a 12 per cent gap in pay had opened up between colleges and schools, 30 per cent of full-time lecturers had been made redundant and casualization had increased (NATFHE, 2003).

3.4. Work security

Work security refers to occupational health and safety (protection against accidents and illness at work) through safety and health regulations, including limits on working time and unsocial hours. Deteriorating working conditions, greater stress and intensification of work are likely to be reflected in high rates of labour turnover.

The main effects of liberalization on work security have been the intensification of work and more accountability. Many countries have required teaching staff to meet externally imposed standards, accompanied by increased levels of monitoring and surveillance.

For example, since 1979 the real autonomy of state education structures in England and Wales has diminished substantially as a result of increased surveillance and control mechanisms (Hill, 2004 and 2006). These include: compulsory and nationally monitored externally-set assessments for pupils/students and trainee teachers; publication of performance league tables; a policy emphasis on “naming and shaming”, closing or privatizing “failing” schools and local education authorities (school districts); and merit pay and performance-related pay systems for teachers, usually dependent on pupil performance in tests (Jeffrey and Woods, 1998).

The drive towards performance improvement places enormous pressures on teachers and pupils. Teacher disaffection, stress-related illness and early retirement have led to a recruitment crisis. Teachers face increasing surveillance, whilst their workload increases.

The consequences in terms of lowered morale of schoolteachers and university lecturers between 1992 and today are clearly measurable. In 1992 only 10 per cent of teachers and lecturers thought that they had to “work at high speed all or most of the time”, compared with 18 per cent for other occupations. By the end of the decade this position was reversed (33 per cent versus 25 per cent), with teachers and lecturers experiencing a hefty rise in stress. Over the same period, the proportion of teachers who were “dissatisfied with their job” more than doubled from 6 per cent to 13 per cent (Beckman and Cooper, 2004).

The increase in the proportion of part-time and hourly paid staff means that more of the administrative workload is falling on the shoulders of fewer full-time workers. There has been increased “managerialization” of schooling and intensification of teachers’ work, with “teachers ... driven to burnout” (Whitty, 1997, p. 305).

In the United States, major aspects of schooling policy are “standards, accountability, and regulation of schools, teachers and students” (Lipman, 2000). In the US teaching profession, the very high attrition rate appears to be rising further. The National Commission on Teaching and America’s Future (NCATF) found a national attrition rate of about 75 per cent from the beginning of an undergraduate teacher education programme through the third year of teaching (NCTAF, 1996). The Center for the Future of Teaching and Learning in California estimates that 40 – 60 per cent of those who earn teaching credentials in the state do not seek employment as teachers. Working conditions and salaries

in the US continue to deteriorate at a time when both teachers and the unions to which they belong have come under sustained political attack.

This problem is exacerbated in the privately run public schools known as charter schools. These are state-funded schools that have been handed over to private control, typically to an “edubusiness” corporation, such as Edison Schools. Edison Schools describes charter schools as

Independently operated public schools that must meet the same academic requirements as traditional public schools but are free from most of the bureaucratic and regulatory constraints of their traditional counterparts. The charter establishing each such school is a performance contract detailing the school's mission, program, goals, students served, and ways to measure success. A charter school is accountable to its sponsor — usually a university, state board, or local board (Edison Schools, 2005a).

Research suggests that teachers choose charter schools for reasons such as working with like-minded colleagues in innovative educational settings. However, it is difficult to create this environment when, according to the Schools and Staffing Survey, teacher turnover exceeds 35 per cent at charter schools compared with about 15 per cent in regular public schools (Nelson et al., 2003, p. 9).

In Canada, the intensification of teacher workload at the basic and secondary levels, accompanied by persistent underfunding, has led to considerable strain on teachers across the country (Smaller et al., 2000 and 2001).

3.5. Job security

Job security is defined as “a niche designated as an occupation or “career”, the opportunity to develop a sense of occupation” (ILO, 2002). This refers to the existence of a career progression structure and opportunity for promotion, as well as the sense of being a part of a profession, with a shared professionalism.

Teachers and other educational workers on short-term and temporary contracts do not have much job security. However, for all workers there is, in many countries, a declining level of job security and status for teachers and other education workers.

Many governments are centralizing certain educational services, setting national goals, agendas, curricula, standards and evaluations. Examples include the 1988 Education Reform Act in England and Wales, and the No Child Left Behind legislation of 2001 in the United States. A centralized curriculum leads to a loss of professional autonomy, and reflects in part the deprofessionalization

of a vocation that has lost both autonomy and collegiality (Beckmann and Cooper, 2004).

The culture of “New Public Management” entails complementary and increasing control by management bodies. Intensified formal assessments require teachers to produce detailed and prescriptive “learning aims and outcomes”. This managerial approach has direct implications for the work of educators. There is no attempt here to balance issues of professional autonomy with issues of control. “Trust” in a teacher’s professionalism is displaced by a requirement to meet specified performance standards (Alexiadou, 2001, p. 429).

Another aspect of deprofessionalization is the loss of critical thought within a performance culture (Ball, 1999; Mahoney and Hextall, 2000; Boxley, 2003). School principals have become “distracted from the core purposes of improving the quality of learning and the lives of the pupils because of the unfamiliar and overwhelming demands placed on them” (Walker and Stott, 2000, p. 67). They have become focused on short-term economic objectives, failing to acknowledge the role of education in promoting a caring, cohesive, democratic society, built on notions of “citizenship” where “critical participation and dissent” are viewed as desirable (Bottery, 2000, p.79).

3.6. Skill reproduction security

Skill reproduction security refers to the existence of opportunities to gain and retain skills, through innovative means as well as apprenticeships and training courses.

As noted above in connection with the decline in employment security, workers on fixed-term temporary contracts, and those on hourly paid contracts, have little opportunity for career progression. Managements, whether public or private, are less willing to pay for in-service training for staff they may not re-employ.

It is obvious that casualization will lead to a training deficit. From the support staff point of view, and looking at, say, the school meals service, contracting out has led to demanning and deskilling ... Most catering assistants work 10-15 hours a week and employers will not invest in them. They are just units of labour (Lewis, 2004a).

In England and Wales, the increased use of casual staff in further education colleges affects the quality of the service as “casual staff are disconnected from wider college matters, curriculum issues, student welfare and extra-curricula activities” (Lewis, 2004b). The Further Education Development Agency (FEDA) has also expressed concern that not all colleges are applying the full

range of development opportunities to part-time staff (House of Commons, 1998, para 179).

There are similar concerns in other countries. In Australia, casual teachers “have no capacity to plan their futures. They have reduced access to professional development, reduced capacity to form collegial relationships with their fellow teachers and little if no opportunity to participate in the community life of their workplace” (New South Wales Teachers Federation, 2004; see also Hester, 1998). Temporary and agency staff are likely to be even more disadvantaged.

In privatized schools, managements and owners are less likely to bear the costs of in-service training (or, indeed, of other benefits) than in publicly run schools. In Pakistan, for example, there is no concept of on-the-job training and retirement benefits in private schools (Haq, 2004). “Private schools as employers do not pay attention to job security, on-the-job training, better working conditions and long-term growth options etc. since they are not sure of the tenure of such employees” (Mukhtar, 2004).

3.7. Income security

Income security refers to the provision of adequate and reliable incomes. This relates not only to wages and salaries, but to other benefits and rewards with a cash value including pension rights, health insurance, statutory sick pay, and all-year contracts as opposed to “term-time” contracts and pay.

Teachers and school support services are expensive. The climate of fiscal restraint in recent years has threatened income security as well as employment security in many countries. For instance, in Latin America:

Salaries remain the biggest chunk of education budgets, even though teachers have been underpaid. Primary school teachers in Latin America earn between USD100 and USD400 a month in countries where the minimum wage is between USD80 and USD120. In nearly all countries, teachers earn only about as much as unskilled workers. Neo-liberal economists do not address this problem because fair wages for teachers would require permanent increases in school budgets. Instead, the [World] Bank recommends paring down teachers’ already measly salaries (Puiggrós, 2002).

Localized/decentralized pay bargaining can lead to lower local pay deals. This power over workers’ pay and conditions is given to the managements of Academies in England and Wales and privately managed public sector charter schools in the United States.

A survey of 500 US school districts found that average teacher salaries had declined by nearly 2 per cent over the past ten years (Education Week, 2004). Charter schools pay teachers less than publicly run schools. One recent study (Allegretto et al., 2004, p. 2) reveals that since 1993 teacher wages have fallen 11.5 per cent relative to workers with similar education and skills, with no improvement in benefits to offset this increased wage disadvantage. However, the salaries of teachers in charter schools lag even further behind. According to the 1999-2000 Schools and Staffing Survey, 41 per cent of charter school teachers had total yearly earnings under USD30,000, compared to 20 per cent in regular public schools.

In other countries, teacher pay in private schools is markedly inferior to that in publicly provided and funded schools. For example, in Pakistan, a primary school teacher in the public sector receives on average 4,000 rupees per month while a secondary school teacher's average pay is 8,000 rupees (Mukhtar, 2004). The private sector pays less — on average, 2,500 rupees for primary school and 5,000 rupees for secondary school teachers (Haq, 2004). There are certain exceptions, since elite schools that charge high fees can offer higher pay to teachers.

In England and Wales, the widespread contracting out of school meals, school cleaning and other services to schools and colleges in the 1980s led to severe deterioration of pay and conditions for thousands of low-paid, mainly women workers.

3.8. Representation security

Representation security refers to the protection of workers in the labour market through independent trade unions and other bodies able to represent the interests of workers and working communities. This means the right of workers to organize in trade unions, and the recognition by managements of the right of bona fide unions to represent their members. By contrast, the “company unions” or “professional associations” often preferred by management may be “tame” associations, for example, committed to no-strike action and/or less effective in negotiating on behalf of members.

Representation security is under attack through a number of liberalizing policies, especially decentralization, privatization, and individualized pay bargaining (for instance, through performance-related pay). A fourth policy is the deliberate weakening of trade unions, for example, by removing their national bargaining rights (England and Wales) or vilifying them in the public debate (the United States).

Effects of decentralization and privatization on representation security

The basic idea that runs through the World Bank's *Making services work for poor people* (World Bank, 2004) is that educational services can be made to work for the poor by giving more power to poor parents at the local level, including the power to hire and fire and to "discipline" teachers. The report also suggests building market mechanisms within public school systems, removing the negotiating role of teachers' unions, and hiring unqualified people as "teachers" at very low levels of pay. The only examples of education union interventions cited by the Bank are negative. By contrast, Education International, which represents teachers' unions, points out that education unions can be "reform champions" (to use the Bank's term) — but for real reform, not just measures to cut costs and shift political responsibility away from governments (Education International, 2003b, p. 8).

Torres et al. (2004), in their study of Latin America, note that decentralization erodes the bargaining power of teachers' unions. Decentralization, together with privatization and quasi-privatization, "are fragmenting constituencies and thus inhibit the possibilities of building large and powerful organizations". Unions are not sure how to respond — "whether to resist the waves of reforms, or to accept them and adapt their structures to better serve teachers in decentralized schools" (pp. 3-4).

These problems have been documented in a series of complaints to the ILO by education workers, and are reflected in the lack of progress towards the goals set out in the ILO/UNESCO *Recommendation concerning the status of teachers* (ILO/UNESCO, 1966). The following excerpt from a report of an ILO-sponsored meeting on educational personnel illuminates the concerns:

A Worker member referred to a dichotomous situation in a number of Latin American countries where freedom of association existed, but where workers in education did not enjoy the right to engage in trade union activities, giving as examples Ecuador, El Salvador, Guatemala and Peru. Meetings and assemblies of trade union leaders to discuss provincial and national level issues were prohibited as were strikes and similar collective action. Workers attached the greatest importance to effective participation of the educational community in decision-making and in the implementation of school curricula.

Under the principle of democratic participation many governments, such as those of El Salvador, Guatemala, Honduras and Nicaragua, applied World Bank-financed or assisted programmes aimed at enabling small local associations of parents to hire and fire teachers. Teachers' organizations were committed to resisting these programmes, which, in a subtle way, were leading to privatization and decentralization of education.

These developments were in clear violation of laws which regulated working conditions at the national level. They also hindered national level negotiations involving trade union organizations as they had the effect of pushing such negotiations to the level of local school centres. While teachers' organizations and trade unions wished to avoid confrontation with both parents and governments, there was a need to defend the principle of education as a public right (ILO, 2000, pp. 26-27).

This excerpt testifies to the threats to representation security and an increasing lack of job security and status for educators across the region. At a more extreme level, threats to teachers have reached tragic proportions in the conflict in Colombia, where paramilitary death squads have targeted and murdered many teacher union members (Schierenbeck, 2004).

The transfer of negotiations from the national to the provincial or local (school and college) level leads to different pay scales for workers in comparable institutions. This strikes at the heart of the concept of professional equity, under which teachers with similar qualifications can expect the same pay and conditions at any education institution of the same level across the country. It also weakens trade union bargaining power. Without strong unions, the pay and working conditions of education workers will further deteriorate, except for the few who receive performance-related pay enhancements or other "merit rewards".

Prior to "incorporation" in 1993, the pay and conditions of lecturers in further education colleges in England and Wales were bargained nationally. However, the Further and Higher Education Act 1992, which established colleges as publicly funded independent bodies,

... was to open the door to pay bargaining chaos, significant attacks on working conditions, increased casualization and instability for the sector. Staff were to suffer from the impact of working for "little businesses", funded precariously by a giant quango (the Further Education Funding Council) and bedevilled by targets and a bureaucratic inspection regime. Trade unions struggled to protect their members in this corporate environment (Lewis, 2004b).

Liberalization entails not only variations in pay and conditions between workers in different institutions, but also between workers of similar status within the same institution, through individualized performance-related pay schemes that have been introduced in a number of countries.

In Latin America, examples include Mexico's Carrera Magisterial programme, which rewards individual teachers on the basis of measured performance, and Chile's *Sistema Nacional de Evaluación del Desempeño*,

which pays monetary rewards to schools for distribution among the staff (Di Gropello, 2004, p.31).

Box 1 EDUCO and the loss of teachers' securities

Some of the interconnected effects of school decentralization programmes can be illustrated by one particular World Bank-supported project, the *Educación con Participación de la Comunidad* (EDUCO) schools plan in El Salvador, which has created schools in rural areas run by community councils. While in principle the reform was intended to provide free education, councils were also granted the power to raise funds locally. This has resulted in inequity among EDUCO schools themselves, as well as in comparison to traditional public schools, as different forms of local "cost-recovery" in ancillary fees have developed (Marchelli, 2001, p. 23).

Praising EDUCO schools in its 2004 World Development Report, the World Bank ignores these social equity consequences. It sees the EDUCO as a potential means of restructuring teacher compensation through increased "decentralized" control over teacher hiring, firing and salaries. (Teachers at EDUCO schools are hired on one-year renewable contracts.)

Educo's more flexible compensation scheme resulted in greater variability in teacher earnings, which suggests that parent associations used compensation to motivate greater effort among teachers. Offering or withholding future employment itself was an incentive, and one that ACEs [Associations for Community Development] used. Turnover among Educo teachers was high, which suggests that job loss was not an idle threat (World Bank, 2004, p. 132).

Support for this mode of restructuring of schools, entailing a shift to uncertain working conditions and decentralized, lower salary systems, is a consistent thread running through the discussion of education in the 2004 World Development Report, which points to EDUCO as a model for other countries.

Discussing EDUCO and a similar scheme in Nicaragua, Di Gropello (2004) emphasizes that decentralized teacher management was made particularly effective by parents' enhanced control of teachers, that is, by the expression of "client power". Such measures reduce the role of teacher salaries as overall cost drivers in education funding, support pay based on performance accountability measures for teachers, and erode the collective pay bargaining role and power of trade unions (Torres et al., 2004, pp. 3–4).

4. Forms and levers of liberalization

4.1. Free trade, the WTO and the GATS

The move towards global liberalization implies freer trade, in services as in goods. The main global mechanism for liberalization of services trade is the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO), though there are many other global, regional and bilateral/multilateral levers.

The GATS covers four modes of supply of services, including education services:

- *Mode 1*: provision of services from abroad, for example, through distance education or the internet (cross-border supply);
- *Mode 2*: provision of services to foreign students (consumption abroad);
- *Mode 3*: establishment in a country of foreign education service providers, for example, to set up schools and other institutions (commercial presence);
- *Mode 4*: movement of workers between countries to provide educational services (movement of natural persons).

Under GATS rules, WTO members decide which services they will open to foreign competition, under which modes of supply and subject to which limitations if any. There is also an exclusion clause for “services supplied in the exercise of governmental authority”, which are outside the scope of the GATS. However, the GATS goes on to define such a service as one “supplied neither on a commercial basis nor in competition with one or more service suppliers”. This could imply that where public and private sectors co-exist, as they do in most countries, public services are covered by the agreement. Some argue that public institutions requiring the payment of fees could be deemed to be engaging in “commercial activity” and would thus fall outside the GATS exception. Though the WTO and member governments say there is no intention to apply GATS to public education and health services (WTO, 2003), the distinction between public and private services is becoming increasingly blurred (see, for example, the case study on England and Wales in Section 7). In strict legal terms, only when a service is provided entirely by the government does it unambiguously fall outside the GATS rules. This could make countries vulnerable to pressure in current and future GATS negotiations to open up areas of the public education system as well as the private sector.

In the face of widespread opposition to the GATS liberalization agenda, the WTO has sought to respond to what it calls “scare stories and misunderstandings”. These are: first, that the new round of services negotiations will force WTO member countries to open all their services sectors to foreign competition; second, that all public services will have to be opened to foreign competition; third, that liberalization under GATS means deregulation of services; fourth, that once made, GATS commitments are irreversible; fifth, that GATS negotiations are secretive and anti-democratic (WTO, 2003).

The WTO states: “The objective of the GATS is to liberalize services trade, not to deregulate services, many of which are closely regulated for very good reasons.” It continues: “The GATS specifically recognizes ‘the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives’”. It concludes its rebuttal of this “scare story” by asserting that “the only circumstances in which a country could be asked to demonstrate that a given measure is not more trade-restrictive than necessary would be in the event of a dispute with another Member ... Only then could the necessity or the trade restrictiveness of a measure become an issue” (WTO, 2003).

GATS disciplines

As Steve Kelk (2002) notes, the GATS cuts deepest into services regulation through its national treatment, most-favoured nation (MFN) and market access disciplines.

The “national treatment” rule requires that foreign services providers be treated at least as well as domestic service providers. If a country commits itself to opening its education sector to foreign suppliers, any subsidy, financial incentive, fee-paying scheme or tax incentive directed at the public education system could be considered unfair competition by private educational providers. WTO members such as the European Union have included in their GATS schedules a specific limitation exempting subsidies from the national treatment provision — but others have not, and there could be pressure in future negotiations for the limitation to be relaxed.

Under GATS rules, once a country signs up to the GATS for a specific services sector such as education, it also has to provide a “level playing field” for companies of any nationality under the most-favoured-nation (MFN) principle. So privileges granted to one or more countries with which a country has reached an agreement have to be extended to all, unless the WTO member specifically takes an MFN exemption. The MFN rule means “the best treatment accorded to any foreign service provider must be accorded ‘immediately and

unconditionally' to all foreign service providers"(Griehaber-Otto and Sanger, 2002, p. iv).

The "market access" rule means that governments are prevented from "introducing quantitative restrictions on the amount of trade activity in a sector" (Griehaber-Otto and Sanger, 2002, p. iv). Hence, governments' economic policy options are curtailed.

Finally, the transparency rule stipulates that members must publish details of all measures — local, regional and national — that may affect the operation of the GATS treaty (Griehaber-Otto and Sanger, 2002, p. iv). These "top down" rules complement the "bottom-up" commitments in which members agree to open up all or some service sectors to GATS disciplines.

The irreversibility of GATS

Once a country commits itself to opening a service to foreign competition, it cannot escape. The WTO is "the only global institution that even the United States and the European Union are supposed to obey", whereas the World Bank and the IMF have influence only over "weak developing countries" (Wolf, 1999).

In the WTO dispute settlement process, tribunals operate in secret to settle disputes between member states. Only national governments are allowed to participate. In the case of an adverse ruling, countries must either comply (which may require legislation) or pay compensation (in the form of trade benefits). Refusal or inability to do either can result in trade sanctions imposed by the winning side.

The WTO argues that this claim of irreversibility is another "scare story" (WTO, 2003) and lists a number of circumstances under which a country can permanently or temporarily suspend or cancel specific GATS obligations. However, it does admit, "on request, 'compensation' may need to be negotiated with Members whose trade is affected". Where a municipality, or a local or national government, wants to take back into public ownership a service that has been privatized and opened to competition under the GATS or a similar free trade agreement, it may be almost impossible to do so.

GATS commitments

In practice, relatively few WTO members have so far made commitments under GATS in education services, and even fewer have made commitments on primary and secondary education (as opposed to tertiary education and other education services). Of 148 WTO members, 47 (59 counting 12 EU members separately) have made commitments in education services, lower than in any

sector except health services (46, or 58 counting the EU12 separately). The number of WTO members making specific commitments for primary education is 31 (43 including EU12) and for secondary education 34 (46 including EU12). All countries have imposed restrictions of one kind or another, and very few have made any commitments at all in Mode 4 (movement of workers). The United States, though it has pushed for other countries to take commitments on schools, has taken none itself in primary and secondary education (WTO, 2005).

4.2. Other levers for liberalization

It is not only the WTO and GATS that are levers for “liberalization” of trade in services. Regional and bilateral trade agreements, such as the North American Free Trade Agreement (NAFTA), the Common Market of the South (MERCOSUR) and the European Union (EU) play an important role. The World Bank and the OECD are also significant bodies in promoting the liberalized education agenda (see, e.g. Rikowski, 2002; Puiggrós, 2002; Leher; Delgado-Ramos and Saxe-Fernández, 2005; Halimi, 2004; Hirtt, 2004). They are supported by national and international business organizations such as the International Chamber of Commerce, the Confederation of British Industry and the Institute of Directors in the United Kingdom, the European Round Table of leading multinational companies, and the Partnership for Educational Revitalization in the Americas (PREAL), which comprises public and private organizations.

At the same time, there is opposition to free trade in services from trade unions, political parties, civil society groups and some governments. These recently combined to force the withdrawal, at least temporarily, of the so-called Bolkestein Directive, the EU’s draft Services Directive seeking to open up trade in services. The draft Directive sought to expose almost all services to market-based competition. Though public education services were specifically excluded, the draft Directive would have applied to “peripheral” services supplied to schools and, like the GATS, was unclear where the line between public and private services would be drawn.

Under the “country of origin” principle, a company providing services would follow the rules and laws of the country in which it was based or “established”, rather than the country in which the service was provided. A US education multinational, for example, could “establish” itself in Latvia, simply by registering its presence there. It would then be able to trade in the rest of the EU, whilst conforming only to Latvian law on matters such as health and safety, employees’ rights, or environmental protection. Latvia, not the country where the service was provided, would be expected to send inspectors to ensure compliance with its laws.

Critics say the draft Directive would encourage “social dumping” since companies would have an incentive to opt for establishment in the least regulated EU member requiring the lowest standards. The Directive “would have been quite a blow to national level regulation, as it would tend to make services available in the least regulated way, rather than bringing all services operators up to best standards” (Malins, 2005). However, the current EU Internal Market Commissioner, Charlie McCreevy, says he is committed to re-introducing the Directive in some form during his five-year term, which ends in 2009. With 70 per cent of economic activity in Europe being in services, “you don’t have to have a degree in economics to know that if you can open up the services market you’re going to have an impact on economic activity and we need increased economic activity in the EU” (McCreevy, cited in McLaughlin, 2005).

5. Schooling access, equity and quality

5.1. World Bank claims for equity²

World Bank policies and publications exhibit a tension between equity and privatization. While nominally seeking equity, the Bank encourages the growth of an “educational private sector”, the mandate of which may be to charge for access to “basic” as well as other (including tertiary and adult) educational services. The Bank rejects the view that multi-tiered systems of education based on the ability to pay have negative effects on social or educational equity. Instead, it argues that in developing countries the market mechanism produces equity, in line with a conception of equity based on choice.

The World Bank’s corporate lending arm, the International Finance Corporation (IFC), has also claimed that fee-paying educational institutions can “improve” equity.

Private education can indirectly benefit the lowest socio-economic groups by attracting families who can afford some level of fee away from the public system, thereby increasing capacity and per student spending for the students who remain in the public system. Similarly, the emergence of private tertiary institutions allows governments to reduce funding in such institutions and instead to invest in lower levels of education, thus improving distributive efficiency (IFC, 2001, p.5).

² This section is based on Schugurensky and Davidson-Harden (2004).

This argument rationalizes both the reduction in education funding through “efficiency” measures, as well as the introduction of privatization to improve equity. It is based on the assertion that, through privatization of education, “subsidies” for wealthier families are removed as these groups transfer their education “investment” into the private sector, leaving state funding for the rest of the public school system.

Evidence from Latin American countries such as Chile (Carnoy, 1998; Carnoy and MacEwan, 2001) shows that these ways of increasing the role of private (including for-profit) education at primary, secondary and tertiary levels create unequal access to schooling based on social class, despite compensatory measures intended to limit the stratifying effects of vouchers (Carnoy, 2002). Private schools “cream off” the children of wealthier families who are more equipped to succeed at school, leaving the public school system to absorb students with greater needs and challenges. In this way, existing negative equity effects in education based on social polarization are exacerbated by market-style restructuring efforts.

The idea that the transfer of wealthier families’ children and students’ “education investments” away from the public system somehow increases equity is therefore based on a highly contestable argument. Moreover, principles of universal access, for example, as enshrined in international covenants such as the UN convention on economic, social and cultural rights, reflect a quite different notion of educational equity than that based on “choice” promoted by the World Bank and the IFC (Schugurensky and Davidson-Harden, 2003).

5.2. Increased and increasing inequalities

The liberalization of schooling and further education is playing a significant part in widening inequalities within countries, intensifying differences in access and attainment between different groups (for instance, between races, between girls and boys, between social classes and, in developing nations, between rural and urban areas).

Increasing inequalities: Polarized schooling

One common criticism of the liberalization of schooling, training and university education revolves around loss of equity, economic and social justice and the polarization of the labour force. There has been an increase in (gender-, race-, language-based) social class inequalities in educational provision, attainment and subsequent position in the labour market. For example, the movement to voucher and charter schools, as well as other forms of privatized education such as chains of schools in the United States (Molnar, 2001; Molnar

et al., 2004), has proved disproportionately beneficial to those groups who can afford to pay for better educational opportunities and experiences, leading to further social exclusion and polarization (Whitty et al., 1998; Gillborn and Youdell, 2000). Reimers notes that

... the poor have less access to preschool, secondary, and tertiary education; they also attend schools of lower quality where they are socially segregated. Poor parents have fewer resources to support the education of their children, and they have less financial, cultural, and social capital to transmit. Only policies that explicitly address inequality, with a major redistributive purpose, therefore, could make education an equalizing force in social opportunity (Reimers, 2000, p. 55).

Hirtt suggests that the apparently contradictory elements driving liberalization of education, “to adapt education to the needs of business and at the same time reduce state expenditure on education”, are resolved by the polarization of the labour market. Thus, from an economic point of view, it is not necessary to provide high-level education and general knowledge to all future workers. “It is now possible and even highly recommendable to have a more polarized education system ... education should not try to transmit a broad common culture to the majority of future workers, but instead it should teach them some basic, general skills” (Hirtt, 2004, p. 446).

In other words, manual and service workers receive cheaper, inferior, transferable-skills education and knowledge, in contrast to the elite workers, who receive more expensive, superior education. Thus the outcome of liberalization is a more hierarchical school system that militates against the principle of equal access to education for all.

Cherry-picking and undermining public schooling

One of the greatest sources of weakness for public services is “cherry-picking”, “where the affluent are able to purchase better quality services for themselves alone and avoid contributing to the public service” (Hall, 2003, p. 28). This undermines the financial solidarity on which public services are based, and the political consensus needed to sustain them. It draws resources away from those services into a consumer-oriented market. The impact on public services may be exacerbated by cuts in public sector resources, which reduces the quality of the public service and encourages those who can pay to buy more resources for themselves from the private sector.

In Costa Rica, quality public education has been a major factor in social equity and high living standards. Now, however, a private school boom is drawing better-off students away from public schools with declining resources.

Education has thus “changed from being a mechanism for social mobility to becoming an instrument of status and exclusion”. In Malaysia, “two systems have emerged: higher quality private education for those who can afford it and poorer quality public education for those with low incomes” (Hall, 2003, p.26).

In South Africa, social bifurcation is exacerbated when schooling has to be paid for. Since 1994, schools have been permitted to charge fees according to family means.

In practice, principals and school government bodies are also charging those who cannot afford to pay. More privileged schools charge much higher fees (thus improving the quality of school resources) and at the same time deny access to the poor. This has created a two-tier system within public schooling: schools for the rich and schools for the poor (Education International, 2003a, p.11).

In Brazil the educational system reflects the country’s glaring income inequalities. Even though more people than before have access to education, the system is still highly segmented. At the basic education level public schools, which are free of charge, are for poor people and private schools are for the rich. For establishments providing the first four years of primary education, 20 per cent of public schools have a library, compared with 79 per cent of private schools (Da Silva Aguiar, 2004). The poor are systematically excluded from higher education. In Latin America as a whole, by the age of 25 the richest 10 per cent of the population have had between five and eight more years of schooling than the poorest 30 per cent (PREAL, 2001).

In Pakistan, private education fees have been widely criticized as too high, making private schools inaccessible to poor but talented students. As a result, they are not developing as institutions of equal opportunity. Most are established as commercial or for-profit ventures, and their fees reflect business rather than altruistic or public service considerations. However, the schools argue that, in the absence of grant-aid from the Government, fees have to be high since they are the only source of income to maintain the institution and the quality of the education provided.

Three of the largest school chains are owned by leading political families with an influence on public policy. The World Bank has been supporting the largest private school chain in Pakistan (Niazi and Hameed, 2002), and financial institutions are lending to such schools on terms better than offered to any industrial undertaking. This has led to a race among the rich and powerful to open private schools and “educate” middle-class students.

Private primary schools in Pakistan are concentrated in urban areas where participation rates are already high. Students going to private schools would

participate in education regardless, so these schools are not expanding the reach of education to include those who did not previously have access, mainly the rural poor. Their role in universalizing primary education is therefore marginal at best (Haq, 2004).

On the contrary, one can argue that private schools are impeding access to schooling for poor children, because the Pakistan Government is implicitly putting the onus of primary education on the private sector and thus absolving itself from a core social responsibility. In the last few years, the increase in the number of public sector primary schools has lagged well behind needs. With an increase of 2.8 per cent a year in population, the number of primary schools is increasing by less than 2 per cent annually (Niazi and Hameed, 2002).

Box 2 Chile's 20-year experience with vouchers³

Possibly the most comprehensive example of the effects of a privatized school system is Chile, which has operated a national system of vouchers for the past 20 years. Combined with information on smaller voucher plans and charter school expansion in the United States, the Chilean data provide a "fairly clear picture of a privatized choice reality" (Carnoy, 2000, p. 18). About 43 per cent of Chilean children attend private primary schools. Nearly all of these (all but 8 per cent) attend private voucher schools. About two-thirds of the private voucher schools are for-profit and the others are religious schools (almost all Catholic). The remaining 57 per cent of primary pupils attend municipal public schools, which are also largely financed by vouchers.

According to Carnoy, "our estimates show that, when we correct for students' socio-economic background differences, average test scores in for-profit private voucher schools are slightly lower than those in municipal schools, and the scores in Catholic voucher schools, somewhat higher." He notes that the for-profit schools spend less per pupil, mainly because they pay their teachers somewhat less than public schools do, and can do so because they are more likely to employ moonlighting part-time teachers. "This makes such schools more cost effective than public schools, not because they are more effective (their achievement is lower), but because they spend less per pupil".

Catholic primary schools in Chile, however, spend more per pupil than public schools. They charge higher tuition fees, on average, and have more expensive, largely donated facilities. They apparently "add" more academic value, thus, suggests Carnoy, they are about as cost effective as public schools.

Carnoy notes the difficulties in isolating the effects of private school competition on the performance of students in public schools. The usual measure of competition is the density of private schools in a district (in Chile, a municipality). If competition has a positive effect on public school performance, public school students should do better in those districts with a higher proportion of private schools. But Carnoy makes two caveats. First, it is necessary to correct for the possibility that private schools move into districts where public school performance is especially poor. Second, private schools tend to "cherry-pick"—that is, to take the best students from public schools. Having made these caveats, Carnoy "found no significant effects on overall test scores (public and private schools together) in those municipalities where private school density increased more rapidly".

His conclusion is that there is no evidence from Chile that a national voucher plan, operating there for almost 20 years, has had a positive effect on the achievement of the millions of students who went through the system during that time. With respect to claims about increased efficiency resulting from liberalization, he concludes "the plan may have saved some tax money in the 1980s and early 1990s but it did so mainly because private for-profit schools were able to pay teachers less than public schools, not because of greater efficiencies in using resources" (Carnoy, 2000, p. 18).

There is evidence that privatization increased stratification in the 1980s, as private schools cherry-picked better students from public schools and tended to locate in higher-income municipalities. Of Chile's 330 municipalities, 90 still have no private schools; these are the most rural and lowest-income localities. Studies in other countries with voucher plans, such as New Zealand, also suggest that they increase stratification among students (Lauder and Hughes, 1999).

³ This box is based on Carnoy (2000).

5.3. Gender- and race-based social class inequalities

When schooling is not universal, compulsory and free, disadvantaged groups, including girls, suffer. UNESCO (2004a) condemns the imposition of school fees as deterrents for poor families, which “force them to make the choice to reserve education opportunities only for boys”.

The UNESCO report also notes that the UN goal of achieving gender parity in both primary and secondary education by 2005 will not be attained in more than half of the 128 countries studied, and that gender equality will not be attained in 40 per cent of the countries by 2015 without major political change. “The multiple barriers that obstruct girls’ access to education remain numerous even though most of the countries have ratified the conventions on the elimination of all forms of discrimination against women and on the right of the child” (UNESCO, 2004a).

Literacy rates and attendance rates of indigenous children are also generally lower than the national average in many countries. In Bolivia, for example, indigenous children receive about three years less schooling than non-indigenous children (Educational International, 2003b, p. 5).

6. Curriculum, critical thought and democratic control

6.1. Effects of liberalization on curriculum and pedagogy

One set of effects of liberalization concerns the loss of democracy and democratic accountability. Ownership and control are transferred to unelected and democratically unaccountable private companies and corporations. Private business and shareholders own and/or manage schools and educational institutions instead of locally or nationally elected representative bodies.

A second set of effects is the loss of democracy and collegiality among teachers and other education workers as a result of “New Public Management” (NPM). This replaces collective collegiality and decision-making (or decision-influencing) with individualistic competitive and hierarchical work relationships. There is the siphoning upwards of power to senior management teams — or the senior manager, head teacher or principal — who may have no educational experience or background at all (as in the United States, and as envisaged in England and Wales).

As noted in the discussion on work security, stress and deprofessionalization arises from increased control and monitoring of the curriculum. Teachers have little time to devote to alternative visions and

versions of the curriculum, when intensification of school and college work is so tightly tied to testing of pre-specified learning.

Standardization of the school curriculum and pedagogy

In some countries, such as the United States and the United Kingdom, pedagogy and the curriculum are being standardized. In McNeill's view, "standardization reduces the quality and quantity of what is taught and learned in schools... Over the long term, standardization creates inequities, widening the gap between the quality of education for poor and minority youth and that of more privileged students" (McNeil, 2000, p. 3). McNeil's research revealed the emergence of:

... phony curricula, reluctantly presented by teachers in class to conform to the forms of knowledge their students would encounter on centralized tests. The practice of teaching under these reforms shifted away from intellectual activity towards dispensing packaged fragments of information sent from an upper level of bureaucracy. And the role of students as contributors to classroom discourse, as thinkers, as people who brought their personal stories and life experiences into the classroom, was silenced or severely circumscribed by the need for the class to "cover" a generic curriculum at a pace established by the district and the state for all the schools (McNeil, 2000, p. 4).

In England, increased standardization of pedagogy — with teachers teaching to the test — is taking place across the curriculum. It is a teacher-centred pedagogy, giving little space for pupil/student "talk" and feedback, and thereby less space for validation and recognition of different social-class, ethnic and religious subcultures.

Within schools as well as universities and vocational further education, the language of education has been widely replaced by the language of the market. The concept of education is being redefined and standardized in economic rather than educational terms. Teachers and lecturers "deliver the lesson" or "deliver the product", "operationalize delivery" and "facilitate clients' learning", within a regime of management by tightly pre-defined objectives, subject to "quality management and enhancement", where students have become "customers". In vocational and higher education, "customers" select "modules" on a pick'n'mix basis. "Skill development" at universities has surged in importance, to the detriment of development of critical thought.

6.2. Effects on critical thinking skills and opportunities

Some analysts argue that liberalizing education is suppressing oppositional, critical and autonomous thought (e.g. Hill, 2003). As McMurtry (1991) noted, this leads to “opposite standards of freedom”.

Freedom in the market is the enjoyment of whatever one is able to buy from others with no questions asked, and profit from whatever one is able to sell to others with no requirement to answer to anyone else. Freedom in the place of education, on the other hand, is precisely the freedom to question, and to seek answers, whether it offends people’s self-gratification or not (McMurtry, 1991, p. 213).

The emphasis on education for marketable skills, uncritically embraced, can only promote a consumerist, individualistic approach in which “human capital” becomes another tradable commodity. The ILO has argued that it would be “a deplorable outcome if the commercial and labour market aspects of schooling and training crowded out other aspects of education” (ILO, 2004).

In Thailand, Templer (2004) reports that all areas of education are traditionally marked by a low emphasis on critical thinking. However, this is now being reinforced in Thai secondary and tertiary education, especially in the more prestigious “tier”, as the consumerist ethos permeates student and parental value systems.

6.3. From social and political democracy to “economic consumer democracy”

In liberalized school systems throughout the globe, the economic goals of education are sidelining social and collective goals, and have also replaced education and learning for its own sake. What matters now is how many years and credits we have accumulated, in order to get a better job.

In the 1960s and early 1970s, there was a real, if limited, commitment to greater equality in many governments and state educational institutions in western Europe, North America and elsewhere. In the United Kingdom, the avowed aims of education policy were “education for a fairer society” and “education for education’s sake”. In the United States, education was seen as a democratizing force by an increasingly activist civil society, associated, for example, with the civil rights movement, women’s groups, environmental groups and labour unions. As a result, schools and universities began “allowing too much freedom and independence of thought, and that cannot be tolerated in a ‘democracy’, because it might lead to consequences” (Chomsky, 2004). Starting

in the 1970s in the United States, policy began to shift towards liberalization strategies such as voucher schemes, tax tuition credits and charter schools.

In the United Kingdom, government policies on education and training have increasingly focused on education's role in human capital development. The former UK Education Secretary, David Blunkett, said the work of his Department "fits with a new economic imperative of supply-side investment for national prosperity" (cited in Jones, 2003, p.144). Educational priorities are now tied to market-driven growth and the more active involvement of private interests in education provision. The cultural meaning of schooling is being changed; it is now explicitly geared to performance, results and efficiency. Schools have become "places where management authority, rather than collegial culture, establishes the ethos and purpose of the school" (Jones, 2003, p.161).

7. Three case studies

7.2. The United States: Vouchers, charter schools and the attack on public schooling⁴

Though free market ideas for "school choice" date back to 1955, the current drive to privatize US schools began in the 1970s as a reaction against efforts to harness the power of public education to the expansion of American democracy during the 1960s. By the end of the 1970s, numerous conservative funding agencies collaborated to create a host of think tanks and institutes designed to advance a pro-business agenda across a spectrum of policy issues, including the privatization of public schools. Two of the major liberalizing policies, forms of partial privatization of the public school system, are the use of education vouchers and the establishment of charter schools.

Vouchers

A voucher system provides a sum of money for each student that can be "spent" on education services at any school. In effect, this provides a huge public subsidy for private schools, because public funding that previously went exclusively to public schools can now be spent anywhere within a schools market. Many students (or their parents) take this funding out of the public school system and enrol at private schools, part-paying the private school fees with the public money given to them under the voucher system. The result is a

⁴ This subsection is based on Anijar and Gabbard (2004).

boost in enrolments and revenue for private schools, and a corresponding loss of revenue for public schools.

Charter schools

The second element of efforts to dismantle public schools involves establishment of charter schools. Unlike the private schools that serve voucher students, charter schools are mainly funded with public money. Nevertheless, they are not regulated by the same structures as other more “traditional” public schools, and enjoy far more autonomy concerning hiring and firing practices, curricula and budget spending. The first charter school opened in Minnesota in 1991. Today, there are more than 2,695 charter schools in 41 states and the District of Columbia, attended by nearly 685,000 students.

Charter schools have attracted Educational Management Organizations (EMOs), such as Edison Schools, which attempt to run these schools “for-profit”. Edison’s website proclaims that it is “the nation’s leading partner with public schools and school districts, focused on raising student achievement through its research-based school design, uniquely aligned assessment systems, interactive professional development, (and) integrated use of technology”. It claims that: “Edison students are achieving annual academic gains well above national norms.... Edison Schools Inc. now serves more than 250,000 public school students in over 20 states across the country and in the United Kingdom” (Edison Schools, 2005b).

When Arizona State University’s Education Policy Studies Laboratory (EPSL) began issuing its annual Profiles of For-Profit Education Management Companies in 1999, 13 EMOs managed 135 for-profit schools in 15 states. By 2004, 51 companies managed 463 schools in 28 states and the District of Columbia, 81 per cent of which are charter schools. The EPSL reports that the for-profit management of public schools takes two major forms: in one, local school districts contract with an EMO to manage existing traditional public schools (termed “contract schools”); in the other, the EMO manages a public charter school as the charter holder or under the terms of a contract with the charter holder. In the early 1990s, EMOs tended to pursue the contract school approach. In the latter half of the 1990s, EMOs have taken the opportunity afforded by permissive charter school legislation and focused on the management of publicly funded charter schools (Molnar et al., 2004, p. 2).

The assault on teachers, teacher unions, and public schooling

Proponents and financial backers of privatization view teachers and teacher unions as major impediments. Indeed, one of the advantages of “school choice”

as seen by proponents is that privatization will seriously undermine the collective power of teachers and teacher unions. In recent years the media have been saturated with negative “anti-teacher” and “anti-union” messages that have tended to define the terms of national dialogue surrounding education.

Non-unionized teachers are portrayed as being more capable (working for merit) than “government teachers” or “unionized teachers”. “Media campaigns”, sponsored by interested parties, have attempted to popularize vouchers as a “democratic” move. In the repositioning of language, public schools become “government” schools. And the argument is advanced that those schools were failing miserably, because they were part of big government, bureaucratic state monopolies contributing to the erosion of family values by teaching secular humanism and promoting perverse sexuality, while children were unable to read, write and do arithmetic.

These campaigns frame the language for vouchers in seemingly benign, benevolent and idealistic terms such as “individualism”, “parental rights and freedom”, “political and economic freedom”, “limited government”, “individual liberties”, “free markets” and “strengthening democratic capitalism”. Vouchers seem to provide a pragmatic utilitarian solution emanating from the “manufactured crisis” of failing schools.

The Heartland Institute (a conservative think-tank devoted to the privatization of American education) has declared public schools “islands of socialism in a sea of competition and choice”. It states that “soon, most government schools will be converted into private schools or simply close their doors.” The Heartland Institute has succeeded in forming a “board of legislative advisors” that includes more than 240 elected officials from nearly all the 50 states (People for the American Way, 2003, p.4).

Such revealing comments contrast with the public message of many pro-voucher groups. They publicly state that vouchers will actually help strengthen public schools by forcing them to improve through the magic of competition and market forces. Among themselves, voucher advocates acknowledge “the complete privatization of schooling might be desirable, but this objective is politically impossible for the time being. Vouchers are a type of reform that is possible now, and would put us on the path to further privatization” (People for the American Way, 2003, p. 7).

Do voucher systems and charter schools in the United States get better results?

There is considerable evidence that there is no difference in academic results from private or public schools. Ladd reports that, based on three years of

data from New York and Washington, DC, and two from Dayton, Ohio, there is “no evidence of an overall achievement difference between the public and the private schools either in the aggregate or for any of the individual cities”. This finding that the private schools are no better at raising the performance of low-income students “flies in the face of well-known claims ... that the autonomy of private schools will make them more productive than the more bureaucratic private schools” (Ladd, 2002).

There is also evidence that the achievements of charter schools are no better than, and are sometimes worse than, those of public schools (Schemo, 2004). According to the American Federation of Teachers, charter school students demonstrated lower achievement than students in regular public schools. “The achievement gap between students who were and were not eligible for free or reduced-price lunch was similarly substantial in both subjects and both grades, but the gap was slightly larger in charter schools than in regular public schools in grade 4 reading and grade 8 math” (Nelson et al., 2004)

7.3. Latin America: US and local “edubusiness”⁵

“Eduventures.com” is a company that provides research and information services to investors and entrepreneurs aspiring to join the “global education market” (Newman et al., 2000; Stokes, 2001). Although the market for Eduventures is still largely confined to the United States, Stokes (2001) mentions two initiatives, “Edunexo” and “contenidos.com”, which represent attempts to break in to the Latin American market for online education. Primedia, owners of the controversial and commercially driven “Channel One” school programme in the US, announced a Latin American development programme in 1998. Other US service providers interested in the region include Sylvan Learning Systems and the Apollo Group.

The move into for-profit educational markets in Latin America by US companies has been aided, directly and indirectly, by the World Bank (Schugurensky and Davidson-Harden, 2003). The Apollo Group, known in the United States and Canada by its brand name as the (private) University of Phoenix, told potential investors that by autumn 2001 it expected to have a “K-12 [kindergarten to age 16] feeder system in place in Brazil composed of over 250 affiliated schools serving 110,000 students” (De Alva, 2001).

As far as local companies are concerned, the Brazilian education company Objetivo/UNIP is often held up as the best example of a very profitable

⁵ This subsection is based on Schugurensky and Davidson-Harden (2004).

educational services company. Having started as a preparatory course for university in 1962, Objetivo/UNIP in 1999 boasted a USD384 million turnover and USD40 million profit, with over 500,000 students enrolled at franchised campuses and sites throughout Brazil (Tooley, 1999a, pp. 6, 11).

With the exception of Colombia, Brazil boasts the highest proportion of private education enrolments of any Latin American country. According to figures available in 2001, private enrolments as a percentage of total enrolments were: Colombia, 61 per cent; Brazil, 60 per cent; Nicaragua, 41 per cent; Peru, 31 per cent; Chile, 28 per cent; Guatemala, 19 per cent; Mexico, 17 per cent; and Argentina, 16 per cent (Patrinos, 2001).

Expansion of the private education industry in Latin America continues at a breakneck pace. Argentina in particular boasts an active private educational sector, with 30 per cent of secondary school enrolment in privately run institutions (Tooley, 1999b). In 1994, 37 per cent of all private schools in Argentina were fully funded by the Government for teacher payroll costs, while 29 per cent received a partial subsidy.

7.4. *England and Wales: Pay and conditions, privatization and the GATS*

Impact of liberalization on teachers' pay and service conditions⁶

Prior to the 1988 Education Reform Act, local education authorities (LEAs) in England and Wales had financial and managerial responsibility for schools, and national collective bargaining machinery determined teachers' pay and conditions of employment. Since then, the national framework has been broken up in various ways with a considerable impact on teachers' pay and conditions of service. The most recent, perhaps greatest, threat is the establishment of the Government's Academies programme.

The abolition of national collective bargaining

A key step in the programme of "liberalization" in the schools sector pursued by the current New Labour and previous Conservative Governments was taken in 1987, with the abolition of the national collective bargaining machinery covering pay and other conditions of employment relating to working time and duties. Subsequently replaced by the present Review Body system, this

⁶ Based on Brown (2004).

has allowed the Government to impose other changes to teachers' pay and conditions that it could never have secured through collective bargaining.

Since 1987 the main developments in the teachers' pay structure have been the expansion of "flexibility" and discretion over teachers' pay, and the promotion of performance-related pay and payment by results.

The National Union of Teachers has consistently expressed concern about the loss of its national collective bargaining rights. The ILO found in 1990 that the UK Government was in breach of the relevant ILO Convention by continuing to deny negotiating rights to teachers.

The delegation of staffing powers to schools and the impact of pay flexibility

Soon after the abolition of the national negotiating machinery, the Education Reform Act 1988 introduced local management of schools. Under the Act, many financial and managerial responsibilities previously under the LEAs' control were delegated to the governing bodies of schools. These included the ability to determine the school's staffing structure, to make appointments and to take discretionary decisions with regard to teachers' pay.

There is now more scope in the salary structure for pay differentiation. The level of discretion available in schools means that placement and progress in the pay structure can depend on factors unrelated to the merits of the teacher, such as the school's financial position. Teachers doing effectively the same job can receive very different salaries in different schools.

The impact of these discretionary elements has been compounded by the introduction of performance-related pay. Access to a new higher pay scale beyond the main scale has been made subject to an application-based "performance threshold" assessment, and progression on the higher scale is also performance-related.

Delegated powers of management, combined with budgetary constraints in schools, have led to an increase in "casualization" by way of short-term contracts and agency-supplied temporary teachers. The use of short-term contracts deprives teachers of job security and, in the case of agency teachers, also deprives them of other entitlements since few agencies apply the national pay and conditions.

Workload

In 1994 the School Teachers' Review Body commissioned the first in a series of surveys on teacher workload in response to lobbying from teacher

unions. They highlighted the “deep and continuing concern about teachers’ workloads and the effect that heavy workloads were having on morale” (School Teachers’ Review Body, 2002, p. 11). Although teachers have annual contractual limits on working hours, these do not cover marking and lesson preparation, which are subject to an additional working-time obligation. Between 1994 and 2000, primary school teachers’ hours increased by 8 per cent and secondary teachers’ hours by 5 per cent. For both groups, time spent on planning, preparation and marking increased by 17 per cent and teachers were working on average about 52 hours a week (UNESCO, 2004b, pp.12-15). Workload has been a leading factor in making teaching an increasingly stressful occupation. Stress is now the main health and safety concern; 82 per cent of school safety representatives cite it as a cause for concern in their school (TUC, 2000). Teachers are the most stressed occupational group, with over 40 per cent reporting high stress levels (Health and Safety Executive, 2000).

The Academies programme

The newest, perhaps greatest, threat to teachers’ securities is the Academies programme, formerly called “City Academies”. Statutory pay and conditions do not apply in Academies, which are publicly funded independent schools with voluntary or private sponsors. They can set their own pay and service conditions for teachers. Although there are at present only 17 Academies, the first having opened in September 2002, the Government has recently announced as part of its Five Year Plan for education that it aims to have 200 Academies by the end of the decade.

Research on the pay and service conditions for teachers in the 17 operational Academies show that most do not apply the national conditions of employment in full or even in part. Longer working hours are common. The initiative also poses a threat to trade union rights, since some Academies do not recognize unions for negotiating purposes.

Privatization, contracting out, and the pay, rights and conditions of the mainly female ancillary schools workforce⁷

School staff have been affected by significant changes in local government in the last 20 years in England and Wales. As in other parts of the public sector, there has been a drive since the 1980s to decentralize management and funding and to maximize the autonomy of institutions. The local management of schools

⁷ Based on Lewis (2004b).

since 1988 has blurred employer responsibility and led to legal challenges over who employs school staff: the local education authority (LEA) or the school. It has also led to local variations in terms and conditions of school support staff and difficulty in monitoring them. At the same time, statutory and policy measures have been taken to maximize the involvement of the private sector in delivering education services.

Compulsory competitive tendering in local government was introduced in 1980. It first applied to highways and building maintenance and was then extended to all ancillary services, such as catering and cleaning, in the Local Government Act 1988. Within the OECD countries, the United Kingdom was unique in its compulsory model of competitive tendering, and studies, including those commissioned by the UK Government, found that exposure to tendering led to the often dramatic erosion of terms and conditions of employment (Sachdev, 2001, p.5). The Equal Opportunities Commission (1995) looked at 39 authorities and four companies between 1989 and 1993. It found greater use of temporary workers with fewer employment rights like holidays and sick pay. There was a 22 per cent fall in female and 12 per cent fall in male employment, a decline in hours for female part-timers and an increase in multiple job-holding (Lewis, 2002, p.11). The figures for the education sector are likely to be higher as women make up 84 per cent of the workforce.

The Thatcher Government paved the way for contracting out in 1983 by denouncing ILO Convention No. 94 and repealing the Fair Wages Resolution, in place since 1891. It was thought that in labour-intensive public services, access to a cut-price workforce would be essential to attracting private bids. A downward spiral of pay and conditions followed for staff, mainly women, who were already the lowest paid in schools (Wing, 2003).

Compulsory competitive tendering forced local authorities to compete on the basis of cost. Contracts were often retained in house, but with worse pay and conditions. A survey for the Department of the Environment reported that 15 per cent of authorities had withdrawn bonus schemes, 7 per cent had cut wages, 18 per cent had changed sick pay arrangements and 12 per cent holiday entitlements. Workforce reduction and rearranged hours were the most common response to competition, with manual staff bearing the brunt of changes in working methods, pay and conditions (Walsh and Davis, 1993).

The Labour Government elected in 1997 adhered to its promise to abolish compulsory competitive tendering but replaced it with a “Best Value” programme. This consisted of 12 principles in a performance framework, to apply to a wider range of services, without the necessity of an in-house bid. Unlike local authorities, schools did not have a statutory duty to obtain Best

Value, but were required to adhere to its principles. Since January 2000, Ofsted, the inspection body, has included this requirement in its framework for schools.

Research by the UNISON public services trade union indicated that privatisation resulted in lower pay and that protection for staff transferring from the public sector contrasted with the inferior pay and conditions for recruits. Wing (2003, p.4) suggests that gender had re-emerged as an issue, and that there had been no policy appraisal of the gender impact of the various policies that had led to the contracting out of thousands of jobs held by women.

UNISON established a Best Value Intelligence Unit and surveyed 190 private contracts in 2001. Comparisons were difficult as new staffs in white-collar jobs were often on personal contracts, but the findings suggest that basic pay in 62 per cent of contracts had worsened, mainly affecting ancillary staff. For school meals contracts, in Nottinghamshire, for example, pay for new staff was £4.60 an hour for 34 weeks as opposed to £4.80 an hour for 38 weeks paid to transferred staff. Conditions of service had also worsened for new starters: 73 per cent had less leave, 58 per cent worse sick pay arrangements, 51 per cent inferior pensions, 44 per cent had lost unsocial hours' payments and 44 per cent reported less job security (UNISON, 2002, p.6).

The EU, the UK and the GATS⁸

GATS incorporate four modes of service supply. Mode 1 (cross-border supply) is the "supply of a service from the territory of one Member to a consumer in the territory of another". Under Mode 2 (consumption abroad), the consumer of the service travels to the service supplier. Under Mode 3 (commercial presence), the service supplier establishes in the foreign market as a legal entity in the form of a subsidiary or a branch. Mode 4 relates to temporary migration of foreign workers to supply a service in another country.

In primary and secondary education, in the first three modes of supply, the EU has committed itself not to impose or maintain "restrictions which are inconsistent with GATS rules covering participation in the market by foreign service suppliers" (EU GATS-Infopoint, p. 2; also Yu, 2002).

In the United Kingdom (unlike some other EU members), there are no notified "limitations on market access". Thus UK primary and secondary education "markets" seem open to foreign suppliers. WTO members committing themselves to opening up primary and secondary education through GATS (as the EU has) must show any limitation on access for foreign suppliers, which

⁸ Based on Rikowski (2005).

may then be open to challenge through the WTO's disputes procedure (Rikowski, 2001, p.11).

The United Kingdom (via the EU) also has no limitations on the national treatment provision of the GATS regarding primary and secondary education. Under this GATS rule, member states must acknowledge any limitation in the treatment of foreign suppliers that puts them in a less favourable position than domestic counterparts. For example, Edison Schools (based in the United States) must be alerted to any differences in the way it is treated compared with UK education services suppliers if it enters the UK schools market.

Only in Mode 4 supply, the "presence of natural persons" from another country, does some limitation regarding foreign primary and secondary education suppliers possibly apply. Mode 4 is "unbound" for EU primary and secondary education, meaning that the EU has made no commitment to open its market or keep it as open as it was when the GATS came into force in 1995. If Edison Schools wanted to set up operations in the UK the company would have to use UK employees, as immigration rules would still apply. It is unlikely that US teachers could be just flown to work in Edison UK schools. However, by the same token, no clear barrier to US teachers being jetted into Edison UK schools is established on the basis of the EU's GATS commitments.

Public and private money and the deregulatory framework

From the above account, it might appear that the UK (via the EU) has a more or less "open door" policy regarding the foreign supply of primary and secondary education services. This is a misleading impression. Section 5 of the EU's Schedule of Commitments for education services under GATS indicates that, in relation to education, the EU is referring to "privately funded education services". This suggests that the only education services under threat from the GATS are independent and private schools. They are in the "education market", so must take the consequences and face competing foreign providers.

However, once again, the GATS language is cleverly crafted. The Schedule does not pinpoint private education "institutions", but privately funded "services". It is not the case that a whole education institution has to be a for-profit outfit for the GATS to apply. Any of its constituent services — from frontline ones such as teaching to cleaning, school meals services and the school library — could fall under the GATS if private capital is involved. Furthermore, private operators in school improvement, equal opportunities and recruitment, and other school services previously supplied by the local education authority, may also fall under the GATS.

One could argue that these services are still “publicly funded” even though education businesses like Nord Anglia and school meals providers like Initial Services are delivering the service? Several points are relevant here.

First, the argument assumes that “public” money remains “public” even when transferred to a for-profit private service provider. However, it could be argued that, once the contract is signed to deliver frontline teaching, school management or improvement services, the “public money” undergoes transformation into private capital.

Second, in the Academies, specialist schools, and in some education action zones, private finance forms an element of start-up capital. The foundational significance of private capital is even clearer in the case of schools built under the Private Finance Initiative (PFI), where money to build a school is raised at commercial rates in the money markets by private companies. In all these cases, private involvement opens up schools or, at minimum, educational services to the GATS.

Third, under the Education Act 2002, school-governing bodies can set themselves up as companies. They then have the power to invest in other companies. Furthermore, school companies can merge to form “federations” to gain economies of scale, thereby increasing profit-making capacity. In September 2002, David Miliband (then Schools Minister) indicated that business leaders running school federations did not need teaching qualifications (Kelly, 2002). Schools can enter into deals with private outfits, and can sell educational services to other schools.

Finally, under the 2002 Act, around 1,000 schools are to be given the freedom to vary the curriculum and change teachers’ pay and conditions. These powers result from the new “earned autonomy” status that top performing schools can gain. This gives private sector operators some control over staff costs through manipulating teachers’ contracts of employment.

Overall, the 2002 Act provides a regulatory framework for the business takeover of schools, and hence also for the application of GATS throughout the school system. Of course, the Government can still argue that the school system is “publicly funded” but, in instances of outsourcing, the Private Finance Initiative and strategic partnerships with companies, public finance is transfigured into private capital. Sponsorship by companies involves injections of corporate cash. Through these mechanisms, schools are exposed to the GATS and school workers to a reduction in their social and economic securities.

8. Concluding assessment

This chapter has provided evidence to substantiate each of the hypotheses set out at the beginning.

- Liberalization of schooling and education services has occurred in many countries around the world.
- Specific identifiable levers are resulting in the liberalization of education services.
- Education services are becoming “Americanized” through policies and processes such as privatization, decentralization, deregulation, and the use of “new public management” (business management methods).
- Liberalization is making provision of education services more unequal and selective rather than universal. This is intensifying race-, gender- and class-based hierarchies, reflected in tiered systems of schooling, with good quality schooling for the rich and the middle classes and poor quality schooling — or none — for the poor.
- Liberalization is eroding workers’ pay, rights and securities.
- Liberalization is accompanied by, and attempts to embed, a shift away from universal citizenship rights and identities based on the provision of services to individual consumer rights and identities. In education, this involves treating young people as “human capital” and preparing them for “jobs” rather than providing broad-based learning and critical awareness.

In sum, liberalization of schooling and other education sectors such as further (post-16) vocational education threatens: first, workers’ pay, conditions and securities; second, equity and social justice (with a notable increase in gender- and race-based class inequalities): and, third, critical thought and democratic control.

By contrast, the aim of education policy should be to secure a “race to the top”, rather than a “race to the bottom” with ever poorer conditions for workers, students and general populations. This means it is important to develop schools and education systems with the following characteristics. First, workers’ pay, rights and securities must be levelled up rather than down. Second, access to good education must be widened, by increasing its availability and by broadening access for under-represented and under-achieving groups, to reduce inequalities between groups. Third, local and national democratic control over schooling and education must be enhanced. And fourth, policymakers should recognize and seek to improve education systems that are dedicated to education for wider individual and social purposes than the production of quiescent

workers and consumers in a liberalized world. There is more to education than that.

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LIBERALIZATION OF HIGHER EDUCATION AND TRAINING: IMPLICATIONS FOR WORKERS' SECURITY

2

by Eva Hartmann, Sebastien Haslinger
and Christoph Scherrer¹

1. Introduction

Higher education is currently undergoing a fundamental transformation, characterized by a clear orientation to the market. Many governments have implemented policies that foster competition among public institutions and between public and private institutions of higher learning and training. The latest development is the liberalization of national systems of higher education and training to allow foreign providers access to formerly closed national education “markets”.

While previously the terms of transborder cooperation in higher education were discussed and negotiated at the United Nations Educational, Scientific and Cultural Organization (UNESCO), opening markets to foreign providers falls under the jurisdiction of the World Trade Organization (WTO). The WTO administers the General Agreement on Trade in Services (GATS), agreed at the conclusion of the Uruguay round in 1994, which includes education and training services. To date, a total of 54 WTO member states have committed themselves to allow foreign providers access to parts of their education system and to treat them in the same fashion as domestic providers. Currently a new round of negotiations on further liberalization of cross-border education is underway.

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The first section of this chapter provides an overview of the current reforms in higher education and describes their likely impact, particularly on teaching staff. Since liberalization in the narrow sense of opening up to foreign providers is a recent phenomenon, in Section 2 we will also look at experiences with policies that usually precede liberalization – commercialization, deregulation and privatization. Commercialization leads educational institutions to run their institutions in a business-like fashion, as if they were delivering a service in the marketplace. Deregulation puts state institutions in competition with private (domestic) providers (frequently alongside sweeping re-regulation of the competitive activities of both types of institution). Privatization creates private providers out of state-owned institutions. The introduction of tuition fees at public universities can be considered privatization of the consumption of education.

Working conditions have generally deteriorated in higher education. While a few institutions pay well, most have lowered the pay scale and removed job security. Access has become increasingly tiered. Expensive tuition fees at institutions with a high reputation have directed most students from less well-to-do families to overcrowded and under funded public institutions or private programmes of equally dubious quality.

The second part of Section 2 explores the dynamically growing international market in higher education. Unfortunately, information on measures to regulate the access of foreign providers exists only for some countries. Some governments even lack information on foreign providers in their own country. Even less data are available on the impact of the international market on employment conditions. But by tracing the extent of liberalization and sifting through the available material, this chapter will sketch a picture of liberalization's implications for employees in the education sector. A look at the likely impact of liberalization from an economic perspective will point out some of the major risks and will identify areas where original research is warranted

To provide a more vivid account of liberalization experiences, we have invited Belgin Erdem from Turkey, Lorenz Villa Lever from Mexico, and Lucien van der Walt from South Africa to report on the restructuring of higher education in their respective countries. Their reports are in Section 3.

In Section 4 we look at global policies facilitating liberalization. The case studies already point to the World Bank's key role in the liberalization of education. In addition, we identify the OECD as another major agent for educational policy and trace both organizations' influence on the global educational agenda. Since the 1980s, this agenda has shifted towards the promotion of commercialization and privatization. To foster the expansion of higher education despite public funding cuts, these organizations recommend

importing transnational education, a recommendation that is addressed to poor and small countries in particular.

In our fifth and final section we explain the central provisions of the GATS and present the liberalization commitments that have so far been agreed to. We find a very heterogeneous landscape where no correlation exists between the competitive strengths of a nation's educational institutions and its liberalization commitments (for example, the United States has taken on very few commitments). While few developing nations have committed themselves to opening up their education systems to foreign providers, some have liberalized access to their system completely.

Given the scarce information available on the impact of this liberalization on employment conditions, current efforts to liberalize further are alarming. While some think-tanks and non-governmental organizations have carried out their own analyses of various aspects of the liberalization of services, its implications for students and those employed in the delivery of education have yet to receive attention. We conclude the chapter with a description of the current GATS negotiations and identify some of the problem areas.

2. Liberalization in higher education and training

2.1. Current reforms in higher education

Liberalization in higher education is taking place in the context of a fundamental change in the university's role in society. Once the preserve of the elite, higher education has been transformed into a mass phenomenon. From the 1960s and 1970s onwards, countries undertook a huge expansion of the education system in response to an increased interest in higher education. Between 1970 and 1997, the number of students worldwide rose from 28 million to 88 million. In the industrial countries, the number of students doubled from about 21 million to 45 million. In developing countries, there was a six-fold increase from 7 million to about 43 million (UNESCO, 2000, p.67).²

One reason for this is the growing attention paid to employees' qualifications as industry's "human capital" (OECD, 2001). The emphasis on the

² In spite of this dynamic growth, the share of students in many developing countries is still below 10 per cent. Big geographical discrepancies also have to be taken into account. For example, the number of students in Africa rose from 500,000 in 1970 to 4.8 million in 1997, whereas in Asia/Oceania the increase was from 7.4 million to about 36 million.

importance of academic knowledge has led to a closer interaction between academia and industry, particularly in the area of science and technology. In the context of a growing world market, research and development and a highly skilled labour force have become the key to sustaining a country's economic position (Wingens, 1998, p.66; Castells, 1999; World Bank, 2002).

With the expansion of higher education, the number of teaching personnel has increased as well, with more than 6 million professionals involved in tertiary level teaching worldwide (UNESCO, 2000, p.117).

Spending (private and public) on institutions of higher education has increased, particularly in OECD countries, in the last decade. However, the differences between the countries are noteworthy. Between 1995 and 2000, spending increases were minimal in some countries such as the Netherlands, the United Kingdom and Germany, and rather substantial in other countries such as Ireland and Greece (OECD, 2003, Table B2.2). In spite of these national differences a clear trend towards declining expenditure per student can be observed all over the world when total expenditure is compared to the growing number of students (Task Force on Higher Education and Society, 2000, p.123). Hence the funding of higher education has not kept up with the costs of expansion. Student enrolment has grown faster than the level of teaching personnel, which has led to a decline in the quality of higher education. One clear indication of this is the professor to student ratio. In Italy, for instance, the ratio reached 1:30 by the end of the 1990s compared to 1:15 in Sweden (Askling, 2000, p.211; Moscati, 2000, p.147). This unfavourable ratio is topped by the almost unmanageable level of 1:59 in Germany (Adams, 2002, p.11). Ratios such as these contribute to high dropout rates and a growing time-taken-to-degree problem, paradoxically jeopardizing the opportunities mass tertiary education was supposed to provide to children from working class and low-income families (Smallwood, 2004).

Countries cope differently with the increasing demand and financial constraints on their institutions. Nevertheless, the reform agenda in most countries shows remarkable commonality (Johnstone, 1998), with two key features. First, measures have been taken to improve the efficiency of higher education institutions. The current trend towards a contractual relationship between government and institutions here plays an important role. Management-by-results in turn allows a comparison of the output of different institutions and increases pressure for rationalization. The second feature is related to liberalization policies that aim to increase private funding for higher education. In the following we look more closely at the different measures governments have taken to pursue these two objectives. Then we assess the likely impact on teaching staff of deregulation and liberalization policies in the higher education sector.

Contractualization

The current reform of higher education is closely linked to decentralization processes that grant more autonomy to higher education institutions. Particularly in countries where the state has traditionally played a significant role in higher education, the new approach is changing substantially the relationship between universities and governments. The ministry and the universities jointly set the objectives for each university and agree on funding levels. The universities receive lump sum funds and decide themselves how to allocate them. In short, a “contractualization” of the relationship between the state and universities has been introduced.

This “tight-loose” (Henry et al., 2001, p.99) form of governance builds on management-by-results, emphasizing the assessment of activities and rewards for performance. Performance indicators become the central mechanism for accountability. This decentralization implies a fundamental restructuring of the state’s role. Guy Neave, Research Director of the International Association of Universities, describes it as a shift from the intervening to the evaluative state (Neave, 1998). Universities are given more responsibilities in an evaluative state but without increases in public spending. In this context, institutional autonomy serves politically, in Neave’s words, “as the ‘little bit of sugar’ which makes the often very bitter medicine of budgetary compression flow down the collective academic gullet without too much gagging!” (p. 270).

In higher education, the new autonomy translates into concerns with institutional improvement and self-evaluation. A “global model of quality” has emerged, which applies both internal and external modes of assessment. Quality assurance becomes a major tool for increasing the pressure on the educational system to expand without generating more costs. Or, to quote Guy Neave once more: “Quality ... is a technique which allows a national administration to insist on ends while rigorously denying the means” (Neave quoted in Dias, 1994, p. 166).

Scott Davies and Neil Guppy call this strategy a “rationalization” project (Davies and Guppy, 1997, p.436). The question remains whether rationalization is realizable in education in the same way as in the productive sector. It is to be feared that cost cutting in education cannot be compensated by technical rationalization, and will therefore lead to a deterioration of teachers’ salaries. We will come back to this point later on.

Decentralization that goes hand in hand with a “contractualization” of the relationship between universities and the state, defined by control through performance indicators, changes the idea of a university fundamentally. “Contractualization puts an end to the idea of university as a service to the State and instead recasts it as a public service of which one of the funders and

supporters happens to be the State” (emphasis in the original) (Neave, 1998, p. 276).

A second type of contractualization takes place through the so called voucher system. This system allows government agents to select a target population of students and give them vouchers that entitle them to a grant or a state loan. Students decide whether to consume the education at a private or public institution of higher education. A direct relationship between the “donor” and the “consumer” is thus established. Higher education institutions will increasingly be funded via the consumption of the education they provide.

These two new types of control by results increase the pressure to rationalize teaching and administrative tasks. The comparison of output to input becomes the main indicator of an institution’s effectiveness and efficiency. Students who need more attention, and time consuming voice systems, are likely to be perceived as jeopardizing the efficiency of an institution. The output orientation makes it possible to compare study programmes regardless of the “conditions of production“ or whether the provider is a public or a private institution.

This trend will in the long run erode the legitimacy of the special treatment given to public institutions and is therefore fostering the second important feature of the current reforms, privatization. Changes in the educational policy of multilateral organizations such as the World Bank, described in more detail in Section 4, clearly promote this trend.

Privatization

Considerable efforts have been undertaken to increase private funding for higher education. Nevertheless, the public-private funding ratio varies considerably between countries. In some countries private spending has increased much faster than public spending.³ Privatization takes place predominantly in three forms, through the introduction of tuition fees at public institutions of higher education, through the establishment of private institutions and through outsourcing strategies. Some OECD countries introduced tuition fees for public universities decades ago, while others have introduced tuition fees only recently. Very few continue to offer higher education for free. Developing countries have also shifted costs from the taxpayer to parents and

³ Turkey is a notable example of increased private expenditure on educational institutions, with a rise in the index for private funding from 100 in 1995 to 275 in 2000, compared with a rise to 180 for the index of public funding. Other outstanding examples are Sweden and Portugal, with public/private ratios in 2000 of 114:225 and 130:292 respectively (OECD, 2003, Table B2.2).

students. The Chilean government spearheaded this development in Latin America in 1981.

The social impact of tuition fees is highly contested. According to proponents, free education funded by taxpayers discriminates against low-income families because children of middle-income families are more likely to study (World Bank, 2002, p.55). However, studies like the one conducted by the National Center for Public Policy and Higher Education show that in the United States, where charging tuition is common, the financial burden for low-income families is substantially higher than for middle- and high-income families (Immerwahr, 2002). At the same time, the continuous increase in tuition fees in the last decade has also made it difficult for middle class students to keep up. In the academic year 2002-03, average published tuition fees for a four year public college were up 14 per cent on the previous year at USD4,115, whereas the average published price for a private four year college rose 6 per cent to USD18,569 (Farrell, 2003, p.A1; College Board, 2003a). In order to absorb at least part of this new burden, grant money became more available. But not all students benefit from this opportunity. In an effort to boost their academic prestige, many universities devote their financial aid to merit based rather than to need based grants. Studies show that middle class students are more likely to obtain such a grant than their fellow students from poorer families (Farrell, 2003).

The United States is a good example of the paradox of the commodification of higher education in a high-income country. Universities react to cuts in public spending with an increase in tuition fees. In order to alleviate the social consequences, efforts are undertaken to increase the amount of grant money, which in turn is highly subsidized by the government. The US Federal Government provides 68 per cent of direct aid to students, which is complemented by state funding (College Board, 2003b). Hence there is not so much a reduction in public funding per se but rather a shift from an institutional to an individual subsidy scheme. The main beneficiaries are private institutions, which increasingly compete with public institutions for well-off students, as well as the private finance market, which supplements grants with private loans. An illustrative example of the relationship between tuition fees and the growth of private providers is Germany, where tuition fees have not yet been introduced. In spite of the high purchasing power of the population, only a few private institutions have managed to establish themselves, since they have to compete with study programmes of high quality that are free for students (Schreiterer and Witte, 2001, p. 24).

This first kind of privatization, the introduction of tuition fees, is thus likely to promote the second kind, the establishment of private institutions (Hartmann, 2003). Some countries such as the Republic of Korea or the United States have a

traditionally high ratio of private to public institutions, while this is a fairly recent trend in other countries. To date, private institutions play an important role in the provision of higher education in Asia, Latin America, increasingly in the former Soviet Union and Eastern Europe, and even in parts of Africa and the Middle East (Johnstone, 1998, p. 18). In the Russian Federation, a country with no history of private university education prior to 1989, private institutions now offer instruction to about 10 per cent of students (Fillipov, 2002, p. 126). The emergence of a private market in higher education on a domestic level creates in turn a favorable situation for the international market in educational services (see Section 2.3).

Privatizations furthermore foster rationalization through economies of scale. The emergence of mega universities as well as the current trend to merge universities point in this new direction. Or, as John Daniel, former Vice-Chancellor of the Open University and current President of the Commonwealth of Learning, puts it: “By developing courseware for large numbers of students, [open universities] can justify the investment required to produce high quality learning materials at low unit cost” (Daniel, 2002, p. 1).

Expansion has, in other words, become a major strategy to cut costs. This trend leads to new kind of crowding out between institutions of higher education, which is to the detriment of smaller institutions. The emerging international market in higher education fosters this consolidation.

A third type of privatization happens through outsourcing (Kirp, 2002, p. B13). Independent contractors are increasingly handling many non-teaching activities that institutions of higher education used to manage themselves. Such activities may encompass student housing, food, healthcare, bookstores, computer services, financial management, security systems, campus cleaning and event management. In some countries even student counselling and the management of alumni relations tend to be handed over to private firms, as well as the matching of students and institutions. Particularly in the context of cross-border education, many universities have started to outsource these labour intensive activities to private firms. For-profit institutions go even further. The University of Phoenix, to name a prominent example, leased the library for its New Jersey campus from a nearby institution (Kirp, 2002, p. B13).

In sum, the current changes in higher education promote a new relationship between government and universities through contractualization that facilitates comparisons of each institution’s output regardless of the conditions under which it is working. A further step in the increasing orientation to the market is the voucher system that establishes a direct relationship between the government and the student, now perceived as a consumer of higher education. The introduction of tuition fees in turn tends to abolish the “comparative

disadvantage” of private institutions that hitherto had to compete with free higher education. Assessing the impact, however, also has to take into account the increasing diversification of institutions that vary in their academic level.

Today, post secondary education is characterized in many countries by a variety of institutional types, including vocationally oriented community colleges, polytechnic schools, undergraduate colleges, specialized schools and research universities. This diversification aims at a higher responsiveness to the needs of the labour market and fosters competition between institutions. It also helps enforce the division of labour between and within higher education institutions and their academic staff. Allowing universities to determine their own tuition fees will increase stratification within the university system. Private universities benefit from this trend. In the US, the most prestigious private universities have managed to stabilize enrolment levels while increasing their revenue flow by annually raising tuition fees. For example, Harvard University's tuition fees have increased more than five fold (inflation adjusted) over the course of two decades (Adams, 2002, p. 8).

2.2 Consequences for staff and faculty

The following explores the impact of liberalization and privatization of higher education on employment conditions, particularly of teaching staff.

Changes in the appointment of faculty

In many countries, institutional autonomy afforded through contractualization implies changes in academic appointments as well. Among European countries, the most sweeping change has been made in the Netherlands, which abolished civil service status for faculty and gave the universities authority to make their own appointments (DeWeert, 2001). This example indicates the considerable impact that decentralization can have on employment conditions — salary and workload, job security and tenure, procedures for recruitment and promotion, fringe benefits, pension arrangements, sabbaticals and so on. However, no overall assessment of current changes can be made, since work regimes vary among countries.

In general, three basic forms of employment regime can be identified: regulation by law; collective bargaining between representatives of employers and employees; or individual bargaining between a staff member and representatives of the employer, be it a government or institution (Enders, 2000b, p. 32). The abolition of civil service status for faculty is likely to be detrimental to the first form of regulation. The current trend to introduce performance related pay, observed all over the world, is challenging established

structures of collective bargaining. Whether this trend is likely to foster individual bargaining depends very much on the ability of teachers' unions to mobilize, as strikes of university teachers in the United Kingdom showed in spring 2004.

The increase of institutional autonomy is generally accompanied by centralization at the institutional level that strengthens the role of rectors and deans. This trend undermines the very nature of the chair system, which is an essential element of the traditional self regulating processes of the university. Under the chair system internal decision-making power is largely vested directly in the faculties, with a voice system that includes some representation of non-academic staff and students. The power relationships are characterized by a balance that makes it impossible for the university leadership — rectors and deans — to take a decision against the majority of chair holders. Current reforms centralize the decision-making process within the universities to the detriment of this voice system. State institutions thus become more similar to private institutions, where final authority generally rests in the hands of a board of private trustees (Adams, 2002, p. 5). These boards exercise fiduciary responsibility, approve budgets, and appoint and set the terms for senior university posts in consultation with the faculties. In publicly traded private for-profit institutions, shareholders additionally play an important role.

Increasing salary disparity

The increasing diversification of higher education linked to tuition fees that differ from institution to institution has led to a growing income disparity among faculty. Prestigious universities can raise fees without diminishing student enrolment. This revenue in turn allows the universities to recruit faculty "stars" and to increase general faculty salary levels. By contrast, public universities have to struggle with declining public spending without being able to raise tuition fees accordingly. In many African countries, this has led to a considerable drop in academic salaries that once provided a middle class lifestyle (Altbach, 2000, p. 27), contributing to an exodus of the best scholars from the continent. Also in Central and Eastern European countries academic salaries have not kept up with the cost of living. A similar trend can be observed in South Asia, especially for the large majority of undergraduate colleges. The result has been a widening disparity between salaries paid in high-ranking private and in public universities. In 1978–79, the average full professor at a public doctorate-granting university in the United States earned about 91 per cent of the salary of a typical professor at a private doctorate-granting institution. By the early 1990s, this had fallen to less than 79 per cent (Ehrenberg, 2000, p. 5).

While the prestigious private universities can on the whole control their enrolment levels, public universities, particularly low ranking ones, have to absorb by far the larger part of the long term growth in student numbers without an adequate increase in revenue. This has led to an intensification of work (Farnham, 1999; Benmore, 2002). Low ranking private institutions are faced with a similar or even worse situation. In many countries they absorb the majority of students who have not gained access to public universities, particularly in vocational and applied programmes.⁴

The stratification process within the system of higher education therefore creates not only divisions between public and private institutions but also among the private institutions.

Part-time teaching

To meet the increasing demand of students under conditions of financial constraint, many universities — public as well as private — have started to employ more part-time teachers. While part-time teaching has traditionally been widespread in regions such as Latin America, many observers see the phenomenon growing all over the world (Enders and Teichler, 1997; Farnham 1999; CEART, 2003). The rank of an institution seems to be related to the number of part-time faculty members. According to a survey carried out by the US Department of Education, the percentage of part-time work within the faculty at US community colleges rose from 22 per cent in 1970 to 60 per cent in 2001 (Longmate and Cosco, 2002, p. B14), whereas the percentage for all US institutions of higher education reached 43 per cent, up from 33 per cent in 1987. The increase in part-time teaching has been accompanied by a clear trend towards the “feminization” of part-time work. The proportion of women among full-time faculty members was 36 per cent in 1998, but the proportion among part-time teachers, at 48 per cent, was significantly higher (Wilson, 2001, p. A14).

Institutions of higher education hope to save money and gain more flexibility through part-time working. They have no commitment to the part-time faculty members. Most part-timers receive no health or retirement benefits, and their rate of pay is not proportional to that of full-time faculty members. Part-time staff often have no access to offices or laboratory space, and their

⁴ This is exactly the area that the US communication to the WTO defines as training: “Training services are very similar to education services, but training courses are generally less theoretical and more job-related than academic courses, often requiring hands-on operation of tools, equipment and certain devices” (WTO, 2000).

employment arrangements usually do not allow them to spend time on research or administration. This trend towards casualization of faculty working conditions is even more widespread in the new private institutions of higher education that absorb the majority of enrolments in countries such as Brazil or Chile. These institutions rely predominantly on part-time faculty (Altbach, 2000, p. 23). The Chronicle index of for-profit higher education shows that, even in the best performing publicly traded higher education companies, part-time faculty members far outnumber full-time faculty members (Chronicle of Higher Education, 2003). Increasing competition between public/not-for-profit and for-profit institutions risks enhancing this trend to the detriment of the working conditions of teaching staff.

Employment security

There is a further trend in academic appointment practices. Many countries have coped with the mass expansion of higher education by increasing or creating non-tenured fixed term posts. According to the study by the US Department of Education mentioned earlier, the share of tenured US faculty members declined from 35 per cent to 32 per cent between 1992–93 and 1998–99 (Wilson, 2001, p. A14). One reason is the increasing share of faculty that teaches part-time since the majority of them are not tenured. But the proportion of non-tenured full-time teaching staff has also increased in recent years, from 8 per cent in 1987 to 18 per cent in 1998. In other words, a growing number of institutions do not offer tenure. Community colleges are least likely to offer tenure and public research universities the most likely, according to the US Education Department study.

The number of non-tenured teaching staff is also very high in countries where tenure is regulated through civil service rules (Altbach, 1996). The chair system linked to this kind of tenure is characterized by seniority, historically elevating one senior professor in each discipline with a variety of junior staff arranged under the chair holder. The chair holder's tenure provides strong guarantees. The most rigid chair system can be observed in European countries offering high employment security. Here, tenure is a right granted to senior members of the civil service as a result of their appointment. Professors are paid according to civil service scales, they are given a guarantee of employment, and there has been up to now little variation in salaries across the academic system. This high employment security is in strong contrast to the situation of the junior scholars who hold only fixed term appointments and cannot proceed up the ranks of one single university to the professorship. This system requires considerable mobility on the part of junior staff.

The expansion of the teaching body has deepened the hierarchies within institutions by increasing the percentage of teaching staff working under highly casualized conditions. In Germany, to take an egregious example, only around 30 per cent of the established positions in universities are professorial, whereas around 70 per cent of staff are sub-professorial, the majority employed on fixed term contracts working part-time or full-time (Enders, 2000a, p. 41). To counteract this trend, in 2001 the German parliament limited fixed term appointments for academics to 12 years in total. This regulation, which aims to introduce a tenure track model in Germany, has been harshly criticized by some academics. Particularly experienced scholars fear that they will be replaced by younger scholars who have not yet reached the limit of 12 years (Herbert, 2002).

In many countries tenure policies themselves are undergoing changes. In some countries where tenure was linked to civil service status, attempts are being made to abolish this system. In other countries tenure never gave such a strong guarantee of employment security. In the United States, for instance, tenure can be abrogated by the universities for reasons of financial exigency, programme reorganization and other institutional reasons. But even this tenure model is increasingly being called into question. An extension of the probationary period changes in standards for dismissal of faculty, and incentives to forego tenure can be seen. In the United Kingdom, for a variety of reasons, the tenure track has been abolished altogether for new entrants to the profession (Shattock, 2001). One key objective was the upgrading of the vocationally oriented polytechnics to university status. Polytechnics did not have the right to award academic degrees, and had never had a formalized tenure system. The upgrading of the polytechnics thus went hand in hand with a downgrading of employment conditions at the universities.

Private institutions of higher education are in the vanguard of the trends examined here. They tend to provide less employment security, particularly in low ranking institutions and in countries where tenure is regulated through civil service rules. Prestigious universities are able to compensate for lack of employment security with higher salaries. This difference in employment security between private and public universities is less substantial in countries with a tenure model that does not guarantee lifelong employment. However, remarkable divergences exist depending on the position of the private institution within the system of higher education.

To sum up, a common trend towards casualization of the work of faculty members can be observed in public universities and average private universities. Increased enrolment has not usually been accompanied by commensurate growth in faculty appointments or salaries, which has led to an intensification of work. Many countries have coped with the expansion of student numbers by increasing the percentage of part-time teachers. However, these trends are not easy to

generalize since national situations vary considerably. More research is needed in order to provide a global picture of the working conditions of academic staff. A regular statistical profile of the teaching profession, as recommended by the joint ILO/UNESCO committee of experts, would be crucial for such an undertaking (CEART, 2003).

2.3 Liberalization through cross-border education

A new dimension of liberalization is linked to the emerging international market in higher education. Increasing privatization at the domestic level creates a climate that is favourable for international providers. Some countries have opened up their education system to the international market, though the conditions imposed on foreign providers vary considerably. Countries such as India or China only allow collaborative arrangements in which the awarding institution must collaborate with a local institution (UNESCO, 2003b, p. 17). Some countries charge additional taxes on foreign providers. Others, for instance, Chile, do not allow for-profit private institutions. In many cases, investors can get around such restrictions. In the case of Chile, they do so by forming a company that owns a university building and land. Officially the institution does not make a profit, but instead pays a large “rent” to the company (Bollag, 2003, p. A34). Meanwhile, South Africa, for example, has placed strict restrictions on enrolments at foreign operated private institutions. Some countries, such as Malaysia, have established clear regulations regarding the content of imported programmes. In other countries, especially in Latin America, there appears to be no regulatory system whatsoever (Cohen, 2001a, p. A47; see also Altbach, 1999).

How transnational higher education is regulated in the importing countries is still not very well explored. Most analyses concentrate on South East Asia as an emerging laboratory in the development and regulation of transnational education (McBurnie and Zигuras, 2001; Zигuras, 2003). This paucity of information on the scope and organization of liberalization of the markets for higher education and training has been the subject of recurring complaints among authors (UNESCO, 2003a, p. 7). Education has been largely absent from the debate on globalization and trade liberalization, as it was thought to be essentially a non-traded services (Dale, 2000; UNESCO, 2002). Research on the global education market and its implication for educational systems is therefore still in its infancy. As a contribution to advancing this new research area, Section 3 will provide a more detailed investigation on how particular countries regulate market access for foreign providers. However, the General Agreement on Trade in Services (GATS) is the only framework that tries to regulate the emerging market on a worldwide scale, as Section 5 will show in more detail.

The following gives a brief overview of current trends in the international market, an outline of the main characteristics of the providers and the competitive advantages. The section will end with an assessment of the likely impact of liberalization from an economic perspective.

Developing international education markets

The great economic significance of the education sector can be seen in the fact that, in the mid-1990s, OECD countries on average spent 5.9 per cent of gross domestic product on education, 80 per cent of these funds being direct public spending on educational institutions (WTO, 1998a, p. 3). Services offered by private education operators have been growing steadily for years, with the privatization of the education sector particularly far advanced in countries such as the United Kingdom, Australia, New Zealand, the United States and Chile (Lohmann, 2002). The range of cross-border educational services on offer is also expanding rapidly, as shown by the following presentation using the GATS classification scheme for mode of supply (see also Section 5).

Mode 1 Cross-border supply

This covers services supplied from the territory of one country to the territory of another. Increasingly, education institutions, publishers and information technology companies cooperate in designing and delivering e-learning courses (Larsen et al., 2002, p. 9). In 2000, 6 per cent of all students studying abroad took part in distance learning programmes (Larsen et al., 2002, p. 13; McBurnie and Ziguas, 2001, p. 86), with South Asia accounting for most non-OECD clients (Blumenstyk, 2003a, p. A25).

Mode 2 Consumption abroad

International trade in education services is growing strongly, especially in the tertiary sector where the largest portion consists of students studying abroad. The GATS “consumption abroad” mode of supply is thus the most important form of international trade in education services.

Export revenue from trade in higher education services was estimated at USD27 billion in 1995 and by 1999 it amounted to USD30 billion (Education International, 1999; Larsen and Vincent-Lancrin, 2003). These figures underestimate the global market in education as they refer only to foreign

students studying at the tertiary education level in OECD countries.⁵ According to a study conducted by Merrill Lynch, the higher education market outside the United States is worth USD111 billion a year and consists of as many as 32 million potential students (Arnone, 2002, p. A28).

The United States, with the highest number of foreign students, is the leading “exporter” of this type of education service. In 2000 it generated USD10 billion in revenues, taking fifth place among US service exports. The United Kingdom is in second place, followed by Australia and Canada in terms of revenue but by France and Germany — where study is by and large freely open to all — in terms of student numbers. In the latter countries only the living expenses of students are counted as exports (Larsen et al., 2002, pp. 7–9).

Most students come from other OECD countries, but in recent years students from developing countries, especially from Asia, have joined the ranks in great numbers.⁶ In particular, China is becoming a significant “importer”. According to the above mentioned Merrill Lynch study, China accounts for half the potential market, in terms of both students and money.

Trade in education, however, is not just one way. The major exporters are often simultaneously the major importers.⁷ In addition, some of the major importing countries aim to become exporters. For example, the Republic of Korea has increased the number of incoming foreign students from 5,326 in 1998 to 11,646 in 2001. Malaysia and Singapore also have ambitions to become big education exporters in the region. India has focused on Arab countries as well as countries around the Indian Ocean (UNESCO, 2003b, p. 17).

Mode 3 Commercial presence

Universities in Anglo-Saxon countries increasingly have subsidiaries located in other countries. In 2000, 35 Australian universities offered 750 offshore programmes that were taken up by 31,850 students in Singapore, Hong Kong China, Malaysia and China. Three quarters of UK universities ran study

⁵ The average annual expenditure of students studying abroad has been estimated at \$20,600, including fees and living expenses (Larsen et al., 2002, p. 10).

⁶ Chinese students make up 9 per cent of all foreign students in OECD countries, followed by students from India, Malaysia, and Morocco, each with a 3 per cent share. Indonesia, Singapore and Thailand combined provide 5 per cent of all OECD foreign students (Bennell and Pearce, 1998, p. 5; Larsen et al., 2002, p. 9).

⁷ While US exports were worth USD10 billion in 2000 the United States was also the leading importer, with its students abroad spending over USD2 billion.

programmes abroad in the 1996–97 academic year (Larsen et al., 2002, p. 9). The UNESCO/Council of Europe Code of Good Practice in the Provision of Transnational Education differentiates between collaborative and non-collaborative arrangements. The former includes franchising, twinning and joint degrees, whereby educational services such as study programmes or course sections of the awarding institution are provided by a partner institution in the importing country. The latter includes branch campuses, institutions abroad, corporate and international institutions in which educational services are offered directly by the awarding institution from one country in another country (Middlehurst, 2003, p. 8).

The providers

The providers are a very heterogeneous group. Most have their origin in the Anglo-Saxon countries, but institutions from many other countries are rapidly moving into providing transnational education. Here, providers are categorized in six groups — corporate universities, private for-profit providers, media publishing companies, international consortia, educational brokers and public institutions.⁸

Corporate universities such as the McDonald's Hamburger Universities, Motorola University or Walt Disney University, to name but three, have developed rapidly over the past 20 years. They frequently used to be the inhouse vocational training units and were subsequently established as independent legal entities (Schiller, 2000, pp. 147–155). The promotion of lifelong learning has opened up a huge market to them. Recent estimates suggest that there are more than 2,000 initiatives developed by large companies (for example, Lufthansa or Ernst and Young) and by large organizations such as the US Army or the UK's National Health Service.⁹ Very few seek authorization to grant university level qualifications (Middlehurst, 2003, p. 5).

For-profit education is not new. For example, the US based De Vry Institute was founded as early as 1931. It is one of the largest publicly traded higher education companies with annual revenues of more than \$600 million. Another US pioneer is the University of Phoenix whose online programmes enrolled close to 50,000 students in 2002 (Chronicle of Higher Education, 2003). Many US for-profit providers focus on working adults and vocational training.

⁸ For an overview of the dynamic field of transborder higher education, see Observatory on Borderless Higher Education, at www.obhe.ac.uk, and CVCP (2000, p. 8).

⁹ For more information, see www.corpu.com.

Others offer a wider range of programmes from associate degrees to doctorates, which are in many cases accredited.

The line between non-profit and for-profit institutions is often blurred because many private providers work in partnership with existing universities. Some institutions designated as public and not-for-profit in their home countries become private entities when they offer programmes abroad. Prominent examples are the Monash and de Montfort University campuses in South Africa.¹⁰

The group of for-profit providers is quite diverse. Some companies are very large: a number of them are publicly traded such as Education Management Corporation, Corinthian Colleges, and Career Education Corporation. These “big players” consolidated their position in the industry in the mid-1990s by buying up smaller providers. At the same time, some for-profit providers have only recently started to run institutions granting academic degrees. Kaplan, a division of the Washington Post Company, is best known for its business in providing testing preparation. It is now trying to move up the value chain by entering the market for higher education.

In recent years, a number of for-profit providers have managed to attract private investors, who have invested hundreds of millions of US dollars in higher education. For private equity funds, for-profit education has become one of the few business sectors that promise extraordinary growth (Blumenstyk, 2003a and 2003b).

The variety of this second group shows clearly that interest in transborder higher education does not only rest with institutions already in the business of providing education but is also shared by those who view it as an profitable investment.

Other important providers are publishers and media companies. The British Broadcasting Corporation (BBC) has a longstanding alliance with the UK Open University. Publishing companies have begun to build alliances with universities, colleges and other educational service providers. Pearsons, which is one of the three leaders in the market for higher education publishing, has gone into partnership with AOL to set up a “Learning Network”. This project, in collaboration with the University of Phoenix, provides customized electronic learning materials based on Pearsons’ textbooks (Middlehurst, 2003, p. 6).

Many traditional universities interested in transnational education have begun to establish regional or international consortia. Regional examples include

¹⁰ See also Section 3.

the University of the Arctic, a consortium involving Scandinavian, Russian and Canadian institutions (Middlehurst, 2003, p. 8). Larger groupings include *Universitas 21*, a high profile international consortium of 17 universities from Asia, Australia, Europe, and North America. *Universitas 21* is a good example of the permeability of the not-for-profit/for-profit distinction. In 1999, the consortium began to participate in U21global, a company co-owned by Thomson Learning, a major academic publisher. Through this for-profit venture, the consortium hoped to enter developing markets (Arnone, 2002).

Another example is UNext.com, whose partners include Carnegie Mellon University, Columbia University, Stanford University, the University of Chicago, and the London School of Economics and Political Science. This consortium is one of the major providers of online education in business management, and its courses are marketed and sold by two electronic information companies, Thomson Learning and Knowledge Universe. The courses and the MBA degree are provided by UNext's online subsidiary, the Cardean University, whereas the course content was developed with the assistance of the consortium, whose members share in the profits (Mangan, 2002).

Educational brokers offer orientation in the increasingly complex marketplace. They bring together a range of partners to deliver new kinds of programmes targeting new groups of students. Western Governors' University (WGU) in the United States, for example, groups more than 30 organizations including universities, colleges and commercial companies such as Microsoft, Apple, and KPMG in order to develop and offer courses (Middlehurst, 2003, p. 7; CVCP, 2000, p. 14). Other companies supply educational providers with tools, templates and expertise that are not available to them inhouse.

Public institutions have a long history of attracting students from abroad. Of more recent vintage are attempts to cater explicitly to foreign students or to establish a campus abroad. Motives are varied. They range from enriching the learning experience of the local student body to testing the waters for for-profit undertakings. In some engineering departments foreign students are necessary to justify the expensive facilities and to staff the research projects. National organizations, such as the German Academic Exchange Service, spend large sums on grants for foreign students, and recently on establishing branch campuses abroad (Hahn, 2003). They receive government support for these endeavours because foreign students symbolize national grandeur or are seen as the future customers or business partners for export oriented industry. In the case of the European Union, student mobility is regarded not only as a major instrument for implanting a European identity but also for increasing the attractiveness of the European Higher Education Area.

Competitive position

While in the past, institutions of higher learning competed mainly for academic reputation, in a world of liberalized transnational education they will increasingly compete for market share and profitable market niches.

An important prerequisite for successful exporting strategies is the ability to award internationally acknowledged degrees. Such degrees are clearly oriented towards the Anglo-Saxon system. In Germany, for instance, where export of education is still in its infancy, the introduction of Master's and Bachelor's degrees in the context of the Bologna process is perceived as a major step forward in improving the competitive position of German universities.

Student mobility, another major precondition for trade in education, is enhanced by the introduction of a credit transfer system and the modularization of programmes. Such a system plays an important role in the creation of a European Area of Higher Education.¹¹ International providers with subsidiaries in different countries can go one better by circulating their students among their subsidiaries without losing revenue. Therefore export oriented universities have started to establish regional and international consortia whose members accept each other's credits (Middlehurst, 2003, p. 8). Flexible immigration and labour legislation is also helpful for increased student mobility (Margulies, 2002, p. A24).

Consumers' trust in the quality of education is vital for competitiveness. The reputation of a country's education system in general, and of an individual provider in particular, is taken as a quality guarantee. In this context, exporting institutions benefit from investment their countries make in research and development, whether by governments or by private firms, and more generally from the perception of the country as a world leader. To ensure the international relevance of programmes and courses, employment of foreign teachers is seen as important. The German Ministry of Education, for example, recommends an increase in the proportion of foreign professors to up to 10 per cent (Konzertierte Aktion, 2002). Flexible employment legislation is necessary to facilitate such academic mobility.

In response to increasing concerns about the quality of the transnational provision of education, codes of good practice have been formulated in recent years. These codes are intended to ensure that the quality of the exported education is comparable to the domestic provision. Up to now only major exporting countries have fully established quality assurance and accreditation

¹¹ For more information, see http://europa.eu.int/comm/education/programmes/socrates/ects_en.html.

systems for international activities, a system that contributes to the good reputation they already enjoy (Van Damme, 2002, p. 15).

Brand labels have become especially important in the highly deregulated and competitive market for training where no internationally acknowledged degrees exist. Some “first mover” companies such as Berlitz in the language school sector have managed to build up their own label. In the light of increased competition among providers, brand labels have also become key in attracting private investors. Copyrights are gaining in importance as part of branding strategies.

The provision of education in English is a clear competitive advantage in the global marketplace and a cornerstone of the dominance of Anglo-Saxon providers. It not only attracts students from English speaking countries, but also students from other countries, who are today more likely to learn English than any other foreign language. Non-English speaking countries like Germany have started to provide courses and programmes in English as well,¹² though additional costs are incurred by not using the native tongue.

Nevertheless, the dominance of the English language is not quite complete. Export oriented providers in France target their services to French speaking countries. A French university has just been opened in Cairo with the explicit aim of challenging the dominance of English in the global market (Chronicle of Higher Education, 2001). The American University in Cairo has benefited in the past decades from the continuous decline of French, which was once Egypt’s second language. Other exporters have also started to target niche markets. Chinese universities, for example, “export” to Malaysia, which operates a quota system restricting access to higher education of Malaysian Chinese (Cohen, 2001b and 2001c).

Another cornerstone for exporters is their domestic market. The right to raise tuition fees creates incentives to attract more foreign students. The extra income permits the quality of instruction to be maintained despite cuts in public funding. New income sources are one of the main motives for providers to expand beyond national borders. In addition, expansion generates economies of scale for educational materials and marketing — as long as the language stays the same (Daniel, 2002, p. 1). Economies of scale have become an important competitive advantage. New technologies have considerably increased the cost of producing educational materials, and higher quality requirements have raised overhead costs. US experience has shown that smaller institutions pay proportionally more for quality assurance and accreditation (Borrego, 2001).

¹² For more information, see <http://www.daad.de/hochschulen/de/5.2.2.5.2.html>

2.4. Liberalization experiences

Little is known so far about the impact of liberalization in higher education, especially on teachers' working conditions. The paucity of data is remarkable. Here we attempt a preliminary assessment based on theoretical considerations from an economic perspective and experiences gained from other sectors. The case studies in Section 3 provide a more detailed account of the consequences of liberalization.

Education from an economic perspective

The economic model underlying liberalization is premised on a great many assumptions. They include full access to information and rational behaviour of all market participants, the exclusivity of copyrights, the absence of external effects, as well as the absence of transaction costs and public goods. In reality, the assumptions are generally invalid, or valid only in part (see Fritsch et al., 1999, pp. 28–90).

Education is a commodity of trust (Nagel and Jaich, 2002, p. 210f.). Its defining hallmark is that even those receiving education do not have a clear picture of its properties and utility. They must trust in the education providers to offer meaningful quality content. Without complete knowledge of its utility, those less inclined to take risks will have less demand for education. Hence, a purely market based supply of education will lead to inefficiency, with investment in too few or unsuitable educational services (Eger, 2003, p. 137).

Human beings have only a limited capacity for acquiring and processing information. Decisions on whether and how to educate oneself and which services to use require analysis of a profusion of information, particularly in a highly diverse sector such as adult education. There is a conspicuous discrepancy in adult education attendance between those with low and those with high education levels (Kuwan and Thebis, 2001, pp. 27–31). Non-rationality can — from the perspective of society as a whole — also result in depressed participation levels in education.

The less transparent the market the higher the transaction costs for market participants. Transaction costs include not only the fees for research services or brokers, but also the time needed for the provision and analysis of information. Time expenditure counts toward “costs” because this time could otherwise be utilized more fruitfully (for example, in gainful employment). The higher the transaction costs, the more demand deviates from the theoretical ideal. In the extreme case of prohibitively high transaction costs, the market collapses owing to a dearth of demand (Fritsch et al., 1999, pp. 239–333).

In addition to the individual utility of the person being educated, there can also be effects on third parties, positive or negative. Positive effects could, for example, take the form of lower sickness leave rates as a result of spinal training, or higher work productivity due to vocational training (Timmermann, 2000, p. 237). An individual's decision about education will be based primarily on personal utility, which can lead to too little demand for education from the broader perspective of society. Services whose benefits are high for society but not for the individual will be ignored (Nagel and Jaich, 2002, pp. 212 f.). If third parties have interests that go beyond private utility, then greater incentives to education must be created. This can be achieved by altering the legal framework or by internalizing external effects, for example, by way of subsidies.

How might a completely liberalized education market evolve?

From an economic perspective a completely liberalized market exists when the state does not interfere in the regulation of the market. In practice, this means that there is no state regulation above and beyond what is generally stipulated by law. If the state presents itself as a provider or a consumer, then it may not behave differently from non-governmental market participants.

The adult education market, with its already very high level of liberalization compared with other education sectors, will serve as an example here. There are many private providers; there are few regulations concerning content, qualification of training staff, and access to the adult education market; even quality assurance often remains in the hands of the providers. Accordingly, there is a broad and varied range of educational services. Complete liberalization would essentially require the dismantling of state subsidies and the system of state recognition of examinations and degrees.

Education services would then have to be financed by fees, donations or private sponsorship. The costs for formerly subsidized services would have to rise. Consumers would only take advantage of those services that, in their view, would be beneficial to them. Since education services would be subject to market demand, the market might implode. A foretaste was provided by Germany's reform of the *Arbeitsförderungsgesetz* (law for the promotion of employment measures) in the early 1990s. The Federal Institute of Labour cut its funding drastically, triggering a spate of bankruptcies among private providers of training (Kohsiek, 2002, p. 136). Complete liberalization would further result in a massive loss of jobs. People with low income would effectively be excluded from adult education and the gulf between rich and poor would widen.

The introduction of competition between private providers will not necessarily lead to a competitive market structure. Experience of market liberalization in a variety of sectors allows one to speak of a "typical" path of

market development. The nascent phase is characterized by tough competition with many providers and a wide range of offerings. Just a few years later, the market settles down. Providers with little capital, unattractive offerings or inept corporate policies fall by the wayside. Those remaining are likely to be large providers with standardized offerings. They can exploit economies of scale in an international branch network and, by wielding a brand name, offer putative security in a market rife with uncertainty regarding product quality. Branches of industrial corporations can take advantage of the economies of scope in product related training programmes.

Omnipresence has other advantages: brands (for example, Berlitz) are easier to introduce and establish. By bundling demand, commodities and services that are less in demand can still be offered profitably. The recent consolidation among private providers of higher education services shows clearly that economies of scale have become a dominant factor (Blumenstyk, 2003a and 2003b). New technology has increased the costs of producing learning materials. Only by enlarging the number of students can the costs per course can be lowered (Daniel, 1996).

At the end of the consolidation and concentration process, relatively few providers will control the segments of the education market most in demand (with the exception of niche providers). They will promptly endeavour to raise prices. Profits reaped in this manner are used, first, to offset losses from the market development phase and then to line the pockets of shareholders, mostly based in industrialized countries.

Participation in decision-making

Education is both a “commodity of trust” and a “meritocratic good”. As the stock market scandals following the New Economy boom most recently demonstrated, markets are replete with incentives to abuse trust. The ISO 9000 certification system is unsuitable as the basis for evaluating educational services. This standard defines only how quality assurance is to be implemented, but says nothing about the quality level itself, which is set by the provider. The ISO (International Organization for Standardization) system thus does not help consumers to compare services and contributes little to market transparency. These objectives can only be achieved by devising uniform standards for the content and scope of educational services and the qualifications of teaching staff. In this respect, the quality of education cannot be assured by competition but must continue to be defined at national and international level where democratic participation is ensured.

As a meritocratic good, education as a whole is at risk of too little demand. The existence of public educational facilities nevertheless enables citizens within

representative bodies to exercise their democratic rights. In the light of the role of education in society, and its increasing importance in the context of an emerging “knowledge society”, its provision and regulation should not be left to an anonymous insulated market but to a decision-making process where democratic participation and control as well as academic freedom are assured. In order to overcome existing inequalities, public subsidies are needed more than ever.

Moreover, the market regulation of education limits the options open to instructors and teachers alike, whose professionalism and knowledge can help safeguard the interests of the community (Nagel et al., 2002, pp. 174–176).

Likely impact on employees

While proponents of liberalization strongly believe that it leads to general welfare gains, they are less sanguine about the impact on employees. To safeguard the competitiveness of German services, Dietrich Barth has recommended a more flexible labour market, and reductions in wage and non-wage costs, taxes and levies, as a way of meeting the challenge from lower paid workers in China, India and the former Soviet Union (Barth, 1998, p. 126). The prominent foreign trade expert, Gary Hufbauer, has given an even sharper formulation of the impact of further liberalization, prophesying that: “A worker will earn what she produces – evaluated at a single world price” (Hufbauer and Warren, 1999, p. 16). Put plainly, this means that the wage for low qualified workers in current high wage countries will come into line with the wage of the large mass of low qualified workers worldwide. However, no systematic assessment of the implications for labour conditions and access to basic services has been made so far.

3 Case studies of liberalization experiences

For a more vivid account of liberalization experiences, we asked three researchers to relay the experiences of their respective countries. Because liberalization is a very new phenomenon, the case studies focus more on the experiences with privatization.

3.1 South Africa¹³

A striking feature of the South African situation is the rapidity with which the first post apartheid government, elected in April 1994 and dominated by the African National Congress (ANC), moved to adopt a neo-liberal policy framework. The 1994 policy platform of the ANC, the Reconstruction and Development Programme (RDP), was an unstable mix of Keynesian and neo-liberal prescriptions, but with the September 1994 RDP White Paper the focus shifted decisively to creating a favourable environment for private sector expansion through fiscal austerity and liberalization (Adelzadeh and Padayachee, 1994). The June 1996 strategy for growth, employment and redistribution (GEAR) advocated large scale privatization, fiscal austerity, economic liberalization and “regulated flexibility” in the labour market (Government of National Unity, 1996).

With welfare spending in 1996 constituting the largest single item of state expenditure, and education spending at nearly 7 per cent of GDP, the stress in GEAR and the 1997 White Paper on Social Welfare was on rationalizing expenditure and increasing the role of non-governmental actors in service provision. In terms of the higher education sector:

... there is a need to contain expenditure through reductions in subsidisation of the more expensive parts of the system and greater private sector involvement in higher education. This will concentrate public resources on enhancing the educational opportunities of historically disadvantaged communities (Government of National Unity, 1996, Section 6.1).

The commitment of the post apartheid government to the “creation of new South African higher education institutions based on the values and principles of non-racism and democracy” (Asmal, 2001) was thus coupled with a commitment to fiscal austerity and liberalization in the sector. This was in turn part of a broader restructuring of social welfare expenditure: spending on education was projected in 1997 to grow by only 3.4 per cent annually (van der Walt, 2000). Total welfare expenditure fell from 46.2 per cent to 44.7 per cent of the budget in financial year 1999-2000 (NEDLAC, 2000, p. 33). Given annual population growth of 1.5 per cent, and average inflation of over 7 per cent, the education budget was thus cut in real terms whilst social welfare expenditure declined as a proportion of a shrinking overall budget (van der Walt, 2000). Moreover,

¹³ By Lucien van der Walt, Department of Sociology, University of the Witwatersrand.

welfare spending was to focus on creating a safety net for those unable to access private services.

With 21 public sector universities, 15 advanced technical colleges (“technikons”), and a number of colleges for teachers and nurses, South Africa has an unusually large higher education sector for an African country. Under apartheid, the system was horizontally tiered into universities, technikons and colleges, as well as divided vertically into institutions for different racial and ethnic groups, with funding concentrated on institutions for Whites. (Current government policy thus distinguishes between “historically advantaged institutions” (HAIs), and “historically disadvantaged institutions” (HDIs) established for Africans, Indians and “Coloureds”.) Then, as now, these public institutions received the bulk of their income from government. Given the highly decentralized nature of the sector — key policy decision-making power resides at institutional level — state subsidies remain the key instrument for policy reform.

In the 1980s subsidies began to be reduced, and since 1994 this process has accelerated. The prestigious University of the Witwatersrand, for example, saw its subsidy decline by a third from 1995 to 2000 (Barchiesi, 2000). In 1999 the government reiterated that, “given the magnitude of our other priorities”, public sector tertiary education would not receive additional resources (Asmal, 2001).

Government policy instead stressed income generation by the institutions. The National Commission on Higher Education, established in December 1994, concluded in 1996 that institutions must increase (fee paying) student enrolments, feeder constituencies and programme offerings, and become more responsive to societal needs — in particular, to market driven knowledge production and vocationally orientated training (Cloete and Muller, 1998, pp. 5). These recommendations were included in the July 1997 White Paper on higher education (Department of Education, 1997), and envisaged a shift to “mode 2” knowledge production, differing from both traditional and applied research insofar as it is, at once, applied, transdisciplinary, team based, and based in and funded by different organizations (Cloete and Muller, 1998).

However, the emergence of public sector “market universities” (Bertelsen, 1998), able to generate additional funding through an expansion in the number of fee paying students and through the provision of commercial research, has been largely confined to HAIs and the best resourced HDIs, notably the University of Durban-Westville and the University of the Western Cape. Elite English speaking institutions such as the University of Cape Town and the University of the Witwatersrand have commercialized primarily through the expansion of for-profit research (Bertelsen, 1998; Orr, 1997) and postgraduate student numbers. Historically, Afrikaans HAIs have focused upon a massive

expansion of undergraduate numbers through distance education and part-time classes. Student numbers at the Rand Afrikaans University rose from 11,872 in 1990 to 22,011 in 1998 (Bolsmann and Uys, 2000, p. 12), whilst enrolments in the distance education programme of Potchefstroom University for Christian Higher Education rose 25 per cent in 2001 alone (*Business Day*, 2001). The concomitant of this expansion has been a stricter recovery of student fees, shifting the student profile away from poorer working class, mainly African, students towards middle class learners.

By contrast, HDIs were less able to raise additional funding from student fees, given a generally poorer and shrinking student population (Habib and Parekh, 2000, p.4) and low levels of cost recovery, or from research work, given a less qualified staff component and weak research reputation. Many HDIs spent the latter 1990s in crisis. Despite an occasional rhetorical veneer of market orientation, HDIs have focused upon cost cutting, departmental closures and lobbying an unsympathetic government for more aid, rather than on expansion and marketization. The National Working Group on the Restructuring of the Higher Education System recommended that the number of public sector tertiary education institutions be reduced to 21 through disestablishments and mergers (Macozoma, 2002). This merger process will effectively end the separate existence of HDIs.

The emergence of public sector “market universities” takes place alongside the rapid growth of private sector higher education in the 1990s. A rarity in the 1980s, there were up to 350 private providers by 2000, mostly small and offering programmes in a single field (Subotzky, 2001). Although data for the sector are incomplete,¹⁴ it is clear that many private providers rely on courses franchised from public sector universities, making the private/public distinction often unclear (Subotzky, 2001). Other private providers franchise courses from transnational institutions such as Bond University and Monash University (Australia), Business School Netherlands and De Montfordt, which has UK links (Levy, 2003, p.8). And, whereas most private providers worldwide are legally non-profit even when commercial, in South Africa the majority are for-profit institutions (Levy, 2003, p. 3).

At present, private institutions account for only a fraction of higher education students – possibly more than 30,000 as opposed to 600,000 students in the public sector – but may be expected to increase their market share (Levy, 2003, p.7). The significance of the surge in private sector higher education in

¹⁴ This is partly a function of belated government regulation of the sector, the lack of a central data collection system, and problems of definitional ambiguity (Levy, 2003, pp. 3–4).

South Africa lies mainly in its rapid growth, its relationship to the commercialization of public sector institutions, and the manner in which it represents a general commodification of higher learning.

The subsidy cuts and the uneven process of marketization have had important effects on academic labour. At the emerging public sector “market universities” there has been a usurpation of traditional areas of academic authority by an expansive and increasingly powerful administration through the application of private sector management models (Bertelsen, 1998; Webster and Mosoetsa 2001). Coupled to the new focus on profitable core business has been a rationalization of less viable disciplines, the increased use of administrative instruments measuring productivity, and a growing salary gap between academics and management. Thus the University of the Western Cape cut 40 academic posts in 1997 and 1998 as part of “reviewing its structures and academic programs to cut costs and to shift resources towards centres of excellence and relevance within the institution” and becoming a “major competitor” (Financial Mail, 2000). At the HDIs, however, where the market university model has foundered, the focus has been upon staff reduction.

Across the public sector, there has been a sharp increase in academic workload (Webster and Mosoetsa, 2001). In a survey of five institutions, including two “historically disadvantaged institutions” (HDIs), Webster and Mosoetsa found academic staff generally felt that their professional autonomy and status had been undermined by a welter of new controls over time and work. They also felt that work had intensified and the working week lengthened — in part due to pressure to generate additional income for the institutions – and that growing competition between staff, increased job insecurity, and divisions between full-time staff and a growing cohort of contract staff undermined job satisfaction and scholarly community. At the same time, however, there is no national union representing academic staff, union density amongst academics in the public sector is very low, and academic unions tend to be isolated from other campus constituencies, undermining solidarity. Teaching staff at private institutions are almost entirely non-unionized.

A parallel process of workplace restructuring has taken place amongst support service staff.¹⁵ Although comprehensive data do not exist, support

¹⁵ This category is used here to denote non-academic, non-managerial support occupations which do not directly contribute to knowledge production and education, but which are nonetheless crucial to the function of higher education institutions. These manual and menial occupations include catering, cleaning, grounds maintenance, general maintenance and security. If unskilled and artisanal support staff are counted together, there were 15,779 such workers in 1994 out of a total workforce of 45,200 (Subotzky, 2001, p. 5).

service outsourcing seems widespread amongst private institutions. A survey in 2001 found that all public sector tertiary education institutions had outsourced at least one support service function, and that 18 out of 21 institutions had done so since 1994. For many “historically advantaged institutions” (HAIs) this was part of a general drive to focus on the “core” business of marketization. For most “historically disadvantaged institutions” (HDIs) it was a response to financial crisis (van der Walt et al., 2002, pp.21–23). At least 5,000 out of a total of 15,779 support service jobs were lost as support functions were contracted to private companies. Whilst HDIs were well represented amongst the universities that cut the most jobs — the University of Fort Hare, for instance, shed 1,000 posts — even HAIs undertook large scale retrenchments. The University of the Witwatersrand cut 623 posts and Potchefstroom over 400 (van der Walt et al., 2002, pp. 24–26).

A number of workers have been reemployed by the outsourcing companies — 250 out of 623 at the University of the Witwatersrand — but generally at lower wages, without benefits, on an insecure basis, and under a more intense workplace discipline (van der Walt et al., 2002, pp.26–30). At the University of the Witwatersrand, wages for cleaners fell from around R2,227, plus health, pension, loan and study benefits, to R1,200 a month without benefits (van der Walt et al., 2002, p.24). Outsourcing has also resulted in general deunionization of support staff. Not only are the outsourced support service workers divided amongst four or more employers, one for each service, but few of these companies negotiate with trade unions. In only two out of 17 cases for which information was available did unions have a recognition agreement with at least one outsourcing company (van der Walt et al., 2002, pp. 29–30).

3.2 Mexico¹⁶

The transformation of Mexico’s higher education is marked by four main trends — expansion, differentiation, privatization and quality assurance. In the past three decades, Mexico’s higher education system has shifted from a rapid and unplanned expansion in the 1970s (with annual growth of up to 10 per cent) to slow growth (1 per cent a year) from 1986 to date. Nevertheless, the proportion of the population aged between 20 and 24 attending institutions of higher education increased from 14 per cent in 1990 to 19 per cent in 2000.

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This increase has had a direct impact upon the social stratification of Mexican society. According to World Bank studies, it produced greater wage differentiation, with a decline in the real incomes of less educated Mexicans (Lächler, 1998; Lopez-Acevedo 2001).

The expansion of higher education was accompanied by a simultaneous institutional differentiation. While traditional public universities expanded slowly, the technological institutes and universities grew rapidly, increasing their share of public higher education from 20 to 36 per cent. Technological institutes run four or five year programmes in engineering. Technological universities offer two year programmes targeted at groups traditionally excluded from public higher education. Their students typically come from families of semi skilled workers who have received an average of six years of education. Graduates of the technological universities usually enter the labour market as technicians and have to pursue further studies to move beyond this level. Thus this institutional differentiation of higher education contributes to the dispersion of wages.

Private education became part of the country's modernization policies during the presidency of Salinas de Gortari (1989–1994). These policies were a crucial element of the structural adjustment measures imposed on the Mexican government by the World Bank. The World Bank recommended the expansion of higher education at the same time as calling for cuts in public spending. Under President Salinas, the third Article of the Mexican Constitution was modified to enable the private sector and the churches to participate in education, something that until then had been prohibited by the Constitution even though it was tolerated in practice. The legalized private institutes of higher education (*Instituciones de Educación Superior*) helped meet growth targets without tapping limited public funds. The private institutions increased their share of university diplomas granted from 17.4 per cent in 1990 to 27.6 per cent in 1999. The increase was even more noticeable in the postgraduate field. Nearly five times as many students as in 1990 enrolled in private post graduate programmes.

Private providers clearly benefited from a deregulation policy that culminated in Agreement No. 279, passed by the Secretary of Public Education in July 2002. It reduced and simplified the paperwork necessary to obtain accreditation — the *Registro de Validación Oficial de Estudios* (RVOE). This means that while, as we will see below, quality assurance procedures were increasingly imposed on the public sector, the opposite is true for the private sector. For private institutions, supervision and evaluation by the Secretary of Public Education were virtually eliminated.

A two class system has emerged within the private sector: The private universities of high reputation, such as *Universidad Iberoamericana*, the

Instituto Tecnológico de Estudios Superiores in Monterrey and the *Universidad La Salle*, have developed strategies for regional branches and charge very high tuition fees. As a result, it is mainly the children of well-to-do families who attend these prestigious institutions, despite the availability of grants for poor students of high academic ability. Most other students at private universities attend institutions of a second category. These offer forms of vocational training in popular demand but do not engage in research or cultural activities. The quality of their programmes is considered to be poor, but information on these institutions is still scarce.

In response to the negotiations on the North American Free Trade Agreement (NAFTA) the Mexican government has started to emphasize the quality of education. The prospect of opening their markets to Mexican graduates led the US and Canada, the other NAFTA members, to ask for quality assurance systems. Annex 1210.5 of Chapter 12 on cross-border trade in services states that the parties should encourage the relevant bodies in their respective territories to adopt “mutually acceptable standards and criteria for licensing and certification of professional service providers and to provide recommendations on mutual recognition”¹⁷

The Mexican government responded with the creation of the Inter-Institutional Committees for Evaluation in Higher Education (CIEES). The committees are responsible for the evaluation of curricula and for setting up an accreditation system. A positive evaluation by these committees is a precondition for receiving financial assistance and scholarships for students from the National Council of Science and Technology. The establishment of accreditation councils for many academic areas followed in the mid-1990s (Ortega Amieva, 1999). This accreditation system resembles those of the United States and Canada. Some university experts, however, believe it to be inconsistent with the legally guaranteed autonomy of public universities (see Didou Aupetit, 2002, p. 139).

A second evaluation structure is directed towards the research activities of individual scholars. The evaluation results influence the salary academics receive. Salary levels are no longer standardized across faculties and universities. With the setting up of the *Programas de Estímulos al Desempeño del Personal Académico de Carrera*, individual evaluation has become institutionalized. At first, many academics refused to take part in the evaluation, but today it is common practice. The consequences are contradictory. On the one hand, these programmes helped introduce and strengthen a culture of evaluation

¹⁷ http://www.dfait-maeci.gc.ca/nafta-alena/chap12-en.asp?#annex_1210_5.

that did not exist before. On the other hand, the fact that evaluation is so closely tied to funding and salary has fostered a competition for supplementary resources regardless of any quality improvements. The evaluations are not used to advise faculty in their efforts to improve the quality of their programmes or their research activities. Instead, they are used simply to decide who gets what.

To sum up, evaluation and accreditation quickly became part and parcel of a reform of higher education that pushes for quality improvements and a certain “professionalization” of academia. However, its orientation towards marketization and commodification of education is meeting considerable political resistance, as was demonstrated in 1999-2000 by the long student strike at the *Universidad Nacional Autónoma de México* (UNAM), the country’s main university, against the introduction of tuition fees.

So far, the Secretary of Public Education has not expressed an official opinion regarding the transnationalization of higher education. Furthermore, no systematic record of foreign universities in Mexico exists. Foreign institutions have been installed as franchises, as consortiums, or in cooperation with Mexican institutions. No state policy exists to regulate their graduate and postgraduate programmes. This bestows on them an unfair competitive advantage vis-à-vis the national public universities, which are confronted with rigid regulations requiring financial reporting and the improvement of quality.

In 2000 the consortium Sylvan Learning Systems (now renamed Laureate Education) bought an 80 per cent stake in the private Universidad del Valle de México, which has since expanded rapidly to 53,000 students in the 2004-05 academic year. For an initial investment of USD50 million Sylvan Learning Systems is reported to have made a profit of approximately USD215 million within two years (Rivera, 2003). Its success is seemingly due to the promotion of degrees in engineering and business studies, and to adding its own label to the original name of the university.

Although foreign providers should not be excluded from Mexico, there is a definite need for a public policy to deal with for-profit institutions. But, first and foremost, it is necessary to strengthen and take care of the national higher education system and its public institutions in particular.

3.3 Turkey¹⁸

Since the early 1980s, Turkish universities have been pressed to adopt a market orientation. In the previous 50 years, although the institutional regulations for higher education had shifted back and forth between the von Humboldt and American models, state influence was pervasive. Istanbul University, Turkey's first university established in 1933, followed the von Humboldt model, which emphasizes academic autonomy. However, the so called American model, which stresses the financial autonomy of higher education institutions, set the pattern for the three new public universities that were established in the 1950s under the Democrat Party government (Tekeli, 2003, p. 78).

The military coups that took place in Turkey over the last century have had a big influence on the development of the higher education sector. The government that came to power after the military coup of 1960 strengthened the academic autonomy of universities while putting them under state guarantee. However, the governments established by the military coups in 1971 and 1980 abolished many of the privileges given previously to the universities. These governments aimed to increase state control over the universities, as they had been a major focus for radical student action since 1968.

After the 1980 coup and the new Higher Education Law No. 2547, the Board of Higher Education (YÖK) was established in 1982. The Board functions as a centralized decision-making body for all universities. It has full authority over the regulation of personnel issues, curriculum decisions and other aspects of university governance. Major changes have been introduced in higher education in recent years:

- Assistant posts (for junior academic staff hoping to become full professors) were downgraded to research assistantships that are only valid for the research period.
- The chair system has been replaced by the department system.
- Peer review was introduced for the academic controlling mechanism on distribution of research funds, scientific publishing decisions, and the promotion of faculty.
- Instead of being judged on a thesis, applicants for associate professorships are subject to peer review.

¹⁸ By Naile Belgin Erdem Pfeifle, Social Science Institute, Marmara University, Istanbul, Turkey.

Since the 1980s Turkey has been gradually opening up its economy to the world market. Privatization became one of the major instruments of the new government's structural adjustment programmes that were established to implement fiscal austerity. The reorientation in economic policy had a big impact on public expenditure in general and on expenditure for education in particular. Education's share of total public expenditure was cut from 18 per cent in 1990 to less than 9 per cent in 2001 (State Institute of Statistics, 2003). Following the World Bank's recommendation, shrinking public resources for education were redirected towards basic education. Higher education, therefore, had to look for new financial sources. At the same time enrolment of the relevant age cohort went up from 7.4 per cent in 1980 to 27.8 per cent in 1999.

In 1992, the Turkish government allowed the establishment of private higher educational institutions via foundation arrangements. Of the current 77 universities, 23 are private. Most are located in metropolitan areas. Although foundations are supposed to devote private wealth to public purposes, in fact, it tends to work the other way around (Işıklı, 2001). Public funds for education are used to support the foundation universities: up to 45 per cent of their budgets depend on the state (Board of Higher Education (YÖK), 2003). Foreign investors are not yet allowed to establish a presence on their own. However, quite a number of foreign universities run programmes in cooperation with Turkish universities. Double major programmes and joint degrees offer students the possibility to obtain a diploma from foreign universities. With the entry into force of the General Agreement on Trade in Services (GATS) in 1995, Turkey agreed to open part of its education market to foreign companies.

A second form of privatization has taken place through the introduction of tuition fees. In 1981, the Council of Ministers decided that students at public universities should pay a share of the costs. Up to 1992, this share increased to almost 20 per cent of the overall budget. However, a 1990 decree permitted an increase in the students' share of up to 50 per cent. Tuition fees for private universities vary between USD5,000 and USD15,000. These high tuition fees reflect students' social background. In 1998, the family income of students at private universities was 2.5 times higher than the family income of public university students (Board of Higher Education (YÖK), 2003; TUSIAD, 2000). This trend towards social stratification has been further aggravated by the faltering economy, which saw a decline in average household incomes during the 1990s. In addition, prospective students have to pay for special preparatory training for their entrance exams, which cost an average of \$191 in 1997 (TUSIAD, 2000).

A third type of privatization takes place through outsourcing of assistance tasks. Sales of books and stationery, special courses for the central selection examination, transport services, student hostels, canteens and dining halls are all

examples of for-profit activities taking place on campus even at public universities.

Universities are increasingly compensating for the decrease in public funding by cutting faculty salaries. Professorial salaries decreased from \$1,060 per month in 1999 to \$740 in 2001 (Rectors' Report, 2001). Besides this general decrease in salary a clear trend towards casualization of employment conditions can be observed. Faculty members are increasingly hired under short term contracts. At the same time the pressure for more flexibility has increased, even for teaching staff with civil service status. They are frequently asked to serve in unfavourable locations, work longer hours, or are forced to accept unpaid vacation.

In sum, the commercialization trend started in 1980 is continuing and risks aggravating social stratification within Turkish society.

4 Global policies facilitating liberalization

4.1 *International agencies*¹⁹

The common trends described in the case studies are part of a remarkably consistent worldwide reform agenda of higher education that has emerged in the last decade (UNESCO, 2003a; Johnstone, 1998; McNeely and Cha, 1994). Looking at the current attempts to shape the educational agenda beyond the national state, we see a complex network of interactions covering the world with nodes and hubs on different levels. On the bilateral, intra-regional, inter-regional and global levels these networks bring together a variety of governmental and non-governmental actors. These different nodes and hubs may have their own particular discourse on education and represent a particular condensation of power relations (UNESCO, 2003a), but at the same time they interact with a broader network, sometimes very closely and sometimes rather loosely (Dale and Robertson, 2002). These interactions, structured by significant power differentials, foster a convergence process on a global scale. Nevertheless, there are often considerable conflicts and tensions.

On a regional level, we find interaction processes framed most prominently by the European Union, the Asia Pacific Economic Cooperation forum (APEC) and the North American Free Trade Area (NAFTA). On a supra regional level, the most influential shapers of the educational agenda are the World Bank, the

¹⁹ We would like to thank Jürgen Klausenitzer for his comments on an earlier draft of this section.

International Finance Corporation (IFC), and the Organisation for Economic Cooperation and Development (OECD). They have strengthened their focus on education in the last three decades and by doing so have become the main pillars of an global educational regime that provides a normative framework for a international neo-liberal reform agenda.

In the following, we will provide an overview of the major changes in the educational policy of these organizations. An examination of internal conflicts and changes highlights the shifting power relations within the organizations. The organizations are therefore not only promoters of change but also terrains for power struggles. Changes of policy within the organizations have directly affected relations with other organizations. These complex inter-relations prepare the ground for a “*nouvel ordre éducatif mondial*”, a new world order of education (Laval and Weber, 2002), that is paving the way for the liberalization of higher education and training in many countries. The emergence of this new international education regime can be considered as the necessary precondition for a global market in educational services that is regulated increasingly by the General Agreement on Trade in Services (GATS). We will come to GATS in more detail in Section 5.

Education as a productive investment – history of a discourse

The World Bank Group has become the largest multilateral donor agency in education. Up to now, the World Bank has provided some USD31 billion in loans and credits for education, and in 2003 it financed 158 education projects in 83 countries.²⁰ However, until the 1960s the World Bank rejected all requests for loans in this area. Education was not considered to improve the productive capacity of the borrowing country (Jones, 1992, p. 33). This initial reluctance to lend provides insights into the power structure of the Bank. As a bank, it has its own income in the form of interest payments, and the repayment of loans provides it with a steady pool of financial resources that have to be redeployed. This income makes the Bank more independent of its member governments than any other international institution (Woods, 2000). At the same time, it makes the Bank more dependent on the financial market, as Wall Street’s assessment of the Bank’s lending policy translates directly into the rating on its bonds. This dependence on Wall Street was one of the major reasons for the Bank’s reluctance to provide loans for education, because they risked jeopardizing its reputation in the financial community (Jones, 1992, p. 36). In addition, member governments are very unequally represented on its governing board. In contrast

²⁰ <http://www.worldbank.org/tenthings/2ndedition/one2.htm>.

to most other organizations in the United Nations system, votes in the Bank's executive board are weighted according to the number of shares a country holds, which is related to the size of its economy. The governments of the United States, Japan, Germany, the United Kingdom and France command almost 40 per cent of all votes.

Lending for educational purposes started with the creation in 1960 of the International Development Association (IDA), the World Bank's second multilateral lending facility. IDA offers long term and highly concessional loans to the poorest developing countries, relying on regular replenishment of its resources by richer member states (Kapur et al., 1997, p. 1121). The creation of this second lending facility was strongly supported by the United States and its allies, in part to preempt the creation of a multilateral concessional loan facility under the auspices of the United Nations and in part to use the loans to counter the appeal of socialism for the newly independent nations (Jones, 1992, p. 25; Murphy, 1998, p. 71).

Under the presidency of Robert McNamara (1968-81), when the Bank's facilities quadrupled in real terms, its educational lending grew only slightly. While primary education enjoyed priority (Kapur et al., 1997, p. 259), lending for higher education declined (Hüfner, 1998, p. 297). This appears to have been a reflection of the conservatism of the Bank's lending staff. It continued to view education as consumption rather than investment. Attitudes changed in the 1980s, when the human capital theory became the Bank's major rationale for investing in primary and basic education, replacing the manpower forecasting approach.

The expansion of the lending activities of the Bank in the 1970s went hand in hand with the expansion of its research capacity. The Bank became the largest single employer of development economists and development professionals, with an administrative budget much greater than the budgets of UN organizations (Mundy, 2002, p. 485). This increasing intellectual authority of the Bank was not without consequences for the United Nations Educational, Scientific and Cultural Organization (UNESCO), which had been the specialist organization in educational matters. Whereas UNESCO had a holistic perspective on education, emphasizing the right to education, the World Bank promoted a narrow focus on economic development (Jones, 1992, p. 73; World Bank, 1974). As early as 1972, the exclusionary arrangement that required the Bank to take into account UNESCO's preliminary studies came to an end. In 1976, a joint taskforce recommended reducing UNESCO's role (Jones, 1992, pp. 110, 127). The crisis of UNESCO in the 1980s, when the United States and United Kingdom abandoned their membership, increased the distance between these two organizations and weakened UNESCO's intellectual capacity because of a lack of resources (Holly, 2003, pp. 228-237).

The Bank's growing research capacities highlight its double role in developmental politics. First, the Bank functions as a financier. However, its loans amount to only a fraction of a nation's overall expenditure on education. The Bank's lending facilities work rather as "seed money" (Hüfner, 1998, p. 294). The impact of this seed money depends on the conjunction of the loan with specific discourses. The loans can be seen as the material enabler, an anti-blocking agent that allows a line of thinking to enter national discourse while attracting additional money from other donor agencies. Through this conjunction the Bank plays a second role as a major global policy advocate.

The emergence of the reform agenda

The Bank reacted to the debt crisis of the early 1980s with a change in its lending policy. It shifted its attention from concrete and limited projects to sector wide institutions and national policies. Its short term stabilization programmes came with prescriptions for longer range policy changes, including sectoral reform (Helleiner, 1986, p. 48). The major elements of the reform were liberalization, financial deregulation and privatization, alongside a sharp reduction of public spending, fiscal austerity and tighter credit and money supply.

Interestingly, the centrality of structural adjustment in the Bank's policy went hand in hand with the expansion of the Bank's intellectual and research capacities. Observers described the Bank in the 1980s as a "center of a neo-classical resurgence" (Mundy, 2002, p.488). John Williamson coined the term "Washington consensus" (Williamson, 1990).

The World Bank considered the reform of the education sector to be a crucial step in the reform of the public sector, as in many countries it accounted for a sizeable part of the state budget. Framed by the rate-of-return approach, the Bank's central education unit started to develop a research programme to find out which inputs into education systems were the most efficient (Psacharopoulos and Steier, 1987). Increasingly, issues like efficiency, cost effectiveness and quality became guiding principles for educational reform. The private provision or financing of education was put at the top of the reform agenda. Tuition fees were considered to be an important instrument permitting the expansion of education without massive increases in public expenditure. This line of argument culminated in 1986 in the publication of the policy paper, *Financing education in developing countries: An exploration of policy options*, which summarized the three core Bank prescriptions for educational reforms. First, the reallocation of government spending was to be directed towards the level with the highest social returns, which was basic education. This implied that the cost of higher education was to be recovered through tuition fees. Second, a credit market

especially for higher education was to be developed to provide loans and means tested scholarships for outstanding students from low income families. Third, the management of public education was to be decentralized and non-government and community supported schools expanded (Psacharopoulos et al., 1986). Later reports continued to elaborate on the Bank's prescription for education reform. The guiding thread throughout all these documents remained cost sharing and privatization (Jones, 1992, pp.177, 245). In the context of a wider agenda for civil service reform, the Bank's education sector lending often encourages its borrowers to delink the teaching professions from civil service pay scales and to use non-unionized or semi professional teachers (Mundy, 2002, p. 494). In other words, the Bank's education policy seems to foster a tendency towards casualization of teachers' working conditions.

The role of the OECD

The second pillar of the global educational regime is the OECD. Unlike the Bank, the OECD is situated in Europe, staffed by many more Europeans, and has a board voting policy that does not privilege the United States. In addition, its information exchange is more targeted at experts than governments, and it enjoys a high reputation for its intellectual capacities among member states. Education has always been an issue within the OECD. In the early 1980s, its framework for educational policies changed dramatically when conservative governments came to power in some of the more powerful member states. On two main issues these governments and their experts managed to gain leadership: the linkage between education and the labour market, and the definition of quality in education. They replaced the manpower forecasting approach with a microeconomic view of the rate of return to "investment in human capital" (Papadopoulos, 1996; Becker, 2000, p.100). Efforts were made to measure input and output ratios precisely, in order to quantify the benefits of the specific skills of individuals for the knowledge-based economy (Henry et al., 2001, p.99). It was no major step to highlight the benefits for individuals, which in turn provides the rationale for cost sharing. Or, as an OECD report states: "all learners in tertiary education might be expected to contribute a share of the costs of their tuition" (OECD, 1998, p. 6).

On the issue of quality, the US administration promoted the concept of an outcome oriented quality assessment (Heyneman, 1999; Henry et al., 2001, p. 76). This shift from input to output oriented quality assessment puts the focus on institutional improvement and self-evaluation, and thereby fosters the commodification of education. For one thing, output oriented assessment increases the pressure for cost savings. In addition, it provides for a new steering mechanism that is indifferent to public or private delivery of education.

The outcome orientation gives rise to comparative studies. Within the OECD, the United States and France pushed for the development of an outcome oriented indicator project covering a wide range of countries (Papadopoulos, 1996, p. 221). The indicators permit a close comparison between countries while abstracting from the particular objectives and institutional setup of their respective educational systems.²¹ This new comparative method gained broad acceptance in a relatively short time. The attempt to receive a good ranking for oneself in such a world survey is closely linked with the hope of attracting more foreign investment. At the same time, governments with a bad ranking can use the negative result as a justification for restructuring their national education system.

International comparison has consequently increased convergence among national educational systems and plays a major role in the orientation of each country towards a global market. Additionally, it has changed the modus operandi of the OECD. The organization has moved from moderating the exchange of experiences among its member states to becoming a policy actor with a strong agenda setting capacity (Henry et al., 2001, p. 53; Laval and Weber, 2002, p. 78–81).

Tertiary education: The lifelong learning paradigm

In the 1990s, the policy papers of the OECD, the World Bank, and UNESCO placed a renewed emphasis on higher education. In the name of lifelong learning and employability, the OECD called for a better match between the supply of education and training opportunities and the demand patterns of the labour market (Henry et al., 2001, p.120). This implied the dissolution of the strict divide between higher education and vocational training (Papadopoulos, 2002, p. 43f.; OECD, 1993). Accordingly, the OECD proposed the replacement of the term “higher education” by “tertiary education”.

By tertiary education, the OECD refers to a level or stage of studies beyond secondary education, undertaken in formal tertiary education institutions but also in a wide variety of other settings including in secondary schools, at work sites, via free standing, information technology based offerings and a host of private and public entities (Wagner, 1999, p. 57).

²¹ The OECD has extended its comparisons considerably. Since 1992 it has been publishing Education at a glance every year, and since the second half of the 1990s it has been carrying out broad assessments. The most prominent international comparison is probably the programme for international student assessment (PISA) that has been conducted on a regular basis since 2000.

In short, lifelong learning has become a “new policy paradigm” in a knowledge based economy, a paradigm inextricably inter-related with the mass expansion of higher education and which is used in particular to justify further commodification of higher education (Henry et al., 2001, p. 122).

The World Bank’s report, *Higher education — the lessons of experience*, published in 1994, emphasized the contribution of higher education to increases in labour productivity and higher long term economic growth. Although the report recognizes that there is “no single blueprint appropriate for every country” (World Bank, 1994, p. 4), its framework for reform clearly mirrors the OECD reform agenda (Klausenitzer, 2000). Funds are only to be provided to countries that have set up a policy framework that encourages competition and a differentiation of institutions, with an emphasis on private providers and private funding, including cost sharing with students.

The World Bank’s rate-of-return approach made also inroads at UNESCO. In 2000, the Bank cooperated with UNESCO to produce the report, *Higher education in developing countries: Peril and promise*, which basically adopted the rate-of-return approach (Task Force on Higher Education and Society, 2000). Interestingly, the report stayed silent on the issue of working conditions of teachers, though only a few years before, the General Conference of UNESCO had approved Recommendations concerning the status of higher education teaching personnel.

The collaboration between these two organizations can be taken as an indicator of a new interest in UNESCO that finally led in 2003 to the return of the United States to the organization after an absence of nearly two decades. One reason for reapproaching UNESCO might be seen in the increasing criticism of international education policy emerging in the second half of the 1990s. The financial crises in Asia, the Russian Federation and Latin America undermined confidence not only in the International Monetary Fund but also in the World Bank. By the end of the 1990s, non-governmental actors scrutinized the Bank’s education policy more closely than at any other time in the organization’s history (Mundy, 2002, p. 502).

With the 2002 report, *Constructing knowledge societies: New challenges for tertiary education*, the Bank reacted implicitly and explicitly to this criticism (World Bank, 2002). One indicator is the new reference to education as a public good. Whereas the 1994 report never referred to it, the new report calls in the name of this concept for a more balanced and comprehensive view of education. Nevertheless, the Bank has not changed its reform agenda qualitatively. It remains committed to competition, institutional differentiation, cost sharing, and the promotion of private provision of higher education. The new report picked

up the OECD's term "tertiary education" as a replacement for higher education, as well as its penchant for lifelong learning.

In order to improve access to higher education, the OECD and the Bank recommend making use of transborder education. They advise low-income and small countries to import tertiary education, to permit a more diversified system and to expand enrolment despite limited resources (World Bank, 2002, p. 117). This pro-trade activity is complemented by the International Finance Corporation (IFC), the private sector arm of the World Bank Group. The IFC is in its own words "the first major institution to (1) enter this new industry in the emerging markets and (2) introduce private education entrepreneurs in emerging markets" (IFC, 1999, p. 9; see also Sosale, 2000).

In order to allay the fears of many governments regarding the emerging global market in education, the Bank emphasizes the need to enhance quality. Accordingly, the Bank gives high priority to the establishment of regional and international quality assurance frameworks, although it points out that these mechanisms should not be allowed to constitute rigid entry barriers (World Bank, 2002, p. 126).

In sum, the educational agenda of international organizations changed dramatically in the 1980s towards the promotion of marketization and privatization. This orientation continued in the 1990s but with a stronger emphasis on the importance of higher education for all countries regardless of their economic situation. To foster such an expansion, the World Bank has started to recommend importing transnational education, a recommendation that is addressed, in particular, to poor and small countries and strongly supported by the International Finance Corporation. These organizations have become the main pillars of an educational regime that paves the way for a global market in higher education.

Europe: Transborder education without commodification?

The building of a European Higher Education Area is of interest for a particular reason. The European Union pursues a common higher education area, but has not yet taken the road of commodification of education. On the contrary, education ministers have reaffirmed the value of education as a public good. In order to facilitate mobility and employability, EU member states promote student mobility and the mutual recognition of degrees and diplomas. A major step was the adoption of the Convention on the Recognition of Qualifications Concerning Higher Education in the European Region in Lisbon in 1997. The Bologna Declaration of 1999 formulated the common goal of the creation of a European Learning Area (Bergan, 2002). However, the Declaration also arose from a concern about the attractiveness of higher education in Europe. For many

policymakers, too few non-Europeans were coming to Europe for their studies, and in this concern lies the ambiguity of the European integration process. Some EU member states are very keen on exporting, even those with predominantly public universities.

5. GATS and education

The General Agreement on Trade in Services (GATS) came into force in 1995 with the establishment of the World Trade Organization. GATS created a framework for the progressive liberalization of international trade in services. At the same time, a renegotiation of commitments made under the agreement was scheduled to begin in 2000. These negotiations have now been folded into the Doha round of global trade talks, which is not expected to end before late 2006 at the earliest.

5.1 *The central provisions of the GATS*

Classification scheme

What has been agreed on so far? First, a classification scheme for services was developed that divides services into 12 sectors. The fifth sector containing educational services is in turn divided into five categories — primary education, secondary education, higher (tertiary) education, adult education and other education services.

Furthermore, GATS distinguishes four modes of supply of trade in services:

1. cross-border supply (Mode 1): The supply of a service from one country into another (for example, e-learning over the internet);
 2. consumption abroad (Mode 2): The supply of a service within a country for consumers from another country (for example, students from abroad);
 3. commercial presence (Mode 3): The supply of a service through commercial presence in another country (for example, establishment of a Berlitz language school);
 4. movement of natural persons (Mode 4): The supply of a service by persons who move temporarily to another country for this purpose (for example, a native speaker from one country teaching staff at a language school in another country on a short term contract).
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These classifications allow a highly differentiated liberalization of services. For example, a country can limit its liberalization commitments in education specifically to Mode 2 (consumption abroad) for adult education. For good measure, it can also demand additional exceptions, for instance, requiring that only its own citizens are allowed to teach in adult education. The specific commitments are incorporated into the GATS as schedules for each country. The flexible liberalization concept of the GATS in principle allows member countries to open up their market only in those sectors where they consider it opportune to do so. But once they have signed an undertaking they are permanently bound by it, unless they provide compensation in the form of liberalization in a different sector (including goods) to trading partners who stand to lose by the change.

GATS principles

What do countries commit themselves to when they enter individual sectors and modes of supply in their schedules? They commit themselves to upholding the central principles of the GATS, particularly those of most favoured nation treatment, national treatment and transparency.

The most favoured nation principle requires that trade concessions granted to one country must automatically be granted to all other WTO members. This principle is seen as the essential motor for the worldwide propagation of trade liberalization. However, GATS does contain some general exceptions to most favoured nation treatment, for example, for regional integration treaties. This exception is important for the EU as it prevents the trade advantages of the common market being granted automatically to countries outside the EU. Accordingly, the freedom of establishment applicable within the EU does not have to be granted to “third party countries” such as the United States. However, the EU has chosen to commit itself under the GATS to liberalize Mode 3 (commercial presence) in the primary, secondary and tertiary education fields. It thus has to grant market access equally to companies from the United States, India or any other WTO member.

The principle of national treatment says that foreign service providers must be treated no less favourably than domestic providers in any given market. This is intended to ensure a level playing field for all. Consequently, the licensing procedure for recognition as an education provider should not be more stringent for foreign providers than for domestic providers.

The GATS agreement additionally demands transparency in state regulation of the services sector, including a commitment to make all measures public that affect trade in services. Once a year, the WTO must be informed of

changes to laws, regulations and administrative guidelines that are relevant in this regard.

Dispute settlement procedure

A breach of commitments as laid down in the GATS agreement can be challenged in the WTO's dispute settlement procedure. The procedure is open only to member governments and not to private companies. If the WTO dispute panel and, if called upon, the Appellate Body, uphold the challenge the country may have to change its measures to comply with GATS rules. If it fails to do so, it can face retaliation.

Very few cases under the GATS have been taken to dispute settlement, none involving education. Because it is precisely in the largest trading nations that the liberalization of public services is a matter of domestic dispute, there is little interest on the part of their governments to burden the dispute settlement process with politically controversial issues.

Public services

The GATS agreement excludes services that are “supplied in the exercise of governmental authority”, but does not define these services except in a negative way:

For the purposes of this agreement [...] the term “a service supplied in the exercise of governmental authority” is any kind of service which is supplied neither on a commercial basis nor in competition with one or more service suppliers (Article 1.3c).

This suggests that the extent to which countries can exclude public services that serve to satisfy the fundamental needs of society (healthcare, education, infrastructure services) depends on the mode of supply and prevailing competitive conditions. All sectors that are partially privatized, that are moving towards privatization, or in which quasi-state or private operators are administering public tasks (for instance, in respect of certain welfare commitments), or which charge fees that could reasonably be called “commercial”, potentially fall outside the protection of the sovereignty clause.

In the case of hospital services, the WTO secretariat itself had doubts whether these fell within the exception clause, since in most countries the hospital sector consists of “government and privately owned entities, which both operate on a commercial basis, charging the patient or his insurance for the treatment provided”. It concluded that: “in scheduled sectors, this suggests that subsidies and any similar economic benefits conferred on one group would be

subject to the national treatment obligation...” (WTO, 1998b, p. 11). In charging fees, providers of public health services risk being classified as operating on a commercial basis and thus coming under GATS rules (Waghorne, 2000, Annex 4).

Responding to public criticism, the WTO secretariat has reversed its stance and now states: “It seems clear that the existence of private health services, for example, in parallel with public services could not be held to invalidate the status of the latter as ‘governmental services’” (WTO, 2001, p.124; on the unclear definition of governmental authority, see also Colas and Gottlieb, 2001, pp. 10–13).

A government’s freedom to regulate its service sector could be threatened by another GATS clause, which contains a mandate to develop future rules for “qualification requirements and procedures, technical standards and licensing requirements” to ensure that these domestic regulations “do not constitute unnecessary barriers to trade in services”. It does not stop a government regulating services, including higher education, but its regulations may not be “more burdensome than necessary to ensure the quality of the service”. Fortunately, there are currently no such rules, called disciplines, for education, though they could be negotiated at some future date.

5.2 Mapping liberalization in the framework of GATS

The following section describes liberalization commitments already made in the framework of GATS by WTO members in the subsectors of higher education and adult education, which includes training services. Countries can be divided into four groups:

- No liberalization commitments: The majority of WTO members have made no liberalization commitments whatsoever. Market entry for foreign education providers is at best an exception to the rule or is subject to bilateral or regional agreements.
 - Few and differentiated liberalization commitments: Some countries have made commitments in a few subsectors and modes, mostly where no national interests or education providers are affected. In this manner, domestic education systems can be protected or “national champions” shielded, without rejecting GATS outright. The United States and New Zealand are two prominent examples.
 - Extensive liberalization commitments: A number of countries made quite extensive commitments in nearly all sectors of education services. Examples include Switzerland, the EU (excluding Austria, Finland and
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Sweden), and the transition states of Eastern Europe and the former Soviet Union.

- Full liberalization commitments: No WTO member has made unrestricted liberalization commitments in the entire education sector and in all modes.

Sectoral agreements

Only 53 countries (a third of the WTO's membership) made liberalization commitments in the subsectors of higher education and training/adult education. Of these, 37 liberalized both subsectors, eight liberalized higher education only and eight adult education/training only. Most countries reported sectoral restrictions (see Table 2.1) – the fewest being for the consumption of education abroad (Mode 2), followed closely by cross-border supply of education services (Mode 1). As might be expected, there were more restrictions on commercial presence (Mode 3), taken by 22 WTO members, and 49 of the 53 restricted the movement of natural persons (Mode 4).

Table 2.1 Sectoral restrictions on liberalization commitments in the subsectors of higher education and adult education/training

Mode	Higher education		Adult education/training		Total number of countries	
	Market access	National treatment	Market access	National treatment		
1	4	4	6	4	4	9
2	2	1	1	–	–	2
3	18	10	11	22	22	22
4	44	40	42	38	38	49
1-4	23	20	21	20	20	27

Source: WTO Services Database Online: <http://tsdb.wto.org/wto/Public.nsf/AboutFrmSet?OpenFrameset>

In addition, for all modes of supply, countries limited their obligations to provide market access and national treatment. Only Mali and Rwanda reported no sectoral restrictions whatsoever. However, they did not liberalize adult education — at least not in the framework of GATS. Thus not a single WTO member has made full market access and national treatment commitments.

The restrictions may be divided into several groups. Countries may simply not make commitments for at least one subsector and one mode of supply. This applies to 47 of the 53 members making commitments. Eighteen WTO members restrict access of foreign providers to state funding, subsidies or stipends, and in

17 (including the EU without Finland, Austria and Sweden) liberalization is entirely or partly limited to private education services.

State approval for setting up a teaching business is required in 14 countries. Nine restrict the content of education services. Eight impose minimum requirements on the qualification of teaching staff, on the performance of providers or on the organization of courses offered.

A further group of restrictions relates to natural and juridical persons from abroad who want to establish themselves as education providers in another country. Most frequently — in nine countries — at least part of the management and/or teaching staff of an educational facility are required to be nationals. Three countries limit foreign shareholdings in domestic education providers, and another three restrict the legal form in which foreign providers may set up shop.

Horizontal restrictions

Countries can also apply “horizontal” restrictions to all their commitments under GATS, covering all sectors. These can include a broader interpretation of governmental functions than the definition given in GATS. Thus governments can in this way restrict market access to education services, eliminating uncertainty that could arise over their status as “governmental” services where private providers operate alongside state educational institutions.

An additional restriction is the exception to the national treatment principle for branches of foreign firms. The EU reserves this right against branches of firms from non-EU states that were established contrary to EU law. In order to receive equivalent treatment, an education provider from a non EU state must set up a subsidiary within the EU according to the law of an EU member state. In addition, they must demonstrate “... a real and permanent connection to the economy of one of the member states” (WTO, 1994).

Finally, as in the sectoral agreements, the right of national treatment can be refused in the case of subsidies for foreign firms and students. Together with the previous restriction, this ensures that neither education provider nor education consumer from abroad has a right to state support.

5.3 The current negotiations

As already mentioned, negotiations on further liberalization of services are now part of the Doha Development Agenda (trade round) launched in November 2001. This will eventually result in a “package deal” in which concessions on services may be exchanged for concessions on textiles or agricultural goods, for example.

Private sector requests

Lobbying for a multilateral services agreement began in the US, when companies who had joined forces in the Coalition of Service Industries (CSI) succeeded in having services put on the agenda of the Uruguay round of GATT (General Agreement on Tariffs and Trade). The European Commission was advised by the European Round Table of Industrialists and UNICE, the European employers' association. At the beginning of 1999, the European Services Forum (ESF) was founded with the help of the EU Commission for the specific purpose of renegotiating GATS commitments. There is a conspicuous consistency in the broad demands of US and European industry representatives. The Transatlantic Business Dialogue (TABD) provides a platform for direct coordination (see Wesselius, 2003; Fritz and Scherrer, 2002, p. 90). Their core demands relate to, among other things:

- an extension of the scope of commitments in all service sectors and all modes of supply;
- complete freedom of establishment abroad and a guarantee of majority ownership and national treatment;
- the development of competition promoting principles for domestic regulation as a focus of the GATS negotiations;
- the opening of government procurement of services to foreign providers;
- investigations into the extent of subsidies in the services sector and an assessment of a possible need for GATS regulation of subsidies (CSI, 2000; ESF, 1999; UNICE, 2000; Global Services Network).

US education companies have made the following demands for the education sector:

- facilitation measures for foreign subsidiaries, short term work permits for teaching staff and cross-border supply by video, CD-ROM and internet;
 - easier access for foreign students to US education and further training programmes in their home countries;
 - recognition by authorities in other countries of qualifications and certificates from US institutions;
 - enforcement of intellectual property rights on US education materials, and a relaxation of customs restrictions, currency controls and investment conditions (CSI, 2000, p.27).
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The main interest is focused on tertiary and adult education, with companies wanting to see a new “training” category included in the GATS classification scheme. This proposal, which has been taken up by the US Government, is essentially intended for the lucrative market in company related technical training that is organized either by the company's own employees or by external providers.

The US has also suggested adding a new subsector to education services, “Educational testing services”, defined as follows:

Educational testing services include designing and administering tests, as well as evaluating test results. These services are fundamental and essential part of the learning process, used to evaluate the student as well as the course material (WTO, 2000).

As this definition of educational testing services explicitly refers to tests and the evaluation of pupils and students, and does not mention quality development of educational institutions (evaluation, accreditation), presumably it would only cover areas such as comparative performance tests (for example, PISA), language tests, and skills and admission tests.

5.4 Problem areas

Special concerns in the supply of services

A multilateral agreement on international trade and investment has the potential to contribute to economic growth. There is a fundamental need for an international, multilaterally negotiated body of rules, so that as many people as possible can reap the benefits of trade in goods, and particularly so that more powerful nations are not able to fix the rules for foreign trade as they see fit. A multilateral regulatory framework may also be helpful for the cross-border supply of services. All the same, there are important differences between goods and services that have to be taken into account.

In the case of trade in goods, border restrictions traditionally had the express objective of discriminating against foreign providers, in particular through the imposition of import duties. Taking the special needs of certain industries into account, it has been possible, step by step, to dismantle trade barriers in the course of successive multilateral rounds of negotiations.

By contrast, rules now set by governments for the supply of public services are based on quite different motives. They aim to ensure that basic services are provided nationwide, are universally accessible, that quality standards are

maintained and, particularly in the case of infrastructure services, that democratic participation and control are assured. Furthermore, education has a special role in overcoming social inequalities and creating social cohesion. If all foreign service providers are to be granted equal access to provide services (most favoured nation principle) and if they are to be accorded the same treatment as domestic providers (national treatment principle), then substantive regulatory changes will be needed. These changes may conflict with the objectives inspiring the original regulations. The GATS thus has the potential to encroach deeply into a body of rules designed for quite other goals than regulating cross-border trade. This is even more the case when it comes to education. To perceive education as just another tradable good, and not as a fundamental human right or public good that is essential for social, cultural and economic development, is a fundamental change.

Disregard for the conditions of service provision

The GATS contains no reference to the conditions under which services are provided. Therefore, the doctrine of likeness applies. This doctrine, initially applied to goods, was explicitly applied to services in a 1999 WTO panel decision on the EU's banana import regime. The panel stated that: "to the extent that entities provide like service they are like service suppliers." (cited in Krajewski, 2002, p. 17; see also WTO, 1999, p. 99). In other words, if the services are comparable then differences between the service providers are of no importance. Such a definition, with a single focus on the content of the service and the mode of its delivery, involves many ambiguities. For instance, can a public university that provides a broad spectrum of courses be compared with a private supplier that only offers programmes for which there is high demand and which, moreover, does not depend on high investment in research? The panel's verdict in the banana case suggests that this question would be answered affirmatively.

Many critics of the GATS have argued that its potentially far reaching implications cannot be overestimated. Private and public entities may compete with each other regardless of whether the private entities provide the same universal supply. This may lead to "cream skimming" by private entities that only compete with public entities in areas of high profit, while the provision of services to the poor or to remote areas would be left to the government (UNISON, 2003; Zdouc, 1999, p. 333). Furthermore, working conditions for teachers and instructors in for-profit institutions are more precarious (Blumenstyk, 2003a and 2003b; Altbach, 2000; Enders et al., 2003).

Reserved subsidization right

Some countries, in particular, the EU member states, reserved their subsidization rights in the last GATS round. In the EU list of commitments it is expressly stated that “the supply of a service, or its subsidization, within the public sector is not in breach of this commitment” (WTO, 1994, p. 7). Consequently, education services can be supplied in the EU by the state despite GATS. However, there is pressure from a few WTO members such as Brazil for the abandonment of the right to subsidize in Mode 3 (commercial presence) and Mode 4 (movement of natural persons).

Giving up the reserved right to subsidize would have the sharpest of impacts on the education system. Educational institutions from third countries that wanted to offer programmes in the EU could describe the public support of universities as a violation of the GATS principle of national treatment and hence as improper. Their respective home governments could then invoke the dispute settlement machinery. Even without a planned presence in the EU, proceedings of this kind could be instituted — for instance, if a commercial offer in a third country aimed primarily at international students had a comparable but publicly financed counterpart in the EU. In other words, giving up the right to subsidize would have serious consequences for the financing of the still predominantly public university system in the EU.

If the right to subsidize ceased to exist, several options would be open to ensure GATS conformity. State payments could be completely stopped. Or all universities could be directly subsidized. The allocation of funds could take place via a tendering procedure and could be implemented in a non-discriminatory way. The option most truly consistent with GATS would be a reorganization of the financing of the university system away from a subsidization of educational facilities towards a subsidization of students. They could then study at a university of their choice, managed either as a commercial enterprise or as a non-profit foundation. The institutions would be in competition for students' scholarships. Inevitably, courses for which there is only limited or unpredictable demand would come to be considered unacceptably risky. The resulting focus on popular and standardized courses would increasingly challenge the traditional understanding of higher education as a deep and broad educational experience (Kelk and Worth, 2002).

The special case of developing countries

In developing countries, importing education services from commercial providers may lead to new dependency. Course concepts and materials must be procured from industrial countries with foreign currency. There is the risk that

standards, values, language and scientific innovations of the exporting countries crowd out other ideas and practices in the importing countries. It is feared that education imports might have a negative impact on the development of an independent national academic system (Altbach, 2001).

However, the voices and interests of developing countries differ. Some see imports as an opportunity to improve the national educational system, enhancing the mobility of professionals and serving as a foundation for the country's economic and political development. Countries with a long tradition of sending students abroad consider transnational provision as an interesting alternative that reduces currency drain.

Trade liberalization for whose benefit and at what cost are therefore key questions. At the heart of much debate are issues of quality and accreditation as well as other regulatory frameworks (Knight, 2002, p. 13). Experiences with liberalization have therefore to be carefully evaluated taking into account the particular conditions of developing countries.

Does liberalization exacerbate gender inequality?

Preliminary analysis of the gender dimensions of trade suggests that privatization of education within the GATS framework can affect women as students and as workers. The potential increase in education fees may limit the access to and quality of education for poor households, the majority of which are female headed. If tough choices have to be made, it will be most likely young women who will forego training and educational opportunities. Since privatization seems to go along with a downward pressure on wages and working conditions for the majority of the employees in the education sector, it is quite likely that female employees will be most affected (Young and Hoppe, 2003, pp. 15–16).

Does GATS lead to the global temp worker?

In the Mode 4 category (movement of natural persons), GATS aims at liberalizing the temporary stay of foreign workers. Until now, liberalization has been restricted to intra-firm movement of key personnel and specialists. In the current trade round, developing countries have asked for a significant reduction of the barriers to the movement of labour into the North. Industry representatives in industrialized countries have echoed this demand and the European Commission has actually offered substantial liberalization. Temporary workers are seen as a source of export earnings for developing countries. The return of highly skilled professionals to their home countries may also enhance the

knowledge transfer from North to South. However, GATS may become a tool for the “flexibilization” of labour markets in the North. This will be especially the case if no provisions are made in GATS for respecting national labour laws and international labour standards as defined by the ILO. Developing countries run the risk of a permanent brain drain because of the high incentives for individual professionals to remain in the host country. In addition, they may have to pay for Mode 4 concessions by developed countries with concessions in other areas of the GATS, such as Mode 3 (commercial presence), which may not be in their interests.

Irreversibility

The commitments a country makes under GATS cannot easily be nullified. Once a commitment is undertaken it cannot be revoked, even if there is a political majority in the country in favour of such a step. Any new government has to take over the commitments made by the previous one, however undemocratic.

Commitments in the schedule can only be modified after three years have elapsed from the date they entered into force. In addition, the country has to offer compensation to other WTO members, so that any withdrawal from liberalization in one sector is likely to mean liberalization of another sector or another mode of service supply.

The GATS agreement does not contain an emergency clause. Though it provides for “multilateral negotiations on the question of emergency safeguard measures based on the principle of non-discrimination” (Article X), no consensus has been reached on this issue. Developing countries are very interested in such a clause, whereas developed countries are sceptical, arguing that the process of liberalization under GATS provides enough flexibility for countries to avoid any risk for their economy. One reason for their reserve relates to Mode 3 (commercial presence), since foreign service providers fear that an emergency clause might lead to expropriation of their subsidiaries (Fritz and Scherrer, 2002, p. 96).

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SECTION II:
HEALTH

IMPLICATIONS OF HEALTHCARE LIBERALIZATION FOR WORKERS' SECURITY

3

by Jane Lethbridge¹

1. “Drivers” for liberalization

Over the past 20 years, a process of liberalization of public health services has opened them up to trade and competition. Multilateral agencies, especially the International Monetary Fund (IMF) and the World Bank, have played a significant role by making public sector reform a condition for receiving financial loans. These agencies have also directly promoted reforms through technical assistance, training and research, the starting point of which is the superior efficiency of the private sector over the public sector in delivering services. The impact has been felt on public services the world over, as deregulation, liberalization and privatization have introduced market mechanisms to all parts of the public sector, including health services.

Multinational corporations, political leaders and multilateral organizations controlled by developed countries have all helped promote a view of the public sector as inefficient, overstuffed and incapable of delivering services. The IMF and the World Bank have consistently refused to recognize the contribution of public services to the promotion of equity and economic growth over the past century. Part of the liberalization process has involved a change in the use of language so that users of public services are referred to as “consumers” who supposedly want to exercise their right to choose services. Public services are

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seen as commodities to be bought and sold, and only the private sector is considered able to deliver services that can meet the expectations of “consumers”.

This chapter examines the implications of healthcare liberalization on health workers’ security, looking at the policies influencing liberalization, the role of multinational companies, and the impact on health workers, the provision of health services and health of the population. The quality of health services, healthcare investments and regulation are also considered.

The chapter seeks to address the following hypotheses:

- Certain “levers” are driving the liberalization of health services, resulting in unequal and selective provision of services rather than universal provision.
- Unequal distribution and emerging types of services are eroding workers’ securities.
- There is a shift away from universal citizenship rights based on provision of services towards two-tiered systems, often leading to a concentration of services for the middle class.
- Significant liberalization of health services in many countries has not been accompanied by commensurate changes in protection regulations and systems of social governance.
- Liberalization is largely the result of the “Americanization” of social protection.

Public sector and health sector reform

Public and health sector reforms are underpinned by fiscal reform. Three important dimensions of fiscal reform that have implications for the health sector are new systems of fiscal control, new ways of allocating resources in line with overall government goals, and pressure to improve the use of resources (Schick, 1998).

Allocation of resources in line with government goals means that the interests of the finance or treasury ministry are dominant, and the goals of the finance ministry will often not be those of the health ministry (Verheul and Rowson, 2001). There also tends to be a greater emphasis on performance management (Kaul, 1997). Outputs and outcomes are not always easy to define in the health sector and can lead to a distortion of healthcare delivery. For instance, “throughput” focuses on the numbers of patients treated rather than the quality of care.

In Mexico, new systems of financial management affected public health institutions by restricting the maintenance and upgrading of equipment, and cutting the wages of health workers. This led to deterioration of working conditions and of the quality of care provided by the public health sector (Laurell, 2001).

The pressure to use resources more effectively and efficiently often translates into a policy for reducing the number of workers in the civil service, which frequently includes the health sector (Schacter, 2000). Income generation has been introduced through the imposition of user fees and additional payments for healthcare. Pressure to achieve outputs and outcomes at the lowest cost has led to the contracting out of services to the private sector or non-governmental organizations (NGOs), which effectively undermines the capacity of the public sector.

The decentralization of budget management also influences the health sector. The process of setting overall priorities at local level may not always address the health needs of local populations. The collection of local revenue may also be erratic and result in shortfalls in the health budget. In Uganda, local committees paid nursing aides who worked in rural health centres and health posts. In practice they were often not paid for long periods of time (Jeppsson, 2001).

New systems of fiscal control can also change health financing, by introducing social insurance in place of a tax-based system. This raises issues relating to how contributions are collected, which groups in the population are included, and how unemployed and low-income groups are covered if they are unable to pay premiums. A fund that is based on contributions from employers and employed workers may also be vulnerable to economic fluctuations.

The introduction of market mechanisms can affect the health sector in several ways:

- by introducing business principles and practices to healthcare institutions, often as part of wider organizational restructuring. This process, known as “corporatization”, is taking place in both developing and developed countries (Polidano, 1999);
 - by introducing the purchaser-provider split within a national healthcare system and creating an internal market;
 - by outsourcing and contracting out of services such as catering, cleaning, facilities management, hospital management and clinical services;
 - through privatization of drug manufacturing and drug distribution.
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The drive to reform public services has had a direct impact on the healthcare sector. The dominance of fiscal considerations over healthcare policy has led to decisions that impose cost cutting on the public healthcare sector and provide subsidies to encourage the development of the private sector. This has directly affected health workers by reducing the number of jobs, worsening working conditions, reducing employment security and lowering wages (Larbi, 1999). The goals of equity and access to health services are ignored in this process (Gilson, 1995).

World Bank

The World Bank, through its annual World Development Report and other reports commissioned or written by World Bank staff, has been instrumental in encouraging the widespread perception that the market is the best mechanism for organizing public services and the private sector is most effective at delivering them.

The Bank's influential report on Investing in health (1993) argued that, in order to deliver cost-effective basic packages of public health services, the rest of the healthcare system would have to become self-financing. Governments were recommended to introduce user fees and self-financed insurance and to invest in local health centres and community care rather than more specialized care. Privatization of drug distribution, decentralization of healthcare management and more involvement of the private sector were also highlighted. Government regulation of insurance and the private sector was seen as an integral part of these reforms.

The report has had a big influence on the policies adopted by many governments. Yet the recommendations were not based on evidence of successful implementation. The outcome has frequently been deterioration in the quality of health services, such that healthcare is not accessible or appropriate and is no longer free at the point of access.

More recent World Development Reports have focused on the use of market mechanisms to meet the needs of poor people (see World Bank, 2000). There is an underlying criticism of government services and their ability to meet the needs of poor people. However, these judgments are often made on the basis of assumptions about how poor people access public services that are not necessarily based on adequate data. Bloom and Standing (2001) identified an absence of research on what services poor households use and how they access them in relation to age and gender.

Gwatkin (2003), in another World Bank report, argues that government health services tend to be accessed more by the affluent than the poor, so that

governments need to allocate resources differently if poor people are to benefit from affordable health services. Using a “benefit-incidence analysis”, which shows how output of services is distributed across socio-economic groups, he concludes that in every region except Latin America the better off benefit disproportionately from government services.

Thailand is cited as a positive example of targeting healthcare to low-income groups. The Low Income Support Programme, set up in 1975, evolved gradually and by the late 1990s was available to about 25 per cent of families living below the poverty line. Surveys showed that 80 per cent of recipients were poor and that 65 per cent of Thailand’s poor people were covered. However, Gwatkin reports concern about the 20 per cent non-poor who were also accessing healthcare through this scheme. In 2001, a new government introduced a policy of universal care. The reasons for this change of policy are not discussed, though Gwatkin admits that the Thai example demonstrates the need to experiment over time to achieve effective targeting systems. In the health sector in Africa, targeting has been used to exempt poor people from user fees, but several studies show that exemption schemes have little impact (Gilson, 1995; Nyongator and Kutsin, 1999).

Gwatkin also suggests that more affluent groups could fund their own healthcare. Latin America is seen as a good example of using social security to finance healthcare for poorer people, leaving the better off to pay their own costs. Gwatkin concludes that universal coverage is “probably not” the answer to meet the needs of disadvantaged groups. However, the advantages of risk-sharing and subsidization of healthcare are not discussed, nor does he acknowledge the adverse experiences of countries, such as those in Eastern Europe, that have adopted such policies.

The 2004 World Development Report, Making services work for poor people, states that:

A variety of market failures — disease-related externalities and fragmented insurance markets — and concerns for equity justify public intervention in financing health and nutrition services. But governments find it difficult to monitor the performance of health workers, especially those delivering highly discretionary services, such as clinical care (World Bank, 2004).

Although there is a hint that there is a role for government services, it is quickly undermined by a dismissive comment about the performance of health workers. The report acknowledges the crisis of human resources in health services, citing examples of health workers feeling “overworked and under-appreciated”. But it fails to recognize that the policies of health sector reform have played a

significant role in causing this crisis. There is no attempt to value health workers and the work that they perform.

Information, monitoring, enforcement and regulation are seen as essential elements to control private provision. While making more information available can help service users to make more informed choices about healthcare services, the focus of all these measures is on the consumption of healthcare. The rights to health and healthcare are not mentioned. Healthcare becomes a product that can be bought and sold, and users of health services are being transformed into consumers.

The Bank presents a “six sizes fit all” template for policymakers to develop health services, which provides an indication of future policy recommendations. Service users are given a much greater role in monitoring services, enforced with systems of vouchers and fees when government is seen to be ineffective. Contracting with NGOs and other providers is also encouraged. Even when public provision is mentioned it is in the context of a “standardization of the benefits package and a well-accepted rationing approach combined with strong public ethos”.

The underlying theme of the report is that the private sector rather than the public sector is the most effective way of providing services, which are, significantly, not called “public services”. The problems that many public healthcare services face, such as health worker morale, are not analysed.

It is striking in documenting the influence of the World Bank on healthcare policies over the past 20 years that it appears to have little regard for the consequences of its recommendations for healthcare and thus for the health of populations. In Central and Eastern Europe, the quality of services and people’s access to services have declined dramatically in less than a decade as a result of under-funding in the public sector and encouragement of the private sector. In Africa, where structural adjustment policies and health sector reform have been implemented for almost 20 years, communities are struggling to find resources to pay for inadequate health services (Gilson, 1995; Lucas and Nuwagaba, 1999).

The Bank apparently does not consider these results sufficient evidence that its recommended policies are failing to benefit either patients or health workers. Instead, the focus has shifted to services for poor people. There is no acknowledgement that universal access and pooling of risks lead to improved quality of services for all patients. Of equal cause for concern is the Bank’s refusal to recognize the crucial role that health workers play in delivering health services. If working conditions deteriorate, the quality of health services also

declines (Mutizwa-Mangiza, 1998; Van Damme and Meessen, 2001; Afford, 2003).

The next section discusses recent investments of the International Finance Corporation, part of the World Bank Group. These have been aimed primarily at stimulating the growth of the private healthcare sector, for the benefit of middle and upper income groups. However, there is no evidence to show that the private sector will provide these groups with better quality health services. Meanwhile, poorer people will be left to use publicly provided services, essentially what remains of under-funded public healthcare systems.

International Finance Corporation

The International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), both members of the World Bank Group, play an important role in stimulating private sector investment and growth. The IFC, which aims to promote private sector development in developing countries, helps private companies in these countries to access finance in international markets, and provides technical advice and assistance. It is the largest multilateral source of loan and equity finance for private sector projects in the developing world (Lethbridge, 2002a). The recently revised private sector development strategy, launched by the World Bank in 2002, anticipates a wider role for the private sector in providing health and education services, with increased IFC lending to private companies working in health (Bijlmakers and Lindner, 2003).

The IFC sees its main role as contributing “to the financial protection against ill health and to strengthening of the middle class” (IFC, 2002). Its internal strategy paper states that “because of the structure and financing mechanisms of healthcare systems, (it) cannot directly target the poor but rather gives loans to institutions that work with the lower-middle and middle class groups”.

The assumptions in this strategy illustrate some of the erroneous beliefs that underpin World Bank and IFC policies. Most prominent is that, by increasing the opportunities of the middle classes to buy healthcare from the private sector, pressures on the public healthcare sector will be eased. In countries where such policies have been in place for several years, there is no evidence of positive changes for any groups seeking healthcare. On the contrary, there is a growing body of research that shows they lead to a poorer quality of care and worsening working conditions for health workers (Polaski, 1998; Afford, 2003). The private sector is unable to provide as wide a range of services as the public sector for the same price. Unless there is substantial risk pooling,

people who suffer a greater degree of ill health will pay more for their care. Although the IFC does admit that “health reforms to promote the role of private sector financing in countries with universal risk pooling (through national health insurance schemes) have had mixed outcomes at best”, this has not induced a change of strategy.

The IFC also clearly supports the role of the private sector in public healthcare:

Increasingly the question is no longer whether the private sector has a legitimate role in healthcare delivery, but rather how to correct market failures through the appropriate regulation of the private sector and its integration with public activities (IFC, 2002).

Yet again, policy is based on a model of integration between the public and private sectors, despite evidence that integration does not result in improved healthcare services and often contributes to deteriorating services.

IFC started making healthcare investments over 10 years ago, initially in pharmaceuticals and subsequently in hospitals. An analysis of IFC healthcare investments in the period 1997-2003 shows important regional differences:

- Investments in Africa have been mainly in small-scale healthcare provision involving hospital construction or hospital extension. Funds have been made available through the Africa Enterprise Fund and Small Enterprise Fund to small and medium-sized facilities, often run by individual doctors. There has been limited private equity investment, which may be due to a smaller market for private healthcare as well as less financial and organizational expertise (Lethbridge, 2002b).
 - Latin America is now the biggest IFC lending region. Most of the IFC investments are in hospital development but three new forms of healthcare investment are indicative of future directions. Two projects involve companies that have been set up to manage investments and services.
 - The International Hospital Corporation develops and manages investor-owned healthcare facilities in Latin America. It works closely with the Latin Health Fund, a venture capital company set up by Humana, a US healthcare company (Summa Foundation, 2002), and with *Consortio Internacional de CV* and hospitals that operate under the brand name of CIMA, a healthcare management company in Mexico (Lethbridge, 2002b).
 - Innovative Health Services is an IFC investment in Brazil, which supports new ventures and early-stage development companies to
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improve the efficiency and effectiveness of the healthcare industry. It is owned 30 per cent by the Icatu group controlled by the Almeida Braga family of Brazil and 30 per cent by the José de Mello Saúde company, the largest private Portuguese healthcare group.

- *Salutia* is an e-health company operating in Argentina and Brazil that aims to improve healthcare through the use of new information and communications technologies. Set up in 1999, it attracted equity investors Merrill Lynch, Newbridge and UBS Capital as well as IFC.
- In Asia, IFC investments are concentrated in high technology and hospital healthcare projects. These involve Asian healthcare companies such as the Apollo Group of India or conglomerates such as the Lopez Group, which is based in the Philippines.
- In Eastern and Central Europe, there are three IFC healthcare investments, two of which involve support for healthcare infrastructures. Euromedic is developing diagnostic centres with high technology equipment to diagnose and treat non-communicable diseases, for example, renal care. Medicovert provides healthcare financing and services, and directly employs health workers, so covering all stages of the funding and provision of healthcare. The third investment is a new medical centre in the Russian city of St. Petersburg, sponsored by Scanfert Oy, a Finnish company that runs fertility clinics in Finland and Portugal.

The range of partners and sponsors of IFC investments highlights the linkages between IFC, private equity capital, national companies and multinational company investments that are beginning to characterize the global healthcare industry.

The IFC's own evaluation of its healthcare investments shows a higher risk for both debt and equity investments compared to the IFC average. Two major hospital loans had to be restructured following defaults in 1999 in Thailand (USD77 million) and in 2001 in India (USD7 million). The IFC admits that it has encountered difficulties in "greenfield" investments to establish and build completely new hospitals, attributing this to a lack of corporate governance and management capacity, and the shortage of strategic partners with adequate resources available for investment (IFC, 2002).

Current IFC investments and future investment priorities reflect a high technology, high income approach to healthcare provision, especially in relation to an ageing population. There is no explicit acknowledgement of the need for community-based, accessible and affordable primary healthcare, or for public health prevention programmes.

The work of the IFC complements the policies of the World Bank, focusing on the development of a private healthcare sector to provide for the middle classes. The investment programme to support this has expanded over the past decade and this is expected to continue. Yet it is increasingly clear that increasing private provision for middle-class groups does not work. In Chile, where private provision of both insurance and healthcare services was introduced in the 1980s, people have found that private companies become unwilling to insure or treat them as they get older and their need for healthcare grows. The transfer of 26 per cent of the population into private healthcare has not resulted in any corresponding reduction of pressure on public services. The most immediate effect has been to take resources away from the public sector, which has led to a lack of investment and worsening services (Polaski, 1998).

General Agreement on Trade in Services (GATS)

Whilst liberalization involves opening up markets to competition, the General Agreement on Trade in Services (GATS) has a more explicit aim of opening up national services markets to international companies (Hardstaff, 2003).

There are four modes or types of trade in services:

- Mode 1 Cross-border supply — neither supplier nor consumer crosses a border but the service is delivered by mail or the internet;
- Mode 2 Consumption abroad — a consumer crosses a border to obtain services;
- Mode 3 Commercial presence or foreign direct investment — companies establish operations or make investments within a country;
- Mode 4 Cross-border movement of labour — workers travel across borders to deliver services on a temporary basis (Lipson, 2002).

The GATS, which came into force in 1995, is part of the system of trade rules policed by the World Trade Organization and includes market-opening commitments taken on by WTO members during a series of negotiations in the 1990s. A new round of negotiations began in 2000, and extensive concerns have been raised about their possible implications for health services. One fear is that national governments will not have strong enough systems of regulation in place to ensure proper oversight of foreign companies and that equity of access, and the scope and quality of services, will be affected (Smith, 2003).

Trade in healthcare services comprises both the import and export of health services. The import of health services in this context may be seen as a way of

improving health services by bringing in foreign expertise or technology. A country may lower barriers so that qualified health professionals can enter the country, or it may send patients abroad for treatment. The export of health services may involve facilitating health service suppliers who want to establish operations in other countries, using existing healthcare facilities for “health tourism”, or making it easier for an over-supply of health workers to migrate temporarily (Lipson, 2002). However, it may also lead to the development of inappropriate healthcare services, and reduce access to services for the majority of the population because beds are being used for people coming from abroad for treatment. Another result is the migration of many highly skilled health workers.

One of the most significant principles of the GATS agreement with long-term implications for the health sector covers “exemptions for services provided in the exercise of government authority and government procured services”. Thus services provided by governments (at local, regional or national level) or by non-governmental bodies exercising government authority are technically exempt from GATS obligations. However, the definition of government authority is “supplied neither on a commercial basis nor in competition with one or more service suppliers”. For healthcare systems that have an internal market, it is increasingly difficult to argue that government-funded health services fit this definition of government authority.

Foreign direct investment in the health sector can involve both inward and outward investment and it is not necessarily dependent on GATS commitments. It is currently considered to be of most interest to middle-income countries, which are seen as more stable in economic and political terms, with larger markets and better access to labour (Smith, 2003). The health sector is in many ways different to other service sectors. It has a larger public-private mix with more regulation, and the nature of health makes it difficult to classify as a commodity. However, commitment to GATS mode 3 (commercial presence) could result in the public healthcare sector being opened up to competition, which will directly affect public institutions.

In many countries, even where there is a purchaser-provider split, the public healthcare sector can purchase services from local providers that are convenient for patients and known and trusted by purchasers. If local healthcare commissioners are obliged to purchase services from the lowest bidder, multinational healthcare companies will be able to undercut local providers and win contracts, so providing commercial services as part of public sector provision. The experience and understanding that local public sector providers have built up over many years, and their contribution to training and development programmes within the public healthcare sector, will be lost. Cost

reduction, rather than patient care, will dominate the decisions made by healthcare purchasers.

The influence of foreign direct investment will partly depend on the size of the private healthcare market within a country. As many countries have introduced market mechanisms to public healthcare systems, the boundary between public and private healthcare is not as clear as it once was. Smith (2003) points out that the “observed impact is likely not be due to whether a country has a foreign presence, but how big the commercial sector is per se”.

Regulatory reform is seen as an important factor in determining how national governments will control multinational companies. How this is done will be crucial in safeguarding aspects of the health sector such as pro-poor policies, cross-subsidization and use of profits. Although within the GATS there is a recognition of the “right of Members to regulate and to introduce new regulation in the supply of services within their territories in order to meet national policy objectives”, the WTO Council for Trade in Services is also required to develop “any necessary disciplines” to ensure that regulations such as qualifications “do not pose “unnecessary barriers”. Lipson (2002) suggests that service suppliers may challenge domestic health regulations designed to promote equity, because they could restrict trade.

The health sector is not a homogenous sector but is made up of several subsectors, including insurance, medical supplies, pharmaceuticals and laboratories. GATS may affect these subsectors before it affects the overall supply of healthcare. Under GATS rules, health insurance is classified as “insurance” or as “banking and other financial services”. Under insurance, most commitments relating to health insurance fall under “non-life insurance” even though there is a category of “life, accident and health insurance”. Health insurance is seen as part of the financial services sector rather than the health services sector because it is one of many services offered by one company, is affected by regulations relating to other insurance services and requires access to capital markets and reinsurance (Lipson, 2002; Smith, 2003). By 2000, 18 countries had liberalized their insurance services sector, and companies are expected to use this as a way into healthcare systems (Hilary, 2001).

The development of GATS has been strongly influenced by the Coalition of Service Industries, a group of US multinational companies that aims to reduce barriers to the export of US service industries and enhance the competitiveness of its members. This group operates globally to promote the case for liberalization of services through:

- lobbying the US Government and leaders of international organizations;
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- working with alliances of private sector organizations, for example, in Europe and Japan;
 - developing a global network of supporters of liberal trade in services (Global Services Network);
 - organizing missions to, for instance, New Delhi and Beijing to build support for liberalization.

This illustrates how the interests of multinational companies are leading multilateral trade agreements. There are no provisions for any core labour standards in the GATS. The WTO does not consider labour issues as part of its remit.

The process of developing GATS agreements is shrouded in secrecy. Trade ministries, which lead the negotiations, may decide to sacrifice the interests of education or health as a way of safeguarding agricultural or other major economic interests. WTO statements present a simplistic picture of the complexity of the negotiations and give the misleading impression that public services will be unaffected by future commitments.²

Once governments have made commitments in the GATS, it is difficult to negotiate changes or exemptions. The overall impact of GATS will be to limit the power and scope of governments to make policies that promote equity and the wellbeing of the population through the provision of public services. Multinational companies will exert more influence over national governments, formalized through international trade agreements. As the next section describes, multinational companies use a variety of strategies to expand into new and developing markets.

2. Multinational companies — entry into markets

With the introduction of measures to stimulate the liberalization of healthcare markets over the past decade, multinational healthcare companies might have been expected to expand significantly. Although there has been growth of the private healthcare sector in many countries, the entry of multinationals has been a sporadic process.

² WTO press release, 28 June 2002.

The healthcare market is made up of several segments. The more than 400 healthcare companies listed on Hoovers website,³ a source of investment advice in healthcare, cover medical devices, pharmaceuticals, health insurance, hospital care, specialist care, long-term care and home care. Hospital care, long-term care and home care are the most labour intensive areas.

Multinational healthcare companies, operating regionally or globally, use a number of strategies to enter new markets. Sometimes they take over the management of a hospital as a way of gaining a foothold. This enables them to establish a profile within a country, learn about the health system and identify further opportunities.

In 2001, Fresenius, a German renal care company, took over the management of a 350-bed hospital in Malaysia by buying a 30 per cent share in Sabah Medical Center. It subsequently took over the management of the 300-bed Manila Doctors Hospital in the Philippines. This is part of the company's strategy to enter new markets in South-East Asia.

Healthcare companies also use partnership agreements or joint ventures with local companies to establish new business in a country, which involves lower risk than if a company entered the market alone.

In the case of health insurance, there has been an erratic process of entry and exit of two US insurance companies, Cigna and Aetna, into India and Brazil. In India, there are restrictions on the presence of multinational companies in the insurance sector because of large capital requirements that make it uneconomic for companies to operate.⁴

A joint venture can be used to develop new products. In Latin America, US hospital companies set up joint ventures with national healthcare companies to take advantage of the liberalization of social security systems in the 1990s. The transfer of resources from a state-owned social insurance fund to a privately owned fund resulted in short-term profits for companies. When the funds were depleted and profits started to fall, the US companies withdrew, selling their stakes to local entrepreneurs, who then merged the health insurance funds (Jasso-Aguilar et al., 2003).

Private equity and venture capital investments have increased in importance as a source of funding during the last 10 years, accompanying the promotion of

³ www.hoovers.com.

⁴ *Business Line*, 28 Nov. 2002.

the private sector as an alternative source of public services. Private equity investments in healthcare have been encouraged by the International Finance Corporation, which is a major provider of loans. Some US healthcare companies have set up their own private equity funds to invest in new healthcare companies in the US and in developing countries. This has enabled them to invest in the healthcare sector in developing countries, and so influence development of the sector, without taking the risk of setting up and running their own company.

Humana, a US managed healthcare company, has a venture capital arm called Humana Ventures, which in turn has several dedicated venture capital funds. One of these is the Latin Health Fund, which invests in the hospital and pharmaceutical sectors in Latin America, working with a series of strategic partners, some of which are multinational healthcare companies. The range of partnerships also illustrates the linkages between investment funds, healthcare companies and international development investment agencies (Summa Foundation, 2002):

- HealthSouth — one of the largest providers of health services in the US, which also has a network of health services worldwide for American policyholders;
- Humana — a supra-regional managed care company;
- Inter-American Investment Corporation (IIC) — affiliated to the Inter-American Development Bank, which provides “in region” support for Latin Health Fund investments;
- UnitedHealthcare — a US-based Health Maintenance Organization (HMO);
- JP Morgan Partners — a global private equity investment company.

A multinational company can become more directly involved in healthcare delivery through purchasing a healthcare clinic or hospital, either alone or in partnership with a finance company. There is more risk involved in this approach because the company is directly responsible for making profits.

The case of Adeslas, a Spanish health insurance and healthcare company, and its Argentine investments, illustrates this process. In 2000 Adeslas, operating as a Spanish holding company BBV Adeslas Salud, and in partnership with another Spanish holding company BBV Banco Frances, bought two clinics in Buenos Aires, Santa Isabel and Bazterrica, and spent USD22 million refurbishing them. The partners set up Euromedica, a new healthcare service with more than 800 employees, by merging three medical centres in Buenos

Aires — Omaja, Santa Isabel and Bazterrica. Adeslas already owned clinics in Argentina, for example, Santa Fe.⁵

It is unclear what has happened to Euromedica since the Argentine economic crisis of 2001. Aguas de Barcelona, the parent company of Adeslas, sustained extensive losses in Argentina, so much so that it sold some of its shares in Adeslas.

Healthcare markets

The development of specific segments of the global healthcare industry — such as renal care and long-term/home care — also illustrates some of the ways in which the industry operates.

The global renal care industry is competitive but is beginning to consolidate. Until 2004 there were three main global players — Fresenius, Baxter and Gambro — as well as several national providers of dialysis services. The three global companies are involved in making equipment for renal dialysis, manufacturing products used during dialysis treatment, and running healthcare clinics for treating kidney disease. The renal care industry is an example of a vertically integrated healthcare industry, with companies involved in making products and equipment as well as treating patients.

A major reorganization of the global players in 2004-05 has drawn national US companies into the global business. DaVita, a US company providing renal care services directly to patients, bought the American renal care services division of Gambro, a Swedish company. This acquisition would have made DaVita a larger service provider than Fresenius. However, within months, Fresenius had made a successful bid for Renal Care Group, another US company, which also provides dialysis services. Thus Fresenius has retained its dominance.

Worldwide, over a million people were treated for kidney diseases in 2000, although there is considered to be a substantial rate of under-diagnosis. About half of those treated were in North America and Europe. The breakdown by region of patients treated by renal care companies shows different patterns of market coverage. The two largest companies, Fresenius and Gambro, have clinics in the United States, Europe, Latin America and Asia. Baxter RTS has clinics in Europe, Latin America and Asia but not in the United States, although

⁵ <http://www.invertir.com/news/nr001230.html>

it has other US production facilities. Baxter RTS treats the majority of its patients outside Europe.

The majority of renal care patients are in Latin America and Asia but renal care companies only treat 5 per cent of patients in these regions. This is almost certainly due to a lower rate of diagnosis and more limited access to health services. Type 2 diabetes is the leading cause of end-stage renal disease, and its incidence is expected to increase in the coming decade, especially in China, the Indian sub-continent and Africa. It is closely linked to increased rates of urbanization and changing patterns of nutrition, characterized by higher consumption of refined foods including sugars and carbohydrates. The demand for renal care will therefore increase, and Fresenius has already targeted Asia as a growth area.

In the United States, 66 per cent of patients are treated by private renal care companies compared with 17 per cent of patients in Europe. There is obviously scope for expansion in Europe, Latin America and Asia.

A profile of the dialysis industry in 2001 argued that manufacture of dialysis products was no longer driving the industry because synthetic dialyses have become standard equipment (Merrill Lynch, 2001). As a result, major dialysis companies had become service providers, for instance, running dialysis clinics, but were predicted to expand into other areas of healthcare provision. Fresenius, Gambro and Baxter RTS all began by manufacturing kidney dialysis equipment and products, but have extended their activities to include healthcare provision for kidney patients in the last decade.

Providing renal healthcare services is a major part of the business of Fresenius and Gambro in terms of sales and employment. Their largest revenues come from healthcare sales in North America, but both companies have started to offer treatment for other aspects of patient care. Gambro's President, Soren Mellstig, in his address to the 2003 Annual General Meeting, noted that

Business developed by widening the range of services, investing in peritoneal and acute dialysis and establishing closer ties with private payers, such as insurance companies.

Renal care companies are thus taking advantage of opportunities not only to expand the renal care market but to move into private health insurance and private healthcare worldwide. As established operators of clinics, they are in a good position to extend their activities to other forms of private healthcare. They are also setting up financial links with insurance companies, which will ensure that patients pay for future healthcare.

Nursing-home and home care

Liberalization of health and social services has led to the removal of long-term care from public sector provision in some countries. This affects mostly older people, people with disabilities, and those with mental health problems. In the last 20 years this has led to the “emergence of a significant new economic sector” of companies set up specifically to deliver nursing and residential care (Player and Pollock, 2001). Mergers and consolidation have made the sector less diverse and there has also been movement into niche markets such as alcohol and drug treatments. This has been most clearly documented in the United Kingdom but similar trends in residential and home care are emerging throughout North America, Europe and Asia (see chapter on “Liberalization and the security of care workers”).

The care sector is important for health workers because it is labour intensive. Company profitability depends on ensuring adequate supplies of cheap labour, but the experience of two providers of residential care in the Nordic region, Capio and ISS, indicates that this sector is not as profitable as hoped. Capio has stopped expanding long-term care services and may sell them completely.⁶ ISS supported a management buyout and now owns 49 per cent of shares in the new company, so maintaining a presence in the sector but minimizing the risk.⁷

In Canada, the role of the private sector in residential care has been growing rapidly in the last decade. In 1992 the private sector accounted for 42 per cent of long-term care facilities and this had risen to 50 per cent by 2000. Two companies illustrate how the private sector operates in this area. Central Park Lodge Real Estate Investment Trust (REIT) owns 69 long-term care facilities in Canada and 20 in the United States. Real Estate Investment Trusts (REITs) provide tax breaks for investors, and usually own property such as shopping malls, care facilities and residential property. The management of care facilities is usually subcontracted to another company or subsidiary. Central Park Lodge, which subcontracts the management of its care homes to a subsidiary, has been criticized for poor standards of hygiene and care in its nursing homes (Canadian Union of Public Employees, 2001). Extendicare is a US company that owns both property and care homes, with 276 facilities in North America. It

⁶ Personal interview with Per Batelson, Presidnet of Capio, Feb. 2003.

⁷ Personal interview with Henrik Fabricius, Director, ISS Healthcare, Feb. 2003.

recently had to leave its operations in Florida because of the continuing threat of legal action prompted by poor standards in its care homes.

Player and Pollock (2001) also identify the growing links between property investment and care homes in the United Kingdom. There are some signs that investment in residential homes for older people is starting in Asia.

Although the residential care sector has developed most rapidly in the last decade, there is a growing home care industry, which at the moment is more nationally focused. The sector has not yet begun to consolidate. The development of home care services reflects a trend away from hospital care towards more community-based care. The concept of the “hospital at home” has been discussed for several decades.

In the United States, there has been a rapid expansion of home care in the last 20 years, partly as a result of changes in funding and regulation. This has led to the growth of both for-profit and not-for-profit providers, hospital providers and “independent providers”. Independent providers are paid directly by the care receiver and funded by government (Medicaid). Together with not-for-profit providers, they supply most direct home care such as bathing, washing, cleaning and shopping — in other words, home healthcare. Care that requires some training, for example, changing dressings, injections and colostomy care, is delivered by personal care assistants. Nevertheless, the boundaries between home care workers and personal care assistants are blurred (Service Employees International Union, 1999). Most are women who work part-time for low wages. They are often not covered by minimum wage legislation and are vulnerable to poor working conditions and a lack of health and safety standards.

For-profit companies involved in home care are expanding. Comcare, the largest home care company in Canada, provides home care to people who pay for services as well as those funded by government programmes. The company moves into local home care markets by undercutting existing independent providers when bidding for contracts. Its workers are employed on a casual basis, paid low wages, receive few benefits and have to work overtime. There have been strikes and struggles to improve pay, often resulting in the company moving out of a district rather than improve pay and conditions (Puscas, 2002). Comcare is owned by a diagnostic and laboratory company, Gamma-Dynacare, and there are several links between home care companies and other healthcare services. Gentiva, a home healthcare company, was originally a pharmaceutical services company.

Multinational companies are finding many different routes into national healthcare markets.

Some invest in new healthcare companies but do not take on the responsibility of delivering services directly. This strategy is designed to minimize the risks to the company, so the company can exit a country quickly if the investment ceases to be profitable.

Other multinational companies, especially in Europe, have identified the public healthcare sector as a major source of new business and guaranteed profits. They are entering public healthcare systems, often as providers of facilities and management services as well as direct clinical services. There is already evidence that companies dependent on the public sector for profits attempt to influence public policy in order to safeguard their own interests in future reforms. US healthcare companies lobbied strongly against the proposed Clinton healthcare reforms in 1993-94. The policies of multilateral agencies, which are supporting the development of the private healthcare sector in many countries, complement this process.

Some companies find the challenge of delivering public services more than they can manage. When companies fail to deliver services the users of services are immediately affected.

These various multinational healthcare company developments need to be seen as part of a wider process undermining the public healthcare sector, producing inequitable provision of healthcare for patients and worsening pay and working conditions for health workers in the public sector. A more detailed examination of how health sector reform and multinational healthcare expansion have affected the welfare of health workers follows in the next section.

3. Impact on health workers

The changes that have taken place within public health services as a result of liberalization have had a direct effect on health workers. Although the health sector is highly labour intensive, it is only recently that attention has been given to the impact of health sector reforms on the workforce (Brito et al., 2001; Matheson, 2002; Steijn, 2002).

There are several aspects of “marketization” in the public health sector that have led to fundamental changes in the way that health workers are organized. As part of “corporatization”, hospitals have been given the power to manage and introduce new systems of pay and collective bargaining. The outsourcing of health services has also led to changes in the legal status of employees, with more “flexible” contract conditions. In countries in transition, the advent of new employers, professional associations and reorganized trade unions, combined with a lack of experience of wage bargaining in a market economy, has led to disputes and lack of wage agreements (Brito et al., 2001).

The effects of the liberalization of health services on the seven forms of socio-economic security for health workers are outlined below.

Labour market security

The ILO (1998) noted that health sector reform has led to a reduction in the workforce in many countries. Women are often disproportionately affected by job losses, especially those with lower levels of training. Women are also more affected than men by redeployment because they are less mobile.

Staff reductions have sometimes been part of the reform process, for example, in Central and Eastern Europe. In Latvia, doctors of retirement age have been made redundant (ILO, 1998). In Ghana, health workers were also made redundant (ILO, 1998). In Sweden, the number of employees in the healthcare sector decreased by 35,000 between 1993 and 2000, while the number of employees in the for-profit sector increased by 5,000 (Swedish Government Commission on Healthcare, 2002).

A decline in employment in the public sector may be accompanied by an increase in the private sector, as in Brazil (ILO, 1998). The private sector has also absorbed workers from the public sector in the Czech Republic, Croatia and Poland. But there is not enough evidence to show whether the private sector is replicating jobs lost in the public sector or whether the skill mix is different. Levels of unemployment in the health sector have increased in Armenia, Bulgaria, Republic of Moldova and Ukraine (Afford, 2003).

Few countries are expanding their health services, although in Zambia the numbers of health workers are expected to increase as a result of health reforms. In Poland, Kyrgyzstan and Belarus, there are some reports of increased numbers of health workers (Afford, 2003).

Restructuring the health sector can also lead to changes in demand for skills and different skill mixes (Brito et al., 2001). Work is being reorganized as a result of technological advance, changes in financing of health services, and new management requirements (ILO, 1998). In some cases, a single multi-skilled worker now carries out tasks done previously by a team of people.

There has also been an increase in “dual” or “multiple” practice, where health workers hold two or more jobs. Sometimes a public health worker also works in the private sector. The pressure to take two jobs can be triggered by an increase in part-time positions, reductions in pay or erratically paid wages (Brito et al., 2001).

Employment security

The introduction of competition into the public health sector has been accompanied by measures to make the workforce more “flexible” and cheaper, using new short-term or fixed-term contracts as in Chile (Polaski, 1998). New employees are hired at lower wage rates with poorer terms and conditions. This is found particularly in North America, Europe and Latin America. In Peru, health workers employed in the “Health for All” programme had no social security, an example of a public health strategy ignoring workers’ rights. In Argentina, there has been an increase in self-employed health workers with consequently less employment protection (Brito et al., 2001). In Europe, where ancillary services have been contracted out, workers are often employed on new terms and conditions, and staffing levels are often reduced (ILO, 1998).

In secondary care homes in New Delhi there is “no assurance of permanency of the hired medical, paramedical and ancillary staff” (Baru, 2004). Owners of these homes find it difficult to find new staff, and long hours, the nature of the work and low wages all contribute to high staff turnover.

An increase in individual employment contracts has been recorded in many countries (ILO, 1998). In Canada and the United Kingdom, some nurses are becoming self-employed, which provides more job autonomy but less job security. In Brazil, networks of doctors have formed organizations to provide health services and are now major providers of healthcare (ILO, 1998).

Work security

Fiscal reform results in a strong focus on productivity and effectiveness in the health sector. This is often seen in terms of pressure to cut costs and become more competitive. New methods of management, which concentrate on the completion of tasks in as fast a time as possible, have led to deteriorating working conditions. For health workers this can mean less time allowed on each patient. Coupled with staff reductions, this can also lead to longer working hours and increased pressure of work.

A survey of staff in nursing homes in India found poor working conditions and long working hours (Baru, 2004). Staff were provided with accommodation, but were “on call” all the time. In Eastern Europe, there is evidence from a number of countries that health workers work even when ill because they fear dismissal and/or a loss of earnings (Afford, 2003).

Worsening conditions of work have also been recorded in Armenia, Republic of Moldova, Poland and Slovakia, which can be explained partly by the continued use of old equipment and under-investment. In Armenia, only 10

per cent of hospitals involve management and unions in health and safety committees, and there is no compulsory inspection of facilities (Afford, 2003). The risk of work-related injuries in hospitals has increased because of high levels of stress and fewer staff available to move patients or do other lifting tasks. While on paper there has been a fall in the number of accidents reported, and in absence from work due to ill-health, this is likely to be due to changes in reporting and insecurity of staff — fearing to report accidents or take time off for illness or injury — rather than any actual decrease in work-related accidents (Afford, 2003).

Job security

The status of health workers has often changed as a result of health sector reform, sometimes moving from being a public servant in an “essential service” to being part of a private company. Previously, health workers had to account to employers and professional bodies subject to strict regulation and registration rules. Their primary accountability may now be to a company with no sense of a clear professional role.

Throughout Eastern and Central Europe, health workers are taking on a wider range of tasks although they have not necessarily received appropriate training. In the Czech Republic and Poland, there is a move from medical to nursing skills. In Bulgaria and Slovakia, this is happening in the private sector. In some countries, nurses are being replaced by less skilled and less qualified nursing assistants (ILO, 1998).

Skill reproduction security

Health sector reforms have sometimes led to the introduction of new professional education and training programmes (ILO, 1998). In Ghana, the concept of “lifelong learning” for health workers was introduced through legislation in 1996 (Dovlo, 1996).

There have been attempts to reduce the number of doctors and nurses in Kyrgyzstan and the Republic of Moldova and to increase standards in Latvia. There has also been an expansion of private medical and nursing schools in Armenia, Republic of Moldova and Georgia, often without formal recognition of qualifications, which may result in new graduates being unable to practice.

In Chile and Brazil, new private training institutions have led to an over-supply of health professionals, many with training unrelated to the needs of the health sector (Lethbridge, 2002c).

For current health workers, the ILO-PSI “Survey of health workers’ socio-economic security in Central and Eastern Europe” reported that many workers were able to use and maintain existing skills. However, changes in the healthcare sector have led to a demand for new skills, for example, family healthcare, computer and financial skills. Training has not been able to meet these demands. In Latvia and Lithuania, health workers have had to fund their own training and often find it difficult to practice new skills. Many health workers report having to take on extra tasks without any training. More widely, in Eastern Europe, there has been a curb on in-service training (Afford, 2003). Continuing training and skills development are not being addressed by healthcare systems in Central and Eastern Europe, even during a period of rapid change.

In South Africa, although there have been opportunities for training and development, there are often few openings to practice new skills and expertise (Lehmann and Sanders, 2002). Changes in practice have happened only slowly, with a lack of leadership in district health units.

Income security

Measures to protect incomes through minimum wages and wage indexing have been undermined by health sector reform, especially when private companies become major employers of health workers previously in the public sector.

Pay reform in Eastern and Southern Africa, introduced as part of public sector reform, has involved cutting salaries, restricting salary increases, limiting increments, consolidating non-wage benefits into salaries, re-grading of jobs and performance assessments (Therkildsen, 2001).

In 1999, a survey in Zimbabwe found that 74 per cent of health workers felt their salaries were “very poor” compared to 57 per cent who thought so before the reforms (Mutizwa-Mangiza, 1998). Although salaries were increased by 60 per cent in 1995, the government had not paid the salary increments, proposing instead that these, as well as promotion and annual bonuses, be linked to performance. After strikes by health workers the proposal was abandoned, although there are still attempts to link rewards to performance. Under decentralization proposals, rural district councils are due to take over human resource functions. This is causing anxiety amongst health workers because of the councils’ poor management record.

The contracting out of catering, cleaning and security services in hospitals and healthcare institutions in North America and Europe has directly affected the pay and conditions of workers. A report commissioned by The East London Communities Organization (TELCO) found a two-tier workforce within the

catering, cleaning and security services contracted out by local hospitals in east London (Wills, 2001). Most of the workers transferred directly from National Health Service employment had maintained their terms and conditions, although some had signed new contracts and were being paid lower wage rates. New workers taken on since the services were contracted out had only the most basic terms and conditions, with no pension and only statutory sick pay. These workers were earning only slightly more than the hourly minimum wage rate, with overtime paid at the basic rate. High turnover rates mean only 50 per cent of the staff transferred from the NHS is still employed, so that a growing proportion of the workforce is on low hourly rates and few benefits.

Representation security

In some regions there have been systematic curbs on trade union membership and influence. When services are outsourced, workers are often unable to remain in a public sector union but have to move to another union, which may be less effective in negotiating (ILO, 1998).

In Eastern Europe, there is no longer automatic trade union membership. Trade unions have been undermined in negotiations, and new professional associations have been formed and recognized by employers and governments as the official bargaining partners. In some countries, the percentage of workers who are members of a trade union has dropped between 1990 and 2000, for instance, from 93 per cent to 32 per cent in the Czech Republic (Afford, 2003). The number of trade unions has increased in some countries, even though total membership has fallen, due to an increase in professional associations representing different paramedical professions. Trade unions are still most often involved in collective bargaining, which takes place at national, provincial and hospital levels. But many health workers in Central and Eastern Europe feel that union negotiations with government (their traditional bargaining partner) are unproductive (Afford, 2003).

In sum, health workers have experienced a worsening of both pay and working conditions in many countries in the past decade. Some workers have had to move from public sector to private sector employment, either because services have been contracted out to the private sector, or because public sector employment no longer provides a “living wage”. This has led to a decline in the number of workers employed in the public sector and to staff shortages. Moves to make health workers more “flexible” have led to the introduction of short-term contracts, individual contracts and loss of collective bargaining agreements. Many health workers have also experienced a decline in wages through contracting out, attempts to introduce performance-related pay and cuts in

benefits. There has also been a loss of status of health workers in the public sector.

The focus on short-term outputs has put pressure on health workers to work more quickly and spend less time with each patient. The increased speed with which health workers have to complete their tasks and staff shortages have also resulted in increased health and safety problems for health workers. There is an uneven provision of external training and a lack of in-service training to prepare health workers for new tasks. This puts them at a disadvantage in a sector experiencing rapid change.

Health workers' opportunities to have their views represented have often become more limited following health reforms. When workers move to the private sector, if they are allowed to be members of a trade union, it may not be as strong as their previous public sector union. The growth of new professional associations can also result in less effective representation because of a lack of experience and the absence of employers' organizations able to conduct negotiations.

4. Impact on provision of services

Changes in workers' securities are likely to affect the quality of services delivered. In Central and Eastern Europe the loss of income through late or non-payment of wages has had the most immediate effect on the health worker-patient relationship. Health workers may charge informal fees for health services that affect the patient's ability to access them. Whether the "fee" is paid or not, this will alter how a health worker treats the patient and the quality of care provided.

"Dual practice", where a health worker takes a second job in order to survive economically, is growing because of non-payment of wages. This means less time is spent on the health worker's main job and the quality of the service provided also deteriorates.

Around the world, low pay in the public health sector is prompting health workers to seek additional or better sources of income. This might involve working for the private sector, where pay is sometimes higher and more reliable, or finding a non-health sector job or developing an income generating activity. Health workers with second jobs spend less time delivering public sector services. A move to the private sector also takes resources away from the public sector.

In rural areas, health workers may become professionally and socially isolated in remote health centres because of a lack of supervisory staff at

regional or district level. This will affect the quality of care provided. Lack of in-service training and professional support will also affect health workers' ability to improve practice and remain professionally updated.

In Eastern and Central Europe, the late payment of wages, the below-subsistence level of wages as well as a decline in sick pay, have resulted in health workers working when ill, and so affecting their patients indirectly. When health workers have to work long hours or take on additional workloads, this also impairs the quality of their work in the public sector (Afford, 2003).

In Russia, after health reforms, there were delays in paying wages. Uncertainty about pay has prompted health workers to take second jobs or work part-time. Sometimes paramedical workers take on a job that requires fewer qualifications, for example, nursing because of the shortage of nurses (Stepantchikova et al., 2001).

Trans-border migration is covered under new regional trade and GATS treaties. Low wages in developing countries encourage health workers to seek better-paid employment in developed countries, resulting in a drain of trained workers. The Republic of Korea, Thailand, the Philippines, India and China are all examples of countries that provide skilled health workers for developed countries.

In India, the number of secondary care nursing homes has expanded rapidly in the last 20 years. In a study of how working conditions, qualifications of staff and wages were influenced by secondary care nursing homes in New Delhi, Hyderabad and Bombay, Baru (2004) found that technicians using X-ray, ECG and ultrasound machines were often trained "on the job" by the nursing home owner. He argues "variability in the technical competence is bound to have implications for the quality of patient care".

In corporate hospitals in India, catering, cleaning and security services have been contracted out. The staff providing meals, washing and other basic caring tasks have the most direct contact with patients, but little contact with health workers. Health workers, the majority of whom are women, also work long hours. Combined with the physical and emotional demands of care, this will have some impact on the quality of patient care (Baru, 2004).

An evaluation of the "New Deal" scheme introduced in Cambodia found that higher pay for health workers together with an equity fund to pay healthcare fees for poor people led to some increase in their use of services. But although access improved there were still problems with the quality of care. The report concluded that more training and capacity building was needed to improve service quality (Van Damme and Meessen, 2001). This study is significant in showing that higher wages for health workers were linked to increased access to

health services. But improvements in both pay and training are needed if the public sector is to deliver adequate healthcare services.

As well as affecting workers' securities, liberalization has led to changes in public sector culture and ethos, with an impact on the way public health services are delivered. This is an issue that will have to be addressed in future. There is a danger that the constitutional, legal, cultural and leadership factors, which together create what is important and distinctive about public services, are not reflected upon, or are dismissed as the bureaucratic problem that must be "reformed" (Matheson, 2002).

To sum up, there is a close relationship between health workers' social and economic security and quality of health services. This has not been recognized in health sector reforms. As a result, the quality of public health services has declined in many countries. A strong public sector culture and ethos play a key role in delivering good public services, but this will only be achieved if health workers' basic security is guaranteed. Future health reform policies must also find ways of strengthening the public sector culture. The current emphasis on greater regulation and user participation in public services will not be sufficient.

5. Impact on users of services and population health

Changes in the healthcare sector affect population health in many ways. Public health and health promotion are often low priorities in healthcare systems that are focused on competition, short-term outcomes and value for money. Pressure on resources for the health sector has led to decreasing levels of immunization and the dismantling of public health surveillance activities, resulting in higher rates of communicable diseases (Figueras et al., 2004). Strategies to combat non-communicable diseases, which address risk factors such as smoking, nutrition and physical activity, take time to demonstrate their effectiveness. Strategies to address the determinants of health, such as housing, are often beyond the remit of the health sector and require a strong political commitment to effective implementation.

More directly, the liberalization of health services affects population health by limiting access to healthcare services through introduction of new insurance schemes, user fees, and the "corporatization" of hospitals.

New health and social insurance schemes often start by including workers in the formal sector and then expand to voluntary insurance for other population groups, for example, families of workers, agricultural workers and the self-employed (ILO, 1998). If there is no risk pooling, then the cost of premiums will rise, making it difficult for low-income groups to afford healthcare. In some

countries, governments have introduced differential insurance premiums, which vary according to the economic status of the insured.

In Chile, where private health insurance and provision were introduced in the 1980s, 38 per cent of doctors and 50 per cent of nurses were employed in the private sector by 1992, even though private health plans covered only 25 per cent of the population (Polaski, 1998). Although there has been an increase in government spending since 1991, there are still long waiting lists in the public health sector. Most modern technological equipment is found in the private sector, while public sector facilities need modernization and repair.

The establishment of private health insurance companies in Chile has taken resources away from the public sector because 28 per cent of the population pay contributions into private health insurance funds (ISAPREs). “The introduction of the ISAPREs led to a diversion of increasing portions of the mandatory payroll contribution away from the public health system” (Polaski, 1998). Currently, 70 per cent of ISAPRE consumers are under 40 and only 2 per cent are aged over 65. The demand for public healthcare services is expected to increase as the population ages.

There have been recent attempts to set up social insurance schemes in some African countries. The success of these schemes depends on national economic performance and institutional structures (Department for International Development, 2002). They are also primarily for people employed in the formal sector and so tend to move resources towards the better-off.

In many countries in sub-Saharan Africa, the majority of the labour force works in the informal economy or small-scale agriculture with low and infrequent incomes. This sector of the population also needs access to healthcare. Attempts to set up small-scale credit or health insurance schemes have been made by individual hospitals, for example, Nsambya Hospital, Uganda (Nyanjom, 2002). Cooperatives such as UMASIDA have been set up in the United Republic of Tanzania. Flexible low-cost insurance schemes enable people on low and erratic incomes to have some way of paying for health care. Many of these schemes are at the early stages of development. However, a new scheme proposed by the Kenyan government aims to include both formal and informal sector workers and their contributions, together with tobacco and alcohol tax revenues. It will make the government the sole buyer of health insurance (People’s Health Movement, 2003). This is important because it shows that government leadership is necessary for universal health coverage.

There have also been attempts to introduce new systems of private health insurance in Eastern Europe, though expansion has been slow. One example is an International Finance Corporation (IFC) investment in Poland that supported

Medicover, a health insurance company with integrated health and occupational services (Lethbridge, 2002a).

User fees were introduced for healthcare by many African countries in the 1980s as part of Structural Adjustment Programmes, at a time when spending on health services was also being cut. Many countries have over 15 years experience of user fees, which may involve fees for drugs, other charges for treatment, fees set by individual health facilities, and unauthorized fees set by providers (Nyonator and Kutsin, 1999). One of the results of having a range of fees is that it is difficult for patients to assess costs before their treatment. Hospitals and primary healthcare centres often compete for patients. There is no clear information about fee rates, exemptions are often poorly publicized and many poor people are unaware of their eligibility to free treatment. This has led to fewer poor people using healthcare services.

A study of the impact of public sector reform in Eastern and Southern Africa found that, in the United Republic of Tanzania, where reforms have been strongly influenced by donors, government outpatient facilities and hospital beds were underutilized. Some of the reasons given were lack of drugs, poor services and increased user fees (Therkildsen, 2001).

Lucas and Nuwagaba (1999) examined the effect of user charges for health services in four poor communities in Uganda. They found that women felt the effect of user fees most acutely. User fees have to be paid in cash, so men in the household, who had cash available from crop sales, became the main healthcare decision-makers. Women were expected to care for the sick, which also meant that they had less time to earn income.

The type of use of public health facilities also changed with the introduction of fees. Many patients, rather than seeing a nurse, saw an “assistant” with unknown qualifications or abilities, who prescribed drugs that were only available from private sector providers.

Where fee income is used specifically to improve service quality or to buy drugs, people are more willing to pay fees than if there is no visible impact (McPake et al., 1993). In Zambia, although the government conducted a consultation on the proposal to introduce user fees, people felt that fees had been forced on them. Some said they would be willing to pay if they felt they were receiving value for money, for instance, for treatment by mission hospitals or traditional healers. As government services had always been free, there was a reluctance to pay and there was also a lack of confidence in the quality of the services (Van der Geest et al., 2000).

The assumption that people would be willing to pay for health services, because they already paid for traditional healers, has informed the policies of the

World Bank and other multilateral donors. However, this assumption reveals little understanding of how people use traditional healers and medical services. In southeast Tanzania, people's willingness to pay was based on their perception of treatment success (Hausmann Muella et al., 2000). They felt that traditional healers were good at treating chronic or mental disorders, while conventional health services were better for illnesses such as malaria, schistosomiasis and diarrhoeal diseases. People were also influenced by the flexibility of the payments system. Traditional healers could often be paid in kind over time, or be paid by family members. Health services often demanded money before treatment and payment in cash. A study in Kenya also showed that people are selective in their use of different healthcare providers. For instance, people tended to use self-medication for a first attack of malaria, but were more likely to consult external sources of care in subsequent attacks (Nyamongo, 2002).

A World Bank report on Eastern Europe and Central Asia (Lewis, 2000) describes informal payments as a hindrance to health sector reform and a barrier to access by poor people to healthcare services. It notes that payments made to health workers draw resources away from the healthcare system because they are given to individuals rather than institutions and operate as a private unregulated (and illegal) system. This report shows an awareness by the World Bank that informal payments do not contribute to improving healthcare. However, there does not seem to be an understanding of why health workers ask for informal payments, or what measures could help to improve pay and working conditions within healthcare systems so that informal payments are not needed.

The "corporatization" of hospitals in India has already led to increased resources going to acute care and fewer resources to primary healthcare, which is the first point of entry to the healthcare system for the majority of the rural population. Corporate hospitals in India have been recipients of government money on the understanding that a certain percentage of poor patients would be treated free, but there is evidence that hospitals are not complying with these agreements (Baru, 2004).

Comparing estimates of utilization of healthcare facilities in 1986-87 and 1995-96, the National Sample Survey Organization of India reported "a rise in inaccessibility to treatments of 9 per cent due to financial reasons and 6 per cent due to lack of facilities" (Purohit, 2001). This study also found a decrease in use of public healthcare providers from 26 per cent to 19 per cent in rural India and from 28 per cent to 20 per cent in urban areas. Use of hospital facilities also declined in both rural and urban areas.

6. Impact on quality

Liberalization of health services causes changes in healthcare systems that are increasingly affecting the quality of health services delivered. Three ways of assessing the impact of liberalization on health services will be considered:

- changes in the quality of services following contracting out and outsourcing;
- the influence of new forms of financing on health service delivery;
- health outcomes in relation to public and private healthcare facilities.

There is a growing body of evidence that cleaning services in hospitals, managed by an external contractor, provide poor quality cleaning (Murphy, 2002). Pressure to reduce the contract price by minimizing labour costs means workers have little time or commitment to clean hospitals thoroughly. This results in dirty floors, uncollected rubbish and other hazards that contribute to lower standards of infection control. In the United Kingdom, the contracting out of cleaning services in the late 1980s has led to a reduced workforce and poorer standards of cleanliness. Recent audits of hospital cleanliness found that 20 of the 23 hospitals that did not pass the cleaning audit had contracted out cleaning services (UK Parliament, 2002).

Contracting out of cleaning services also complicates infection control because of inconsistent cleaning protocols. Hospitals managing cleaning contracts find it difficult to improve standards when infections are identified, because cleaning times, frequency and materials are defined in the contract and cannot be changed quickly (Murphy, 2002). This undermines the argument that private sector providers deliver more efficient services or are more responsive to needs.

Cleaning staff in contracted-out services are often less flexible in relation to cleaning tasks than in-house cleaners. There is also a higher turnover of staff in contracted-out services as well as higher levels of sickness and absence (Auditor General of Scotland, 2000). Staff shortages and absences also contribute to poor standards of cleaning because of a lack of replacements to undertake the contracted tasks.

A second way of trying to assess the impact of the liberalization of health services on the quality of services is to look at the effect of new forms of insurance and financing on the quality of care delivered. For instance, Murray (2000) sought to explore the relationship between private health insurance and high rates of caesarean sections in Chile. Only a minority of the women interviewed wanted a caesarean section, whether using public, university or private facilities. However, obstetricians in private practice, who are obliged to

attend births in person, prefer to schedule them at prearranged times. It is easier to plan for caesarean sections than for either natural or induced births, as a result of which the rate of elective caesarean sections is 30-68 per cent in the private sector and 12-14 per cent in the public or university sectors. Patients have little power and influence in this process, even though the private sector is supposed to be more consumer friendly than the public sector.

Changes in health outcomes

A few recent studies have indicated some differences in care outcomes between public and private sector providers.

One international comparison looked at access to end-stage renal care in relation to types of healthcare systems — public (Beveridge model), mixed (Bismarck model) and private (private insurance). The results showed considerable variations:

In “public” provider countries, 20-52 per cent of dialysis patients were treated with home therapies (haemodialysis and peritoneal dialysis), and the number of patients with renal transplants was 45-81 per cent of all end-stage renal disease patients. In “mixed” provider countries, only 9-17 per cent of all dialysis patients are treated with home therapies, and 20-48 per cent of ESRD patients have renal transplants” (Horl, de Alvaro and Williams, 1999).

The United States and Japan were chosen as examples of private systems. In the United States, 17 per cent of patients were treated with home therapies compared to 6 per cent of patients in Japan, while 26 per cent of patients had renal transplants compared to 0.3 per cent of patients in Japan.

This study identified differences in type of treatment according to the healthcare system, with public provider countries having higher rates of home therapies and renal transplants. This suggests that the mixed and private systems treat the majority of kidney disease patients with clinic and hospital-based dialysis rather than home-based care or transplants. A transplant provides the patient with an opportunity to end dialysis. But from a commercial point of view, investment in transplants reduces demand for dialysis clinics and so does not promote increased profits.

Other researchers set out to answer the question: “What is the relative effect of private for-profit versus private not-for-profit delivery of hospital care on patient mortality?” (Devereaux et al., 2002). They analysed 15 observational studies that compared private for-profit with private not-for-profit hospitals, covering 38,000 patients admitted between 1982 and 1995 to 26,000 hospitals in the United States. Most of the patients were publicly funded through Medicare.

The researchers found that “for-profit hospitals were associated with a statistically significant increase in the risk of death”.

This analysis has several limitations, including the absence of any random control trial. One of the reasons why not-for-profit hospitals had lower mortality rates could be teaching status, but three studies excluded teaching hospitals and still found a significant increase in mortality in private for-profit hospitals. When adjusting for disease severity, the study found that not-for-profit hospitals were more likely to have seriously ill patients, but the for-profit hospitals still had higher mortality rates.

One explanation lies in the requirement for for-profit hospitals to provide investors with a 10-15 per cent rate of return on their investments and to pay senior executive salaries and taxes. These extra expenditures mean that for-profit hospitals have fewer resources to spend on patient care for Medicare patients, who are reimbursed at the same rate for both not-for-profit and for-profit hospitals. This has implications for the use of for-profit hospitals in the provision of government-funded patient care in many countries. The financial pressures that drive private sector companies have been shown to affect both the type and the quality of care provided.

7. Healthcare investments shaping patterns of employment and provision of services

The changing role of government in the provision of healthcare has implications for future patterns of investment in healthcare. The introduction of fiscal reform has already led to changes in the way that the public health sector sets goals and has to account for its revenues. The development of public-private partnerships to finance healthcare means that the public sector is not always acting independently in identifying investment priorities because it has to take account of private sector interests. In particular, investments by private equity and venture capital companies and the International Finance Corporation (IFC) will have a significant influence on future patterns of employment and the provision of services.

Private equity and venture capital companies are playing an increasing role in investment for the global healthcare sector. Emerging priorities are pharmaceuticals, medical devices and diagnostic equipment, biotechnology, information and communications technologies applied to healthcare, and different aspects of health services such as the provision of staff.

There are slightly different emphases in investment in the United States, Europe and other regions. European private equity and venture capital investors tend to invest in partnerships or service provision in the context of national

health systems. US investments are more strongly focused on the development of new healthcare products and devices. Investments in other regions, though they vary, also focus on direct healthcare provision.

Although the relationship between healthcare and future investments is a complex one, privately driven investment has a strong focus on high technology, expensive medical treatments for non-communicable diseases. The treatments will thus be available only to a select group of the population in developing countries.

Delivery may not necessarily be through a conventional hospital. The interest in linking different providers through networks suggests that private healthcare investors view day care, home-based care and community care as promising areas. Future IFC healthcare priorities are expected to be:

- increased focus on non-hospital investments;
- wider geographical distribution;
- increased investments in pharmaceuticals, medical devices and biotechnology;
- new investments in health workers' education and training;
- increased involvement in private health insurance, to benefit the lower-middle and middle classes in countries without universal risk pooling and to support supplementary insurance (International Finance Corporation, 2002).

The expansion of venture capital and private equity investments in the last decade can be seen as part of the expansion of the private sector worldwide. The IFC is playing an important role in this development. There is a relationship between limiting funding for the public (health) sector and the creation of a new private healthcare sector. The types of healthcare company receiving this financing are an indication of how the private healthcare sector will evolve in future. There appears to be little interest in investing in integrated primary healthcare or preventive strategies, even though primary healthcare is needed to ensure universal access in developing countries. IFC and World Bank policies are producing a gap between those who can pay and those who cannot. Health workers are being drawn away from the public sector to the private sector, which will result in the best-qualified health workers working only for patients who pay directly.

In sum, private investments in healthcare are characterized by the development of high technology equipment, pharmaceuticals, and information and communications technologies, which meet the needs of developed countries and the private healthcare sector in developing countries. They are not addressing ways of delivering basic primary healthcare in developing countries.

Patterns of employment

Liberalization of health services has already altered some of the patterns of employment within the health sector. There is an emphasis on flexible working and outsourcing of services. Women form the majority of the health workforce in many countries and this is likely to continue. The expansion of home care and long-term care is dependent on low-paid female labour.

In countries where the local private sector is being encouraged, for instance, in Africa, there has been an increase of single practitioners. In Eastern and Central Europe there has also been an increase in self-employment. In North America and the United Kingdom, nurses are becoming self-employed.

There has been a growth in the outsourcing of staffing services, due to pressure to contract out functions such as recruitment. In addition, staff shortages, the result of poor pay and working conditions, have prompted the public sector to look for the quickest way of finding staff. Private sector recruitment agencies can provide staff quickly but their fees often make this a more expensive choice for the public sector, especially in the long term. Once again, this is an example of private companies being dependent on the public healthcare sector for profits, and produces a situation where the reasons for staff shortages in the public sector are not being addressed.

Agencies are providing foreign nurses and other health professionals to meet the shortage of nurses in North America and Europe. However, in the United States, unions representing nurses have argued that if working conditions in hospitals were improved, more US nurses would be recruited and there would be less need to bring in nurses from developing countries. Short-staffing, long hours and lack of control over the working environment are all seen as reasons why US nurses are unwilling to work in US hospitals. Meanwhile, the growth in the international migration of nurses is resulting in a loss of skilled health workers from developing countries, which directly affects patient care (Tujan, 2002).

The impact of GATS on the mobility of health workers will be another factor influencing patterns of employment in the future. There have been moves within the European Union to increase the movement of health professionals between member countries, but many of the national regulatory systems have maintained control over in-migration from outside the EU (Mossialos et al., 2001). Liberalization of the movement of workers under GATS Mode 4 could increase the demand for international recruitment services, and leave public health systems in developing countries further depleted of skilled staff.

Provision of services

The trend towards moving care from a hospital setting to community-based provision and home care seems likely to continue. This will involve a growing range of sophisticated treatments with new technologies and drugs, which will require more skilled care staff. Pharmaceutical and laboratory companies are already investing in home care companies.

The future of long-term care appears uncertain. In the short term, investments in property and residential care by investors will continue to expand in North America, Europe and Asia. However, healthcare companies that solely provide long-term care are withdrawing from the market. With an expanding ageing population, there will nevertheless be a growing demand for long-term care. If the private sector feels it is not profitable, governments may be forced to provide services directly.

There will be continued investment by the private sector in high technology diagnosis and treatment. This will also require investment in staff training. The private healthcare sector is already interested in becoming involved in the education and training of staff, for instance, through the ISS and BUPA “universities”. At the moment, these are confined to company employees but in future companies might work in partnership with higher educational institutions.

Healthcare companies are also searching for niche markets such as eating disorders that other providers, whether public or private, are unable to service. Investments in pharmaceuticals, medical devices and biotechnology suggest that the focus will be on drug-based, high technology care.

8. Government future regulatory role

The introduction of market mechanisms to the public healthcare sector has placed new pressures on governments to establish systems of regulation that will ensure a consistent quality of care by a range of providers. Saltman (2002), who defines regulation as “the imposition of external constraints upon the behaviour of an individual or organization”, suggests that governments have to move “from command and control to more sensitive and sophisticated systems of oversight and supervision”.

The health sector is already considered to be highly regulated. There are at least three existing models of regulation:

- regulation of health workers and professionals through education, training and registration systems;
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- contracts drawn up between commissioners and providers for agreed healthcare delivery;
- standards of healthcare facilities established through inspection.

Although GATS recognizes the existence of national regulations, it also enjoins governments to ensure that national regulations do not constitute “unnecessary barriers” to the entry of foreign companies. This could make it difficult for governments to establish more control over the private sector using conventional regulatory approaches, which would prevent them from addressing the wellbeing of their populations in the most effective ways.

Setting up new systems of regulation to address new relationships between government and private providers raises questions about governance and accountability for all healthcare providers, and about how to maintain and improve standards of care and working conditions. Trade unions and health service user groups need to have a recognized role within these new governance systems. A wider system of public participation will also be needed. With involvement of health workers and user groups, standards of care and working conditions within the health sector could be improved and maintained.

A review of the current system of regulation in Thailand in relation to drugs and medical devices, institutions and healthcare professionals found that the regulatory framework was comprehensive in covering public and private organizations and individuals. But the supply of medical devices and the establishment of private facilities lacked an adequate legal framework. Professional organizations did not have incentives to ensure high quality care (Teerawattananon et al., 2003). The complaint rate per 100,000 doctors is rising. The research recommended filling the regulatory gap for medical devices and private facilities, providing incentives for professional organizations to enforce existing regulations, and putting more staff on enforcement duties with extra training and continuing education.

According to a study in Zimbabwe and the United Republic of Tanzania (Kumaranayake et al., 2000) regulation did not cover healthcare organizations or private insurers. There were no effective systems to ensure quality of care by individual private practitioners or to regulate the practice of working in both the public and private sectors. There is a concentration of practitioners in urban areas so that incentives need to be introduced to improve the distribution of provision. There is also limited consumer protection.

The Thai and African studies both approach regulation in terms of mechanisms to oversee standards and practice. Mackintosh and Tibandebage (2002) suggest a different approach to address the changing demands of regulation based on the “concept of collaborative regulatory intervention”. This would cover the need for both regulation and redistribution. They argue that the

problems that a lack of resources causes for current systems of regulation can be avoided if there is effective collaboration between government and non-government providers. Collaboration would “build on identifiable desirable norms of behaviour: to value and strengthen providers who successfully service the healthcare needs of the poor; to achieve legitimacy for formal regulations via negotiation; to strengthen the legitimate claims of low income patients; to find synergy between supervision and support”.

Their research in the United Republic of Tanzania found that government policymakers were aware of the limitations of existing systems of regulation. Non-governmental players were also critical of the government’s “double standards” in not enforcing standards in their hospitals. Mackintosh and Tibandage suggest possible approaches that include accreditation schemes designed with the providers; strengthening public participation in managing healthcare delivery through community representation on management boards; and fee exemption schemes supported by effective collaboration between local communities, healthcare facilities and external funding.

Regulation is one of the most urgent priorities if the effects of the liberalization of health services are to be alleviated for both health service users and health workers. Approaches that consider relationships between government and non-government players in new ways and produce improved quality of care and better working conditions need to be developed.

The involvement of users and health workers in future regulatory systems will be important. Perhaps more fundamental will be the type of approach to regulation that is developed. There are signs that a partnership approach between contractors and providers works in certain circumstances, perhaps at local level. In other settings, a more formal regulatory structure may be needed. However, some of the problems that are emerging in the contracting of services to the public healthcare sector suggest that more direct public control of services may be the answer in the long term.

9. Conclusion

International financial institutions have played a key role in promoting liberalization, deregulation and privatization of healthcare through fiscal, public and health sector reform. Fiscal reform has shaped health sector reform. These policies have promoted the market as a solution to service delivery and discredited public sector services. Although there are signs of recognition that market mechanisms have some limitations, the public sector and public sector workers are still viewed negatively by international financial institutions. International policy has started to appreciate the need to provide services to poor

people, but this is accompanied by policies to make middle-class groups pay for their own healthcare, so undermining policies of universalism and cross-subsidization.

Although the private sector has been promoted for over a decade in the health sector, multinational healthcare companies have experienced uneven expansion. Perhaps as a result, they are using a range of strategies to enter new markets or consolidate their position in existing markets. Links between international financial institutions and multinational healthcare companies contribute to strengthening the implementation of liberalization policies and provide effective subsidization of private sector interests.

Privatization and commercialization of healthcare have a growing impact on the seven forms of workers' security, including voice security. The emphasis on individual contracts and bargaining, rather than collective agreements, presents an obstacle to concerted action to improve pay and terms and conditions in the future.

There is also growing evidence that liberalization of health services is affecting the quality of care. The erosion of workers' securities has a direct impact on quality of care because of pressures faced by health workers to earn a living wage and deliver services with reduced resources. Increasingly, the ability to pay for services is determining access to healthcare, so favouring higher income groups and leading to a two-tier health service. The dominance of market mechanisms that dictate specific short-term outputs and outcomes has a negative impact on public health policies and preventive strategies.

The contracting out of services such as cleaning also leads to a worsening of quality of services, while new forms of financing contribute to distorting the way in which care is delivered. The pressure to provide returns for shareholders affects the quality of care delivered by for-profit healthcare providers.

New forms of regulation are needed to address the changing relationships between public health systems and private healthcare companies, to ensure quality of services and maintain rights of health workers. These may have to be developed according to different local, regional and national contexts. However, the strengthening of all forms of regulation remains an urgent priority if accessible healthcare for all is to be delivered.

If the term "Americanization" is defined as the introduction of a model where individuals are held responsible for paying directly for the provision of healthcare, where the private sector plays a leading role in provision and government provision is limited in its scope, this model can be identified in many countries.

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SECTION III:
EMPLOYMENT
SERVICES

LIBERALIZATION OF PUBLIC EMPLOYMENT SERVICES

4

by Rae-Anne Medforth¹

1. Introduction

The role of the public employment service (PES) in industrialized countries has traditionally been to provide job-brokering services. However, over time this function has expanded to include the administration of unemployment benefits and the delivery of labour market programmes. In many developing countries the PES is in the initial stages of development with its role confined to job placement and registering the unemployed (World Bank, 2003a).

Typical activities of the PES include:

- provision of labour market information;
- occupational and educational advice services;
- job brokerage;
- management and implementation of government measures related to training, job placement and labour market policies; and
- administration of unemployment benefits (Dorenbos and Vossen, 2002).

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In most countries, the PES has operated as a job placement monopoly, as required by the two ILO Conventions on Fee-Charging Employment Agencies, 1933 (No. 34) and 1949 (No. 96). The last two decades, however, have seen the monopoly removed in a number of developed countries, including Portugal (1989), Denmark (1990), the Netherlands (1991), Sweden (1993), Germany (1994), Finland (1994) and Austria (1994) (Thuy et al., 2001). In 1997 the ILO recognized the role of private recruitment and employment agencies (PREAs) in efficiently functioning labour markets.

The ILO Private Employment Agencies Recommendation, 1997 (No.188), which supplements the Private Employment Agencies Convention, 1997 (No.181), gives guidance on how cooperation between public and private employment agencies can be established. The Recommendation states that:

Measures to promote cooperation between the public employment service and private employment agencies could include:

- pooling of information and use of common terminology so as to improve transparency of labour market functions;
- exchanging vacancy notices;
- launching of joint projects, for example in training;
- concluding agreements between the public employment service and private employment agencies regarding the execution of certain activities, such as projects for the integration of the long-term unemployed;
- training of staff; and
- consulting regularly with a view to improving professional practices.

This chapter explores the liberalization of the PES and its drivers. It looks at the various models that have emerged from the liberalization process, and the public and private partnerships that have formed subsequently. Case studies are presented to illustrate these models and their impact on the quality of service and conditions of work for employees.

The following hypotheses are addressed:

- Certain “levers” promote the liberalization of employment services, resulting in unequal and selective provision of services, rather than universal provision.
 - The unequal distribution of services and types of service are eroding workers’ securities.
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- Government reforms are creating a shift away from universal citizenship rights, providing services largely for the middle class rather than for all.
 - There has been significant liberalization of employment services in many countries around the world.

The research methodology included a literature review and personal telephone interviews with respondents working in both the public and private employment sectors. The literature review provided background data on the sector as well as material for the case studies. Personal interviews were used to gather data on employment conditions and national operations to support the case study literature.

2. Models of employment services following liberalization

Countries have taken different approaches to liberalizing public employment services (PES). However, these changes have usually involved decentralization of services and increased use of private for-profit and not-for-profit organizations to deliver labour market programmes, including job placement and training to assist jobseekers find employment.

The Jobs Strategy of the Organization for Economic Cooperation and Development (OECD, 1994) and the Employment Strategy of the European Union (EUROPA, 2005a) have enabled countries to compare policies designed to respond to social and economic changes that have increased unemployment and economic insecurity. Though countries may follow their own path, the main objective has been to reduce unemployment by improving employability and reinforcing work incentives (Finn, 2002).

Countries liberalizing employment services have opted for various combinations of public and private operation and partnership. The European Commission has identified three broad models that reflect the current relationship between the PES and PREAs (European Commission, 1998):

1. Cooperation in job placement and matching services, and other labour market activities, involving an exchange of information between the PES and PREAs. Commercial for-profit organizations are most likely to participate in this form of partnership. The type and frequency of information exchange varies from country to country and even from location to location, resulting in inequalities in the availability of job opportunities, training and access to other labour market programmes.
 2. Complementary services for particular labour market segments and related services. Certain public employment functions are contracted
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out to private providers, with the government providing the funds to ensure its goals are met. In this model, the private employment agency provides the service on the government's behalf.

3. Competition to provide services to employers. In this model, the PES and PREAs compete on an equal basis, with the PES enabled to charge fees, or services are provided by PREAs only. In the "semi-market" system, the government sets the parameters for private employment services but there is no public provision. In the "pure market" system there is no government intervention. This may not necessarily reflect PES liberalization but rather a response to economic developments (Werner, 2001).

The following section illustrates these three models with a selection of countries that have adopted their characteristics, based on descriptions by the ILO (2003).

2.1. The cooperative model

France, the Russian Federation, Slovakia, the United Kingdom and the United States are examples of the cooperative model.

France

The French public employment service (ANPE) operates 945 offices. Its main tasks are to improve the functioning of the labour market and match supply and demand for labour. France allows three types of commercial employment agency, for executive placement, recruitment and temporary work, the last category predominating. Information sharing on local labour markets is the most common form of partnership, usually related to job vacancies and labour market programmes.

The Russian Federation

In the Russian Federation the PES carries out all major functions, including administration of unemployment benefits. However, the number of private employment agencies has escalated following transition to a market-based economic system. The services provided by private employment agencies include provision of temporary workers, recruitment (headhunting), outplacement, and organization of migration for labour abroad. They may also assist jobseekers with curriculum vitae writing and improving their job search techniques.

Information exchange regarding job vacancies and labour market programmes is the main form of cooperation between the PES and PREAs in the Russian Federation. PES officials also provide PREAs with labour market information and interpretation of labour legislative developments. PREAs in some regions charge discounted rates for special labour market programmes for disadvantaged groups, including redundant older workers, workers with disabilities and youth.

Slovakia

The PES in Slovakia administers unemployment benefits and collects contributions to unemployment benefits from businesses. One of the roles of the National Labour Offices (NLO) is to issue permits to PREAs enabling them to provide job placement services for a fee. Cooperation takes the form of publication by the NLO of a list of registered PREAs.

United Kingdom

Several private and public organizations are involved in job placements. Among the PREAs there are many small private agencies, as well as a few large multinational operators, offering permanent and temporary job placements. As in many countries, the PES dominates job placement for unemployed and semi-skilled workers, while PREAs tend to concentrate on providing organizations with skilled and professional workers. The PES and PREAs cooperate in limited segments of the job market, such as exchange of information on vacancies and job applicants.

The United States

In the United States the federal Wagner-Peyser Act requires individual states to establish and maintain public employment services, including labour exchanges, employability assessment services, re-employment services, job search networks and job referrals, free of charge to jobseekers. The relationship between the PES and PREAs varies from state to state and from locality to locality. Though the cooperative model predominates, in the past a more competitive model involved the contracting out of job placement and labour market functions to PREAs. The current system has been described as a wholesaler and retailer relationship, with the PES being the wholesaler (providing the résumés and talent) to the retailers, the PREAs.

2.2. The complementary model

The complementary model is illustrated by Germany, the Netherlands and Slovenia.

Germany

The Federal Employment Service in Germany administers labour market programmes, unemployment insurance and placement services. The public monopoly of the job placement service ended in 1994, since when private employment agencies have operated in the marketplace. Following legislation in 2002, PREAs no longer need a licence to provide job placements for all occupations and groups of people. Temporary work agencies now place unemployed people on behalf of the public employment system.

The Netherlands

The Central Organization of Work and Income (CWI), a public statutory body, manages a large part of employment services in the Netherlands. The CWI does not administer labour market programmes, but works with private job placement agencies, including temporary work agencies, to find short-term employment for jobseekers. The municipalities and the employee insurance agency are responsible for the reintegration of workers into the labour market. PREAs can bid to provide reintegration services to jobseekers.

Slovenia

The PES in Slovenia is responsible for the implementation of labour market programmes and vocational guidance. It also administers unemployment schemes, issues work permits and implements the national scholarship programme. As part of the liberalization of employment services, the Slovenian PES prepares individual employment programmes, designed primarily for the most difficult-to-place people, that PREAS may bid to implement.

2.3. The market model

Australia has adopted the “semi-market” approach, while South Africa and a number of other developing countries have adopted the “pure market” approach.

Australia

Australia is one of the few countries to operate a completely competitive model. In 1998, Australia streamlined the PES and introduced a network of 310 private, community and government organizations, paid to place workers. The functions covered by the new network include job-brokering and intensive employment assistance for the unemployed. Agencies receive a fee for each unemployed person they place in a job (with extra fees for the long-term unemployed) and therefore, the system is primarily outcome driven.

These changes have heralded a new role for the PES. It has become the purchaser of employment services on behalf of jobseekers. It also regulates and manages the tendering and contracting process and maintains its policy development and evaluation roles. With this new structure, Australia has introduced an institutional structure. The Government is responsible for both the referral of the eligible unemployed to employment services and the administration of unemployment benefits, while ensuring that the delivery of employment services to the unemployed is subject to contestability by public, private and community providers. This may change the role of the PES in the future: a framework that will generate genuine competition, not only in the market for easy-to-place jobseekers, but also in services available for long-term unemployed (World Bank, 2003a).

The Government is responsible for the performance monitoring and evaluation of programmes implemented by PREAs. The requirements are outlined in the contractual arrangements established at the beginning of each tender process.

South Africa

South Africa is an example of a developing country where the employment service has been privatized by default, due to the low level of public resources for employment services. The PES, part of the Department of Labour, has offices in 170 locations serving a population of 45 million (South African Department of Labour, 2003). As a result of high unemployment levels and an under-resourced PES, the number of PREAs has increased significantly (ILO, 2003). These agencies, which may be for-profit or not-for-profit organizations, provide job placements for permanent and temporary work. Poor business practices by some PREAs have led to a regulatory review by the South African Government.

2.4. The European Union

The European Union supports both the cooperative and the complementary models of employment services. Workforce development, and the matching of jobseekers and vacancies in the labour market, are among the key objectives of the European Employment Strategy. These objectives require an efficient delivery system in which the European public employment services play a prominent role. A network of European PES was created in 1997 “to support the modernisation of employment service delivery systems, and optimise the contribution of PES to the implementation of the European Employment Strategy and the integration of the European labour market” (EUROPA, 2005b).

In addition to the European Employment Strategy and policies concerning European labour mobility, various actions at EU level affect the delivery of employment services. These policies, outlined in a report by the European Commission (2001), focus on developing a mixed market of public and private service providers.

- European member states have coordinated their response to the 1997 ILO Convention (No. 181), which lifts the public monopoly on placement services, calls for adequate regulations to ensure PREA activities are compatible with social standards and urges cooperation between the PES and PREAs.
- European competition law has become relevant in employment services. Several rulings of the European Court of Justice have limited the possibility of quarantining PREAS from the market.
- Free placement services for all citizens are declared a right under the Charter of Fundamental Rights of Workers. This right implies guaranteed availability of free public placement services while simultaneously obliging agencies to supply their services free of charge to jobseekers.

The European Employment Strategy has not resulted in identical employment services in each country. Member states have adopted either the cooperative or the complementary model, and the role and presence of PREAs are determined at the national level depending on the degree of government support for market-based services.

3. Drivers for liberalization

Several reasons are cited for the liberalization of public sector services in general, and employment services in particular. One is dissatisfaction with

government-provided services, regarded as inefficient, bureaucratic and unresponsive to customer requirements. This doctrine was promoted by UK Prime Minister Margaret Thatcher, US President Ronald Reagan and their followers to justify privatization and reduced government spending in the 1980s and 1990s.

OECD countries are increasingly interested in using market forces to restructure the organization and financing of job placement and employment services. In the Netherlands, for example, the introduction of market mechanisms has been part of the search for a more coherent benefits and job placement system. The former public employment service has been split into a basic employment services company (which remains public) and a privatized reintegration service company (which competes with other commercial entities for contracts to promote a return to work) (Struyven and Steurs, 2003). The mechanism used to introduce market forces in many OECD countries is contracting out through open tendering.

International lending institutions often seek to transfer to developing countries the American model whereby individuals pay directly for the provision of private services. In this model, a well-funded, professional and autonomous regulator closely monitors the behaviour of firms to ensure they comply with rules to protect public welfare. In contrast, other models rely on cooperation between the regulator and the private companies involved. However in many countries, both developing and developed, the capacity to regulate these firms is limited due to lack of public resources.

3.1. The General Agreement on Trade in Services (GATS)

The General Agreement on Trade in Services (GATS), a World Trade Organization (WTO) agreement that came into force in 1995, sets out rules covering international trade in services. Its purpose is the progressive liberalization of trade in services under four modes:

- *Mode 1— Cross-border supply:* Ability of non-residents to supply services within another member's territory.
 - *Mode 2 — Consumption abroad:* Freedom to purchase services in the territory of another member.
 - *Mode 3 — Commercial presence:* Opportunity for foreign supplier to establish, operate, or expand commercial entity in a member's territory, such as a branch, agency or wholly owned subsidiary.
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- *Mode 4 — Presence of natural persons:* Permission for entry and temporary stay of foreign workers in a member's territory in order to supply a service (Sinclair and Greishaaber-Otto, 2002).

The GATS has potentially far-reaching effects, as a wide range of services fall under its jurisdiction. The agreement excludes services that are “provided in the exercise of government authority”, defined as not provided on a commercial or competitive basis. To date this definition has not been legally tested. The preamble of GATS also recognizes governments' right to regulate, but states that any regulations must be in line with the contents of the agreement (Alexander and Kessler, 2003). If challenged, WTO dispute settlement panellists judge whether the regulations are in compliance with GATS rules.

Despite language in the GATS that seems to protect public services, there has been pressure on countries by some WTO members, and by international financial institutions, to make commitments in relation to services such as health and higher education. At this stage, there has been little mention of employment services. However, as a public service that in most countries does not operate in isolation from private companies, the PES could easily be affected by current or future GATS negotiations.

Once a government has made a commitment under GATS to liberalize a service, it is very difficult to reverse (Alexander and Kessler, 2003). If a country does decide to withdraw from a previous commitment it must compensate other WTO members whose service providers may be adversely affected (Sinclair and Greishaaber-Otto, 2002).

The link between privatization and GATS is highly contested. It is contended that GATS does not force any country to liberalize its public services, and that members can keep any sector they wish closed. However, since the purpose of the agreement is the “progressive liberalization” of services trade, with a view to opening private provision of services to foreign competition, WTO members are unlikely to close off specific areas for all time.

Implications for employment services

Multilateral and bilateral agreements on the cross-border transfer of skilled workers already build on the employment services structure. An example is the Philippines where private employment agencies have sprung up to place Filipino workers in jobs overseas.

While it is inevitable that workers will try to move to countries offering better pay and conditions, GATS mode 4 (presence of natural persons) has the potential to make such transfers easier. Already, over 50 per cent of nursing positions in Jamaica are vacant as a result of migration to North America (Public

Services International, 2000). Filipino nurses also move in large numbers to the United States.

3.2. Other drivers

In developed countries, political decisions to implement public sector reform have been the primary impetus for liberalization of employment services, through downsizing of the public employment service and the contracting out of all or part of its functions. Some OECD countries have continued to restrict the role of PREAs, but the dominant trend is towards liberalization.

In developing countries, it is evident that the international financial institutions have had an impact on the liberalization of employment services, both directly, as in the Republic of Korea, or through the advocacy of liberalization as a way of providing competitive services to the public.

4. Role of government

The World Bank (2003a) has challenged arguments by opponents of liberalization that the PES requires a monopoly position to ensure provision of universal and cost-free services for all, including the hard-to-place unemployed. They maintain that PREAs have little incentive to place disadvantaged individuals, who have more chance to compete for job vacancies through services freely available to all jobseekers. However, the Bank claims that properly designed policies can encompass a role for market mechanisms in placing disadvantaged groups, pointing to countries such as the Netherlands and Australia that pay private agencies for this service.

Opponents of PES liberalization give a number of reasons why the PES can solve problems that PREAs cannot (Mosley and Speckesser, 1997):

- private agencies cannot provide for the collective good to allow greater transparency of the labour market because, for them, information on jobseekers and vacancies is a proprietary asset in a competitive business environment;
 - private agencies will only serve a small part of the labour market, resulting in a sub-optimal use of mediation services by employers and the few jobseekers that can afford them. In particular, the long-term unemployed need sheltered jobs, such as work experience, to improve their position in the labour market. This can only be delivered through government aid;
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- there may be economies of scale in the provision of placement services;
- weak and inexperienced participants in the labour market may be exploited by private services; and
- there may be external effects of unemployment: in the EU and in many other countries, unemployed jobseekers get unemployment benefits. It makes control of the eligibility process for benefits necessary, for example, by looking at the availability of work and search intensity.

These arguments support the position that governments have an important role to play in the employment services market. However, it does not necessarily follow that the government should be the only player.

The initial role of government is to decide if the liberalization of employment services is the appropriate course of action. Evidence suggests that the number of jobs available to jobseekers does not increase with the introduction of PREAs and that, where the PES and PREAs are operating in a cooperative model, as in Germany and the Philippines (for local job placement), the PES is more successful in providing job placements for the unemployed.

Governments must gain and maintain knowledge of the local labour market, to be aware of the needs of employers and jobseekers, and oversee the local service delivery infrastructure including links to training and educational networks. In the area of labour market programmes the government should have a sole or shared role in:

- overall management responsibility for programmes, whether run by the PES or subcontracted to other service providers;
- direct delivery of services and programmes;
- policy input into programmes run by other organizations; and/or
- referral of participants to programmes run by others (World Bank, 2003a).

It is for government to decide on the model of operation between PREAs and the PES. The roles and responsibilities of each should be outlined, and areas of cooperation and partnership should be encouraged to ensure the maximum benefit to jobseekers.

Governments also need to determine the funding model for PREAs and their reporting requirements. There has been a move towards decentralized models that can ensure the services provided are appropriate for the local population. Should this be the case, safeguards should be introduced to ensure equality of service available to all.

One of the major issues that governments must consider when deciding to liberalize their public employment service is the legal form under which PREAs

operate. Will they be businesses, and if so under what regulatory regime? PREAs are operating in an increasingly flexible labour market and the interests of their clients should be protected.

Licensing or monitoring of operators seeking to enter the market is imperative. National standards should be developed, applied and monitored, applying equally to foreign as well as domestic companies. The type of service will vary from PREA to PREA, so standards are also needed to ensure equal services and opportunities for all jobseekers. Jobseekers in one region should not receive an inferior service — or be offered more restricted employment opportunities — than jobseekers in another region.

5. Multinational companies

In a technical sense the decision to liberalize services is one for national governments. However, international financial institutions (IFIs) are increasingly promoting public sector liberalization through the detailed conditions attached to adjustment and investment loans (Nellis, 2003). In some instances the IFIs and creditors agree to starve the public sector entity of funds needed to continue operation (Dubash et al., 2002). Governments faced with erosion and deteriorating quality of services due to declining resources may then opt for liberalization. While this is not a new approach for the International Monetary Fund (IMF), what is new is that pressure is being applied at a time when developing countries are negotiating a new trade round where services are on the table (Kessler, 2002).

The World Bank recommends building a legislative support base to ensure that privatisation reforms are adopted (World Bank, 2003b). While the IMF may starve public services of their operational funding to drive them into liberalization, the World Bank is often more direct. For example, it may specify in its loan conditions the mechanism for privatization. The conditions for a USD2 billion structural adjustment loan for the Republic of Korea signed on 26 March 1998 required long-term reforms to “improve labour market flexibility by: clarifying definitions of dismissal for managerial reasons; allowing private manpower leasing services; relaxing legal restrictions on private job placement services; and applying labour standards to all firms”.

These circumstances provide multinational companies (MNCs) with an opportunity to establish operations in developing countries. Governments look to providers with a track record in public service provision, and many MNCs can claim broad experience. For example, they may have moved initially into the health sector market — but, once they have developed a profile and presence, it becomes easier to expand into other services including employment services.

Because of their multinational operations MNCs are able to cross-subsidize their activities, enabling them to offer to provide public services at a low price and so undercut local providers. Local firms without sufficient capital to subsidize the initial operation are thereby excluded.

When contract negotiations with the government come round again, costs are likely to rise since there will be reluctance to change the service provider (and less competition from local providers). In developing countries, smaller entities do not have the expertise and resources to provide a PES function, whereas multinationals can demonstrate their provision of such services elsewhere.

In most countries, there is a mix of public and private employment service providers. These include for-profit and not-for-profit organizations, operating alongside a small number of MNCs.

MNCs have been operating for years in the fee-for-service or labour hire industries, and have not encroached on government services. However, they have increasingly moved into the PES sector with the formation of partnerships and the opening up for tender of contracts for PES services. Their existing presence in the market gives them a good platform from which to take advantage of liberalization moves.

In Australia, for example, MAXNetWork, the Australian arm of US-based MAXIMUS, has been expanding its operation gradually by winning a greater proportion of contracts with each government tender round. It now operates in 40 locations throughout the country. MAXIMUS, whose slogan is Helping Government Serve the People®, also has operations in the United States, Canada and the United Kingdom.²

Manpower and Adecco are two large MNCs gradually moving into the previously government operated sector.

Manpower, a US-registered company, has operations in 66 countries, under brand names that include Right Management Consultants, Elan, Jefferson Wells and Brook Street in the United Kingdom, and Driving Power and BankPower in Europe. It is not providing PES-type services in all countries, but its presence gives it the opportunity to tender for services as contracts become available.

² www.maximus.com.

Manpower also has a partnership with the UK Government called Working Links.³

Adecco, a Swiss-registered company, has operations in 62 countries across Europe, the Middle East, the Asia-Pacific region and North and South America. It has been involved in labour hire, staffing and professional placement for some time. However, more recently, it has formed partnerships with a number of governments to provide employment services.⁴

Detailed information regarding the salary and benefits that MNCs provide their employees is limited in this sector. However, MAXIMUS in Australia, and Manpower and Adecco in Germany, pay their employees less than they would have received in the public sector. In addition, benefits and career development opportunities available to public sector staff are not available to employees in most PREAs, including MNCs.

Job security depends on the length of time that the MNC operates in the sector. It may employ staff at the lower end of the salary scale to maintain profit levels, thereby also reducing career opportunities.

6. Case studies

This section looks at the liberalization of employment services in Australia, Germany and the Philippines. Each country represents a different model of partnership between public and private providers.

6.1. Australia

Background

Labour market programmes or “employment services” in Australia have been delivered in various forms since full employment was declared a primary objective of economic policy in the landmark 1945 White Paper, Full employment in Australia (Commonwealth Government, 1945).

³ www.manpower.com.

⁴ www.adecco.com.

The Commonwealth Employment Service (CES) was created in the immediate post-war period. Its role was to administer unemployment benefit payments and assist people in finding work during periods of unemployment. The CES was entirely owned and operated by the Australian Government and was the largest single operator of labour market programmes.

Co-existing with the CES since 1946 have been private sector recruitment and labour hire agencies. Their core business has been to recruit people to fill job vacancies on a fee-for-service contract basis, for and on behalf of businesses. The two operated for all intents and purposes in separate markets, with the CES focusing on finding employment for the unemployed and the private recruitment agencies focusing on the skilled and more mobile “executive” labour market.

A third sector — not-for-profit organizations, charitable institutions and religious orders — delivered a range of labour market programmes, such as training and pastoral and other support services for unemployed people suffering hardship. These services were privately funded, either by the institutions themselves or through funds provided by State and Commonwealth Governments.

In 1997-98 the CES, its related agencies and labour market programmes, including most of those delivered by not-for-profit and charitable institutions, were replaced with a system of employment assistance services under a purchaser-provider model developed and managed by the Australian Government’s Department of Employment and Workplace Relations. This system, known as Job Network, consolidated a range of labour market programmes under one umbrella. Through competitive tender, delivery was opened up to a mix of not-for-profit and for-profit providers and government agencies, under contract to the Department.

Centrelink, a fully government-owned and controlled agency, was established as the “gatekeeper” to the system and took over the administration of benefit payments. It became the single benefit payment agency for the Australian Government.

The first contract with the Job Network providers was awarded in May 1998, the second in early 2000, and the third began in July 2003. The value of the third and current three-year contract is estimated to be worth A\$2.5 billion.

Under this contract, 109 Job Network providers operate from 1,129 sites throughout Australia, delivering labour market programmes known as job matching, job search training and customized assistance to over 600,000 registered unemployed. The providers may also deliver related and/or specialized programmes, also funded by government, directed at groups or areas of particular disadvantage where it is known there are significant barriers to finding employment.

Integration of the employment services sector

This purchaser-provider model for delivering government-financed labour market assistance programmes has resulted in the collapse of old divisions between the three distinct employment services markets described above. A significant provider in the first Job Network contract was the successor to the CES, known as Employment National, which, although government-owned, was established as a corporate entity (i.e. with a commercial structure). Employment National was wound up at the completion of the second contract and consequently the Australian Government no longer delivers directly any labour market programmes.

Some large for-profit recruitment companies did secure Job Network contracts and continue to deliver these programmes, either as separate corporate entities or as subsidiaries of the parent company. However, the major Job Network providers are not-for-profit organizations and charitable and religious orders.

In addition, the third Job Network contract has involved the licensing of job placement agencies to deliver matching-only services. Licensing is open to any organization or business that meets specific standards or criteria. It is primarily designed to facilitate access to the tens of thousands of employment vacancies generated by the private recruitment and labour-hire companies that were not normally notified to the national vacancy database.

Reform objectives and strategy

The arguments for favouring the purchaser-provider model to deliver government-funded labour programmes were set out by Senator Rod Kemp, Assistant Treasurer, in the terms of reference of the Job Network review carried out by the Australian Productivity Commission (2002).

The model developed, which includes Job Network, was guided by three key principles:

1. a strong focus on outcomes, that is to deliver a better quality of assistance to unemployed people, leading to a better and more sustainable employment outcomes;
 2. to address the structural weaknesses and inefficiencies inherent in arrangements at the time, by changing the role of government to that of a purchaser rather than a provider of assistance; and
 3. the use of competition to drive greater efficiency for the taxpayer and increased choice for consumers.
-

Job Network is also integral to the Australian Government's "mutual obligation" approach to unemployment benefits. This policy requires recipients of unemployment benefit to demonstrate that they are actively looking for work or are participating in training or in activities known as "work for the dole".⁵ Failure to satisfy the mutual obligation requirements leads to loss of benefit.

A tale of success?

There are divergent views on the success of the Australian reforms. In relation to the purchaser-provider framework for Job Network, the Productivity Commission concluded "the advantages of the policy framework outweigh its limitations" (Australian Productivity Commission, 2002, p.xxvi). The Commission believed the delivery of employment services had been hampered in the past by inflexibility, lack of choice and diversity, the absence of competition and unclear objectives and outcomes.

Measurement of the effectiveness of labour market programmes is difficult as many jobseekers find their own employment, even when nothing is done to assist them. The Productivity Commission found that the Job Network has "so far, probably had only modest effects on job seekers' chances of gaining employment". Nevertheless, it did concede that previous models had not produced better results, while the overall cost of the Job Network was much lower.

The Commission also found that performance measured on the basis of job seekers' and employers' satisfaction suggested that the Job Network was viewed more favourably than previous government-funded or subsidized employment services. However, a separate study of jobseekers' experience of the mutual obligation regime concluded that:

those job seekers with the greatest barriers to employment felt the system to be least helpful. People with substantial barriers to employment, at the same time as managing other difficulties in their lives, were so engaged in meeting their requirements that these seemed to have replaced actual job search activities. Many people in this situation expressed great dissatisfaction, even hostility, with Centrelink (Ziguras et al., 2003, p. 43).

⁵ Commonly known as "workfare", this requires jobseekers to take work, usually not of their choosing, in order to receive unemployment benefits.

The authors went on to suggest that the “current version of active labour market policy in Australia, the mutual obligation regime, is failing the most disadvantaged job seekers. Overall, the system operates for many disadvantaged job seekers not as ‘welfare to work’ but ‘welfare as work’”.

It may be that the system works well for those with few barriers to employment, but it has not improved the chances of finding employment for more disadvantaged groups.

Impact on employment service workers

Changes to terms and conditions

Prior to the advent of the Job Network, the employment services sector not only operated in clearly divided markets, but was also characterized by distinct employment regimes and unionization rates.

The terms and conditions of employment of those working in the CES were set under various Australian public service “awards”. For the purposes of long-service leave, paid maternity leave, redundancy and general employment security, they enjoyed the same arrangements as others employed in the Australian public service. The Community and Public Sector Union (CPSU) had exclusive rights of representation of employees.

In the main, private sector recruitment and labour-hire companies have not been subject to such awards and have therefore been relatively free to set wages and conditions for employees to suit the interests of their businesses. Where there is no award prescribing terms and conditions of employment, default “minimum standards” under state and Commonwealth laws have determined employee entitlements. For example, the states each have laws regulating entitlement to long-service leave, weekly hours of work, maternity and paternity leave. The Commonwealth and the states also regulate termination of employment. The Federated Clerks Union (FCU) has notional rights of representation of employees, but the sector is not highly unionized.

The not-for-profit and charitable institutions making up the third force in employment services prior to Job Network were subject to awards of general application to the Australian social welfare sector. The exception was an award of the Australian Industrial Relations Commission known as the Community Employment Training and Support Services Award. It was developed to cover employees working exclusively in not-for-profit organizations who delivered a labour market programme known as Skillshare. The Australian Services Union (ASU) has had exclusive rights of representation, but union membership density is low.

Employment terms and conditions in this segment of the employment services sector have generally been on a par with those applicable to employees generally under the Australian “award” system, but were considerably less favourable than those of CES employees in several respects:

- wage and salaries — CES employees received an annual salary, while not-for-profit employees received wages and fringe benefits;
- hours of work — 36.75 hours a week (CES) compared with 38 hours a week;
- maternity leave — 12 weeks paid in 52 weeks (CES) against 52 weeks unpaid;
- long-service leave — three months’ leave after 10 years (CES) compared to two months after 10 years;
- redundancy — 48 weeks maximum (CES) compared with eight weeks maximum; and
- employment security — permanency (CES) compared with a fixed-term contract.

This comparison also applies to recruitment and labour-hire companies, although it is difficult, in the absence of publicly available data, to reach any conclusions on wage and salary levels.

Initially, the most significant impact on employees arising from the reforms was concentrated in the transition of the CES to the semi-government and corporatized Employment National. Those who transferred to Employment National were engaged under a combination of individual employment agreements and fixed-term contracts. These former Australian public service employees were the subject of a government guarantee that ensured continued entitlement to long-service leave, public service redundancy benefits, and the right, in some circumstances, to return to employment in the Australian public service.

Attempts by the CPSU to “transfer” application of the Australian Public Service Award terms and conditions more generally to employees of Employment National failed. An award was made specifically for Employment National that reflected standards similar to the not-for-profit organizations. Centrelink employees remained under the Australian Public Service Award and therefore did not experience any diminution in terms and conditions of employment.

Employment National was wound up at the completion of the second Job Network contract, leaving employees to take a job with another successful Job Network provider, return to the Australian public service, or leave for other employment.

Union density

The impact on union membership (union density) is difficult to determine. Anecdotal evidence suggests that overall union density has remained low. There has been very little collective bargaining activity and no evident campaigns for membership or improvements to terms and conditions. Most Community and Public Sector Union (CPSU) action has been directed through the Australian Industrial Relations Commission and the Federal Court of Australia. The right of representation of employees in the new “liberalized” sector is currently subject to applications in the Australian Industrial Relations Commission by the CPSU and opposed by the Australian Services Union (ASU), with which the Federated Clerks Union (FCU) is amalgamated.

Notwithstanding the low levels of union membership, the main industry award, the Community Employment, Training and Support Services Award, has been assiduously maintained and updated by the ASU whenever national “test case standards” and “safety net” wage decisions are made by the Australian Industrial Relations Commission. The ASU has slowly worked to extend application of this award to every Job Network provider.

The emerging picture

The previous section summarized differences between the Australian public service terms and conditions, and award or other arrangements. The initial impact was felt chiefly by those employees who transferred from the abolished CES to Employment National from 1997-98. The larger emerging picture is the increased flexibility, mobility and performance focus that characterizes the employment relationship and expectations:

- the tenure of employees is generally linked to the period of the Job Network contract – three years. Employment contracts are renewed at the commencement of the new Job Network contract;
- 56 per cent of employment service agencies reported annual staff turnover of 15-29 per cent in 2001-02. A quarter of those reported annual turnover above 30 per cent; and
- almost all Job Network providers apply performance targets of some shape or form for employees (WorkSight, 2002).

The salary and benefit levels of workers employed by Job Network providers are generally less than those previously enjoyed by workers in the public sector. This is particularly the case in the bigger Job Network providers, which employ large numbers of employees at the base level of their organizational structure to keep their running costs down. These workers are commonly known as “employment consultants” (WorkSight, 2002).

The career opportunities of employment consultants are limited due to the flat hierarchical structure of the organizations, and staff turnover in the industry is high. Anecdotal evidence suggests that the causes include high levels of burnout as well frustration in meeting requirements of the Job Network contracts. Many employees consider that they are unable to provide the level of service to their clients that they would like, due to their organization's contractual obligations to the Government. In other words, they are unable to spend the necessary time with clients.

A large proportion of Job Network employees initially came from a social services background where the focus was on delivering a quality outcome to the public. However, many new recruits have a business background with a different view of desirable outcomes.

Employment security of Job Network staff is directly linked to the success of the PREA in continuing to win government contracts. In the last tendering round, several PREAs did not have their contracts renewed, leading to redundancies.

Staff mobility is also limited in PREAs. Public sector staff have been able to apply for transfers to other locations without loss of benefits according to personal circumstances and career development opportunities. Unless the PREA operates in more than one location, mobility is not possible for PREA staff without resigning from one employer and starting with another. Benefits related to continuity of service are lost at this point.

The literature on service levels to the public is limited. However, training and development opportunities for staff members will vary from organization to organization. Uniform service standards do not exist, which means the public may receive high quality service from some providers and limited service quality from others. In addition, the pressures on employees to meet their organization's contractual obligations make it more difficult for them to provide a superior service to the public.

Thus the emphasis on outcomes, cited by the Australian Government as a principle underlying the strategy of the purchaser-provider model, has translated directly into the employment relationship of providers and their employees. The fate of the provider is determined by its ability to produce the outcomes it contracts to deliver to the Government, and that fate is extended to the employees who are responsible for the delivery of those outcomes.

6.2. Germany

Background

Germany's state labour market activities are concentrated in the PES. It organizes job placement, pays unemployment insurance and implements labour market policy. The main functions of the PES include:

- placement in jobs and training places;
- administration and payment of unemployment benefit and unemployment assistance;
- organization of further training and retraining schemes for jobseekers, implementation of job creation and other employment schemes, and distribution of labour market information; and
- vocational guidance (Blien et al., 2002).

The PES had a monopoly on job placement from 1931 until 1994, when PREAs were allowed to offer job placement services. However, even before 1994, there were exceptions. Job and candidate offers in newspapers and magazines, and on radio and television, were not affected since they were not regarded as job placement. The old laws did not restrict measures by local communities to assist certain disadvantaged groups to re-enter the labour market by providing jobs and information on specific placements. Job placements by PREAs were also allowed in four other circumstances:

- delegation of placement tasks to not-for-profit organizations;
- delegation of placement tasks to for-profit and modelling agencies;
- supply of labour by temporary employment agencies; and
- placement of managerial staff.

Until 2002 PREAs needed licences, which were granted initially for three years but could then be extended indefinitely. PREAs could not request fees from jobseekers, only from employers, and the fees were not subject to regulation.

Integration of the employment services sector

Cooperation between the two types of job placement agency has been limited (Blien et al., 2002). However, in many areas, there are bilateral agreements between the PES and PREAs, ranging from recommendations to share job-matching information to the delegation of placement tasks to PREAs. The German Government takes the view that the PES and PREAs are not in competition, that partnership between for-profit and not-for-profit agencies and

public bodies are beneficial, and that the links between PES and PREAs will increase in the future.

In April 2002 the PES extended the liberalization process by introducing a voucher system for people entitled to unemployment benefits or unemployment assistance. To receive a voucher, the jobseeker must have been unemployed for three months without a placement. The employment vouchers are worth varying amounts, depending on the length of time unemployed.

Placement vouchers entitle the recipients to assistance from a PREA of their choice. The jobseeker and the PREA enter into a placement contract that involves a fee for a successful placing. If the PREA finds the unemployed person a job, it receives an agent's commission equal to the voucher amount, varying between €1,500 and €2,500. The PREA receives the full payment when the jobseeker has been employed in the new position for six months. If the placement lasts between three and six months, it receives only the first payment. PREAs are not required to report to the Federal Employment Service regarding their placement activities and the use of public monies.

The amount of money paid to PREAs also increases with the degree of difficulty. For example, PREAs receive more if they find employment for jobseekers aged over 50 or who have been unemployed for a long period. This additional money is provided as an incentive so that PREAs do not restrict their services to finding work only for highly skilled jobseekers.

The PES anticipated that some employers might be tempted to fire employees, only to rehire the employee three months later and share the commission with the PREAs. The legislation pre-empts this loophole by ensuring that no commission will be paid if an employee is rehired by the former employer.

In Germany the use of the PES is voluntary, although jobseekers receiving unemployment benefit may be required to appear at the PES office at regular intervals or upon request.

Reform objectives and strategy

One reason for the liberalization of employment services was to bring in additional job placement resources, so as to match labour market supply and demand and thereby reduce unemployment. It was hoped that liberalization would lead to improved and accelerated job matching (Blien et al., 2002). With limited public resources and the growing complexity of the labour market, it was thought that the PES would find increasing difficulty in serving the whole market and should focus on more difficult cases — that is, on jobseekers and companies not served by PREAs, who would have poor chances of success with

personal search methods. This group includes the long-term unemployed and small companies (Blien et al., 2002).

The reality is quite different. Additional job placement opportunities cannot be created by PREAs if the jobs do not exist; more PREAs cannot solve the problems of cyclical unemployment and the structural jobs deficit. The new PREAs should be regarded simply as additional and useful search channels for filling job vacancies (Blien et al., 2002).

A tale of success?

The development of the cooperative model in Germany and the role of the PREAs in this process have not been spectacular. PREAs have accounted for only 5 per cent of all job placements (Werner, 2001). In a study conducted by the Institute for Employment Research (IAB) (Blien et al., 2002), PREAs' share of job placement in western Germany was only 2 per cent. The PES continues to be the dominant provider of placement services. However, not counting personnel consultants that concentrate on managerial staff, PREAs have opened up new markets, in particular for highly skilled workers. A large proportion of PREA placements are short-term.

To date, cooperation between the PES and PREAs has been sporadic but, as in many EU countries, this is expected to improve, building on the existence of bilateral agreements between the PES and private agencies.

Views on the use of the voucher system in job placement are mixed. Some argue that jobseekers, especially the long-term unemployed, are not motivated sufficiently to seek out the opportunities available to them (Thuy et al., 2001). The voucher system may be suitable for some jobseekers, but not for all.

Thus many jobseekers will not know which PREAs would be best placed to help them find employment, and will not be able to assess beforehand the quality of the service provided. The type and quality of the service will not be uniform and the training of PREA staff will also vary depending upon the importance placed on employee development.

Only a few violations of the rule that PREAs cannot request a fee from jobseekers have been reported. But sometimes jobseekers have had to pay "deposits" or "registration fees". PREAs may offer a range of services and it can be difficult to determine which service charges a fee. Increasingly, PREAs are breaking down their costs to show each service as a separate line item, with the appropriate cost allocation. Services that may be subject to payment include writing a job application for the client, career advice, and training in applying for a job. It is becoming increasingly difficult to distinguish these from job placement activities that do not attract a fee.

There are also concerns about decentralized labour market programmes that may lead to disparities in employment services between locations. Job placement policies and practices will vary, so that jobseekers in one region may receive different treatment from those in another. There may also be unequal treatment of certain jobs or occupations. One problem is “creaming” by PREAs of highly skilled, easily placed workers, who will ensure the full voucher payment for the original placement and the additional money after the jobseeker has been employed for six months.

The success of the liberalization of employment services largely depends on the number of jobseekers using PREAs, but the percentage of placements by PREAs is still in single digits. A 2002 study reported that in 1999 the proportion of jobseekers in western Germany using the PES was 38 per cent compared to 5 per cent using PREAs (Blien et al., 2002). Success rates (as a proportion of jobseekers) were 14 per cent and 2 per cent respectively. The figures for eastern Germany show user rates of 54 per cent for the PES and 2 per cent for PREAs, with respective success rates of 35 per cent and 1 per cent. Other search methods used by jobseekers include newspaper/internet vacancy notices, advertisements placed by jobseekers themselves, displays on company premises, information from other employees and internal company advertising.

These figures indicate that, several years after liberalization, jobseekers still see the PES as the agency of choice and PREAs as offering a lower standard of quality and service (Jjirku, 2004). The aims of the liberalized system — to reduce unemployment and free up scarce public sector resources to help hard-to-place jobseekers — have not been realized. Instead of improving the situation of the unemployed, liberalization has led to public funding of a system that places far fewer jobseekers than the PES and has resulted in greater inequality of services provided.

Impact on employment service workers

The majority of PREA employees were previously employed outside the PES, and were not transferred from the PES as part of the liberalization process. Their working conditions were regulated by minimum statutory standards or entitlements negotiated locally. Generally their salary and employment conditions were less generous than those for PES employees. However, in 2003, two collective agreements were negotiated to cover the majority of PREAs.

These set terms and conditions for rates of pay, hours of work and holidays. The pay rates range from €6.85 an hour for an unskilled worker to €15.15 for a skilled worker. These are below PES rates, largely due to a low starting base, poor unionization in the sector and lack of industrial muscle. However, they are higher than the market rates previously paid in the sector. By codifying terms

and conditions of employment and raising pay, the collective agreements have improved the working lives of PREA employees (Wiedemuth, 2004).

The Government has made only a limited push for the public to use PREAs, though it may in the future decide on measures to promote their use, including contracting out further services. The lower labour costs and limited services provided by PREAs may provide an attractive option for a government looking to cut the costs of employment services. As a consequence, employees would continue to receive inferior salaries and career opportunities (Wiedemuth, 2004). Training and development opportunities for PREA employees are limited and PREAs concerned to keep their costs down will be reluctant to invest in their employees.

Service levels to the public may also be affected. As mentioned previously, the quality of services provided by PREAs is considered to be lower than that of PES services, so the public has been unwilling to use them. However, if the Government outsources more or all employment services functions in the future, public choice will be reduced or removed completely. The voucher model currently adopted in Germany depends on the jobseeker being placed in employment. If this model is extended, PREAs may place more emphasis on easily placed jobseekers to ensure quicker placements and more profit. Even with additional incentive payments for placing the long-term unemployed, PREAs may still favour the easier option.

If the purchaser-provider model is expanded in Germany, PREAs' existence will depend on their ability to provide services at the lowest price possible. This will be at a cost both to the employee and the public, impairing working conditions and reducing the quality of services to jobseekers. Moreover, employees' employment security will depend on the PREA successfully delivering services in a competitive market.

6.3. Case Study 3 — *The Philippines*

Background

Employment service liberalization in the Philippines has resulted from inadequate resources for the public system. Two approaches have emerged: the establishment of private employment agencies to place local workers in the Philippines; and the placement of Filipinos overseas by PREAs based in the Philippines.

The Department of Labour and Employment (DOLE) retains responsibility for employment services. The Public Employment Service Office (PESO), a non-fee-charging multi-service body established in 1999, has offices around the

country, including in provincial capitals, major cities and other strategic locations. These community-based offices are maintained by local governments, non-governmental organizations, and state universities and colleges. They are linked to the regional offices of the DOLE for coordination and technical supervision, and to the DOLE central office to constitute the national employment service network.

PESOs provide a service known as PHIL–JobNet, a computerized job matching system designed to assist a wide variety of clients in the labour market through the internet. The system speeds up the matching process, shortening both the unemployment spells of job applicants and the filling of vacancies by employers. However, it assumes that jobseekers are able to navigate the system to find suitable jobs and other related information.

Integration of the employment services sector

The demand for Filipino construction workers in the Middle East in the 1970s paved the way for private employment agencies. The number of agencies jumped from 19 in 1975 to 71 in 1977. Over the five years 1972-77, they made 95,264 overseas placements. Taking advantage of this expanding market, the Government moved to institutionalize the overseas employment programme in the Labour Code of the Philippines, signed into law in 1974. PREAs that place Filipino jobseekers in the Philippines and overseas must be licensed by the DOLE and comply with the Labour Code.

Enactment of the Labour Code ushered in the active participation and regulation of the private sector in the recruitment and placement of workers. It also paved the way for creation of the Overseas Employment Development Board and the National Seamen's Board to strengthen the DOLE's employment efforts.

The Bureau of Employment Services, a predecessor of the Philippine Overseas Employment Administration (POEA), was primarily responsible for developing and monitoring a comprehensive employment programme, both locally and overseas. The BES nurtured the private sector role in the recruitment and placement of workers and supervised its operations.

The Overseas Employment Development Board, another predecessor of POEA, was given the task of organizing and promoting the employment of Filipinos abroad. In pursuit of these objectives, the OEDB developed an extensive package of placement services, such as recruitment and selection, skills verification, contract and wage evaluation, medical examinations, briefing and orientation and travel assistance. It also opened new markets in many European and Asia-Pacific countries.

Reform objectives and strategy

Overseas placement

The Labour Code initially provided for a phasing-out of private fee-charging agencies within four years, as part of a government move to gain more control of the labour market. However, the Government reconsidered its position after lobbying by existing agencies for continued private sector participation in the overseas employment programme. Following a 1978 Presidential Decree (No. 1412) allowing private agencies to continue recruitment and placement of workers, the number of licensed agencies grew steadily to 554 by 1980.

Subsequent changes in licensing policy and shifting international markets for migrant workers have produced further growth. Licences were granted first to construction contractors and then to service contractors, as non-fee-charging entities whose deployed workers were on their payroll. The term “authority holder” was later abolished in favour of “private recruitment entity”. As a result, the total number of private employment agencies (PREAs) and private recruitment entities grew steadily.

In 1993 the Philippine Overseas Employment Administration (POEA) implemented a system of uniform licensing, amalgamating the service contractor and construction contractor categories, together with private employment agencies, into what are now called the “land-based agencies”.

Local placement

There is less information available in relation to the PREAs that conduct local placement. The growth in their number has largely been due to the Government’s policy of services liberalization and the country’s structural adjustment programmes. As in many developing countries, a regulatory system that protects and promotes private sector participation has been seen as a key factor attracting foreign investment.

Most of the PREAs that place Filipinos locally are small family-run businesses. Consequently, information on their activities is very limited (Geron, 2004). As of April 2004, there were 632 licensed PREAs for local job placement, some of which have several branches (DOLE, 2004).

A tale of success?

The performance of a licensed agency is almost always equated with its placement record, primarily because the key objective is to provide employment.

In its 2002 annual report, DOLE stated that it had facilitated the placement of 1,480,000 job applicants through its various services, 40 per cent of them

local placements and the remainder overseas. PREAs were reported to have placed 48,000 jobseekers in the Philippines in the same year. In 1995, the most recent year for which overseas placement statistics are available for PREAs, they accounted for 91 per cent of total overseas placements of 212,000. Government recruitment and individual direct recruitment made up the remaining 9 per cent. These statistics indicate both the rapid growth in overseas placements — in 2002 the Philippine economy received USD5.4 billion in remittances from its workers abroad — and the concentration of PREA activity in this field.

The large number of jobseekers for local jobs being placed by DOLE suggests that the services it provides are still preferred by the public, even though the internet-based Phil-JobNet job placement system would exclude many people without computer skills.

Private recruitment and placement agencies focus mainly on people moving to the capital, Manila, from predominantly agricultural employment in the regions to work in the construction, domestic and cleaning industries (Geron, 2004). As in the previous two case studies, the level of service provided depends on the type of work sought and the location. Job placement policies and practices vary from PREA to PREA, resulting in unequal services for jobseekers.

In many instances when PREAs make a local job placement, the contract of employment is between the PREA and the employer, rather than between the individual and the employer (Geron, 2004). Most employees never see their contract and are therefore unaware of their entitlements.

Another common feature is that the employer hires the worker only for five months, circumventing regulations on benefit entitlements that apply after six months in employment. Alternatively, workers are classified as sub-contractors without entitlement to benefits.

Illegal recruitment is sometimes carried out by agencies whose licences have expired, or been cancelled or suspended. Since illegal recruiters work clandestinely and are not registered, the number of people assisted or deployed by them is unknown.

Impact on employment services workers

The terms and conditions for PREA workers are unknown. PREAs handling local placement are often family-owned. Their employment contacts and fees charged are not in the public domain or open to scrutiny. Comparison cannot be made with salaries and conditions of civil servants, though entitlements may be greater as profits are distributed within the family (Geron, 2004). Employment and employment security will presumably be largely dependent on the success of the enterprise.

Unionization of both overseas and local private employment services can be presumed to be low or non-existent. However, there is no official data to confirm this assumption. Unionization in the public sector is more significant (Geron, 2004).

The emerging picture

The evolution of PREAs for local job placement appears to have arisen out of economic circumstances and a political decision to attract foreign investment rather than a conscious choice of employment services model.

Evidence from other countries suggests that, wherever the purchaser-provider model exists, employers seek to reduce their costs, particularly labour. Hypothetically, the Philippines PREAs may seek to keep costs as low as possible in order to increase their profit margins.

One of the functions of the Philippine Overseas Employment Administration is “to secure the best terms and conditions of employment for Filipinos abroad”. If the service is being provided by PREAs, how is this responsibility being monitored? Are jobseekers receiving the best outcome, or are PREAs ensuring that most benefit goes to their clients, the employers?

Service quality levels may also be questionable. Limited investment in employees leads to poor service to the public. Improper employment contracts, discussed in the previous section, should be highlighted as poor quality service. In these instances the PREA is concerned with providing a service for the employer rather than protecting the interests of the jobseeker. Such abrogation of responsibility to the jobseeker may lead to their exploitation by unscrupulous employers.

The lack of information about the liberalization of employment services in developing countries, including the Philippines, makes it difficult to provide an accurate picture of future implications. In particular, the absence of data on employment conditions and other employment issues prevents a direct comparison between public sector wages and conditions and those of the private sector.

However, the available data suggest that PREAs have not been a success in local placements. If this is the case, why is public money being spent to monitor and licence this sector? Would not this money be better spent within the public system, providing an equitable employment service for jobseekers within the Philippines?

7. Discussion

7.1. Overview

Countries and international organizations have increased their focus on welfare reform, exploring ways to respond to social and economic changes that have increased unemployment as well as to external and political drivers. Liberalization and privatization of government services, including employment services, has been the approach adopted by many countries.

Liberalization of employment services has resulted in the adoption of three models, the cooperative, complementary and competitive models, adapted to different national circumstances and requirements.

There is a clear trend towards deregulation of job placement to admit private placement agencies. However, employers and workers mostly look for employees or jobs by themselves, independent of job placement structures, making it unlikely that private agencies can make a big impact on structural employment problems. The major problems are not in sectors where jobs exist and workers can be easily placed in employment. They are in sectors with limited job opportunities and among workers with limited or obsolete skills, where placement agencies can provide only limited assistance.

If the German example is typical of the complementary model, it takes a considerable period for the private agencies to feel on sufficiently stable ground to assert themselves. Likewise the cooperative model operating in the Philippines has not necessarily provided a better job placement service for local workers, and the public system is still providing the most placements for local jobs

Hypothesis 1

The liberalization “drivers” have resulted in an increased number of PREAs providing employment services in all three models. PREAs may take the form of for-profit or not-for-profit organizations, or multinational corporations. Since PREAs provide services according to their individual organizational strategy, experience, qualifications and capabilities, the result is a disparate and unequal provision of services to the public. The introduction of PREAs has also increased the focus on the cost of delivering employment services. Whether they are meeting their contractual obligations to government or seeking to increase their profits, PREAs aim to place as many jobseekers as possible in the most cost-effective manner. Disadvantaged groups, the long-term unemployed and

others who are difficult to place, are most at risk of falling through the gaps in the liberalized system.

In the Australian competitive model, the employment service has been opened up to market forces, with PREAs alone providing employment services and the Government confined to a regulatory role. The tendering process has resulted in a large number of PREAs operating in the market, all offering different levels of service and quality.

In the German complementary model, where the market system has been adopted to a lesser extent, PREAs have focused their attention on the more lucrative market for placing skilled workers. Liberalization has resulted in a segmented approach by the PES and PREAs, eroding the universality of service delivery.

The Philippine cooperative model is an example of an under-resourced service that has been through structural adjustment programmes during liberalization. The limited PES operation is based on the Internet job matching system, PHIL-JobNet, and jobseekers' ability to access and navigate the system will determine the level of service they receive. PREAs have concentrated on the lucrative overseas placement market. Those providing services to the local employment market tend to be smaller, less resourced and less skilled family businesses.

Hypothesis 2

The liberalization of the employment service and the consequent introduction and proliferation of PREAs has caused disparity and erosion of workers' entitlements and securities.

PREAs' focus on cost effectiveness has a direct impact on labour costs. Worker securities that are common in the PES are often absent in PREAs. Placement of as many jobseekers as possible with minimum effort and resources has led to an increased number of workers being employed at the base level of the organization.

PREA employees are often not covered by collective agreements, so that pay and benefits are determined by market forces. There is little information regarding these work entitlements, especially for developing countries. Low unionization rates compared to the PES limit workers' voice and further erode their securities. The introduction of PREAs has created a two-tier system for those employed or previously employed in the PES and those employed by PREAs.

In Australia, Job Network employees are generally paid less and receive fewer benefits than when previously employed in the PES. Employment

instruments regulating their pay and conditions provide for lower levels of pension, paid maternity leave, benefits related to length of service including long-service leave, and opportunities for transfers that assist professional development. The introduction of performance management and other salary incentive schemes in some PREAs has increased the disparities between workers employed in the sector.

The German case study noted that the salaries and benefits for PREA workers, whose entitlements are regulated by the PREA collective agreement, are less than for those employed in the PES. The collective agreement has improved entitlements for PREA workers, but not to PES standards.

Whilst limited information is available for the Philippines regarding workers' entitlements, anecdotal evidence suggests that the hypothesis is supported. PREA workers, other than family members, are expected to receive less by way of benefits and entitlements than employees of the PES.

The erosion of workers' securities has a direct impact on the service levels they provide. Dissatisfied and under-resourced workers are unable to provide quality public services, supporting the first hypothesis.

Hypothesis 3

The liberalization of employment services has increased the disparity between those jobseekers who are skilled and educated and those who are difficult to place, such as the long-term unemployed. The obligations of PREAs to work within contractual constraints or provide profits for their shareholders inevitably focus their attention on jobseekers who will be more easily placed in employment.

Evidence from the three case studies suggests that more skilled and educated jobseekers will encounter fewer obstacles in the employment search than those who are hard to place. Their ability to navigate the disjointed and inequitable job placement market is made easier by the fact that they have either the desired skills and qualifications or the knowledge to investigate the market.

All the case studies have shown that the quality of service differs depending upon which PREA provides the employment service. Removing the option to use the PES will further reduce choices available to jobseekers.

Hypothesis 4

The case studies have demonstrated that the liberalization of employment services is occurring in both developed and developing countries. The form of liberalization differs depending on the extent of the process and the reasons for its implementation. The case studies show three different models of

liberalization, each of which has a direct impact on service levels and worker entitlements.

8. Conclusions

The literature and case studies have illustrated the growing levels of liberalization in many countries. Liberalization of public employment services has taken several forms and has been adopted for a variety of reasons including public sector reform, a political decision to open public services to the market, an under-resourced public sector requiring supplementary services, global treaties, the influence of international financial organizations and other political and market decisions.

International financial institutions play a key role in liberalization, especially in developing countries and countries in transition. Their impact may be direct, in the form of public sector financing requirements, or indirect, through various publications promoting liberalization as a way of providing competitive services to the public.

The market is favoured as the solution to unemployment. It is suggested that PREAs offer more efficient services and provide jobseekers with a better chance of gaining employment. Though there is little evidence to suggest that this premise is correct, liberalization continues.

The introduction and proliferation of PREAs have led to the establishment of for-profit, not-for-profit and multinational corporations operating in the market. Their interest in providing assistance to jobseekers is influenced by the need to remain cost effective, ensuring they can operate profitably within the confines of the government contract.

Though large numbers of small for-profit and not-for-profit organizations exist in the sector, there is a growing presence of multinationals. Their financial resources, infrastructure and economies of scale enable them to be more competitive than smaller local rivals.

The increased emphasis on the private sector to provide employment services has led to growing disparities in the services provided to the public. The quality and service level of PREAs vary considerably and they focus attention on the middle-class segment where placement is easiest and profitability maximized.

Employment benefits and securities afforded to workers employed by PREAs are less than those offered in the public sector. The drive to maintain competitiveness in a market environment is a limiting factor in wages growth for PREA workers. Collective agreements and other forms of employment

regulation may be reduced in a liberalized sector where the level of unionization is generally lower than in the public sector. The erosion of workers' entitlements has a direct impact on the quality of services provided. Lack of investment in training and development as well as undervaluation of workers' input into service provision promote dissatisfaction.

New regulations will be required to address the new and changing relationships between the PES, PREAs and governments. Monitoring of service delivery levels is needed to ensure universal quality and accessibility of employment services.

The liberalization of the employment services sector, resulting in an increased number of PREAs, has not increased the number of jobs available. Thus it would be naïve for governments to believe that their introduction will be a panacea for unemployment.

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MARKET LIBERALIZATION OF SOCIAL PROTECTION IN EMPLOYMENT SERVICES

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by Mark Considine¹

1. Introduction

This chapter examines the impact on employees of recent reforms in the employment services sectors of a number of different countries. The changes reviewed involve various forms of liberalization, including the greater use of contracting out, more flexible forms of staff recruitment, contestability of services through quasi-markets and, most dramatically, the privatization of the public employment service (PES). These reforms have many different names and obey various intellectual imperatives but two goals are paramount, at least in the stated intentions of reformers: a new confidence in market mechanisms to drive public policies, and a new desire to make services fit better with the needs of clients. For this reason the various initiatives in these countries are grouped together under the broad heading of “market liberalization”. This movement is different from the broader liberal agenda, or social liberalism as it is often called, because of its quite strident “turn against government” (Sen, 1997; Skocpol, 1996).

The chapter goes on to identify several policy implications and issues for future consideration, including the urgent need for the establishment of competency benchmarks, standards of service for disadvantaged clients, and new

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forms of training and career development for staff. These recommendations are divided into three types — those relevant to strongly marketized systems such as Australia and the United States, those that address challenges in mixed-economy systems such as the United Kingdom, and those likely to be of value in less developed systems such as those in eastern Europe and Asia.

Employment services are a bedrock feature of the modern welfare state. Typically, services are provided in two broad areas. First, and most importantly, the state may provide income support to help the unemployed survive until new work is found. In some systems there is an alternative to this minimum support in the form of unemployment insurance. Here we find a variety of public and private insurers established to receive regular contributions from workers and employers and to disburse payments when unemployment strikes. Usually in such systems the rate of benefit is based on a proportion of the worker's salary at termination, whereas the public benefit is typically a standard entitlement for all.

Second, employment services aim to help the unemployed return to work. The public employment service (PES) in different countries provides support for a national labour exchange, job brokering, job search training and skills training. In many OECD countries these services are closely associated with the provision of income support, whereas in developing countries often they are not.

1.1. Employee roles and responsibilities

The staff employed to deliver these public services are primarily in the administrative grades of the national civil service. They may also be employed by municipal authorities and, in the United States and some other countries, at county level. Employment services typically have four basic staffing grades:

- first, reception and support staff who help jobseekers complete application forms, make appointments and lodge claims;
- second, and a little higher in the ranks, advisers who interview jobseekers and determine which programmes or income support services they are entitled to receive;
- third, managers and supervisors who run the local job centres at which these services are delivered;
- fourth, a small number of professional staff such as occupational therapists, psychologists and training specialists available to help with special cases.

In most countries, at least since the end of the Second World War, employment service staff have been part of the regular national public administration, with their terms of employment set by the same tribunals, acts of

parliament and industrial relations mechanisms that have applied to other administrative grades.

A remarkable feature of PES employment is the complexity of the duties involved and the wide scope for these to be defined in more or less professional terms. For example, in many systems the frontline staff have highly scripted duties determined by strict rules for assessing eligibility for services and for referrals to jobs or other services. Relatively junior administrative staff are typically trained on the job to process applications from jobseekers and to make assessments according to highly formalized, often computer-driven criteria. At the other end of the spectrum are those systems in which the frontline staffer is a quasi-professional job adviser with a university degree, skills in negotiation and personnel management, and experience in working with employers and training organizations.

These differences in skills, discretion and job responsibility tend to reflect the policy framework of the incumbent government and the type of welfare state model the country has adopted.

When intractable unemployment became the hallmark of policy failure in many countries after the 1970s, employment services were also caught in the political controversy. While some of this was undoubtedly predicated on a variant of “kill the messenger” logic, it was also true that traditional bureaucratic methods were proving inflexible in the face of more complex forms of economic and social exclusion.

1.2. Methodology

This chapter seeks to inquire into the extent of liberalization of public employment services in selected countries. The selection was based on a desire to represent different versions of core OECD traditions as well as some indicative cases from developing countries. In particular, the intention was to use testimony of officials in these countries and observations by the author to place changes in employment services in the context of certain well-known aspects of neo-liberal reform, particularly the increased role of private firms, the use of contracting out and the deregulation of employment conditions.

Hypotheses

1. Certain levers are resulting in the liberalization of employment services, and these are causing unequal and selective provision of services, rather than universal provision.
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2. The unequal distribution and types of services are eroding workers' securities.
 3. There is a shift away from universal citizenship rights towards two-tiered systems, or services available largely to the middle class rather than to all.
 4. There has been significant liberalization of employment services in many countries around the world.

There are very few published accounts of the work of contemporary employment services, and most of these avoid the question of working conditions and pay among employees, or refer to this only in passing. Information was therefore sought for several selected countries on the reforms being undertaken and the effects of change on employees. In countries such as the United Kingdom where there are now both public and private agencies in the field, I approached managers and policymakers from the different sectors. In addition, I conducted field visits to PES and private offices in Australia, the Netherlands and Hong Kong Special Administrative Region, China.

The officials who were interviewed or provided information were key policymakers in the various ministries of labour and social affairs. Selected academics with expertise in each country were also interviewed. Most were willing to give detailed answers and to be listed as contributors. Some were happy to provide data but preferred not to be listed. In each case the information was almost certainly accurate for one organization though less certain as a measure of the system as a whole. As such, the observations in this chapter should be viewed as a first cut at this important issue.

The questions put to officials were as follows:

- In your experience, have employees' salaries in the public (PES) services changed as a result of greater private involvement in employment services (higher, lower, more variable)?
 - Have other entitlements for public employees changed (insurance, holidays, etc.)?
 - Has the training for PES employees changed as a result of New Public Management (NPM) reforms such as performance management and greater private involvement?
 - Are the employment services located differently as a result of the reform process — more concentrated in some areas, some offices closed?
 - Are clients now receiving more selective services, or is the service still rather universal in nature?
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- Is there foreign involvement in the employment services (European, American or other)?

Without exception the responses included affirmation that little or no research had been done, little was known about the strategies of private firms, and that foreign firms were as yet a less significant force than in other sectors such as health. Although my earlier work on a four-country comparison of employment services in Australia, the United Kingdom, the Netherlands and New Zealand involved surveys of frontline staff in those countries as well as numerous site visits, there were no specific questions about pay and conditions in those earlier studies (Considine, 2001).

2. Reform strategies and models

The standard forms of public services provision began to change in the 1980s as a result of two pressures — market-liberal social policies and the advent of New Public Management (NPM) in some countries. Both of these owed a considerable debt to the fact that many of the older generation of social policies had failed to move claimants off welfare and into sustainable employment. As a result, in many countries, the cost of welfare was rising, government debt was growing to help finance payments, yet the social wage and employment outcomes for citizens were often deteriorating.

Market liberalization had its first practical beginnings in the early days of the Thatcher Government in the United Kingdom and during the Reagan Administration in the United States. Both proclaimed an end to “tax and spend” policies that had been accompanied by an expanding role for governments. These policies were strongly associated with Keynesian welfare state orthodoxy, which in turn owed much to the social liberal consensus in many post-war Western economies (Beck, 2000). The Thatcher and Reagan critique was bolstered by some evidence that the social policies enacted in the name of an expanded state were not always helping the poorest citizens in these countries (Murray, 1984).

The move to extend these ideas to developing countries came some ten years later and was undoubtedly spurred by the belief among policymakers in institutions such as the World Bank and the International Monetary Fund (IMF) that reform of public services needed to catch up with transformations occurring in the private economy.

For example, in 1997 the IMF announced a significant shift in policy towards countries requiring financial aid. A new Guidance Note on good governance informed governments that future financial assistance from the IMF would henceforth be dependent on adoption of a new set of criteria for

structuring their public sector activities and their role in stimulating the economy. The stated motive of the new policy was to address the “contribution that greater attention to governance issues could make to macroeconomic stability and sustainable growth” (IMF, 1997, p. 1).

Central to this strategy was an explicit goal to “limit the scope of ad hoc decision-making, for rent seeking, and for undesirable preferential treatment of individuals or organizations” (p. 1). The norms or values being advanced included reference to other new terms such as greater “transparency” in government dealings with citizens and firms, “free and fair market entry” for corporations, and public enterprise “reform” (Considine, 2005, p. 51).

Underlying these simple objectives was a major change in the way this important international organization proposed to administer its aid and assistance functions. It also spoke to its intended targets in the language of a particular type of institutional analysis – one based upon the norms and practices of free markets.

As is well known, this broad set of empirical claims and political complaints produced two quite different types of reform — one aimed at privatizing sections of the public sphere, and one aimed at management reform inside the public service, often called New Public Management (NPM), corporate management, or managerialism. The two have a common ancestry but very different progeny.

2.1. *New public management*

Privatization has been largely confined to the utility sectors such as gas, electricity and transport where the assets available were saleable and valuable to private investors. These were also the sectors where capital borrowings were starting to be regarded as “debt” rather than “investment”. Some experiments with selling assets in the health and education sectors were also tried, but with limited success in comparison with utilities. Closely related to these developments was an emerging paradigm of public finance that pointed to public sector unionization as a key impediment to the creation of more responsive public services.

Inside the public services of a number of OECD countries, and subsequently in many developing nations, the NPM agenda gained a steady hold. Energetic programmes of restructuring and reorganization followed, in some but not all cases associated with a reduction in the size of public organizations. Pressure for change continued, especially in countries suffering current account deficits (for example, the United States, New Zealand and Australia) and a consequent pressure from international financial markets. The first wave of

public management reforms, with their emphasis on better planning and programming, began to give way to more radical ideas.

Of course, these pressures were very different in each institutional environment. The Anglo-Saxon democracies were the most exposed to change, in part because their winner-take-all majoritarian systems permit governments to implement policies that represent a clear break with the past. Where this coincided with economic vulnerability (as in the United Kingdom and New Zealand) restructuring was most dramatic. Where coalition building was demanded by the electoral and legislative system (as in the Netherlands and Denmark), changes were implemented through more methodical, but still decisive steps.

By the mid-1990s there was growing disillusion with programmes that tried to “corporatize” public services and policymakers turned to more radical “quasi-market” strategies. This was undoubtedly helped by the tide of privatizations occurring in the utilities sector, often accompanied by generalized criticism of the public sector that created certain defeatism among policymakers in countries subject to the full force of neo-liberal attack. The techniques used to implement these new strategies were in fact far more radical than the budget and planning methodologies that preceded them. In particular, they made use of a range of contracting tools from the private sector and a set of theoretical precepts drawn from “transaction cost analysis”.

The use of competitive tendering has long been common in purchasing departments where goods and services from pencils to catering are subject to bids and assessment techniques. But in the late 1980s these tender-and-supply methods began to be applied to core programmes in the public service, giving central agency bureaucrats a new tool to control the work of line agencies and gain greater control over their budget resources.

2.2. PES reform pathways

These new methods were soon deployed in the public employment services (PES) of countries such as Australia, New Zealand and the United Kingdom. The Netherlands and the United States were also energetic reformers during this period. But even before the arrival of the neo-liberal framework of contracts and targets there were private agencies involved in this sector. In many countries the non-profit sector had been engaged in assisting very disadvantaged jobseekers to find work. Some of these agencies also had a history of involvement with the PES in providing training, for example, in Canada, New Zealand and Germany.

In other places, such as the Netherlands and Denmark, private actors such as employers and unions had traditionally been involved in managing

employment services at national and municipal level. To further complicate the story, in some OECD countries, and in developing countries such as China, the municipalities also have a role in providing employment services. So even before the liberalization drive there was a mix of private and public actors, although the PES was, generally speaking, the dominant actor and the guarantor of all core services.

The United States model

The first forays into liberalizing employment services came in the US in the late 1980s and early 1990s when a number of states experimented with contracting out their employment assistance offices to firms such as MAXIMUS, a large private recruitment company. These tender-and-supply contracts were generally for the running of the whole service in a particular city or county and they were subject to heavy regulatory supervision. Employment conditions in the private companies were different to those in the public services they replaced; thus MAXIMUS was free to hire short-term staff and could pay performance bonuses to individuals or teams responsible for meeting weekly or monthly targets.

It was common to find former public servants from the PES employed by the new contractor, only to find them re-engaged in the PES when the contract was won back by the public agency. In interviews in California in 1996 and 1997, I met a number of staff who had been employed by both the county and the private operator when contracts changed in Los Angeles County and Orange County during this period. They reported that their pay had not changed significantly but that many of the pay-related benefits they had enjoyed in the public service, including leave provisions and health plans, were absent or less generous in their new contracts.

On the plus side, they also reported that the new companies offered better promotion opportunities for high-performing staff, gave stronger performance feedback and moved faster to remove impediments to poor performance. Employees also earned performance bonuses, though practices varied between personal bonuses and team awards. In the latter case, the bonus was less likely to be monetary and more likely to be in the form of symbolic rewards and public recognition in the workplace.

The size of the contracts being tendered encouraged other firms to enter this field, and by 1998 there were several multinational firms operating in the US market, with MAXIMUS and Lockheed Martin being the most successful. Lockheed's strategy included recruiting senior executives from state employment and social security departments, and the development of joint bids for services in collaboration with local non-profit organizations. The latter were

seen as more likely to have good contacts with the communities in which long-term welfare recipients were located. Here again the practice was to pay a basic salary with bonuses for each successful job placement.

These changes resulted in a wide range of employment conditions in the sector, ranging from performance payments in private firms to protected tenure in the PES to the situation of employees in non-profit agencies who were more likely to work unrewarded hours and have short-term contracts.

The Australian experiment

The Australian experiment in private provision of services was initiated by the Keating Labour Government in 1994 when public disquiet about the growing number of long-term unemployed resulted in a sudden commitment to shifting services out of the PES and into a quasi-market of public and private contractors. A new Employment Services Regulatory Authority (ESRA) was established to oversee the market, and as part of its brief this authority also sought to maintain professional levels of practice inside the 300 or so agencies licensed to provide services. The Government also funded the establishment of a university diploma programme in case management to try to raise the standards of service provided to long-term jobseekers.

While the first Australian contracts required agencies to bid against one another for shares of the market, they did not require price competition and as a result there was not great pressure to cut services. However, as further rounds of contracts evolved, and the revised scheme (Job Network) introduced in 1997 by the Conservative Government tightened financial pressures, services became more selective and “creaming” increased. Private firms won approximately one third of the first contract market, with the remainder divided between non-profit organizations and the new public agency (Employment National).

A number of private firms experimented with performance bonuses, especially at management level. Those using them at the frontline found that this conflicted somewhat with the need for collective effort to meet targets. Service strategies gradually moved away from individual caseloads and towards office-wide methods for contacting clients and stimulating business. There are no published data on the pay levels of these private contractors so it is difficult to estimate the impact of the changes upon staff. In interviews conducted in 1997 and 1999, it was stated on many occasions that executive salaries were significantly better in the private sector, that frontline staff were better paid in the public service and that bonus schemes had been less effective than initially imagined.

The United Kingdom reforms

In the United Kingdom the process of change was different again. The Thatcher Government's main experiment was in the field of training with the establishment of Training Enterprise Councils (TECs). These were private companies limited by guarantee in which local business leaders and one or two employers from the public sector were given charge of the supply of training in a local area. Their main client was the PES, although they also bid for other government work. Staff in the TECs were more likely to be drawn from private recruitment and training organizations, and the nature of the tenders also meant that many were on short-term contracts. Some of these staff were on performance pay contracts driven by targets to recruit new clients.

TECs' relationship with the PES varied from region to region and even from office to office. Even so there was a high degree of standardization in the services provided, largely because the PES used a common template for purchasing job search training and similar courses. One regional manager interviewed during this period said he had no doubt that he could tell "what every office was doing every Wednesday morning" because standardization remained a key management tool. So while these training organizations began the process of liberalization in the public employment service, they did not advance far before the change of government took place.

The Blair Government took a far more experimental approach. The creation of personal advisers in the New Deal for Youth and the New Deal 25 Plus signalled a more intensive approach and a significant shift in employment practices inside the PES. Then in April 2000 the Government established 15 Employment Zones (EZs) in areas of very high unemployment. These zones would have different types of delivery — public/private alliances with the PES, local partnerships, and also private provision by firms such as Reed and Pertemps.

The EZs were funded according to output, so they were under strong commercial pressure to perform. In their qualitative study of the effects of these experiments, Joyce and Pettigrew (2002, p. 2) noted considerable variation both between EZs and between them and the New Deal arrangements being implemented in the PES. There were differences in size of caseloads, training available to clients, training received by advisers, and in the structure of the offices themselves.

The study concluded that caseloads were "generally higher" in the EZs than in the New Deals; clients received less training and "what was drawn on tended to be carried on in-house rather than by external providers". However, the EZ providers tended to be more satisfied because they felt they had "greater autonomy in procuring tailored provision" (Joyce and Pettigrew, 2002, p. ii).

The advisers in Employment Zones received a higher base wage than those doing equivalent work in the New Deals, and this was sometimes supplemented by bonus payments. But the PES staff received other work benefits such as superannuation and permanency of tenure.

It is obviously difficult to generalize from these results in order to estimate impacts on clients. The available evidence suggests that workload pressures exist in both types of arrangement. New Deal advisers reported that they had an “annual performance bonus box” but that the small amount of money at stake was insignificant. Targets set for the local office were more important to them. The EZs were also target-driven, and these pressures were even greater than in the New Deals because of their link to commercial priorities for the different agencies.

For example, those working in the Reed zones felt that employment security depended on meeting targets and in some cases it was reported that staff were given “28-day warnings” when they repeatedly failed to meet their targets. In some Reed sites “advisers believed they had been kept on short-term contracts purposefully as they had not met their targets” (Joyce and Pettigrew, 2002, p. 45).

Salaries in the United Kingdom have not been systematically studied so it is difficult to make precise generalizations. Managers interviewed for this chapter said wages paid to administrative staff in the private sector were generally lower than in the public system. Employment advisers received about the same in base salary, although bonus payments were much greater in the private sector. The salaries paid to managers, and to specialists such as occupational therapists and rehabilitation providers, are higher in the private sector. The higher rates paid by some private agencies also reflect their greater likelihood to employ graduates, for whom the going rate is £5,000 to £7,000 a year higher. The downside, of course, is that these groups do not have permanency or pension schemes as good as those in the public system.

Some other European examples

In the *Netherlands*, the same spirit of experimentation saw a series of radical changes from the mid-1990s through to the present. Like the Australians, Dutch policymakers appeared to lose confidence in the capacity of their PES either to restrain costs or to increase reintegration by longer-term welfare recipients. They moved decisively in three major reform waves to undertake what would now be considered the boldest form of restructuring, having overtaken even Australia in the search for innovation.

First, in the mid-1990s they re-centralized the management of the PES, reducing the autonomy of regions and constraining the powers of the tripartite

boards that managed the semi-independent public authority. A second wave of changes brought two private temporary work companies (Start and Vedior) into the system and allowed them to work with the PES to achieve higher placement rates. In the late 1990s a third more comprehensive reform saw the PES divided into 130 local Centres for Work and Income (CWIs), where basic employment services are provided for all claimants, and a separate reintegration provider (KLIQ), which must bid for work alongside many private firms. Unlike the Australian system, which uses one national tender and a common format, the Dutch reintegration services are put out to tender by various municipalities and social insurance companies, leading to a variety of different terms and conditions.

In practice, the CWIs have usually taken over the sites formerly occupied by the PES, and the KLIQ offices are often also in the same buildings, although there are fewer offices than before because KLIQ has less of the reintegration business under the market arrangements.

The new *Dutch* system, like the Australian one, has become more selective and targeted with respect to service for clients. The strong emphasis on performance and outcomes means that advisers must choose to whom they will give the most attention, and who will be left to manage their reintegration with less help. But this has not led to the great variety of service strategies that some believed would result from liberalization. Instead, there has been an initial convergence in the way the public and private agencies manage their businesses. One reason given by observers is the inadequate expertise among the municipalities and insurers creating the new contracts. They lack knowledge of their own clients' characteristics and as a result the tender specifications have remained rather general.

The pressure on services to clients is increasing, especially in relation to training. With each new contract, the reintegration services have shifted more and more responsibility onto the contractor to pay for training of jobseekers out of the fees it earns. As in Australia, this tends to bias decisions away from high investment in training towards "work first" priorities.

More recently this has begun to change. An avant garde group of municipalities have been improving their specifications and purchasing techniques, which appears to be resulting in greater variety of services provided, and perhaps in better performance. The Ministry of Social Affairs has commissioned some research on this issue and hopes to have more data by the end of 2005.

Little of a systematic nature is known about the conditions inside these new agencies. So far, observers say that the conditions for both public and private staff have remained similar and there is movement of staff between agencies at state and municipal level. However, under severe budget pressure, the public

provider, KLIQ, has cut some wages and extended minimum hours. Another effect of the changes seems to be a new emphasis on employing advisers with at least a basic university qualification. This was less likely in the days of a monopoly PES.

There has been remarkably little involvement of foreign firms in the Dutch privatization of services. Given the competitive nature of international recruitment services, and the fact that many of these firms already have offices in the Netherlands, it is perhaps surprising that none has taken a role. Policymakers interviewed for this chapter did indicate that there was some interest from abroad, and there has been at least one delegation from a British provider seeking opportunities in the Netherlands. An Australian firm has also indicated interest.

Dutch companies are also entering markets elsewhere, with Maatwerk winning 24 per cent of the recently liberalized market for PSA (Personal Services Agents) in Germany. Each local PES in Germany has a temporary work agency run by a private firm, and these companies are paid partly by minimum fee and partly by performance. This, together with the reforms initiated by the Hartz Commission, has resulted in greater private participation in the German employment services system. Apart from the PSAs, the other significant change has been the creation of a voucher system for PES clients to “purchase” their own reintegration training. In theory this should have resulted in the emergence of a market for such services, but in practice most of the providers were already providing training for the PES at local level.

In *Flanders*, the Flemish-speaking part of Belgium, a process of reform also began during the late 1990s. As Struyven and Verhoest (2005) point out, the PES (called VDAB) was the first Flemish public service organization to be created as a separate agency in 1989, at which point it assumed a wide range of responsibilities in employment policy. These included job brokerage, labour market programmes, and most of the publicly funded services for reintegration of jobseekers through job search training and labour market training. Approximately two thirds of the budget is devoted to training, a higher proportion than in any other OECD country. Of this budget about one third is distributed to contracted training agencies. The VDAB has employer and union representatives on its governing board and the social partners are also involved in setting government employment policy. In addition, the VDAB runs its own recruitment agency, competing in the open market for such services.

From 1989 to the mid-1990s, the VDAB operated as a largely autonomous public agency with oversight by commissioners and by the central budget agency. The first managerial reform occurred in the 1990s and concentrated on major improvements to technology, office layout and workflow.

Struyen and Verhoest (2005) report that the multi-product structure of VDAB caused internal stress in the late 1990s and was a catalyst for change. Like the Dutch service discussed above, the VDAB experimented with regional operational autonomy before moving back towards a more centrally controlled approach. Following adoption of the ILO's Private Employment Agencies Convention, 1997 (No. 181), Flanders moved in 1999 to make its employment services more competitive. This also meant the separation of the recruitment arm of VDAB and a requirement that it operate as a distinct enterprise, offering no special privileges to the PES and receiving none in return.

Three agreements were negotiated with the Government, each more exacting than the last. The contract covering 2001–04 saw a strong shift towards services for high-risk groups, sophisticated targets for integrated services, and measures for integrating and linking targets and programmes. This resulted from criticisms that VDAB had expanded and consumed larger budgets, yet had not been successful in shielding the most vulnerable clients from unemployment.

Another feature of the Flemish model has been the development of “robust auditing and monitoring provisions” (Struyen and Verhoest, 2005). These resulted in more precise targets for local offices and greater scope for the Government to vary its demands according to yearly employment conditions. The third performance contract also placed more emphasis on the cost efficiency of the services provided. The VDAB has separated its various programmes and ensured greater competitive neutrality, while continuing to engage in a wide variety of outsourcing contracts. However, it has preferred collaboration with its suppliers, leading to the conclusion that “this is not a model of market competition based on an open tender” (Struyen and Verhoest, 2005).

In *Italy*, the reform process has taken a different path. In the first phase of reform between 1998 and 2001, there was some emphasis upon competition and the use of private providers for training, career guidance, enterprise creation and equal opportunity initiatives. This often involved non-profit organizations with a history of work in this field. It was also somewhat different from other countries because these policies also concerned services for employers. The second phase of reform has been devolution of services from the Ministry of Labour to the provincial and regional levels. This has resulted in greater variation in the way such services (to both employees and employers) are organized. It has also led to more collaboration between public and private agencies, especially with regard to training. The devolution process has seen some public employment offices close and other activities become more concentrated in the provincial offices.

The reforms have been further complicated by the role of European Union-funded programmes and services for unemployed people in some regions, which add another layer of officials and specialist services to the basic PES-type

activities. The involvement of the EU might be considered a source of institutional change, but hardly one involving neo-liberal rationalization.

The Italian experience suggests that the rollout of new methods has been uneven, with southern Europe still lagging behind standards elsewhere insofar as new offices, comfortable layouts and better information technology are concerned. The changes involve a complex outcome for employees because there is no longer a single national set of conditions, but instead a mix of national and local arrangements. Employees are also affected by wider changes taking place in relation to public employment, pensions and retirement conditions. Not all of these can be regarded as part of the same liberalization drive, representing instead a southern European form of modernization of services and conditions.

The reforms made to the public employment service in France since 2000 were aimed at internal organizational improvements, performance management and new systems at local unit level, and were not linked to the introduction of private sector involvement typical of liberalization efforts elsewhere. Since 1990 there have been performance pay elements in the French PES (ANPE), but these have nothing to do with rates or conditions in the private agency sector or with competition. Furthermore, the degree of variation in payments is severely limited by union negotiating power, which has generally kept performance pay to a very minimal, even symbolic level.

The French PES introduced its own form of New Public Management (NPM) reform during the 1990s, but so far this has not led to major changes in the distribution of services, selectivity of engagement with clients or rationalization of services. More recently, the PES confirmed its commitment to universal access by offering a three-tiered service based on the assessment of barriers or difficulties faced by the individual jobseeker. However, there are now plans for future rationalization of this national system, the emphasis being placed on partnerships with other institutions such as the municipalities, which are also involved in aspects of employment policy. There is very little private involvement in the French case, although the Dutch firm Maatwerk has had one experimental project with the social insurance provider, Unedic. This, obviously, is a relationship that is outside the remit of the PES.

Reforms in some non-OECD countries

Changes to employment services in developing countries fall under a more general category of public sector reform and only rarely have they been singled out for analysis in government or academic treatments of this topic (Chapman, 1995; Gould, 1999; Wong, 1998). This points to an urgent need for further research, since it is clear that significant changes are taking place.

For example, in China the current social security system owes its structure to the reforms introduced in 1951, just two years after establishment of the Communist regime. The system was based on the tenet that in a socialist economy everyone shares the work and rewards, which would include a comprehensive system of support for healthcare, work injuries, wage equality and maternity leave. No provision was made for unemployment because the regime took it as doctrine that in a socialist country there would be full employment. This comprehensive system only ever applied to the cities and to industrial workers in state-owned enterprises. To begin with, they made up only about 20 per cent of the population but over time the proportion grew rapidly.

The social security system was funded by a mix of social insurance and assumed liability by state enterprises. State-owned enterprises were required to pay 3 per cent of income to the insurance fund, and this in turn was managed by the federation of trade unions, which was controlled by the central party organization. During the ten-year Cultural Revolution, the fund was disrupted and enterprises had to manage alone. All social policy issues were handled by the enterprise director, who became a most important bureaucrat and more like “a small town mayor than a businessman” (Zhang, 2004, p. 2).

Employment services were not provided during this period because — according to the ideology of the day — there was no unemployment in a socialist system. However, by the 1970s there was an extensive system of relief provided by municipalities. They not only organized labour placement services, but in many cases would also give small daily payments to assist their citizens. In the recent period the pressure on municipalities has intensified as millions of rural residents have moved into the cities looking for work.

The major cities have generally excluded internal migrants from municipal employment assistance on the grounds that they are not qualified residents. However, because of the enormous changes now taking place in China the entire system of workplace and municipal support is having to be recast in the form of a national social security system based on tax and insurance payments. There is no indication that these major reforms are driven by neo-liberal principles, although co-payments and other forms of individualized contributions will undoubtedly play a major role. The employment conditions of staff in the various municipal agencies are not significantly different from those in other public service roles. Reports from public servants interviewed for this study were that the main pressure comes not from private contractors wanting to enter the market, but from peasants moving to the cities and placing great strain on municipal employment services.

In Hong Kong Special Administrative Region, China the PES continues to be run as a mainstream public service with offices dedicated to assisting jobseekers. The officials interviewed for this study said there were no private

providers in the market, other than the professional recruitment agencies, and that these firms showed little interest in the entry-level jobs being filled by the PES. The PES does not have control of training functions and is relatively distant from the social welfare bureau, although in the latter case there is clearly a role for the PES. A training board made up of senior staff from several agencies, including the PES, takes the primary role in supporting the major retraining effort being undertaken in Hong Kong Special Administrative Region, China. While many private firms are in the training market, there is no suggestion at this point that they will seek to provide employment assistance. Instead, policymakers are more focused on the UK model for improving core public services.

In developing countries there are a variety of employment assistance organizations, but in most cases there are few resources to privatize and, as a result, liberalization is not a major feature. For example, in Pakistan a freely available publicly funded agency helps people find employment. Its services are limited to labour exchange functions. It does not provide any form of training, nor does it have any role in income support. It mostly concerns itself with maintaining a database of vacant positions, providing this information to the unemployed and to the Government for planning purposes.

The welfare aspect of employment is handled by the Department of Social Welfare, located at the provincial (or state) level. The Department is responsible for providing help to disadvantaged groups, both directly — for example, by giving sewing machines to poor widows to enable them to earn a livelihood — and indirectly through vocational training and other services. Issues related to regulation of the labour market are dealt with by a separate agency, the Department of Labour. There is little indication of significant changes to these services, and few obvious opportunities for increasing private participation other than through the further inclusion of non-profit agencies in the service chain.

3. Changes in employee conditions

While it is difficult to generalize about countries with such different economic conditions and governance traditions, and even more so when using only qualitative data from participants, it appears that employment conditions for those inside these systems have been changing according to a number of specific local dynamics.

In those cases where the PES model has been most radically altered, such as the United Kingdom, Australia and the Netherlands, payments to employees have changed less than other aspects of the reforms. For example, in the private firms operating in the UK Employment Zones, there is evidence of some higher

payments to staff, often related to the fact that they seek graduates to work in their offices. In Australia, the pay rates are similar between commercial firms and non-profit organizations, though private companies are more likely to offer bonuses.

The most significant winners in terms of income appear to be owners of private agencies contracted by the PES to deliver services. The level of profit is said to be above 15 per cent in most countries, and as high as 30 per cent in the better labour markets such as the larger cities of Australia, United Kingdom and the Netherlands. Higher margins are sometimes justified by claims that these agencies pay higher salaries than the PES. Evidence for this is hard to find. Certainly some firms in the United Kingdom and Australia offer higher starting salaries but these do not always compensate for lower pension entitlements and reduced prospects for tenure and promotion. A systematic study of pay rates and conditions is clearly warranted, not least because it could help inform government policy in regard to the prices being paid for contracts and services.

Employment conditions in the more liberalized cases have shifted significantly in the direction of higher levels of casualization, reduced tenure, fewer ancillary benefits and a prevalence of short-term contracts. Australian staff no longer have tenure. Private firms in the United Kingdom and Netherlands use short-term contracts and generally offer less generous pension entitlements than the PES.

In the group of countries we might term “cautious reformers”, such as Belgium, there do not appear to have been major impacts on employment conditions inside the PES, with the exception of some forms of performance contract for managers. Outside the PES staff employed in private agencies or non-governmental organizations (NGOs) often have better pay but fewer benefits than in the PES, with the most telling differences relating to tenure, training and opportunities for promotion.

Developing countries face a very different set of problems, and in neither of the cases examined (China and Pakistan) was there strong evidence that neo-liberal agendas were important to the organization of employment services. Instead the staffing arrangements continue to reflect traditional bureaucratic norms, albeit in the context of greater pressures arising from higher caseloads.

The motor driving neo-liberal policies in these different countries is not the same, so we must take care to avoid a false diagnosis of problems and opportunities. Although many countries are using similar instruments (contracting out, performance pay, casualization of work), they are not always doing this for the same reason. Or they may have similar objectives but create different types of institution. The Australian decision to create a “quasi-market” was partly a response to fears that public service unions would use their strength to oppose managerial reform. In the United Kingdom the Thatcher reforms,

which had a similar objective, created executive agencies and the TECs, opening up a different path.

The role of private companies seeking contracts also varies between countries. In the United Kingdom, the Netherlands and the United States, the contracting method has favoured larger bids. This has made the market attractive for the big recruitment companies who, in turn, have been willing to lobby governments for reforms that suit their needs. Some of these same firms are now interested in the larger developing country markets where national governments are seeking to deal with expanding middle-class pressure and overwhelming demands for new services.

The political economy of contracting in Australia, New Zealand and European countries such as Italy is somewhat different. Here the tenders are usually for local services, and firms must be prepared to compete on a local basis with NGOs and some public agencies. It is therefore the way such contracts “shape” the market for services that matters most for both quality of services and working conditions among staff employed by these agencies.

There is much more still to learn about these processes. Not only do we have insufficient knowledge about the imperative driving countries to use contractors or to reform their PES systems, but we also need more information about the impact on workers of the hand-over of work from public to private agencies. The US case gives us many examples of the different ways this may occur, but even here little is known about the particular dynamics involving foreign firms beyond the obvious fact that they are attracted to high-profit contracts in stable markets.

US companies have not entered the employment services market to any significant degree. There are several Dutch and Australian companies with contracts in other countries but they do not control a significant share of these markets and do not appear to threaten local firms. Trade regimes such as the Australia-US free trade agreement make it easy for US firms to compete, but there is no evidence as yet that they will do so in large numbers. The fact that MAXIMUS won a small contract in the last Australian tender certainly shows what is possible, but it also points to the fragmented nature of the market and thus the difficulty of any single company getting control.

Finally, we need to learn more about the duration of employment effects. Some managers in Australia report that savings achieved through cuts in salaries and conditions are not sustainable in the medium term because of competition for the best staff and the desire of politicians to “stabilize” the market after the upheaval of a mass tender-and-supply process. Surveys that track working conditions over time would, therefore, be highly informative.

4. Reviewing research hypotheses

- A. Certain levers are resulting in the liberalization of employment services, and these are causing unequal and selective provision of services, rather than universal provision.

The review of evidence from the selected countries supports only a partial confirmation of this hypothesis. Liberalization in the form of greater use of private providers is evident in Australia, the United Kingdom, the Netherlands and Belgium. However, the motives appear to be more consistent with the desire for efficiency and flexibility than with outright privatization, except in Australia. There is very little evidence of liberalization in developing countries, perhaps because there is still insufficient funding of public services to make them attractive to investors.

Evaluations in Australia, the United Kingdom and the Netherlands support the proposition that liberalization (or contestability in the United Kingdom) usually comes with a desire to reduce the cost of services and thus the interactions with clients. In the tougher cases, there is a shift to American welfare strategies that emphasize the requirement for clients to do more for themselves. The liberalization process also creates winners and losers within the client population and may therefore be seen as a threat to norms of equal participation. However, it also needs to be acknowledged that the “activation” part of the liberalization regime puts a greater emphasis on returning to work and leaving the welfare rolls, a positive outcome for many clients.

Previous discussion pointed to the all-important role of contract prices in countries such as Australia and the Netherlands, while in other countries this is less of an issue. Contract prices are linked to the expected cost of returning a client to work, and thus are a proxy for the client’s problems. Unfortunately, this apparently simple judgment is confounded in many cases by poor diagnosis and a contradictory incentive system. Observations and discussions with staff in both public and private agencies confirm that contract pricing methods often lead to perverse incentives to avoid those clients with the greatest needs.

- B. The unequal distribution and types of services are eroding workers’ securities.

As we have seen, the most developed liberal regimes lead to deregulation of employment conditions, including pay. They also eliminate tenure and other career securities for employees. Since unionization is low in private services this trend also changes the representative structures in the labour market, greatly increasing the power of employers.

The de-unionization of this field and the failure of the new systems to professionalize their services threaten staff working conditions, their training and their ability to build a stable career. This in turn will have negative effects on service quality unless some form of regulation is devised.

- C. There is a shift away from universal citizenship rights towards two-tiered systems, or services available largely to the middle class rather than to all.

There is evidence that the Australian system promotes “creaming” of easy-to-place clients and “parking” of those who are difficult to place. There is similar concern in the Netherlands. However, this appears to have less to do with liberalization per se, and more to do with the instruments used to price services. Both the United Kingdom and the Netherlands appear to have promoted a funding regime with greater emphasis on results for all classes of clients.

The employment services reviewed here do not have strong value for middle-class jobseekers and are traditionally used by unemployed and entry-level jobseekers. That said, there is certainly a trend towards helping those already close to the labour market. This does suggest the existence of a two-class system. However, the evidence also points to the failure of previous “universal” services to assist those with serious barriers to employment, such as the disabled, older industrial workers, and so on.

- D. There has been significant liberalization of employment services in many countries around the world.

This is true of employment services in many OECD countries but not all, and not to the same degree.

5. Policy options and recommendations

The main drivers of change in the employment services sectors of the countries studied derive from a similar set of problems, and any policy recommendations need to be mindful of why it was that these reforms occurred in the first place. This does not mean that the reforms themselves were always the best response to such problems, but it does indicate a need to take the underlying imperatives seriously.

Recommendations that posit a return to a traditional public service model are unlikely to be successful. Instead, the way forward needs to include a model for improved flexibility in the mode of delivery of services, greater tailoring of

services to the particular needs of clients, including employers and jobseekers, and a focus upon successful outcomes for both clients and budget holders.

The most aggressive reform models such as those in Australia, the United States and the Netherlands have so far failed to generate a stable new career path for employment advisers, consultants and job coaches. This is not only a serious threat to the viability of these systems, but it has the potential to drive good staff out of the industry. The key policy objectives in these countries need to include the building of professional standards and qualifications across the industry to enable higher levels of competence to be recognized and rewarded. Because firms will compete to attract the best staff and may behave in a predatory fashion with regard to one another, such professionalization can only occur with active government support. The most effective methods to increase skills, generalize a high standard of service, and support better working conditions would be to modify the current tender-and-supply system to set quality improvement benchmarks, mandate training budgets for staff, and reward industry leadership with regard to staff support and skill enhancement.

In the United Kingdom and Denmark, where the reform trajectory still has a strong public service component, the policy challenge is to modernize the public service rather than replace it with private agencies. For that to happen, the existing public service agencies need to adopt more flexible pay and working conditions for frontline staff. Rather than wait for the best staff to be siphoned off by private agencies, as happened in the United Kingdom during the first Employment Zone experiments, the local PES management should be given flexibility to offer higher rewards in return for improved performance, both for individuals and for teams. Similarly, greater opportunity should be provided for lateral recruitment of skilled staff into the public service.

Policy changes that anticipate significant industrial relations reform need to be negotiated with unions, employers and other key stakeholders. Rather than follow best practice set elsewhere, the PES should seek to demonstrate the efficiency of new “flexicurity” arrangements at the local level, thereby modernizing employment conditions inside the service while setting a positive example for local employers. To date, moves towards performance payments and flexible working arrangements in the United Kingdom, Denmark, Belgium and France have been modest. To retain a strong position in the marketplace for services, these PES organizations need to be far more innovative. Within an agreed perimeter of minimum standards and outcomes, it should be feasible to transform the frontline function into a more independent professional role. For example, in one leading Dutch company, the advisers work away from the office most of the time, have their own client list, visit clients in their homes, and meet for occasional sessions to trade information and give one another advice.

These strategies to increase the skill and responsibility of employment service staff are not only the best method to assist clients and obtain high performance, they are the only feasible means to avoid the steady erosion of standards of pay and conditions of work in this industry. Governments in the more cautious reform countries need to devise new service delivery platforms inside the PES that value local knowledge and lead to skill improvement among staff. This will not only protect wages and conditions, but will do so without sacrificing either services or budget efficiency.

Policy options in less developed systems will depend heavily on whether these middle-band countries succeed in reviving a PES model that is capable of competing with the neo-liberal type. Most eastern European and developing countries do not have a significant welfare benefits system to underwrite the employment service. As a result, there is no public fund on which the NPM reformers and private agencies can focus. Yet the major goal of improving labour market efficiency remains important, and therefore policies to improve the functioning of the PES are crucial. In addition to the “flexicurity” options outlined above, these systems need policies to expand the role of non-profit training and skill enhancement bodies. Networks, associations, conferences and local institutes, which offer “know-how trading” as well as brokerage functions for internships, outplacements, secondments and work experience programmes, are vitally important to developing practical social capital in these labour markets.

The purpose of policy interventions in the different systems will depend upon the particular issues being faced by the PES and by the labour market. In each case governments at national and local level will need to use instruments that are appropriate to the task at hand. Contracts and tenders are now the lingua franca of the more aggressive reform countries, and so these should be used to promote greater innovation and professionalization of services. The PES and its central function in assisting all citizens are the key instruments in the middle band of countries. As such, it makes most sense to focus policy attention on improvements that will assist the PES to enhance the roles of staff. For less developed systems, the best policy instruments are those that build voluntary and networked solutions to local labour market problems so that staff working in the public employment service have a positive environment to improve performance and sustain better working conditions.

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SECTION IV:
LABOUR MARKET
TRAINING

THE LIBERALIZATION OF LABOUR MARKET TRAINING

6

by Melissa White¹

1. Introduction

Public sector liberalization has been occurring in countries around the world since the late 1970s. The rapid pace of globalization and the desire of nations to participate in the international economy provide part of the propulsion to liberalize. The shift in political ideology from welfarism to the belief in the primacy of the free market also accounts for the rapid spread of liberalization, as does the increasing influence of international organizations that encourage free markets and the creation of regional trade organizations and agreements. Behind this shift is the view that centralized bureaucracies and “big” government are inefficient, expensive and ineffective at delivering services.

The provision of many social services has been deeply affected by liberalization. Politically, governments and international organizations emphasize policies of fiscal restraint to reduce deficits and compete on the international stage. Economically, liberalization has resulted in the opening of markets, the reduction of tariffs and trade barriers, and increased flows of investment capital. Decentralization and devolution of responsibility for services that in many countries were formerly the responsibility of national governments,

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to local governments, the private sector and non-governmental organizations (NGOs), have had a significant impact.

Labour market training programmes, including training for unemployed and displaced workers, are now often provided not by governments but by the private sector. The extent of privatization of labour market training varies from country to country, but by and large training is delivered through various combinations of public and private funding and provision. The implications of the liberalization of labour market training — in terms of access, quality, relevance and regulation — are discussed extensively in the literature as potentially problematic.

1.1. Hypotheses

The International Labour Office (ILO) and Public Services International (PSI) have jointly identified four hypotheses associated with what is commonly characterized as the “Americanization” of social protection through the implementation of policies such as the privatization and commercialization of public services, decentralization, economic restructuring in support of free market economies and other market-oriented strategies. The hypotheses put forward are:

- certain levers are resulting in the liberalization of social services and are causing unequal and selective provision of services, rather than universal provision of services;
- unequal distribution and types of service are eroding workers’ securities;
- there is a shift from universal citizenship rights towards selective provision of services, such as two-tiered systems or services available largely for the middle class rather than for all; and
- there has been significant liberalization of social services, including labour market training, in many countries around the world.

The impact of liberalization on worker security, access to services and the provision of services is not well known or empirically described. To explore the above hypotheses in the context of labour market training, this chapter looks first at the liberalization of training markets. It will consider the levers that influence liberalization in general and, more specifically, with regard to labour market training. The literature on liberalization and labour market training will be reviewed as will the policy documents of key international organizations and selected developed and developing nations. The chapter concludes with a

discussion of the issues and challenges raised by the liberalization of labour market training and will put forward several recommendations.

1.2. Methodology

This chapter relies on a review of international literature and policy documents and statements from national and local governments as well as international organizations. The research did not include survey analysis or field-based research. Several points should be noted here. There is little empirical evidence of the impact of liberalization on labour market training. Nor is the issue addressed to any substantive degree within the academic literature. There is an abundance of both empirical and theoretical research and writing on the liberalization of labour markets generally, but no research of any sort regarding the liberalization of labour market training.

It is also difficult to determine current labour market programmes and training across different nations, each with varying degrees of national, sub-national and local governance and responsibility for labour market training. Much of the information on government programmes is made available via the internet, requiring sifting and analysis of a plethora of information.

An original intent of this paper was to consider the impact of the liberalization of labour market training on those who provide that training. There was even less empirical and theoretical research and writing available on this than on labour market training generally. One can only surmise the effects on workers in the training industry based on the impact of the liberalization of the labour market and labour market training on workers in general. A comprehensive examination of the implications of liberalization of labour market training for both workers in general and workers in the training industry is needed.

2. Definitions and terminology

Labour market training can encompass a broad range of activities. The following definitions for labour market training and training providers were used in the context of the research for this chapter.

2.1. Labour market training defined

To define the scope of labour market training, two aspects must be addressed: the definition of labour market training and, more specifically, its distinction from education and employment services. Labour market training can include any form of learning directly or indirectly associated with preparing for participation in the labour market. This can include formal education and training provided by secondary and post-secondary education institutions, as well as a wide spectrum of employment services such as counselling, job search assistance, and employment placement activities that are intended to support or enable successful labour market entry and participation. This chapter focuses on labour market training directed towards specific populations — employed workers, displaced workers and the long-term unemployed. As such, labour market training will be defined here as training provided, either publicly or privately, to assist individuals falling within one of these target groups to obtain skills that will enable them to maintain existing employment or to re-enter the labour market. For the purposes of this chapter, these population groups comprise the following:

Employed workers: Individuals who receive training to enhance existing or obtain new skills necessary to improve job performance for their current employer. This is not to say that the skills learned are limited to their current job or position with that employer.

Displaced workers: Individuals who have been permanently displaced from employment through no fault of their own — that is, who are unemployed due to structural and/or organizational restructuring in their workplace or within their industry. The difference between this group and employed and unemployed workers is that displaced workers are unlikely to find future employment in the same workplace or industry.

Long-term unemployed: Long-term unemployed are workers who have been unemployed for a considerable period and are engaged in training activities that emphasize re-entry into the labour market. In general, their training does not involve the acquisition of a degree or diploma from a formal, accredited educational institution.

2.2. Labour market training providers

While labour market training provision can vary from country to country, and within countries depending on jurisdiction, labour market training providers

considered in this chapter are public sector institutions, private sector agencies and non-governmental agencies. These providers are defined as follows:

Public sector institutions: Public sector training providers are government agencies or organizations involved in the provision of training. Typically, this would include government departments and training providers funded by government, such as publicly financed universities and colleges, school boards, training institutions and similar bodies that operate training programmes for the defined target groups.

Private sector agencies: Private sector agencies offer training on a commercial basis. Commercial training can be broadly categorized as user-financed, where the client pays a fee to the training provider, or third-party financed, where the cost of training is paid with public or private funds, or a combination of both. Essentially, private sector agencies are companies that provide training for profit regardless of who pays the fee.

Non-governmental organizations: For the purposes of this chapter, non-governmental organizations (NGOs) comprise not-for-profit organizations that provide training, but which are not commercially oriented and do not have the status of a public sector institution. This group can be quite diverse and includes labour unions, community groups and charities. Typically, these organizations focus on clients facing particular cultural, linguistic, physical or other barriers to labour market participation.

3. Liberalization and the labour market

3.1. Defining liberalization

The ILO's Socio-Economic Security (SES) Programme, in a survey developed for trade union members (ILO/PSI, 2005), defines the elements of liberalization as follows:

- privatization — transferring the provision of services to the private sector;
 - public-private partnerships — agreements between the public sector and private companies, often involving long-term investment and long-term contracts, for the provision of services by these private companies;
 - investment — expanding investment in foreign or domestic markets;
-

- commercialization — the process of converting non-market services into market services so that services which were once free are now provided for a fee;
- deregulation — the elimination or reduction of barriers and restrictions on competition between providers;
- finance — the way in which revenue is generated through one, or a combination, of government expenditure, government subsidies, insurance company participation or user fees;
- restructuring — where processes associated with any or all of the above are changed, including decentralization and restructuring of labour production and the labour process;
- trade — trade barriers and restrictions are eliminated or reduced to allow the participation of international service providers in local markets;
- laws — changes to legal regulations governing:
 - ownership — public or private or a combination of both;
 - service provision — public, private, non-governmental or combinations of one or more;
 - oversight — the creation of regulatory boards comprised of government, employers, labour unions, service users and consumer groups and/or the creation of systems of accountability and transparency;
 - labour — changes to laws governing the terms and conditions of employment.

The degree to which liberalization is a process that includes the above elements as policy ingredients or whether it is the result of the implementation of any or all of these elements is much debated. Regardless of whether liberalization causes, or is derived from, these changes, this chapter argues that many, if not all, are ideologically driven and that governments, particularly in developing countries, are forced or persuaded to implement liberalization policies by multilateral processes and institutions or by capital markets.

3.2. Liberalization and the labour market

A lengthy discussion of the liberalization of labour markets is not within the scope of this chapter. However, as labour markets and labour market programmes are directly tied to labour market training, a brief overview is called for.

The ideological shift from welfarism to liberalization that began in the late 1970s has become entrenched in both developed and developing countries. The push to liberalize was championed, in part, by the governments of the United Kingdom and the United States, and was quickly taken up by international organizations and within regional trade agreements as they developed. Large centralized governments were viewed as bloated inefficient bureaucracies and the provision of social welfare as an inefficient use of public resources. Policies of decentralization, privatization, government downsizing and fiscal restraint were actively pursued. At the same time, the process of globalization was changing the economic base in many nations. Technological progress, advances in communications technologies, the international flow of capital and the development of regional trade agreements changed both the scope of many economies and the production processes supporting them.

The liberalization of the labour market and labour market training is part of a global trend that has influenced the privatization of public services in both developed and developing countries. Proponents of liberalization claim that government intervention, principally through social insurance and security programmes, makes the labour market rigid, inflexible and inefficient and contributes to increased unemployment (Auer et al., 2005; Stanford, 2000; McBride and Williams, 2001). The liberalization of labour markets is seen as the mechanism through which the labour market can be strengthened and unemployment reduced (Albo, 1998; Stanford, 2000). Governments, multilateral institutions and regional governance organizations therefore emphasize flexible labour markets, achieved through liberalization, to combat labour market rigidity and high unemployment. As well as improving labour market performance, liberalization is seen as essential to participation in the global market (McBride and Williams, 2001).

In OECD countries, national and local governments have pursued liberalization policies through a variety of models. However, it is useful to note that many of these governments pursue a liberalization agenda in response to the same levers of public sector reform, regardless of where they sit on the left-right political and ideological spectrum. With regard to external pressures to liberalize, multilateral organizations and regional agreements, such as the European Union (EU), the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA), play a key role in shaping government reform. In transition and developing countries, multilateral organizations and bilateral donors have acted as levers for liberalization, both directly through conditions attached to aid and indirectly through the financing of projects that, at least to some degree, reflect the liberalization policies of donor countries and agencies.

A number of elements are said to make labour markets rigid, including regulatory structures and the lack of mobility between economic sectors and regions and of workers. Regulatory structures that mandate specific procedures and worker protections, from hiring and firing to working hours to wages and benefits structures, are believed to make labour expensive and to inhibit the ability of businesses to respond to the demands of the marketplace. Policy measures to change regulatory structures, particularly the elimination of mandatory benefits, are justified on the basis that a flexible labour market is a more successful labour market. To accomplish such changes, supporting mechanisms for these regulations must be countered. Unions, and their mandate of worker protection, are regarded by proponents of liberalization as key contributors to labour market rigidity. Many countries have changed their labour laws to diminish union strength and to enable businesses to implement restructuring and reorganization programmes that increase flexibility in responding to the market but which jeopardize workers' securities.

Geographic mobility is one characteristic of a flexible and liberalized labour market. Social security and insurance programmes have been blamed for the lack of labour mobility because, it is argued, they give workers no incentive to move in search of employment. However, this argument neglects other significant factors, such as financial and family obligations, that may contribute to a worker's inability to move.

In a study comparing labour markets in Canada and the United States, Stanford (2000) challenges the notion of flexibility, both in its connotation and application, and thus its basis as the rationale for the liberalization of labour markets. This study raises an interesting point — that of the meaning of the term flexibility. Flexibility, in essence, is the ability to adapt and change. However, flexibility in the context of the liberalization of labour markets means deregulation, not “flexibility”. According to Stanford, Canada's labour market is quite flexible in the true sense of the term, having been able to adapt quite effectively, yet it performs poorly in comparison to the US labour market. As a traditionally welfare-oriented state, Canada's poor performance is often attributed to “rigid” labour market policies. The US labour market, by contrast, is generally held to be the prototypical flexible labour market. However, Stanford asserts that because of the lack of response to tight labour markets, the lack of worker mobility and the prevalence of long-term contracts, the labour market in the United States is in fact quite rigid.

This would seem to call into question the notion of labour market flexibility as the rationale for labour market liberalization and would imply that something else is at work. Stanford's study argues that it is the high degree of labour market discipline, or deregulation, that accounts for the success of the US labour market. By calling deregulation “flexibility”, liberalization is presented in a

more positive light. The term masks the true nature of what is occurring in the labour market and presents the process as positive when in reality it has had very negative implications for workers' security.

It is also argued by proponents of liberalization that labour markets must be flexible for countries to compete in the global marketplace. Yet there are those who argue the contrary. McBride and Williams (2001) note that there is little evidence pointing to such a conclusion. And in his study of labour market rigidity and economic reform in over 100 countries, Rama (2001a) concluded that high minimum wages and mandated benefits appeared not to hinder economic growth. There is therefore reason to question several fundamental arguments for liberalization — that flexible labour markets improve economic performance, that participation in the global marketplace requires flexible and liberalized labour markets, and that mandatory benefits are a deterrent to economic growth.

Welfare reform initiatives, including employment policy reform, are part of the broader liberalization agenda in both developed and developing countries. Employment policy reforms include the decentralization of responsibility for employment away from central governments to sub-national levels of government and the individual. Labour market programmes have likewise been affected. The implementation of active labour market programmes is a general trend in many OECD nations, including Canada, the United Kingdom, the United States and Australia. Active labour market programmes are intended to encourage participation in the labour market. Passive labour market programmes, typically comprised of unemployment insurance and income subsidies, are believed to be a deterrent to labour market participation.

In the 1990s, welfare reform in the United States began with the “abolition” of the right to welfare (Deacon, 2002). Key elements of welfare reform include ending “entitlement” to welfare, the requirement that recipients participate in active labour market policies, including training and welfare-to-work programmes, and limiting the time during which individuals can receive welfare. The notions of obligation and responsibility begin to emerge within American welfare policies. In their discussion of labour market programmes in Australia, Ziguras et al. (2003) note the OECD's emphasis on what they call “carrot and stick” employment reform, much like that implemented in the United States, where a system of rewards (eligibility for labour market programmes) and punishments (restrictions and lack of access to labour market programmes) aims to encourage participation in the labour market.

The idea of providing incentives for individuals to participate in the labour market is echoed in other OECD countries. Welfare reform in Canada in the 1990s focused on social security and employment insurance reform, initiatives targeting disadvantaged populations, specifically aboriginal communities, and

the devolution of labour market training to the provinces. As in the United States, Canadian reform to unemployment insurance included restricting the time period for collection of benefits, increasing the duration of employment required to be eligible for unemployment insurance benefits, and welfare-to-work programmes. Deacon (2002) writes that, heavily influenced by welfare reform in the United States, the notion of obligation and responsibility also dominates United Kingdom employment policies. In all four nations mentioned here, active labour market policies encompass a variety of initiatives but tend to include skills development, targeted wage subsidies, self-employment, job creation partnerships and training.

3.3. The impact of liberalization on the workplace and workers

The impact of globalization and liberalization on the workplace has been significant. Where once an employee might expect to maintain one job over the course of a professional life, employees today can change jobs several times. Advances in information and communications technologies have facilitated the international exchange of capital, and contributed to the rise of the knowledge economy. Improvements in automated technologies have facilitated production processes, and the harmonization of tastes and standards has changed the nature of demand for goods produced. Consumers now demand more specialized and individualized products. Specialized demand requires specialized, flexible and just-in-time production. At the same time, globalization and the opening up of markets have increased competition, putting additional pressures on business to reduce costs, raise labour productivity and increase organizational efficiency (Debrah and Smith, 2002). These strategies have meant workplace reorganization and the implementation of flexible methods of production that require a more adaptable workforce and which have had a significant impact on employees with regard to job security, wages and benefits.

In industrialized countries, traditional industries such as resource extraction and manufacturing have declined or, in some regions, collapsed completely. The rise in service sector industries in many countries has created jobs but this work is often part-time or contract-based and unstable. In developing countries, the liberalization of labour markets and the influence of international organizations and donor governments have opened labour markets to foreign investment (Debrah and Smith, 2002; White, 2004). All of these changes have important implications for workers and worker security. The result has been a rise in non-standard forms of employment, shrinking employment bases, increased unemployment as well as a decline in union strength and, consequently, labour protection (Betcherman and Chaykowski, 1996; Russell, 1999; Veltmeyer, 1999; White, 2004). In the new world of work we see employees working longer

hours, often for less pay, with less job security and less union protection, while having to engage in training to maintain and upgrade their skill levels to remain employed (White, 2004).

Although some believe that the reorganization of the labour process has been beneficial for workers, allowing for less hierarchical structures and greater input from employees, others caution that this is not necessarily so.

In both developed and developing countries, more and more employees now work in an environment where permanent and secure employment contracts are being replaced by less stable, less secure and “non-standard” forms of employment (Debrah and Smith, 2002, p. 9).

Contrary to what proponents of liberalization claim, the lack of stable well-paid employment and the loss of employee protections have left many workers vulnerable to the volatility of the labour market and have implications for labour market training as discussed below.

4. Liberalization and labour market training

4.1. Introduction

The rapid pace at which labour markets are changing, the rise of the knowledge economy and the need to compete on a global scale have led governments and multilateral organizations to stress the need for a highly educated, flexible and adaptable workforce. References to the importance of education and training are found throughout their policy documents and publications and the issue is discussed at length in the academic literature. The following quote from Human Resources Development Canada² (2002) reflects the perspective of many governments “Countries that succeed in the 21st century will be those with citizens who are creative, adaptable and skilled” (p. 5).

In his discussion on the information revolution, Courchene (2002) notes:

The most exciting feature of this new era (variously referred to as the new economic order, Neo, or the global paradigm of globalization and the

² Interestingly, the name of this department was recently changed to Human Resources and Skills Development Canada. The inclusion of skills in the title is indicative of the emphasis the Canadian Government places on skills development and training.

knowledge/information revolution) is that it is privileging knowledge and human capital in much the same manner as the Industrial Revolution privileged physical capital. As such, knowledge and human capital are not only at the leading edge of international competitiveness and wealth creation, they are also the drivers for sustainable growth and productivity enhancement (p. 1).

Training is not only believed to be the key to a successful labour market but to the success of individuals as well.

The acquisition of appropriate skills by workers is conventionally put forth by government employment departments and business associations as a simple proposition: that individuals improving their skill attributes will better their prospect of being hired in the labour market (Albo, 1998, p. 2).

The strength of the emphasis placed on education and training as the key to reducing unemployment, enhancing economic development and improving the ability of nations to participate in the global economy is perhaps somewhat overstated. However, labour market training is significant on a number of levels, not the least of which is helping people to obtain and maintain employment in a volatile labour market. Even if overstated, training remains an important component of any strategy addressing high unemployment and labour market changes that are increasing demand for adaptable and skilled employees. Thus, one of the challenges is for training to provide people with technical skills to do a particular job as well as skills to cope with a volatile and ever-changing labour market.

The liberalization of labour market training is a clear response to the liberalization of the labour market. As with other public services, government involvement in labour market training has been criticized as “rigid, inefficient and unresponsive” (Jackson and Jordan, 2000). If public provision of labour market training has failed to achieve its goals, the argument follows that private training providers are better placed to be more responsive to the needs of the labour market and employers.

The shift from government controlled training provision results from the need for training to better respond to economic and social needs, to make training flexible to meet changing demand, to ensure diversity in training, to respond to training need and to respond to the rise in non-standard work and informal employment (ILO, 2003, p. 20).

4.2. Challenges for training

There are a number of challenges to be addressed in the provision of training, whether that training is publicly or privately provided. Training should provide basic skills for the long-term unemployed and for displaced workers, particularly workers displaced from industries and jobs that did not require high levels of education or which required non-transferable skills. In the current labour market environment, in both developed and developing countries, workers must continually upgrade and develop existing skills. Training must be relevant to the labour market and be accessible to disadvantaged and at-risk groups, and should be of sufficient quality to ensure that people are, in fact, employable.

4.3. Trends in labour market training

Partnerships and responsibility

Partnerships and the involvement of business and industry in training decisions and provision are significant developments in labour market training in both developed and developing countries. These partnerships involve governments, the private sector, non-governmental organizations, labour unions, employer associations and, in developing countries, donor agencies. The increased participation of business and employer associations in training is said to ensure that training meets the needs of the local labour market, because they are best placed to understand the changing requirements of industry and individuals (ILO, 2003).

In developing countries, partnerships between the private sector and donor and recipient governments are growing. NGOs, with the encouragement of many donor agencies, are becoming more involved in the provision of training. Again, it is a matter of local knowledge. NGOs are believed to have greater knowledge of the local area and thus are best placed to meet local need.

The increased involvement of business and industry in the provision and planning of labour market training is, on the one hand, a positive development in that their participation can help ensure the relevance of training to the local labour market. In the United Kingdom, for example, a National Employment Panel of employers provides the Government with advice on the labour market (Department for Work and Pensions, 2002). In addition, with the withdrawal of public financing for training, investment in training by the private sector becomes more important. It may be that by involving employers in decisions that affect training, they may be more likely to invest in training for their employees.

However, this has generally proved not to be the case. While business and industry are taking on a greater role, they tend to view training in terms of short-term costs rather than in terms of the benefits of long-term employee development. Firms are reluctant to invest in training because the benefits are not always immediately seen. Employee poaching is another disincentive (Vickerstaff, 1992). Why would firms invest in training their employees when there is the possibility that the investment will be lost and benefit competitors instead?

The privatization of labour market training has been accompanied by the devolution of responsibility for training to local authorities. It is argued that local authorities, like private industry, have greater knowledge of the local labour market and of the training needs of their constituents. In many cases, local institutions are given autonomy and accountability within a framework of national policy, priorities and targets (ILO, 2003).

The composition of labour market training

The volatility of the labour market has implications for what labour market training should look like. To keep pace with change, training should be specific to the local labour market and the particular skill needs of learners. The provision of training that does not match these skill needs and the labour market is an inefficient use of resources and does nothing to further the employment prospects of the unemployed.

For the most part, governments maintain a measure of control over training priorities and financing but contract out the supply of training to private providers. Quasi-training markets have developed in some countries, notably the United States, the United Kingdom and Australia (Anderson, 2000; ILO, 2003). The private provision of training coupled with government oversight is believed to maintain equality of provision while improving the efficiency and responsiveness of training. Though this is relatively rare in OECD countries, the state does still provide training in some developing countries. However, there is a trend towards public/private partnerships in the provision of training similar to those in OECD countries, with the addition of donor agency participation (Kiong, 1997). Labour market training has thus been largely privatized in developing countries but that training is generally provided within a framework agreed upon by governments and donor agencies (ILO, 2003).

The composition of labour market training programmes varies from country to country. Generally, however, in both developed and developing countries, public/private sector partnerships, which include NGOs (and donor agencies in developing countries), plan and deliver labour market training. These partnerships can work in a variety of ways: public and private sector input into

decision-making; publicly funded but privately delivered training; and training that is publicly funded and delivered, as in some developing countries. In some instances the provision of training can be said to be quasi-public where NGOs receive public funds to deliver training or where government agencies operate on a for-profit basis, as in the United Kingdom.

The emphasis of labour market training takes different forms in developed and developing countries. In developed countries, particularly those of the OECD, the focus is on training to keep older workers in the labour market, primarily through the promotion of life-long learning. However, in one United Kingdom economic development initiative designed to address the problems facing former mining communities, the training emphasis is on the youth of these communities and not on workers displaced by mine closures (White, 2004). In developing countries, the greater focus is on skill development for youth to enter the labour market, more specifically, the provision of basic skills and education to meet the immediate needs of the labour market (Auer et al., 2005).

Labour market training in the United States is often held to be the quintessential model of privatized labour market training, with a “loosely coordinated, locally administered, strongly market-driven approach responsive to training needs” (ILO, 2003, p. 21) and provision by the Federal Government of incentives for capacity building. Broadly speaking, however, the general framework for labour market training across both developed and developing countries appears to take the following form as in Table 6.1.

Table 6.1 Areas of activity in labour market training

Actors	Responsibility/area of activity
Governments, International organizations and donor agencies	<ul style="list-style-type: none"> ▪ Priority setting. ▪ Some involvement with curriculum development (especially development projects). ▪ Financing. ▪ Consumer protection. ▪ Ensuring training is demand driven.
Private sector and NGOs	<ul style="list-style-type: none"> ▪ Decisions on training demand. ▪ Some or complete involvement with curriculum. ▪ Training provision.

4.4. Issues and concerns

Access and equity

Private provision of labour market training is challenged on a number of levels. Of particular concern are access and equity. Due to the nature of private provision, which is driven by profit, it is doubtful whether equity can be ensured. "Private providers tend to confine themselves to training that requires low capital and little infrastructure and to focus on urban areas and on commercial services" (ILO/PSI, 2005, p. 10). Market-oriented policies, according to critics, undermine equality and serve to create training opportunities only for the few who are in a position to take advantage of it (Auer et al., 2005; Jackson and Jordan, 2000; Vickerstaff, 1992; White, 2004). Because market-driven training does not necessarily ensure equality of access, public intervention and financial incentives are required if training is to reach disadvantaged and at-risk groups (ILO/PSI, 2005). Harkin (1997) notes that the 20 per cent most highly trained people in the United States received 70 per cent of training investment. In this respect, training can be socially selective. Whether because of education levels, socio-economic status, ethnic background or disability, some have greater access to training than others. There is therefore a real risk that the private provision of training, particularly if the motivation is profit, will be exclusionary.

[The] process of social selection favors those best able to learn and to adapt quickly to new demands at the workplace. Whereas this process works to the advantage of young, highly qualified persons and hastens their social integration, it works against older employees with lower levels of qualifications and puts them at risk of social exclusion through job loss (Schömann, 2002, p. 210).

If those who have education and training are "privileged" when it comes to upgrading, one needs to ask where this leaves those without such privilege.

Apart from questions of access and equity, there is the question of whose demand is better met through privatization (Skinner et al., 2004). While there has been some improvement in responsiveness in Australia, for example, that responsiveness has been to the needs of employers' rather than learners (Anderson, 2000). Moreover, the individualistic nature of liberalized labour markets and labour market training policies (Albo, 1998) leaves decisions to invest in training largely to the individual. One implication is the potential development of a polarized labour market wherein lower income workers and the unemployed cannot afford to invest in training, thus leaving them on the periphery of the labour market (White, 2004).

Investment and objectives

Investment in training and who makes that investment is another problematic area. The liberalization agenda has called for governments to reduce spending. Consequently, there have been calls for increased investment on the part of business and industry but, as was noted in the previous section, employers are hesitant to invest in training due to the lack of immediate and short-term returns. In a volatile and ever-changing labour market with high employee turnover, there is little incentive for employers to invest in training.

A balance is needed between training supply and demand. If there are no jobs, training is unlikely to enable displaced workers and the long-term unemployed to enter the labour market. This is a particular problem for many developing nations (Auer et al., 2005). The lack of employment opportunities makes training moot, especially if the specific goal of training is to get people into the labour market. "Would it not be wise to hold back labour market policy action until effective macroeconomic and microeconomic policies have created sufficient demand to absorb the supply?" (Auer et al., 2005, p. 2).

Local actors and private providers may also follow their own agendas in the planning and delivering of training (ILO, 2003; Jackson and Jordan, 2000). Local authorities may pursue objectives on the basis of furthering their political power and focus on priorities that run counter to those of national governments. Thus, the potential exists for disconnect between national economic development goals and labour market training. Private trainers may be more interested in training that produces revenue. Training based on profit may not always be relevant for learners or the labour market or in line with economic development goals at national or sub-national levels. In pursuing more lucrative training, private providers may be more concerned with recruiting wealthier clientele at the expense of the unemployed, displaced workers and disadvantaged groups. Osborne and Turner (2002) note that private training providers in Scotland prefer to recruit corporate clients.

Quality and coordination in labour market training

The privatization of labour market training presents a potential problem with regard to the quality of training and training outcomes. Anderson (2000) notes that both have suffered in Australia. As pointed out throughout this discussion, the relevance of training to available jobs is paramount if individuals are to participate in the labour market. Just as important is the quality of that training. The provision of low quality training unrecognized by employers will do little to ensure labour market participation.

Administration and coordination represent another area of concern. The decentralization of responsibility for and the provision of training to local

authorities and the private sector means involving an increasing number of actors. Without an effective regulatory and management framework and solid accountability structures, the quality of training can be adversely affected. Employers may be reluctant to hire workers trained under a system where the quality of training is in question. Writing on the Canadian situation, Torjman (2000) notes that there is no coordinated approach to training or employment policy. She attributes the lack of coordination largely to philosophical shifts that underlie income security programmes, which put the onus of training on the individual, and leaves workers to their own devices to search out potential training providers.

This policy context is problematic not only because it leaves out many people who require guidance and additional support. It is also a problem in a knowledge-based economy in which well-trained human resources are the key to success for both workers and employers. A haphazard, uncoordinated patchwork quilt will not create the kind of targeted, high-quality skills required in a rapidly evolving knowledge economy (Torjman, 2000, p. 4).

While government intervention in labour market training is widely perceived as problematic, Albo (1998) argues that government provision failed because the agenda was too broad, encompassing everything from planning and regulation to delivery. On this view, public provision can be successful if training objectives are clear and responsive to labour market demand.

Economic development and labour market training

Finally, whether labour market training improves employability and facilitates access to the labour market, in and of itself, is questioned (ILO/PSI, 2005). This is particularly so for economically depressed regions and countries. Concurrent investment in economic development and job creation *is* key if labour market training is to be successful, regardless of whether it is privately or publicly provided (Auer et al., 2005; White, 2004).

5. Conclusion and recommendations

A key finding of the research conducted for this chapter is the paucity of empirical and theoretical research on the liberalization of labour market training. Thus there is a need for further research, particularly in the case of developing countries (Bennell, 2000). Given the considerable importance of training for so many, understanding the implications of liberalization is essential.

In the light of the ideological and political shifts that have occurred over the past 30 years, and the fact that liberalization is a top priority for many

governments and international and multilateral organizations as well as donor agencies, it is unlikely that the liberalization of labour markets and labour market training will be reversed in the near future. Though it is much debated, there are those who believe that governments are powerless to resist the pressures of liberalization (McBride and Williams, 2001). Nonetheless, governments do retain a measure of autonomy in how they implement liberalization policies and they can play an effective role in mitigating the potentially negative effects.

If the nature of the labour market lends itself to high employee turnover rates, if employers are reluctant to invest in training, if governments remove themselves from the provision of labour market training, and if liberalization leaves much of the decision to undertake and invest in training to individuals, where is the incentive to train? Who will ensure that the most vulnerable, those most in need of training, actually receive it? If it is indeed the “privileged” who have the greatest access to skills development and upgrading, and there is sufficient research to indicate that this is so, a top priority for governments should be to ensure access to labour market training for displaced workers, the long-term unemployed and those most at risk of remaining outside the labour market. The organization of labour market training in many jurisdictions does indicate that governments have retained a role in ensuring that training is accessible to all. This should continue and, indeed, be strengthened.

For labour market training to be effective, it must be relevant to the local labour market. Local actors are well placed to know the needs of the local labour market and their constituents. Nonetheless, given the potential for such actors to pursue their own agendas, governments need to implement measures to ensure that labour market training is relevant to both local and national development goals. If national governments follow one development path and local actors another, what is the potential for successful labour market training? If there is a disconnect between the two agendas, there are implications for long-term economic development and the role labour market training can play in preparing people for employment.

Not only is it important for training to be relevant to the local labour market, there must be available jobs for training to lead to labour market participation. This is particularly salient in regions and countries with weak economies. What is the point of training if there are no jobs? Simultaneous economic development and job creation must be a priority.

The issue of quality is another area of concern. Ensuring the quality of training and the employability of trainees require effective regulatory mechanisms. Whether through national or local accreditation bodies, employers need some measure of assurance that they are employing individuals who can do the job for which they have been trained.

Involving business and industry in decisions that affect labour market training can help to ensure its relevance and recognition. However, employers are still hesitant to invest in training. The liberalization of training, and the reduction, in some countries, of government investment in and financing of training, can result in an investment gap. Measures should be taken to encourage the participation of business and industry beyond the planning level to include investment.

Accountability, coordination and administration have been highlighted as potential problem areas for the liberalization of labour market training. Effective measures to ensure all three are required, whether those measures are nationally or locally based or a combination of the two. A combination of national oversight to ensure broad goals and objectives are met, coupled with local administration that ensures local relevance within a strong and effective accountability structure, would seem the best way of preventing development of an ad hoc and piecemeal system of labour market training. The ILO (1999) states that governments have a role to play in providing the foundation for training through national policy, securing investment in training, preventing exploitation and ensuring access. A solid framework that enables governments to pursue this role can do much to address the criticisms and mitigate the potential problems.

Training remains an important ingredient in meeting the challenges presented by economic restructuring, development and globalization. The provision of training that is relevant and able to keep pace with economic restructuring is key if workers and the unemployed are to maintain and secure participation in the labour market. Nonetheless, it is necessary to question the liberalization of labour market training, to be aware of its political and ideological foundations, to examine whether liberalization contributes to inequity and whether it is, in fact, the most effective means of reducing unemployment and ensuring labour market participation, particularly for those who are disadvantaged.

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SECTION V:
CRIMINAL CARE
SERVICES

IMPLICATIONS OF PRISON LIBERALIZATION ON CORRECTIONAL WORKERS' SOCIO-ECONOMIC SECURITY

7

by Julie Berg¹

1. Introduction

The liberalization of prisons has taken place due to a number of political and economic developments in the United States, United Kingdom and Australia that are not necessarily consistent with workers' socio-economic rights, prisoners' rights and the wellbeing of the public. Private corrections corporations have fairly recently shown an interest in expanding the market in developing countries. However, developed and developing countries face different challenges when opting to liberalize their prisons. Prison privatization in South Africa is simultaneously beneficial and damaging. Similarly, the move to privatize Lesotho's prison system brings with it new challenges unique to developing countries.

Post-Second World War changes in political ideology and global spending, related to the adoption of neo-liberal policies and practices, have had a considerable impact on the public provision of services in developed and developing countries. Many state services, from garbage collection to public transport, have been and are being delegated to private entities in many countries. A number of First World countries involved in this "drive to

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privatize” since the 1980s have identified the criminal justice system as a novel area to introduce liberalization policies — that is, the free entry or opening up of services, once the sole responsibility of the state, to business principles and competition.

Although the involvement of commercial interests in penal systems has a long history in many countries, there has been a resurgence over the past three decades. Various factors associated with neo-liberalism have contributed to this. Wacquant (1999) summarizes these changes in a nutshell, defining the post-Keynesian movement prevalent in First World countries as the “withering away of the economic state, diminution and denigration of the social state, expansion and glorification of the penal state”.

The drive to privatize prisons initially consisted of the contracting out or outsourcing to private companies of peripheral or ancillary prison services such as health care and catering. This progressed to the privatization of immigrant detention centres and halfway houses. Eventually, private for-profit companies were bidding for the design, financing, construction and operation of adult maximum-security prisons, resulting in the systematic use of private prisons in countries such as the United States, the United Kingdom and Australia.

Only fairly recently has prison privatization been implemented by a developing country, South Africa. Since the opening of private correctional facilities in South Africa, the privatization of prisons in other African nations has been on the agenda of private companies and governments. Although various problems have been identified in First World countries, the long-term effects of privatizing prisons in developing countries such as South Africa remain to be seen.

This paper aims to review the academic and political debates, to consider issues that have arisen and incidents that have occurred in private prisons globally, to determine the nature of the working conditions experienced by correctional officers in private prisons, and to assess the impact on prisoners, the public and the public sector in the countries mentioned. The recent proposal to privatize Lesotho’s entire prison system and its implications will also be discussed.

A number of hypotheses will be addressed:

Certain political and economic “drivers” have resulted in the liberalization of prisons in the United States, United Kingdom and Australia.

- The liberalization of prisons in these countries through outsourcing prison services, contracting out prison labour and, especially, privatizing prisons has had a marked impact on prisoners, private and public corrections workers, and the public.
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- This impact has been largely negative since prisoners' rights, correctional workers' socio-economic security and communities' safety and security have been eroded by the increased state delegation of prison services and general commodification of incarceration.
 - The liberalization of prisons in South Africa has only recently taken place. The full operational privatization of two of its prisons has had positive and negative impacts on prisoners, private and public corrections workers, and the community at large.
 - The mostly positive impact reflects the current condition of South Africa's public prison system and other aspects unique to South Africa as a developing post-apartheid country.

A large number of sources were consulted, including books, journal articles and commissioned reports. Extensive internet searches were conducted for this purpose, as well as to locate resources from websites focusing on prison privatization. Due to the inadequacy of information obtained from the literature review on South African prison privatization, an inspection manager from South Africa's Judicial Inspectorate of Prisons was contacted and asked to respond to a questionnaire.² Most of the questions were answered by the respondent based on first-hand experience of the internal workings of the private prisons as well as information obtained through the inspection process. The respondent also corresponded with a controller of one of the private prisons for the purposes of confirming some of the information provided to the author and requesting further information for the purposes of answering the author's questions.³

2. Developments in the United States, United Kingdom and Australia

Political interest in the use of private prisons first emerged in the United States in the 1970s and 1980s. The first federal private prison was established in 1984 and the first state private prison in 1985 (White, 2001). By 1991, private companies operated 60 secure adult facilities in 12 states, already then a

² According to the Correctional Services Act 111 of 1998 the "object of the Judicial Inspectorate is to facilitate the inspection of prisons in order that the Inspecting Judge may report on the treatment of prisoners in prisons and on conditions in prisons".

³ Subsequent referrals to the information gained from M. Mentoor, Inspection Manager, Judicial Inspectorate of Prisons, will be referred to as "Interview with Judicial Inspectorate, 19 Oct. 2004".

USD200 million industry. These facilities housed 20,000 prisoners, 3 per cent of the US prison population. By 1994 the number had reached 30,000 prisoners out of a total of over a million (Cox and Osterhoff, 1993; James, Bottomley, Liebling and Clare, 1997). In late 1996 the number reached 78,000 — 5 per cent of the total prison and jail population (Harding, 1998). By the end of 2002, of the approximately two million people incarcerated in American prisons, 93,770 prisoners were housed in 154 private facilities, 6.5 per cent of the total prisoner population (Mattera, Khan and Nathan, 2003). The rapidity with which the private sector has become involved in corrections is also demonstrated by the rise in private sector revenues, from USD650 million in 1996 to USD1 billion in 1997 (McDonald et al., 1998). In October 1997, the most active private company in the United States was the Corrections Corporation of America or CCA, which had shares worth about USD3.5 billion.

By 2000, according to Bureau of Justice statistics, 31 states advocated the use of prison privatization, two states had barred their use (Illinois and New York) and the rest lacked statutes or regulations covering private prisons (Wood, 2003, p. 19). In mid-2003, the CCA managed 49 per cent of all US private prison beds, operating 65 facilities, Wackenhut Corrections Corporation managed 21 per cent, Management Training Corporations 9 per cent, Cornell Companies 8 per cent and Correctional Services Corporation 6 per cent (Mattera et al., 2003).

There are about 185 private prisons worldwide, 30 or so of which are outside the United States including nine in the United Kingdom (Corby, 2002). The total prison population of all these facilities is about 143,770 (Mattera et al., 2003). CCA and Wackenhut Corrections Corporation (known since November 2003 as the Geo Group), the two dominant companies in the United States, were pioneers in moving into the international market soon after the establishment of private prisons in the United States in the 1980s. However, the CCA withdrew from the international market in 2000. Currently a number of private corrections companies operate in the international market. They include both American and European companies such as Management and Training Corporation, Group 4 Falck, Sodexo and Securicor (Nathan, 2003).

3. “Drivers” for liberalization

Political developments

Problems with governments’ management of the criminal justice system and the public’s increasing fear of crime inspired the move towards

privatization. Many western governments were experiencing fiscal crises, which Nina and Russell (1997) attribute to neo-liberal programmes instituted to cut back on public service spending. Growing public debt and economic recession, stemming from Keynesian welfarism in the United States, United Kingdom and Australia, meant there simply were not enough funds to provide services effectively and efficiently (O'Malley and Palmer, 1996). The state-sponsored criminal justice system in these countries was accused of being inefficient, ineffective, discriminatory (over-representing minority groups) and over-centralized.

Governments opted for privatization not only in the hope of curtailing these problems, but to lower state expenditure while at the same time maintaining control. Or so the argument went. This was the politically attractive thing to do and, after all, surely the private sector could do no worse? While privatization was not a panacea, its flexibility, innovativeness, high level of competition and weak unions would guarantee at least some degree of efficiency and effectiveness (Matthews, 1989). The ever-growing power of public employee unions (including prison guard unions), particularly in the late 1970s, provided an incentive for governments in all three countries to create a parallel system of privatization that would curb union strength. As a result, these unions (especially prison guard unions) expended resources to fund political activities in an attempt to maintain existing public provision of services and systems of monopoly (Parenti, 2003).

United States

Around the mid-1980s the United States was experiencing severe problems with its prison system. The prison population had been increasing rapidly since the mid-1970s, and overcrowding was a major problem, contributing to unsatisfactory conditions within prisons. By 1986 the prison population was triple that in 1973, and it was growing about 15 times faster than the general population. To keep up with this surge, about seven new 500-bed prisons were needed each month (McDonald et al., 1998).

Many factors contributed to the soaring prison population. These included:

- changes in sentencing practices spurred by America's anti-drug programme, led by the state of New York and followed by many others. New York's governor at the time boasted of "the toughest anti-drug programme in the country" (Rockefeller in Schlosser, 1998, p. 56);
 - Truth in Sentencing, requiring that prisoners serve at least 85 per cent of their sentences (Bender, 2000);
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- the “three strikes” mandatory life sentence legislation (first passed in the state of California in 1994) and “tough on crime” legislation (James et al., 1997; Schlosser, 1998; Sinden, 2003).

The American prison system collapsed as a result, prompting court orders against 40 states to reduce their prison populations due to severe overcrowding. Overcrowding averaged 31 per cent at state facilities and 45 per cent at federal facilities (Blomberg, Yeisley and Lucken, 1998).

Many have attributed this population surge to the prison-industrial complex prevalent in the United States, also known as the corrections-commercial complex. The prison-industrial complex is an alliance of interests from the public and private sectors, forming a sub-government influencing correctional policy. According to Schlosser (1998) the prison-industrial complex is:

...a set of bureaucratic, political and economic interests that encourage increased spending on imprisonment, regardless of the actual need. It is a confluence of interests that has given prison construction an unstoppable momentum (p.54).

Those profiting from this lucrative market include politicians, residents of impoverished rural areas, private companies and government officials. “The sale of an existing prison would generate proceeds that a politician could then use for initiatives that fit his or her agenda, possibly improving the chances of re-election” (quoted by a representative from PaineWebber in Bates, 1998). To this end, not only have private corporations cultivated relationships with politicians through campaign contributions but the American Legislative Council (ALEC), a powerful group promoting a conservative agenda and influencing sentencing policy, has actively lobbied for prison privatization (Bender, 2000). The CCA has been a corporate member of ALEC, thereby influencing the demand for its services by encouraging the greater use of incarceration. The company has also made large donations of up to USD100,000 to the Republican Party and made Political Action Committee contributions to members of Congressional committees, thereby building relations with legislators (Mattera et al., 2003).

Coupled with these criminal justice developments has been declining faith in the ability of largely monopolistic governments to provide public services effectively and efficiently. This has prompted efforts to reduce the size of the public sector. Only in the past 50 years have Western governments taken on ever-greater responsibility in their nations’ economic affairs (Hanke, 1985). Macroeconomic planning and management became the order of the day, with growing budgets for the public sector. Large budgets were needed to meet the requirements of society for welfare, infrastructure and a whole range of services, as well as for military needs. With this constant growth in government

responsibility came growing concerns about the size of government, and particularly about the increasingly high taxes required to finance these budgets. As a result, the 1980s saw middle-class tax resistance, the implementation of tax reforms by neo-liberal governments, as well as a new faith in privatization in the United States and United Kingdom (Wood, 2003).

United Kingdom

In the United Kingdom, the penal crisis was a major factor influencing the privatization of prisons. As in the United States, trends towards harsher sentencing and longer prison terms had led to a steady rise in the daily prison population. Home Office attempts to solve the overcrowding problem were unable to keep pace. The prison-building programme initiated in 1979 could not alleviate the immediate problem, as construction usually took about 10 years. Instead of re-assessing sentencing policy, the government turned to the private sector for advice on how to accelerate prison construction (Rutherford, 1990).

The privatization programme was also fuelled by “New Right” thinking based on free-market economics and libertarianism (James et al., 1997; McDonald, 1990). These developments were accompanied by an increase in lobbying from various pressure groups such as the Adam Smith Institute as well as interested businesses and Conservative politicians, advocating prison privatization not only for ideological purposes but also for business advantage (James et al., 1997). In fact, the business sector was active in trying to influence and persuade the government to endorse prison privatization.

Australia

The Australian government was also faced with rising prison populations due to a change in political stance and the adoption of Truth in Sentencing legislation. Financial problems arose and prison staff became politically hostile. Privatization was seen as a viable solution to problems of inadequate facilities, a shortage of staff, lack of staff training and the need for improved management practices. US experience was influential in privatization developments in Australia. The government first considered the privatization option in 1988 after a meeting with the CCA, and consortia were developed with links to the United States. Many Americans were recruited to key management positions in Australian private prisons (James et al., 1997).

Economic developments

The appeal of private sector involvement in US prisons was obvious. The American public was discontented with the huge budgets needed to improve the quality of services and construct new prisons, even though this is what they demanded from the government.⁴ The system was not working and the taxpayer was paying the price for an ineffective penal system. A tax revolt was followed by a spate of lawsuits challenging the state of the prison system (Fenton, 1985; Camp and Camp, 1985; Camp and Gaes, 2000). The financing, construction and operation of the prisons needed to be handled as cost-effectively as possible.

Government efforts to raise the necessary funds to build more facilities were mostly in vain. Out of necessity, financially burdened states opted for an alternative — private sector finance and operation (Borna, 1986). In addition, Wall Street investment banking firms recognized the investment opportunities in corrections. American Express and General Electric have both invested directly in prison construction (Cox and Osterhoff, 1993; Samara, 2000), and entrepreneurs took advantage of the situation to canvas support for prison contracting business.

In fact, a major incentive for the selling of prisons to private corporations is “free money” (Bates, 1998). The US prison system consists of three levels of authority overseeing federal prisons, state prisons and local prisons. Federal prisons are funded by general taxation, but state and local prisons are funded by local revenues and other taxes (Foley-Jones, 1994). However, at the peak of the American penal crisis, state and local authorities were subject to limits on spending, revenues and debt (Camp and Gaes, 2000), and were constricted in the amounts they could borrow from state revenues for new projects (Ryan and Ward, 1989). For a large project to be funded (especially a new prison), money had to be raised on the market by bond issues, which first had to be approved by voters. In 1981 New York voters rejected a USD500 million Prison Construction Bond Issue, and in Colorado, a USD30.2 million budget for a new jail was twice rejected by voters.

As Harding (1998) puts it, raising so much money for prison development was political suicide and very few states were willing to go against a public outcry. Therefore the hazards of issuing bonds for financing prison construction

⁴ Total US expenditure on prisons (federal and state) was USD6 billion in 1984 and USD20 billion in 1990 (James et al., 1997).

had to be minimized by avoiding public scrutiny. The private sector could bypass red tape and other delays in financing, as well as manage prisons so as to reduce unnecessary expenditure. The private sector workforce would be more controlled and, being less unionized and less secure, could be hired or fired according to productivity and without civil service constraints (James et al., 1997).

In the United Kingdom, the corrections system, which is the primary responsibility of the Home Office, is centralized and funded by public revenues (Foley-Jones, 1994). Thus the need for corporate funding was not as important as in the United States (Lilly and Knepper, 1992; James et al., 1997), though a Private Finance Initiative was launched in 1992 to promote the use of private finance by government departments (James et al., 1997).

Australia falls somewhere between these two countries: the prison system is financed by the government through general taxation, as in the United Kingdom, but the organization of prisons is fragmented, as in the United States. Since the government is ultimately responsible for prison funding, private companies have approached it on a number of occasions to become systematically involved in the various states.

World Bank and IMF policies

Another motivation for the increased use of privatization has come from the International Monetary Fund (IMF) through its stabilization policies, which have pushed countries to reduce public expenditure. The World Bank and the US Agency for International Development have created an environment conducive to privatization simply by being open to partial/complete privatization programmes, thus encouraging other major international organizations — and multinational companies — to follow suit.

At the international level, attitudes heretofore dominated by interventionists have begun to be influenced, to some extent, by those who advocate less state ownership and intervention. This has been reflected in works sponsored by the International Monetary Fund and the US Agency for International Development (AID). In addition, the World Bank's World Development Report 1984 includes free market analyses of the LDCs' (less developed countries) economic development problems (Hanke, 1985, p.4).

4. Types of private sector involvement in prisons

The private sector may finance and construct prisons, operate juvenile facilities, operate adult facilities, provide work for prisoners and/or provide

contractual services such as education or health care (Lilly and Knepper, 1992). The thrust of the privatization debate revolves around the ownership and management of adult facilities by the private sector, which has been involved in various ways in juvenile corrections and service provision without noticeable criticism. This section will discuss the four types of private participation in adult corrections: private involvement in the prison industry; private sector design, finance and construction; contracting out services; and private management of correctional facilities.

Private involvement in the prison industry

A private company or entrepreneur may be asked to establish and manage prison-based industries. Public-private partnerships may be created where the company pays the government a minimum wage or “cut-rate price” to hire inmates to produce low value-added goods and services (Wood, 2003, p. 19; Sinden, 2003, p.40). Prisoners may also be hired out as contract labour (Ryan and Ward, 1989). This is the most established form of private involvement, with a long tradition in American corrections. Renewed interest in hiring out prisoners derives from the fact that inmates are trained and provided with work — not only encouraging rehabilitation but also reducing costs for administrators and the public at large (Saxton, 1988). However, there is much controversy surrounding the use of prison labour. According to Wacquant (2000):

... there is presently mounting financial and ideological pressure, as well as renewed political interest, to relax restrictions on penal labor so as to (re)introduce mass unskilled work in private enterprises inside American prisons ... putting most inmates to work would help lower the country’s “carceral bill” as well as effectively extend to the inmate poor the workfare requirements now imposed upon the free poor as a requirement of citizenship (p. 385).

Prisoners in the United States do not belong to unions (unlike in countries such as Sweden and Norway), they do not receive any benefits, such as workers’ compensation, health insurance or leave, and receive very low pay (Van Wormer, 2003). They have no say in this matter since the government and the relevant private firm negotiate on the wages to be paid (Joel, 1993). For example, in California, inmates making clothing are paid from 35 cents to USD1 an hour and in Ohio inmates are paid 50 cents an hour for data capturing (Sinden, 2003). Moreover, women inmates in US state and federal prisons are paid less than their male counterparts, typically 15-30 cents an hour (Van Wormer, 2003).

Inmates receive less than half of this minimum wage, with the rest allocated for incarceration costs and victim restitution (Light, 2000). Prison accommodation has also been commercialized, with inmates now required to pay their way by working for the government. In 1981 Best Western International won the contract for a prison labour programme in the US state of Arizona. From 1981 to 1985, 30 inmate labourers contributed approximately USD112,000 to their families. But they also paid taxes of USD182,000 and contributed USD187,000 for bed and board (Joel, 1993). Prisoners “opting” to work, and working to the satisfaction of the private company, may be rewarded by an accumulation of “good time”, which involves the subtraction of days from the total sentence (Van Wormer, 2003). Therefore the number of working days accumulated becomes a form of extortion since prisoners are further compelled to engage in low-paying menial work.

It has been argued that inmates are provided with skills and training that should benefit them upon release. However, the management and training of inmates are the responsibility of the private firm. It may choose not to provide adequate accredited training, the costs of which could eat into profits. Maintaining the labour supply for the prison industry may be favoured over and above rehabilitation programmes and/or vocational training, and any training an inmate receives may not be regarded as an asset when seeking employment on the outside (Kinkade and Leone, 1992). The value of inmate training and skills development then becomes exclusive to the prison environment, possibly at the expense of an inmate’s choice to work or not to work.

Low-paid, non-unionized unskilled labour is also a threat to labour unions, whose work in the affected sector is undercut by cheaper prison labour. In the United States, goods made in prisons were initially only utilized by a state agency. Now prison goods are generally distributed, thereby competing directly with manufacturers. Smaller companies in particular may be driven out of business with consequent job losses (Van Wormer, 2003). Lochart prison in Texas, run by Wackenhut, housed three private manufacturing companies, one of which was Lochart Technologies making circuit board assemblies. After a new factory was built using prison labour, the owner of Lochart Technologies closed down a plant in Austin with the loss of 150 jobs. The manufacturing equipment was moved to Lochart, where minimum wages could be paid to prisoners (Alterman, 1996).

Another aspect of prison labour that directly affects corrections workers is the increased risk to their safety and security from inmates’ possible access to tools and weapon-like implements. The fact that inmates may work outside the prison also allows for less control over inmate groups and may be conducive to inmate-on-inmate and inmate-on-staff violence.

Private involvement in correctional construction

This form of privatization usually entails a private company building a prison, possibly subcontracting construction to a construction company, and then renting it to the government. The government provides its own staff and manages the prison like any other (Ryan and Ward, 1989). This is a lease-purchase arrangement, under which the private company builds the prison and the government signs a long-term lease. The initial rent paid by the government funds the construction and, when the debt has been repaid, the government receives title to the building. The government benefits from faster (and possibly cheaper) design and construction of prisons. The private company receives a cash flow from government payments and tax advantages.

The private sector may also finance prison construction. Thus a private company may design, finance and construct a correctional facility. Private companies can raise funds quickly and the private company is less constrained in choosing a site (governments may be hampered by red tape) as well as building materials, construction companies, architectural firms and so on. Private companies may also choose a site, design and build a facility “on spec” in the hope that the building will be needed by the government and contracted for its use (Leonard, 1990, p.69). Leonard refers to the financial ownership of a prison facility by the private sector as “nominal privatization”. Even though a private company may be responsible for all aspects of the construction process, it is not involved in the internal operations of the facility.

The use of private companies to construct prisons on their own account is clearly open to abuse. They may skimp on building materials and security (such as not building guard towers) to save on expenses. Occasionally, prison labour may be used for building work, although this is unusual since prison labour usually consists of in-house workshop activities. In 1993 the Louisville Courier Journal found that the US Corrections Corporation was abusing prison labour. Unpaid inmates were being forced to undertake construction work on buildings at Lee County Prison, Kentucky, as well as construction and renovation work on churches attended by employees, renovation work on an employee’s game-room business, painting and maintenance of a country club, and painting of a private school attended by the prison warder’s daughter (Schlosser, 1998).

Contracting out services

This is the most common form of privatization whereby the private sector provides what Cavadino and Dignan (1997, p. 153) call “ancillary services”.

These services do not form part of the core function of imprisonment but nevertheless this is a lucrative market, worth over USD1 billion in 1995 (Wood, 2003). Services that can be contracted out include catering, laundry, garbage collection, education, transport, communications, medical and psychiatric treatment, drug treatment, counselling, staff training and administrative duties (Saxton, 1988; Wood, 2003).

Although these services are regarded as “ancillary” they are fundamental and necessary to the smooth running of the prisons. The reality is that “private prisons make money by cutting corners, which means skimping on food, staffing, medicine, education, and other services for convicts” (Parenti, 2003, p. 36).

Neglect of these services can result in a number of security and related problems. For example, if a company receives a fixed annual stipend for private provision of healthcare it reaps a financial reward by skimping on health services to inmates (Sinden, 2003). There have been innumerable incidences of prisoners not receiving medical care at all or not receiving care in a timely manner, resulting in needless suffering, chronic illness or even death. At a private youth facility in Maryland medical personnel were reportedly practising with expired licenses and the waiting period for drug treatment was three months (Alexander, 2003). Long waits for drug treatment and restrictions on treatment available to inmates perpetuate drug dependency and contribute to drug smuggling, drug-related violence and a general threat to the security of inmates and correctional officers.

The use of payphones by inmates is another lucrative market often subcontracted to private companies. In New York, USD21 million in commission was earned from prisoner phone calls in 1997, USD18 million in California and USD14 million in Florida (Coyle, 2003). Prisoner phone calls generate about a billion dollars annually and are also open to abuses. For instance, a private phone service, MCI Maximum Security, was installed in all prisons in the state of California at no charge, with the California Department of Corrections receiving a 32 per cent share of revenues. However, it was discovered that MCI Maximum Security and another company, North American Telecom, were overcharging for calls made and MCI in particular was adding an extra minute to each call (Schlosser, 1998).

The prison environment can be greatly affected by shoddy service provision, leading to inmate dissatisfaction, violence and even rioting, thereby reducing the safety of inmates and correctional officers. Poor healthcare systems and catering can also spread disease amongst inmates and correctional workers as well as local communities (see below).

Management and operation of correctional facilities/“operational privatization”

A private company may be contracted to build, staff and manage a prison, entirely or in part. The government relinquishes the running of the prison to the private company, but remains responsible for assigning the contract and monitoring performance, in addition to retaining its policymaking function (Cavadino and Dignan, 1997). Leonard (1990) calls this “privatization of incarceration in the fullest sense” or “operational privatization”.

This is the most controversial form of private involvement in prisons. Private funds are raised as part of a leaseback and management contract, whereby the private company buys and manages a new prison and leases it back to the government. The government avoids legal problems by issuing “certificates of participation” or shares to the private firms, in the process indulging in what has been described as “creative financing” (Harding, 1998, p.629; McDonald, 1996, p.32). In the United States, a state will issue a request for proposals setting out the criteria and qualifications expected of a private firm. Companies wishing to take on the contract are then assessed according to experience, staff qualifications, and previous programmes implemented and financial history. After the bidding process the state selects a firm, negotiates a contract and settles the amount to be paid based on a per diem fee for each inmate (Joel, 1993).⁵

5. Impact on correctional officers

United States

As a result of privatization developments, an anti-privatization movement emerged in the United States in the mid-1980s, consisting of senior Federal Bureau of Prisons personnel, the American Federation of State, County and Municipal Employees (AFSCME) and the American Civil Liberties Union amongst others (Lilly and Knepper, 1992). Public sector employees feared the loss of employment and benefits and the National Sheriffs’ Association, in particular, was aggrieved by the lack of proper financing for local jails. Local

⁵ A sliding scale may be added whereby the price is lowered as more inmates are admitted into the private prison (Joel, 1993).

politicians were now employing the private sector to solve the problems caused by the initial lack of finance. Concern was also expressed over growing private sector involvement in traditional state responsibilities — possibly increasing private sector leverage in state affairs (Cox and Osterhoff, 1993). Opposition also came from local townspeople; the American Bar Association; the American Jail Association and criminal justice organizations (James et al., 1997).

United Kingdom

The privatization of prisons in the United Kingdom has put considerable pressure on the public sector and public sector employees. The public sector was not allowed to participate in the initial tender, and a contract for Wolds (a 320-bed remand prison), originally intended for public management, was given to Group 4 (Nathan, 2003). After eventually allowing public sector bidding, the government announced in 1993 that 10 per cent of its prisons would be contracted out and a market-testing programme was launched (Cavadino and Dignan, 1997). Market testing entails the monitoring of both public and private prison systems to expose the price, what Harding (1998, p. 648) calls the “true price”, at which both systems deliver their services. Therefore only one aspect of cost-effectiveness is analysed.

In the United States, market testing is used by the public sector to assess whether the private sector is able to offer value for money. In the United Kingdom and Australia it is used to gauge whether private sector bids are realistic or not in comparison to the public sector. Initially, market testing placed pressure on the prison service to reconsider labour practices and performance, which affected individual correctional officers (McDonald, 1996). In a comparative study of Wolds and Woodhill (a public prison), correctional officer morale was found to be equivalent in both facilities except that 52 per cent of staff at Woodhill felt morale was falling due to budget cuts, performance pressures and market testing (James et al., 1997).

Staff believed that their benefits and employment security in the public sector were threatened by private sector competition and market testing. This in turn affected the way they carried out their duties. The researchers recorded incidents of “less than professional attitudes” towards inmates, and staff were preoccupied with discussing the financial and domestic burdens of other correctional officers who had experienced inconvenient relocations to other parts of the country. In general, their perception of job security was eroding and during the course of the research they became increasingly demotivated and demoralized, resulting in substandard treatment for prisoners.

Australia

The impact of prison privatization on the public sector was similar to that in the United Kingdom, with pressures from market testing and competition affecting job security (and perceptions thereof) of public sector workers. In 1994 Western Australia's prison system underwent reforms during which a deal known as "the package" was introduced to staff (James et al., 1997, p. 16). This modernization of the prison system involved the shedding of 130 public sector jobs and the elimination of various benefits and privileges such as overtime (which was "bought out"), holiday entitlements and sick leave. The purpose of "the package" was to cut costs following market testing results and growing pressure to outbid the private sector.

The experiences in the three countries show that prison privatization has directly affected the job security of those working in the public sector, which in turn has affected service delivery due to falling morale. What follows is a discussion of the impact of prison privatization on private correctional workers' rights.

Labour market security

Much has been written on the potential benefits of prisons for surrounding communities, especially economically depressed communities. Often the belief that private prisons in particular will enhance economic development has been used as justification despite other problems they may cause. Rural communities in the United States that have lost jobs in manufacturing compete and lobby for the construction of prisons (and private prisons) to create employment.

Rural communities...are often priced out of contests to attract manufacturers, as local development agencies in more prosperous areas offer aggressive packages of tax breaks, cheap loans, free land and more (Quote by Paulette Thomas, 1997, in Samara, 2000).

There have been claims that up to 300 jobs can be created per 500-bed facility (Samara, 2000). In fact, the economic benefit of prisons and private prisons has often been taken for granted by both proponents and opponents of the prison-industrial complex and prison privatization. However, according to a recent study, prisons do not necessarily have a positive impact on communities

in need or small towns.⁶ Indeed, they may hinder economic development. After looking at prisons in 3,100 counties in 48 states, the study came to the conclusion that growth in earnings, per capita income and employment showed little improvement from 1969 to 1994. As a researcher on the team stated, “the increasing practice of host communities competing to provide incentives is shifting prison infrastructure investment costs from corrections bureaucracies to local governments”.

Rural communities will allocate large portions of their limited budgets to support the new prisons, thereby having fewer funds for investment in local infrastructure. They thus become less suited for other potential employers, especially once they carry the stigma of being a “prison town”. Nor is it necessarily the case that jobs (in prison construction and post-construction work) will go to local residents. According to the study, 60 per cent of the work goes to people outside the host communities. Also limited local employment opportunities may give correctional officers little choice over working in a private prison, even if they have to put up with unsafe or inhumane conditions, poor benefits and low non-union wages (Sinden, 2003). As Miller (2003, p. 149) states, “poor jobs are superior to no jobs”.

In particular, the existence of private prisons in small communities can negatively affect their employment creation potential since, to save costs, private companies prefer to hire inmates at substandard wages and thereby replace stable, middle-class work.⁷ Not only do the private companies bypass local businesses, but much of their income is not spent in the local community. Instead it is distributed to shareholders and corporate officers elsewhere, further weakening labour market security in that community (AFSCME, undated/a).

In addition, private prisons are not recession-proof as is sometimes claimed. When CCA lost its contract with the District of Columbia’s Department of Corrections in 2001, 500 of its workers lost their jobs. That same year, CCA’s Tallahatchie County Mississippi Correctional Facility laid off 200 employees after losing its contract (Miller, 2003).

⁶ “Washington State University researchers find prisons offer few economic benefits to small towns” (Financial Times, 21 July 2004).

⁷ For example, Honda pays Ohio prisoners USD2 an hour to perform tasks that members of the United Auto Workers Union were previously paid USD20 an hour to perform. Also 150 employees lost their jobs at a Texas-based company called American Microelectronics when the company closed down only to reopen within a Texas prison with an inmate workforce (ibid.).

Employment security

Workers' benefits in private prisons will differ depending on the private company involved, whereas in the public sector there is a minimum standard of employee security. A comparative analysis between a private correctional facility in Tennessee, run by CCA, and an equivalent government correctional facility found that CCA employee benefits were 23 per cent lower (Mattera et al., 2003). Moreover, public sector correctional workers are eligible for pension benefits from age 50 with 20 years of service or with 25 years of service regardless of age. A CCA employee retiring at 50 would receive only 14 per cent of the pension benefits granted to public sector employees. CCA has not created a defined-benefit retirement plan for workers. A 401(k) plan is offered to those with five years' service, but CCA matches employee contributions only up to 5 per cent of pay. Considering the high turnover rate at many CCA facilities, only a few are likely to be afforded this benefit.

Despite (or because of) the substandard working conditions and low benefits which seem to predominate in many CCA facilities, CCA and other private corrections companies continue to press for the privatization of entire prison systems, further threatening public sector employment. "CCA has on at least two occasions proposed to take over the entire Tennessee prison system, and the Governor of Tennessee announced in 1998 his support for privatization of up to 70 per cent of the Tennessee prisons" (Camp and Gaes, 2001, p. 294).

Understaffing

Although not all private prisons can be accused of understaffing, numerous instances have been exposed. For instance, in North Carolina, the US Corrections Corporation employed only 68 correctional officers to supervise 528 inmates, whereas the state had employed 141 officers for the same number of inmates.⁸

Private companies can save on labour costs by employing fewer workers than in public prisons, paying the same or similar workers less, or doing both (Mobley and Geis, 2001, p. 222). It seems to be standard operating procedure for many private companies deliberately to under staff a prison "by leaving positions vacant a little longer than they should" (quote by private prison

⁸ "Lawmakers want to let a private prison company double the capacity of the facilities it is building" (News and Observer Publishing Company, 6 Feb. 1998).

administrator Russell Boraas in Bates, 1998) and/or by using technology to replace costly human labour through initial prison design and use of video cameras (Camp and Gaes, 2001). “The secret to low-cost operations is having the minimum number of officers watching the maximum number of inmates”(Russell Boraas in Bates, 1998).

However, cutting down on staff requires tighter control over prisoner movement, and “a high-level of containment over a prolonged term...breeds apathy, despair, and violence” (Mobley and Geis, 2001, p. 222). The increased propensity for violence not only costs taxpayers money, but affects the safety and security of correctional officers, prisoners and the surrounding community (Bates, 1998). Prison understaffing minimizes “front-line contact” between prisoners and correctional officers, hindering “therapeutic” prisoner-guard relations (Moore, Burton and Hannah-Moffat, 2003, p. 156). This applies especially to vulnerable prison populations, for example, suicidal prisoners, who may need positive relations with correctional officers. Lack of contact tends to dehumanize inmates.

There is a notable tendency for private prisons to neglect front-line staffing in favour of compensating wardens and private company executives (Miller, 2003). The absence of front-line staff development, as well as the inability of private prisons to attract quality staff due to low pay and fewer benefits, may have been a direct cause of the many disturbances and human rights violations (see below). Similarly, private correctional staff may not have the opportunity to develop relations with prisoners due to lack of employment security and high turnover (Miller, 2003).

Ironically, even by opting for a higher number of lower paid staff, the benefits to the private company may be negligible. Though the prison may run more smoothly and safely, staffing problems are created by the human element such as smuggling drugs and weapons, corruption and assisted escapes (Mobley and Geis, 2001). The safety and efficiency of a prison hinges on the appointment of adequate numbers of well-trained and/or experienced correctional personnel.

Understaffing in private prisons is not limited to the United States. Problems have been experienced in Australia and the United Kingdom as well. In the United Kingdom, the parliamentary Home Affairs Committee found that, although private prisons had enabled the Home Office to make savings of about 11 per cent for the period 1995-96, this was because staff were paid less than public sector workers and there were fewer of them. Private prisons operated with a much higher prisoner-staff ratio and more flexible staffing policies (Bottomley and James, 1997). In the private prison, Blackenhurst, one officer could be left alone with 60 to 70 prisoners due to understaffing, and staff shortages meant many workers could not take their annual leave (Mattera et al.,

2003). The Scottish Parliament Justice 1 Committee also discovered that their private prisons were operating at staffing levels 25 per cent below those of the public sector (Genders, 2003). The contractual procedure in the United Kingdom requires the Home Office to approve staffing levels, putting the onus on government to maintain quality.

In Australia, in some private prisons, there are reports of staff shortages and a higher ratio of casual and lower ranking staff than in the public sector (Russell, 1997).

High turnover rates

The understaffing of many private prisons is often coupled with high staff turnover. A high turnover rate affects the security and stability of the prison, and relations between inmates and guards, since it usually involves the influx of inexperienced new recruits and the concomitant outflow of more experienced guards (Bates, 1998). Private prison managers claim that potential employees are extensively screened and that only motivated individuals are considered, thereby reducing recruitment of those likely to leave early or be dismissed (Camp and Gaes, 2001). They also claim that absence of red tape and freedom to promote on the basis of merit, and not seniority or for political reasons creates a positive work environment, again reducing turnover rates. Nevertheless, high turnover appears to be the reality in many private prisons.

The CCA has been singled out in the literature numerous times for the unusually high turnover rates in its prisons — reportedly twice as high as in public prisons (Mobley and Geis, 2001; Bates, 1998). Annual staff turnover has been reported to be as high as 300 per cent in some private prisons in the United States, according to the Ontario Public Sector Employee Union. The 1998 Corrections Yearbook found a turnover rate in the private sector of 41 per cent against the public sector's 15 per cent (Camp and Camp, 1999). In 1999, the Tennessee Department of Correction discovered turnover rates of 105 per cent at the South Central Correctional Centre run by CCA and 82 per cent at CCA's Hardeman County Correctional Centre, compared to 34 per cent in the public sector (Mattera et al., 2003). The 2000 Corrections Yearbook, which included a questionnaire administered to 56 private prisons housing over 25,200 inmates, found a turnover rate for the public sector of 16 per cent compared to 52 per cent for the private sector (Camp and Camp, 2000).

Problems experienced in private prisons stem in large part from the fact that high turnover results in inexperienced staff facing situations they are incapable of managing, leading to poor decision-making, riots, excessive force and even homicides (Mobley and Geis, 2001).

The situation in the United Kingdom is similar, with high turnover rates the norm in the private sector and concerns over the loss of experienced staff to the public sector (Prison Privatization Report International, 2003). In its first year of operation, HM Kilmarnock, run by Premier Prison Service, had a turnover rate of 32 per cent and, in March 2000, 46 of the 127 staff at Hasockfield Secure Training Centre, run by Management Training Solutions, had resigned (Genders, 2003).

Australian case studies have also shown that poor conditions and staffing “flexibility”, with some staff on fixed contracts, lead to high turnover rates, a reduction in employee morale and poor quality service (Russell, 1997). An investigation of the Metropolitan Women’s Correctional Centre in Victoria, culminating in the Kirby Report, said changes in senior management, a high turnover rate within the management team, and a high turnover rate for custodial staff, had produced constant instability within the prison (Mattera et al., 2003).

Work security

Prisons are in themselves dangerous places to work, and many factors associated with prison privatization aggravate the internal security situation and threaten the safety of both inmates and correctional officers. These include high staff turnover, inefficient and ineffective training of guards, poor incentives due to low wages and few benefits, non-unionization and the like. In August 1999 Wackenhut was reportedly blamed for a riot at a prison in the state of New Mexico in which 13 correctional officers were injured and an inmate and a guard killed. Not only was the state of New Mexico at fault for placing violent inmates in the medium-security private facility, but Wackenhut was blamed for lack of staffing, inexperienced supervisors, low pay and high turnover (AFSCME, undated/a).⁹

It has also been repeatedly confirmed that levels of violence in general tend to be higher in private prisons. A national survey conducted by the Bureau of Justice Assistance found 65 per cent more inmate-on-inmate assaults and 49 per cent more inmate-on-staff assaults in private prisons compared to public prisons (Greene, 2003). Between 1998 and 1999 a New Mexico facility run by Wackenhut had a homicide rate of one per 400 inmates, whereas comparable state-run prisons had homicide rates of one per 22,000 inmates (Morris, 2003). It

⁹ The guard who was killed was apparently earning USD7.98 an hour.

is clear that the work security of correctional officers is compromised to a greater degree in private than in public prisons.

There is another type of threat to the work security of correctional officers: private contractors may skimp on services such as healthcare to save costs. According to Greene (2003, p.65), Wackenhut and CCA have often been cited for, amongst other things, “substandard medical treatment and inadequate mental health care”. Yet it is also known that prisoners tend to suffer disproportionately from diseases related to intravenous drug abuse and unsafe sex (Alexander, 2003). Prisoners are five times more likely to suffer from HIV/AIDS-related illness than the general population and are more likely to be infected with hepatitis C, diabetes, tuberculosis, cardiovascular disease, pulmonary disease and cancer.

All those within the prison walls (and many outside) are placed at risk when adequate healthcare is not provided. The Centre for Disease Control in New York indicated that an outbreak of multi-drug resistant TB had originated from two hospitals that had treated prisoners. This outbreak infected a number of healthcare workers and caused the deaths of 36 prisoners and a correctional officer (Alexander, 2003).

Job security

Private corrections companies often employ non-unionized, inexperienced workers for lower level correctional duties and recruit more experienced staff for higher positions. Pay scales are testimony to the importance placed on top management positions versus inmate guarding duties (see below). The chance to develop a sense of career or occupational niche therefore hinges on one’s position within the private prison. Front-line work places heavy psychological pressure on correctional officers in environments “fraught with tension and uncertainty”, a contributing factor to high turnover rates (Shichor, 1995, p. 195). It is often stated that guards are incarcerated along with inmates and that the public’s perception of correctional officers (especially in the light of media allegations) is very poor. Long hours and shift working affect family life but correctional officers are often obliged to take the work due to unemployment. They end up in a “dead-end job, only a limited opportunity to be promoted to a higher rank and only a few [correctional officers] move into administrative positions” (Shichor, 1995, p. 195).

Skill reproduction security

The inadequate training of correctional officers is detrimental to the safe and effective running of a prison. Correctional officers need to be made aware of administrative and procedural obligations in terms of admitting and releasing prisoners, the failure of which may result in escapes and mistaken releases. They also need to be told how to avert dangerous situations and how to deal with them properly to minimize harm. Proper training also promotes confidence and motivation, thereby protecting correctional officers from stress and burnout (Camp and Gaes, 2001). It is the duty of the private company to provide and pay for training, and typically the private sector will use the training standards and policies of the public sector (Camp and Gaes, 2000). Theoretically it is the responsibility of the contracting agent to ensure that the contract is adhered to. In practice, training in private prisons is not always effectively monitored and many incidents have been identified in which lack of adequate training was the main cause (Shichor, 1995). Private companies may withhold training to reduce costs. In the context of a high turnover rate it may not appear feasible to spend much on the training of correctional officers, yet the training of staff could reduce the turnover rate in the long run.

According to Shichor (1995), studies by private corrections corporations themselves, including the CCA, have shown that staff in private prisons receive at least as much training as those in the public sector. However, independent research has refuted this claim. Bendick (1989) found that CCA employees received only 160 hours of training compared to federal jail employees who received 240 hours. According to the 1998 Corrections Yearbook, private prison guards received about 189 hours of pre-service training compared to 232 hours for public sector guards (Camp and Camp, 1999). The 2000 Corrections Yearbook found that public sector employees received an average of 250 hours of training compared to the private sector's 153 hours (Camp and Camp, 2000).

In 1998 the District of Columbia Corrections Trustee found that CCA did not require pre-service firearms training in Youngstown (Ohio), the main reason being, as claimed by Youngstown guards, that the cost was too high at USD3,000 per worker. Yet many untrained guards were armed (Mattera et al., 2003). The implications can be fatal. A case of a private guard accidentally shooting an inmate was the result of that guard not being trained in the use of weapons. Incidents of abuse of inmates at a CCA juvenile facility have been reported as being directly due to lack of training (Shichor, 1995; Bates, 1998). In Australia the quality of staff has also been reduced by limited training or lack of training (Russell, 1997).

Income security

Income security is a particularly contentious topic. Private corrections companies have been repeatedly accused of paying disproportionately high wages to top employees, such as administrators and managers, and disproportionately low wages and benefits to correctional officers by comparison with the public sector.

As Phil Hornsby, general secretary of the Prison Service Union, has remarked: “It is not rocket science to work out that the only way in which a private prison can be made profitable is by paying the staff less or having fewer of them — that is how profits are generated” (Genders, 2003, p. 155).

Labour costs and personnel are often targets for cost cutting since they constitute 60-80 per cent of operating costs (Bates, 1998; Schlosser, 1998; Shichor, 1995). In fact, CCA prided itself in being able to do more with fewer employees and at one stage remarked that they had only a 36 per cent increase in personnel coupled with 41 per cent growth in revenues, 98 per cent growth in operating income and 115 per cent growth in net income (Bates, 1998). A cost comparison between a private prison (run by the CCA) and two comparable public prisons, conducted by the Tennessee Legislature in 1998, revealed that although no clear cost differences could be found the private company had generated a 2 per cent profit by paying USD1.8 million less in annual salaries and benefits.¹⁰ In this instance, profits took precedence over correctional employees’ interests.

Proponents of prison privatization argue that labour costs are simply too high in the public sector, especially for unionized employees who receive expensive benefit packages (Crants, 1991, p.54). It is also claimed that lowering labour costs need not affect the quality of the workforce, since electronic surveillance and other practices enable higher salaries to be paid to fewer employees (Shichor, 1995, p.150, 194). Opponents of prison privatization point out that if operating costs are to be reduced by 10 to 25 per cent (as is promised by many private corrections companies) this would be offset by many hidden costs (such as licensing costs, liability insurance, monitoring costs and so forth) thereby impacting on the ability of the company to make a profit — the solution often sought by private companies is to reduce labour costs through lowering

¹⁰ “Study casts doubt on CCA savings”, *The Tennessean*, 2 March 1998; “CCA makes money by cutting personnel costs”, Associated Press, 23 Mar. 1998.

wages and hiring fewer staff (Camp and Gaes, 2001). Opponents also argue that reducing payroll expenses is detrimental to the safety and security of the institution, and that lower salaries attract less qualified staff who need more training, thereby offsetting any cost savings made — although, as has been shown, inexperienced staff will not necessarily receive this training (Shichor, 1995).

A number of studies have tried to compare the costs of running private and public prisons, with mostly inconclusive results. More specific studies have looked at the wage differences between private and public sector correctional employees, particularly in the United States. The Corrections Yearbook of 1998 compared the annual starting salary of public correctional officers (USD21,246) with that of private correctional officers (USD17,344). A subsequent survey of 56 private prisons housing 25,216 inmates, published in the 2000 Corrections Yearbook, found average starting salaries of public sector employees of USD23,002 per annum whereas private sector employees earned USD17,628 per annum. At the top of the salary scale, public sector employees could earn up to USD36,328 a year compared to the private sector's USD22,082.

There is also a discrepancy between the low wages paid to private guards and the wages of top executives. A riot incident in 1995 involving 300 prisoners at the Immigration and Naturalization Service (INS) in New Jersey, under contract with Esmor Correctional Services, was mainly attributed to the poor wages paid to Esmor guards — USD8 an hour or USD16,640 per annum. This compared with the annual salary of public sector employees in New Jersey of USD31,805 per annum in 1995, and the annual salary of the CEO and President of the private company who were earning USD238,000 and USD197,000 respectively at the time (Camp and Camp, 1995).¹¹

By contrast, in 1998 the then director of the Federal Bureau of Prisons responsible for the supervision of 115,000 inmates, some of whom were extremely dangerous, earned an annual income of USD125,900. The chief executive officer of Wackenhut Corrections, responsible for 25,000 inmates, mostly low-risk petty offenders, earned an annual salary of USD366,000 plus a bonus of USD122,500 and a stock-option grant of 20,000 shares (Schlosser, 1998). The fact that managers and administrators of private correctional facilities are not subjected to cost cutting may, as Schlosser (1998) states, “greatly

¹¹ “INS blames riot on mismanagement by contractor at New Jersey”, *Washington Post*, 22 July 1995; “US inquiry finds detention center poorly run”, *New York Times*, 22 July 1995; “2 who started correction empire found that shrewdness led to profit”, *New York Times*, 23 July 1995.

(increase) the potential for conflicts of interest and official corruption” (p.65). The high salaries paid to top executives also conflicts with claims by proponents of prison privatization that public sector employees are more expensive.

Experiences in Australia and the United Kingdom have been similar. It has been estimated that correctional staff below that of governor or director within private prisons in the United Kingdom are paid 20-50 per cent less than staff in public prisons (Prison Privatization Report International, 2003). The Scottish Parliament Justice 1 Committee found in 2002 that Kilmarnock staff were earning £5,000 to £6,000 less than staff in the public sector (Genders, 2003). At Blackenhurst, staff starting salaries had even been cut, from £13,500 to £12,500 a year (Mattera et al., 2003).

Russell (1997) found that in Australia many of the staff in private prisons were paid a lower average hourly wage and received few fringe benefits. Within a month of opening, union representatives for staff at the Metropolitan Women’s Correctional Centre met prison officials to discuss the fact that salary levels were A\$34,000 per year, with no benefits, compared to the public sector’s A\$50,000 per year, with benefits (Mattera et al., 2003). However, it is also the responsibility of the government to enforce contractual obligations and monitor labour arrangements in private prisons. In the United States, private prison managers are required to run quality prisons, abide by the clauses of their contracts and save on costs. But they are also constrained by wage rates set under the Service Contract Act 1965 by the US Department of Labor (Camp and Gaes, 2001).

Private correctional employees also receive fewer benefits, such as health insurance, sick leave and vacation time, than their public sector counterparts (Schlosser, 1998; Shichor, 1995). A study conducted by the Urban Institute, comparing public and private correctional facilities in Kentucky and Massachusetts, found that regardless of length of service private sector employees received 10 days of annual leave per annum compared to public sector employees who could accumulate up to 21 days based on seniority (Shichor, 1995). Compensatory time off replaced overtime pay in the private prison under analysis. Private sector staff were granted seven paid holidays per year compared to the public sector’s 10, and public sector employees also tended to have more sick leave, holiday leave and leave days, effectively earning 50-100 per cent more paid leave (Shichor, 1995). In addition, CCA pays bonuses to employees for unused sick time, thereby deterring the use of sick leave. This is in its interests since workers taking sick leave have to be replaced with employees who would then be paid costly overtime (Camp and Gaes, 2001).

Private corrections companies may replace pensions/retirement plans with stock options, which make employees vulnerable to fluctuations in the

company's fortunes (Schlosser, 1998). CCA is one company that prefers this strategy, offering a stock ownership plan to employees working 1,000 hours a year (Shichor, 1995). However, CCA's stock performance has been less than stable due to the many publicised incidents of abuse, escapes and corruption and the subsequent loss of investor confidence. Thus its stock rose from USD4.12 a share in 1995 to USD45 a share in 1997, only to fall to a mere 18 cents a share in 2000 (Bender, 2002). CCA's stock-based pensions have dropped with the share price (AFSCME, 1998). Other corrections companies, notably Wackenhut and Cornell Corrections, have also suffered share price setbacks (Bender, 2002, p. 1).

There are obvious long-term negative economic implications of inadequate pensions for the communities in which private prison employees retire. In addition, though they ostensibly provide an incentive for better performance, stock options do not help "pay the bills" (Shichor, 1995, p.199). Indeed, the fact that employees have a direct investment in the company, and therefore an interest in attracting more investment and contracts, could encourage them to cut corners to save on costs. According to one private sector employee:

Being a stockholder yourself, you monitor things closer...you make sure you don't waste money on things like cleaning products. Because it's your money you're spending (Bates, 1998).

Representation security

It is probably not coincidental that most private prisons are located in southern and south-western US states that are less open to unionization. Over half of all private prisons are located in Texas, California, Florida and Colorado (Schlosser, 1998).¹²

CCA has had to adopt a policy of union avoidance to keep labour costs low, it is fortunate for them that most of their contracts are in states where unions are weak (Tennessee, Florida and Texas) partly as a result of "right to work" laws that discouraged unionization (Mattera et al., 2003, p. 37).

To date, private sector prison managers in the United States operate with an almost entirely non-union workforce (Camp and Gaes, 2001, p. 294).

¹² "CCA expands with two industry acquisitions", *PR Newswire*, 21 Oct. 1995.

Private corrections companies advocate the use of non-unionized labour as a means to promote efficiency, as stated by CCA's former Chief Executive Officer:

Efficient labor is precluded in public facilities in several states by unionized labor. Union contracts tend to increase wage costs and promote unjustified job security (Crants, 1991, p. 53).

On this view, the emphasis should be on limiting the benefits and wages of public sector employees and the political power of unions rather than increasing the benefits and wages of private sector employees. Proponents of a non-unionized private prison workforce claim that the power of unions has led to negotiated work contracts that put a strain on the entire system (Shichor, 1995). They stress the benefits of increased flexibility when not restricted by negotiated work rules and civil service constraints (McDonald, 1990). Public sector management, for instance, is constrained by restrictions on hiring and firing, rewards for workers and the like. According to Camp and Gaes (2001, p. 295):

[t]hese restrictions have been built into the structure of the work relationship in the form of rules, policies, and contracts and exist largely because there are better organized interest groups representing public-sector workers both at the workplace (unions) and in the political arenas (unions, other pro-labor interest groups, and legislators).

The threat of unionized private employees organizing go-slows or strikes, possibly prompting a government takeover, has further induced private corporations to employ non-unionized employees and discourage unionization of current employees, therefore retaining the power to dismiss errant workers (Shichor, 1995). At one stage, CCA officials were sent to Tennessee's South Central prison specifically to hinder workers who were attempting to organize (Samara, 2000). CCA's relations with union members have at best been tentative; while recognizing unions at various stages of its operations, "CCA has remained largely non-union" (Mattera, Khan and Nathan, 2003, p. 38).

In the United Kingdom, although some staff were unionized, none of the private prisons recognized collective bargaining despite efforts to the contrary (Corby, 2002). The Prison Officers' Association (POA) had attempted to use the Employment Relations Act 1999 to obtain recognition from the Central Arbitration Committee (CAC). This was rejected because the CAC must reject an application if:

there is already in place a collective agreement in respect of any of the workers in the proposed bargaining unit, even if the union which is party to

the agreement is not independent and does not have majority support (Corby, 2002, p. 292).

Even though 145 of the 250 employees were members of the POA, their employer had signed a recognition agreement with Securicor Custodial Services Staff Association, a non-independent body.

According to Russell (1997), some staff in Australian private prisons are not unionized. In the Junee correctional facility, staff are not allowed to take industrial action and have to sign an enterprise agreement to that effect.

6. Impact on provision and quality of services

There have been many US media reports of deficient standards in private prisons. Susceptibility to corruption is just one problem for many private prison operatives. Instead of risking exposure, private corrections administrators may prefer to dismiss workers who have broken prison rules rather than allow police intervention (Friedmann, 2001). However, various incidents have come to light. In March 1998 a guard at a Wackenhut facility intentionally left a door open for prisoners to escape.¹³ Lack of training makes private correctional officers more susceptible to being manipulated by experienced inmates and low wages make them more susceptible to accepting bribes (Friedmann, 2001).

The safe working environment within a private prison may be negatively affected by discouraging employees from taking sick leave or overtime pay. Four convicts escaped from the Northeast Ohio Correctional Centre in Youngstown in July 1999, knowing that a shift change would leave the prison vulnerable and understaffed at a certain time. The reason for this was that correctional officers in the facility were encouraged to leave after their shift even before their replacement arrived, so as not to accrue overtime (AFSCME, 1999).

There are many “indicators” for lack of quality within some private prisons, such as levels of drug misconduct, time out of cells, levels of assault, suicide rates and so forth:

In the United States, a survey designed by the Office of Research and Evaluation at the Federal Bureau of Prisons (BOP) and the National Institute of Corrections revealed differences between state-run and privately run prisons in

¹³ “Security guard charged with aiding escape of two inmates”, *Sun-Sentinel*, 2 Apr. 1998.

prevalence of substance abuse. Random “hit rates” were 0.6 per cent in BOP low-security prisons, 1 per cent in medium-security prisons and 2.7 per cent in high-security prisons (Camp and Gaes, 2002). Just under half the private prisons had “hit rates” of 3 per cent or more, and about 20 per cent had “hit rates” at or above 10 per cent. A Wackenhut-run private facility in Austin was repeatedly fined by Texas state officials, culminating in termination of the contract, for widespread criminal activity in the prison, including sexual misconduct and abuse of prisoners, drug smuggling and cover-ups. A number of employees were indicted on criminal sex charges (Greene, 2000).

In the United Kingdom, in 1998-99 Blackenhurst prison “had the highest rate of positive drug tests and the third highest assault rate in the country” (Mattera et al., 2003, p. 51). Prison service statistics showed that, for the year ending March 1996, Doncaster, another private prison, had 25 assaults per 100 prisoners compared to a public sector average of 11 (Cavadino and Dignan, 1997). The UK prisons minister reported that, between March and December 1999:

[Securicor] had incurred fines totalling £199,950 for contract failures including 211 incidents of prisoner self harm, 29 incidents of concerted indiscipline, 19 assaults on staff and others, 13 assaults on prisoners, 39 failures to complete mandatory drug tests, 178 failures of prisoners seeing a medical officer on arrival, 122 failures to respond to prisoners’ complaints, 158 failures to provide sentence plans, 18 failures to provide prisoners with a discharge report and 8 failures to report on performance measures (Genders, 2003, p. 155).

Australian experiences have been similar. An Auditor-General’s report in Victoria in 1999 found that, at the Metropolitan Women’s Correctional Centre, the rate of self-mutilations and attempted suicides exceeded the acceptable limit by 91 per cent and assaults on prisoners by 20 per cent (Mattera et al., 2003).

7. Impact on prisoners, the public and the public sector

The treatment of correctional staff in private prisons and resultant lack of service quality may have detrimental affects on inmates, surrounding communities and, to an extent, those working in the public sector.

Impact on prisoners

Mistreatment and neglect of inmates is not restricted to private prisons. As pointed out by Bates (1998), private prison employees are often recruited from

public prisons. An abuse of inmates (involving the use of stun guns) at a Texas private prison run by CCA had involved former public correctional employees who had similarly abused inmates in public facilities. They had simply not been screened properly before being hired, despite having records of abusive behaviour (Bates, 1998). Similarly, a 2002 review of CCA-run Gadsden Correctional Facility by the Department of Law Enforcement in Florida found that CCA had failed to follow registration procedures for hiring guards, five of whom had arrest records (Mattera et al., 2003).

Media reports have nevertheless emphasized abuses at private correctional facilities. The inmate riot mentioned earlier at an Immigration and Naturalization Service (INS) detention centre run by Esmor Correctional Services in 1995 was sparked by accusations of mistreatment. Twenty illegal immigrants were injured during the riot and two guards were held hostage. An INS investigation said that “poorly trained and abusive guards preyed on immigrants”. Esmor’s contract was terminated and three private guards were sentenced for beating detainees.¹⁴

Incidents of physical abuse and sexual relations between employees and inmates at a private youth prison in Colorado also resulted in the termination of the contract with the private company, Rebound Corporation. The suicide of a 13-year-old inmate prompted an investigation, uncovering gross mismanagement. It was found that “staff was unqualified and insufficient for the number of inmates”.¹⁵

Visits of inspectors from the British Prison Officer’s Association to American private prisons — in particular a visit to Silverdale — uncovered inmate abuse allegations, with one inspector stating that:

...we saw evidence of inmates being cruelly treated...the warden admitted that noisy and truculent prisoners are gagged with sticky tape, but this had caused a problem when an inmate almost choked to death (Bates, 1998).

¹⁴ “N.J. guards convicted in jail beatings”, Associated Press, 7 March 1998. It should be reiterated that private companies often have to hire from the “bottom of the barrel” since they cannot compete with the public sector for good quality front-line correctional officers due to low wages and fewer benefits (Miller, 2003, p.144). Unemployed people may also seek jobs in private prisons while waiting for better employment opportunities, and there have been cases where private companies hired ex-convicts (Miller, 2003).

¹⁵ “Colorado prison loses license over reports claims of abuse, sex with inmates prompted decision”, *Charleston Daily Mail*, 21 Apr. 1998.

Similarly a visit to a CCA immigration detention centre in Houston led to one inspector stating that the centre demonstrated “possibly the worst conditions we have ever witnessed in terms of inmate care and supervision” (Bates, 1998).

Other abuses are more subtle and may reflect lack of interest by private correctional officers in inmate well-being. An ex-inmate of both private and public prisons described the situation:

There’s a significant difference in knowing that the officers watching over you are thinking about their stock options...few private guards with low pay, few benefits and no pension plan will risk their lives to help you if another prisoner attacks you. In privately operated prisons, convicts are little more than commodities, and guards give them little more respect than ranchers give cattle being herded to the market (AFSCME, 2000).

Since private prisons are a feature of the prison-industrial complex, it also pays to imprison more people for longer. In some private prisons, the disciplining of inmates may involve the loss of accumulated credit for “good time”. Every day of freedom an inmate loses at the end of his/her sentence is a day of extra income for the company (Bates, 1998). A study conducted in 1992 in the New Mexico Corrections Department revealed that, compared to inmates in a public prison, the inmates at a prison run by CCA lost their “good time” at a rate eight times higher. Private correctional officers at the Davidson County Juvenile Detention Facility in Tennessee run by CCA are encouraged to punish inmates for minor infractions, losing them “good time” and placing them in segregation which adds a further 30 days to their sentence. In monetary terms this is an income of \$1,000 for the company per inmate for the 30-day duration (Bates, 1998).

Providing inmates with programmes, activities and general rehabilitation is a costly affair and, unless strictly stipulated in the contract and monitored, very few private corrections companies will implement such programmes. This results in inmate boredom and frustration and so contributes to inmate-on-inmate, and inmate-on-guard violence. As stated by an ex-inmate of a CCA prison:

There’s no meaningful programs here...I can’t get over how many people are just laying around in the pod every day. I would have thought CCA would have known that inmate idleness is one of the biggest problems in prisons — too much time sitting around doing nothing. You definitely realize it’s commercialized. It’s a business. Their business is to feed you and count you, and that’s it (Bates, 1998).

Impact on the public

The American Federation of State, County and Municipal Employees (AFSCME) commissioned an independent research firm to survey public opinion on private prisons in 1999. Over half of respondents opposed the concept of privately run prisons. Interestingly, the majority of respondents were concerned about the effects on public safety. A third believed private prisons to be corrupt, 30 per cent said private prison employees were prone to making careless mistakes, and 42 per cent said private prisons were understaffed (AFSCME, 1999b).

Apart from a negative public perception of private prisons in the United States, there is a real threat to public safety when inmates — especially violent inmates — escape. In August 1996, two sex offenders (later recaptured) escaped from a private correctional facility in Houston run by CCA that was meant to house illegal immigrants (a relatively low security risk). However, CCA had transferred 240 sex offenders from another state to fill up empty beds in the facility (Schlosser, 1998). Escapes of convicted murderers — some never recaptured — have also occurred at Frio Detention Centre run by the Dove Development Corporation (Schlosser, 1998).

A survey conducted by the Office of Research and Evaluation at the Federal Bureau of Prisons, in conjunction with the National Institute of Corrections and Abt Associates, found that in 1999 alone there were three escape incidents from secure CCA facilities. Wackenhut Corrections Corporation had two escapes from within a secure prison; Correctional Services Corporation experienced two incidents resulting in nine prisoners escaping; and the Management and Training Company had one incident where three prisoners escaped from a secure prison (Camp and Gaes, 2002). By comparison, the Federal Bureau of Prisons had one escape since 1996 and has a prisoner population 17 per cent larger than the entire private prisoner population (Camp and Gaes, 2002).

There have also been numerous cases of CCA for example, accidentally releasing prisoners, some of whom had been convicted for violent crimes, due to low-level employees not being trained to read court documents (Mattera et al., 2003, p.4).

Impact on the public sector

An interesting upside to the existence of private prisons is that they may promote competition in the public sector. In the United Kingdom and Australia, this has led to improvement of the entire prison system; with British public prisons adopting previously resisted operating standards (Camp and Gaes, 2001).

However, the positive effects of competition have not been as apparent in the United States, despite some indications of improved cost performance in the public sector (Camp and Gaes, 2001). According to the Tennessee Select Oversight Committee on Corrections, “competitive oversight by an independent monitor was a mechanism for bringing about mutual improvement” (Harding, 1998, p. 648).

Costs have been controlled in the public sector by discouraging the flagrant misuse of overtime and ensuring proper accountability for spending. The option to contract out services within the public prison may also motivate workers (and their unions) to adopt cost-saving policies. For example, in Australia, public sector prison workers dropped their opposition to “unit management” when senior officials raised the possibility of private tendering (Harding, 1997). Unit management reduces the number of workers needed, thereby reducing overtime requirements and saving on costs. Ironically, the adoption of business principles in the public sector has allowed it to compete more effectively with the private sector.

The public sector may also affect the private sector, since pressures for better wages, more thorough monitoring practices and the like have increased private contract costs while costs for publicly run facilities have been decreasing (Camp and Gaes, 2001). Still, the pressure to improve public sector performance and the implementation of market testing practices have adversely affected individual public sector employees. Increasing performance demands and perceptions of employment instability have aggravated work-related stress and prisoner-staff relations.

Conclusion

The fact that the United States seems to be experiencing the most problems with its private prisons may stem from a number of factors, such as its greater use of prison privatization, the style of contracting it has opted for, and its diverse penal practices. Also, although powerful, its prison guards may not be as influential as those in the United Kingdom, due to the fragmented federal nature of America’s prison system. Yet these two countries have a very similar history of private sector involvement in their prisons. If prison privatization is open to such diverse correctional systems, it is no wonder that many more countries have entered and are entering the international prison privatization market.

There is pressure to expand corrections in many countries because of steadily rising prison populations and the perceived economic benefits of prison liberalization.¹⁶ Corporations marketing their skills in corrections have stimulated a transfer of policies and practices between the United States and the United Kingdom, and lately between these countries and South Africa, among others. As predicted by Lilly and Knepper (1992):

At the centre of the international privatization movement are transnational corrections corporations. The future of private prisons abroad will be determined by what these companies do more than by the transfer of corrections policy (p. 183).

As the following section will demonstrate, the implications of prison privatization in South Africa, although in its early stages, are profound, though for different reasons than those experienced internationally. The full long-term impact of private prison companies has yet to be discovered. However, analysis of the situation in South Africa thus far may serve as an indicator of future trends in private corrections in developing nations.

8. Developments in South Africa

South Africa's public prison system is far below the standards of public prison systems in the United States, the United Kingdom and Australia, and is in serious need of reform. Where some countries are able to modify their existing prisons, South Africa may have to scrap many of its old prisons altogether. It is in a unique situation, experiencing all the problems associated with the transformation of society (one of which is an increase in the crime rate) in a developing country, yet adopting a First World solution.

The former apartheid regime prevented any monitoring or effective transparency of the military-run correctional system. Consequently, many human rights abuses went on without effective opposition or pressure for reform.

¹⁶ Economic policies devised by various countries frequently promote prison liberalization. The "country of origin" principle contained in the draft Bolkestein Directive of the European Union allows service providers to adhere only to their own country's legal requirements when working anywhere in the EU. Service providers, including companies providing prison services, may thus establish themselves in EU states with the most liberal social regulations and operate on that basis throughout Europe, thereby saving on costs ("The EU services directive: Bolkestein legacy 'too radical' for new commission", *European Voice*, 3 Feb. 2005).

Prison managers had wide discretionary powers and many incidents of racism and violence against (and between) prisoners took place, even up to the 1994 elections. Fortunately, the Prisons Department, as it was known until 1991 when it was renamed the Department of Correctional Services (DCS), had been slowly introducing reforms since the mid-1980s. These ranged from changes in attitude away from previously harsh policies to the acceptance of prison unions (Giffard, 1997). In 1993 the Interim Constitution (the Republic of South Africa Constitution, Act 200 of 1993) was introduced. This and the “final” Constitution adopted in 1996 (Constitution of the Republic of South Africa, Act 108 of 1996) contained a Bill of Rights, including prisoners’ rights, that resulted in the demilitarization of DCS in 1996. An affirmative action programme was implemented in 1995.

South Africa’s prisons are stressful and challenging places to work. The salaries of correctional officers are low, and some even resort to collaborating with inmates by helping to smuggle in illegal substances and aiding escapes. Many officials are intimidated by inmates and succumb to their bribes or threats. It is little wonder that the Department suffers from high absenteeism and a large number of undisciplined staff members (DCS, 1999). Although the Department has responded to staff problems by introducing a number of reforms and programmes — such as an Employee Assistance Programme — the current state of South Africa’s prison system tends to negate their impact. In 2004 a strike of prison warders was organized by South Africa’s main prison union, the Police and Prisons Civil Rights Union, to protest against the reduction of weekend staffing, which would mean that only 32 per cent of warders would be on duty.¹⁷

Currently, some prisons have a ratio of one warder to every 160 prisoners, whereas the ideal ratio should be one warder to every 60 prisoners in a medium-security prison and one warder to every 30 prisoners in a maximum-security prison. In addition, South Africa has about 187,446 prisoners in 240 prisons that are only supposed to accommodate about 114,000 prisoners (Office of the Inspecting Judge, 2005). Whereas the general rate of overcrowding in South Africa’s prisons is about 65 per cent, some prisons are much worse: the 10 most overcrowded prisons in South Africa have an overcrowding rate ranging from 268 per cent to 383 per cent (Office of Inspecting Judge, 2005).

South Africa currently has two private prisons, located at Bloemfontein in the Free State and at Louis Trichardt in Limpopo. The Bloemfontein prison, named Manguang Maximum Security, was opened in July 2001 and the Louis

¹⁷ “Strike called off, massive prison crisis averted”, *Mail and Guardian Online*, 10 July 2004.

Trichardt, named Kutama-Sinthumule Prison, in March 2002 (Department of Correctional Services, Department of Public Works, National Treasury, 2002). “Both of South Africa’s private prisons are currently larger than any other project in the world” (Nathan, 2003, p. 195).

Political developments

The initial political interest in prison privatization was largely driven by Dr. Sipo Mzimela, South Africa’s Minister of Correctional Services to July 1998. A visit to the United States to view private prisons, and the fact that he had been a prison chaplain in the United States, are likely to have influenced his decision to introduce private prisons to South Africa (Giffard, 1997). The DCS announced in June 1996 that it would include the private sector in the finance, design, construction and maintenance of prison facilities (Hansard, 1996, p. 3663). The Departments of Finance, Public Works and Correctional Services, as well as the Treasury, had already cooperated in creating a prison privatization plan to be presented to the Cabinet. According to this plan, instead of DCS footing the bill for new prisons, the facilities would be leased from the private sector for 15–20 years. After the leasing period they would belong to the government. In his address to parliament, Dr. Mzimela said the Department hoped the private sector would provide workshops, factories and relevant training for inmates, but also expected it to build a facility within 15 months as opposed to seven years.

Economic developments

Many international private companies refused to become involved in South Africa during the apartheid era. Only since the transition to a democracy in 1994, and South Africa’s transformation aimed at a rights-based correctional policy, have international groups even considered taking on business there. A surge of privatization developments in criminal justice — including the recent privatization of corrections — has taken place over the last decade, largely influenced by practice overseas.

IMF policies have also put pressure on developing countries (including South Africa) to reduce public expenditure and manage resources more efficiently in order to receive financial aid. Privatization is seen as being the most feasible option in these circumstances (Hanke, 1985; Nathan, 2003). The GATS (General Agreement on Trade in Services) agreement of the World Trade Organization, the World Bank and bilateral/regional trade accords have eased the entry of transnational corporations. Other international organizations have also advocated privatizing government activities to reduce debt and obtain loans through, for example, the International Finance Corporation (Hanke, 1985; Nathan, 2003; Goldberg and Evans, 1999). At a Public Private

Partnerships/Private Finance Initiative global summit, South Africa's Minister of Finance stated that:

...if we are to reduce our dependence on debt as a source of finance for public sector capital formation, we have to engage formally and contractually with private sector partners or investors (Nathan, 2003, p. 193).

Developing countries depending on foreign loans may only be granted international credit if they agree to "structural adjustments", entailing cuts in social services, privatization of state-run industries, revocation of minimum wage laws and agreements on working conditions, as well as of trade laws protecting local economies (Goldberg and Evans, 1999). From another perspective, to make their economies more competitive in international markets, developing countries have made greater use of privatization and "have begun to focus on earning increased foreign exchange through export expansion and growth" instead of trying to conserve foreign exchange by protecting domestic industries from foreign competition (Hanke, 1985, p. 5). The result has been a growing input of multinational corporations. Not only do these firms transfer investment capital (and the government has encouraged foreign direct investment based on privatization), but also new technology, management and entrepreneurial skills (Hanke, 1985). International experts from the United Kingdom helped train controllers for South African private prisons as well as personnel operating the unit management system (Giffard, 1997).

Private sector involvement in South African corrections

The contractual process in South Africa has been fairly transparent, and provides a case study on how private companies get involved in contracting for corrections. In late 1996, Cabinet approved the APOPS (Asset Procurement and Operating Partnership System) and POPS (Procurement and Operating Partnership System), which are joint venture projects between the DCS, the Department of Public Works and the private sector. For APOPS, the Department of Public Works is the procuring agency, acting on behalf of the DCS. The private company finances, designs, operates and maintains the prison, and provides and trains its own staff. But the government does not relinquish control of the facilities and services to the private sector. The day-to-day management will still be in the hands of a Director, who may be appointed by the private company with the approval of the Commissioner of Correctional Services (Schönteich, 1999).

There is a slight difference between APOPS and POPS. In the APOPS programme the private sector finances the building of a prison on government property. The DCS pays the company a fee per inmate per day during the term

of the contract. After a partnership of 25 years the building automatically becomes government property. If the private sector should commit a breach of contract, the Department may end the contract, take over the private prison and supply its own staff. But the Department would have to pay, in full, the outstanding fees owed to the private company for financing the prison construction.

POPS operates like APOPS except that it requires the private sector to build (not merely finance) a new prison or modify an existing one. By using POPS the Department may pay less to the private sector, since it will be paying a rent for using the building rather than paying for the building itself. Under POPS the Department will never own the building, and if a termination of contract should occur it would not have to pay additionally for the cost of the building. After the end of the 25-year contract period, the private company still owns the building and may use it for another contract or do with it whatever it wishes (Oppler, 1998; Schönteich, 1999; Luyt, 1999).¹⁸

By using the APOPS and POPS programmes the government alleviates its budget deficit by making use of private sector services and funds. The government also aims to provide essential services more quickly in the hope of reducing and perhaps even ending the chronic overcrowding problem in South Africa's prisons.

In 1997 a number of private companies put in bids for four facilities as initially planned by the government, and five were short-listed at the request-for-proposal (RFP) stage after approval by an evaluation panel (Giffard, 1997). The RFP document is quite important because it details what the contractor is required to do. For example, the RFP may include requirements for inmates' safety, security and service provision, as well as operational standards and the financial rewards and incentives for maintaining these standards. Finance and management personnel and prison authorities may specify the standards; even the bidders themselves may contribute. The RFP may also include negative incentives or penalties to ensure contractor compliance with the goals set out (Keating, 1990).

After a further evaluation, the State Tender Board recommended that SA Custodial Services and Ikhwezi Correctional Contracts be awarded the Louis Trichardt and Bloemfontein projects respectively. Project development

¹⁸ "DCS and private sector in a joint venture", *Nexus*, March 1998.

agreements were signed in 1999 for both APOPS projects, with an envisaged contract period of 25 years (Department of Public Works, 1999).¹⁹

Impact on quality, prisoners, the public and the public sector

Impact on the public sector

Private prisons have had a greater effect on the public sector and on prisoners than on the staff working within these prisons. In fact, one South African Treasury official stated at a private prison conference in London in June 2003 that: “We ordered a Rolls Royce when we should have ordered a Toyota” (Prison Privatization Report International, 2003). This statement epitomizes the problem: the private prisons cannot be faulted on their operations but the inequality created in relation to the public sector has created tensions of its own. For instance, private prisons are contractually obliged not to allow overcrowding, yet overcrowding in the public sector is rife, with all the attendant consequences for inmates and staff. One result is a “degree of hostility between the state-run and privately-operated prisons” that could hamper prison reform and development.²⁰

The impact that [the private sector providing its own staff] will have on labour relations is one of the many open questions about the impact of privatization on the prison system as a whole (Van Zyl Smit, 2001, p. 592).

Although there have been some benefits in terms of cheaper construction costs, the private prison initiative has had an ultimately negative impact on public finances. Not enough funds are available for rehabilitation programmes and thousands of public sector jobs are being frozen (Department of Correctional Services, Department of Public Works, National Treasury, 2002; Prison Privatization Report International, 2003). This could delay unit management developments, the effective prevention of escapes and the safety of the staff and inmates by reducing further the ratio of public sector staff to prisoners. The private prisons are in fact taking up about 75 per cent of the DCS budget, since no funds have been allocated by the Treasury to cover contract costs (Prison Privatization Report International, 2002c).

¹⁹ “DCS and DPW with Ikhwezi”, *Nexus*, Aug. 1999.

²⁰ “Department of Correctional Services can take a few tips from privately run Mangaung prison”, *Cape Times*, 29 July 2004.

Moreover, at the time of the planning and procurement process, legal criteria were not yet in place to determine “affordability, value-for-money and appropriate risk allocation in (Public-Private Partnership) deals” because Treasury Regulations had not been established. Nor had any feasibility study been conducted by either the DCS or the Department of Public Works prior to the proposals to design, build and operate the prisons (Department of Correctional Services, Department of Public Works, National Treasury, 2002).

Although the cost benefits in the long term, that is, over the 25 years of the contract, may yield the savings of up to R345.4 million claimed by Dr. Mzimela, the short-term impact of private prisons is to cripple the efficacy of the DCS and impose cutbacks on public sector prisons (Prison Privatization Report International, 2002a). This situation echoes that in the United Kingdom and Australia in that perceptions of job security of public sector employees were affected by the introduction of private prisons, competition and market testing, which in turn affected their attitudes to and relations with inmates.

In addition, those DCS members who were on the original APOPS project team have been recruited by the private companies and are employed in the private prisons (Department of Correctional Services, Department of Public Works, National Treasury, 2002). This loss of key departmental personnel can only aggravate further the already poor worker and prisoner conditions prevalent in the public sector.

Impact on prisoners and quality of service provision

South Africa’s Constitution requires that a prisoner be given exercise, adequate accommodation, nutrition, reading material and medical treatment. In most cases public prisons are not able to provide adequate exercise because of the shortage of staff to provide security. Adequate accommodation is not guaranteed because of excessive overcrowding, and nutrition is not up to the standard it should be: prisoners are given only two meals a day and corruption can result in them receiving inadequate amounts of food and/or food that is spoilt. Many South African public prisons are incapable of providing education, inmate programmes and other forms of rehabilitation to all prisoners. Thus access to reading materials may be the only way for an inmate to receive stimulus, and it is up to the inmate to organize for him/herself access to study materials. Medical treatment provided in public prisons is also not up to the standard it should be, again due to lack of adequate resources.

Overcrowding, and the resultant lack of supervision and inadequate programmes, leave inmates idle and restless for long periods of time, further encouraging violence, escape attempts, gang activity, corruption, smuggling and the like. In the public sector, prison officials have little choice over the number

of prisoners accommodated. But in the United States, the United Kingdom and Australia, governments have also amended contracts to increase the number of inmates allowed in private prisons; after all three countries experienced a dramatic rise in their prison populations. The US state of Florida authorized the entire prison system to operate at 50 per cent above normal capacity. In the United Kingdom, the Doncaster contract allows for 50 per cent overcrowding. In Australia the Junee contract makes provision for 80 per cent spare capacity to provide for 600 prisoners. Borallen's capacity was increased three times from 1990 to late 1995 with new construction and the double bunking of beds, while the Arthur Gorrie Correctional Centre underwent four increases in capacity. Both facilities are now overcrowded (Harding, 1997).

It seems that similar plans are underway in South Africa. An inter-departmental Task Team assigned to assess the privatized prisons noted that:

The operating expenditures of the prisons are driven by the high levels of service specified in the two contracts. Savings to the Department [of Correctional Services] can only be realised through negotiating with contractors on new, lower levels of service, as well as building two new units at the Bloemfontein prison and increasing the number of prisoners for the Louis Trichardt prison, adjustments that will ensure significant economies of scale" (Department of Correctional Services, Department of Public Works, National Treasury, 2002).

According to the report of the Task Team, the Public-Private Partnership prisons provide:

...significantly higher quality facilities than is the norm to date in South African prisons [and offer] significantly higher levels of service than is the norm to date in South African prisons" (Department of Correctional Services, Department of Public Works, National Treasury, 2002).

The Public-Private Partnership prison specifications were based on United Nations Standard Minimum Rules for the Treatment of Prisoners, which set too high a benchmark for public prisons in their present state. Despite constitutional reforms, and the creation and recognition of prisoners' rights by DCS, these legislative and policy initiatives have not filtered down to the daily life of the average prisoner. Overcrowding results in other problems within the prison system, such as gang activities, a decrease in warder supervision and control, and a lower standard of life for all prisoners, especially given the inability of the Department to provide adequate rehabilitation programmes and work for so many prisoners.

As an example of the high standards expected in private prisons, out-of-cell prisoner activities must take up a minimum of 12 hours a day, compared to the public sector's minimum of only one hour a day. Many public prisons have communal cells. Private prisons have two- and four-person cells that improve security and curb the activities of prison gangs (a huge problem in the public sector). Private contractors are also required to provide comprehensive social, healthcare and education programmes, whereas the public sector usually does not have the resources to guarantee such programmes. Private contractors are even required to provide inmates with newspapers: the Bloemfontein private prison provides one newspaper for 15 prisoners, the Louis Trichardt private prison provides two newspapers for 72 prisoners, but the public sector cannot afford to provide (or guarantee the provision of) newspapers at all. Both private prisons have Closed Circuit Television (CCTV) and a central monitoring system in place, whereas only the newer public prisons in South Africa would have these facilities, if at all (Department of Correctional Services, Department of Public Works, National Treasury, 2002).

One similarity between public and private prisons is the ratio of inmates per officer. In Malmesbury prison, for example, the ratio is 5.4:1 and in Grootvlei prison the ratio is 6.2:1. The two private prisons, Bloemfontein and Louis Trichardt, both have ratios of roughly 6:1 (Department of Correctional Services, Department of Public Works, National Treasury, 2002). However, since correctional officers work in shifts this ratio cannot be taken at face value. It was reported that, in practice, the ratio in Bloemfontein is one officer to 60 prisoners.²¹ Furthermore, it is a feature of private prisons, as international experience demonstrates, that staff costs are reduced through prison design and/or understaffing. Although the South African private prisons are currently not understaffed they have hired fewer personnel due to the installation and greater use of CCTV equipment.²²

Despite the high quality of private prisons the DCS is now looking at ways to reduce expenditure and consequently quality. The two private prisons have six case-management coordinators, eight staff members for recreational activities, 10 social workers, two qualified psychologists, seven teachers and an education supervisor, 12 vocational instructors and a supervisor, and 14 physical education officers and a supervisor. Proposals are under consideration to cut the number of out-of-cell hours from 12 to eight hours, since 12 hours out-of-cell requires two

²¹ Interview with Judicial Inspectorate, 19 Oct. 2004.

²² Ibid.

dayshifts without “a significant effect on prisoner well-being” (Department of Correctional Services, Department of Public Works, National Treasury, 2002). This would also reduce education programmes and their associated costs.

With regard to catering, which constitutes 11 per cent of the operating costs of Bloemfontein and 8 per cent for Louis Trichardt, the Task Team suggested a review of money spent on equipment for keeping meals at a particular temperature (failure of which can result in a fine), as well as of ways to reduce the quality and quantity of meals.

Health care at the private prisons is another area identified for savings. Currently medical costs per prisoner per month amount to R445 at Bloemfontein prison, compared to R275 per month for public prison inmates. The Task Team made recommendations for reducing the need (and cost) for escorting prisoners to hospital, by having a full-time doctor on site as well as basic medical facilities.

If applied, the above moves to reduce costs will obviously affect service quality in the private prisons and thus the lives of prisoners. However, they may not impact on the rights of the prisoners, and there are many aspects of the private prisons conducive to prisoner safety and development. For instance, contracts include the provision that prisoner complaints must be dealt with within 24 hours. Similarly, sick inmates are to be seen by a healthcare worker within 30 minutes, and prisons must provide drug testing, prevention programmes and treatment.

The quality of personnel is, as international experience shows, a vital prerequisite for the efficient functioning of any prison. Even though the government has allowed private contractors to choose their own staff, every appointed private official must be certified as a custody official by the Commissioner of Correctional Services. To qualify as a custody official the individual must conform to Department regulations and qualifications, a requirement also applicable to the public sector. Suspensions of officials are the responsibility of the prison controller (who must notify the Commissioner in advance of the decision), but only the Commissioner may revoke the suspension. It is thus largely up to the public sector to ensure compliance with staff requirements.

The public

The main effect of private prisons on the public is the empowering of “previously disadvantaged enterprises” (PDEs) and its impact on the economy. The three empowerment shareholders — Ten Alliance Mangaung, Fikile Mangaung, and Ikhwezi Community Trust — each hold a 20 per cent

shareholding in Bloemfontein Correctional Contracts (Pty) Ltd. The design, construction and operating phases PDEs, local enterprises and “affirmable” business enterprises (for e.g Concor Holdings [Pty] Ltd.; Makhosi Holdings [Pty] Ltd. and Group Five Construction [Pty] Ltd.), especially on construction. At the Louis Trichardt prison, 79 per cent of its services are provided by PDEs (Department of Correctional Services, Department of Public Works, National Treasury, 2002).

People in the economically disadvantaged communities where the prisons were deliberately located benefit from the local sourcing of prison services. Private contractors are free to buy prison supplies from local enterprises, not necessarily from specifically delegated suppliers. The Louis Trichardt prison uses a third of the total requirement for electricity in that area. The impact on surrounding communities of private prisons is thus greater than the traditional closed city-like public prisons South Africans have grown used to. Housing for correctional officers, for example, need no longer be situated within prison grounds, enabling officers to buy houses in the community. Community estate agents, builders and other service providers already benefit from this small development. The Bloemfontein prison also contributes to the community directly, donating clothes produced in prison to street children, vegetables grown to local soup kitchens and HIV/AIDS orphanages, and seeds to the informal settlements surrounding the prison.²³

However, the true economic impact of South African prisons on surrounding communities has not been assessed, and the claimed economic benefits of private prisons (and prisons in general) have not been borne out elsewhere. Even if it is found that local communities do benefit financially in the long term, there is still the danger that they will come to depend on the existence of these prisons as in any other one-industry town.

Impact on correctional officers²⁴

Labour market security

Private prison staff are on fixed-term (full-time) contracts of up to five years, and there is no expectation of automatic renewal. By comparison with the

²³ “Privately run prisons are partnerships with excellence as targets”, *Cape Times*, 2 Aug. 2004

²⁴ This section draws heavily on the author’s interview with a member of the Judicial Inspectorate, 19 Oct. 2004.

public sector, the private contractors do not appear to tolerate insubordination, lateness, absence without leave and so forth. Despite this, no firing of personnel has taken place to date since the private prisons opened.

Private prisons are also recruiting their personnel from local communities, including women and people from previously disadvantaged backgrounds. Of the 517 staff members at the Louis Trichardt prison, 91 per cent are previously disadvantaged individuals, 85 per cent of the managers are previously disadvantaged individuals, 46 per cent of the staff are women, 1 per cent are disabled persons and 80 per cent are from the local community (Department of Correctional Services, Department of Public Works, National Treasury, 2002). All positions were publicly advertised, allowing a fair opportunity for all to apply.

However, because of the financial burden private prisons are placing on the public sector, it is not clear how secure these appointments are. The government could decide to terminate the private contracts and take over the running of the facilities itself. This might entail the replacement of existing personnel with Departmental staff, or possibly the permanent employment of those currently on contract at the private prisons.

Employment security

Correctional workers in the private prisons receive the same or similar benefits (such as medical aid, sick leave, vacation time, pension benefits and so on) as their counterparts in the public sector. It is not clear what contributions they pay and whether they receive more or less than their public sector counterparts. But it is clear that male and female employees are equally provided for in the private prisons and benefits are protected (in theory) by conditions of employment legislation (such as the Basic Conditions of Employment Act 75 of 1997).

Work security

Observation suggests that, in comparison to public prisons, the private prisons are much safer environments. For instance, prison gang activities are rife in many public prisons and it seems that the Bloemfontein private prison also experienced problems with gang fights, which have since subsided. Gang activity would ordinarily compromise the safety and security of other prisoners and correctional officers. However, the private prisons have a task team to address violence and other dangerous situations, alleviating the threat of injury or death to front-line correctional workers. (It has nevertheless been maintained that at times a task team can take up to 10 minutes to reach the area of conflict, by which time prisoners and/or staff members may be injured or even killed.)

In terms of working hours, private correctional staff work four days on followed by four days off. This is perceived as an “easy shift” and staff have to be “instructed” by the prison director to take their annual leave. It thus seems that stress levels experienced by private correctional staff are low in comparison to public sector staff, despite the demanding nature of prison work. At the same time, there appear to be frequent resignations, which may be due to the effective inmate-staff ratio of 60:1 that makes it harder for correctional officers to handle difficult inmate situations.

Job security

It is not known how or whether the introduction of prison privatization in South Africa has affected the job security of correctional staff working in private prisons. However, private correctional workers seem to be grateful for their employment and, according to the Democratic Alliance spokesperson on correctional services, James Selfe, “the warders seem to have a very real pride and sense of ownership of the facility”. This suggests there is opportunity for the development of an occupational niche in these prisons.²⁵

Skill reproduction security

Staff at the Bloemfontein prison were trained prior to the opening of the prison and continue to be trained. Staff at the Louis Trichardt prison were given six weeks of initial training and then multi-skilled training (Department of Correctional Services, Department of Public Works, National Treasury, 2002). Private companies have played a large part in this. For instance, training manuals and plans based on Australian corrections practices were reworked to suit South African legal and correctional procedures, and local joint venture partners have provided training staff (Prison Privatization Report International, 2002a). Private correctional officers from the Bloemfontein prison have trained public correctional officers, reflecting the level of training received by private personnel.

Income security

No studies have been produced to date that compare public and private sector salaries of correctional staff. However, it is known that managers in the private prisons may earn up to two-and-a-half times more than their public

²⁵ “Privately run prisons are partnerships with excellence as targets”, *Cape Times*, 2 Aug. 2004.

counterparts, and it is apparent that better wages extend to all employed within the private prison in comparison to public sector employees. What is not known is the gap in salaries between high-ranking personnel (such as managers) and lower-ranking correctional personnel within the private prisons.

Representation security

Only since the early 1990s have correctional staff been allowed to unionize and engage in collective bargaining. Due to the importance placed on the right to unionize in South Africa, the fact that anyone may belong to a union and the fact that many have been recruited from the public sector, bringing with them their union status, it is highly likely that at least some staff at the private prison are unionized (Cape Times, 2004). However, since many of the private prison personnel are on fixed-term contracts it is not to their benefit to belong to a union despite their low status and few benefits compared to permanent employees. Their short-term status (at times being employed for only six months or for two-year stints) means it may not be worth paying union subscriptions or fees, bearing in mind that unions will tend to negotiate for better rates for permanent staff rather than those on fixed-term contracts.

Fixed-term contract staff are entitled to basic human rights and basic conditions of employment set out in the Basic Conditions of Employment Act 75 of 1997. They are also entitled to approach civil courts or the Commission for Conciliation, Mediation and Arbitration if unfairly dismissed.²⁶ However, in terms of strike action, they have fewer rights than employees in the public sector. Staff at public prisons, deemed to be providing an essential service, are only allowed to strike when off-duty, such as immediately after the end of a shift. Strikes on-duty are illegal, since they may compromise the rights of prisoners and the safety and security of the correctional facility. Since fixed-term staff are employed on the basis of an agreed contract, they are prohibited from subsequently bargaining for better terms (such as more benefits) and could be dismissed were they to strike even off duty. Thus unionization is not as beneficial to fixed-term staff as permanent staff, and their rights are further limited due to their contractual status.

It is clear that South African private prisons need further study to assess their short- and long-term effects on all involved. An in-depth analysis of private prisons in a developing country should inform the process of prison privatization

²⁶ The Commission for Conciliation, Mediation and Arbitration is an independent dispute resolution body established by the Labour Relations Act 66 of 1995: <<http://www.ccm.org.za/>>.

in other developing countries (such as Lesotho). The drawbacks as well as the benefits of privatizing prisons identified in the South African context should enable others (especially in Africa) to be better prepared for the challenges and difficulties, from the tendering process to prison management.

9. Developments in Lesotho

The impetus for the consideration of prison privatization in Lesotho was based on similar economic, political and corporate developments as in the other countries discussed here. According to Nathan (2003), Lesotho is dependent on loans from the International Monetary Fund (IMF) and the Organization for Economic Cooperation and Development, and also relies on aid from the World Bank. Reviewing Lesotho's eligibility for a Poverty Reduction and Growth Facility loan (an IMF facility for low-income countries), the IMF said the public sector's role would be limited and that more reliance would be placed on the private sector to ensure economic growth, employment and poverty reduction (IMF, 2001). Lesotho's three-year Poverty Reduction and Growth Facility arrangement involves USD31 million, a large amount of money for a small developing country, which inevitably has influenced Lesotho's approach to private sector initiatives.

In August 2000 an official visit to South Africa's Bloemfontein private prison (under construction at the time) by representatives of Lesotho's Ministry of Justice and Human Rights resulted in a request by the Lesotho government for a proposal from the private company responsible (Group 4 Correction Services SA) for a 1,000-bed facility (Nathan, 2003). In October 2000 a presentation was made by the Group 4 consortium to Lesotho's justice minister, the director for prisons and other state officials, and in December the consortium was requested to develop a report for Cabinet consideration "addressing the general background and progress to date, design philosophy and operating procedures, funding and procurement options, and next steps" (Nathan, 2003, p. 196).

The initial 1,000-bed proposal was extended to a 3,500-bed facility. As Lesotho's prison population is 3,000, with a 20 per cent overcrowding rate, this would not only alleviate the overcrowding problem but also entail the closure of Lesotho's 12 state prisons (Nathan, 2003; Prison Privatization Report International, 2002b). The consortium further promoted this privatization option in their report by advocating the use of the private sector as "the procurement method of choice", referring to the UK's Private Finance Initiative (Nathan, 2003, p. 196). The Ministry of Justice and Human Rights announced in its plans for 2001-02 that it was "contemplating the possibility of a modern day prison under Public Private Partnership or Build, Operate and Transfer (BOT) due to

lack of development funds” (Ministry of Justice, Human Rights and Rehabilitation, 2000).

Negotiations between the Lesotho government and the Group 4 consortium are still in progress. The main opposition comes from the prison service, which at that time was preparing to submit a paper on its concerns to Cabinet (Public Services International Research Unit, 2002–03). The Director General of the Lesotho prison service publicly expressed these concerns, arguing that the proposal to privatize the prison system was inconsistent with Lesotho’s declared adherence to democratic principles and prisoner rights contained in the International Covenant on Civil and Political Rights and UN standards on prisoner rights (Nathan, 2003). Once the Cabinet has given its approval, Lesotho’s parliament would need to approve the enabling legislation — but since 79 of its 80 seats are held by the Lesotho Congress for Democracy, it is highly likely to endorse the proposal (Prison Privatization Report International, 2002b).

The implications of privatizing Lesotho’s prison service are twofold. On the one hand, as in South Africa, there could be benefits to this approach, especially the transfer of international standards of imprisonment, which Lesotho may not be able to guarantee in its public prisons. Prisoners’ rights may be more effectively upheld if contractual obligations are precise and enforced properly. The construction and operation of the private prisons may contribute to local development, as in South Africa, if local businesses are employed throughout the process.

On the other hand, there are numerous ideological as well as practical issues that come to the fore. On an ideological level, is it proper and constitutional to hand over the care of a country’s entire prison population to a for-profit-company? This will in effect monopolize imprisonment for corporate interests. On a practical level, Lesotho could expect similar financial difficulties to those South Africa is currently facing in trying to maintain high operating standards. What will become of the correctional staff working in the public sector? Private corrections companies often prefer to train and recruit their own staff and may only selectively recruit from the public sector. The others will lose their jobs and those who are recruited will probably, if international experience is anything to go by, have less permanency. They may or may not be unionized, although it remains to be seen whether they will earn better wages as in South Africa.

In addition, independent consultants working with the UK’s Department for International Development have pointed out that privatization is not the only option, since the public sector has also developed a no-cost solution to solving Lesotho’s overcrowding problem. Commenting on Group 4’s proposal, the

consultants said it would “arrest the flow of ideas and processes of change currently experienced by the Lesotho prison service” (Nathan, 2003, p. 197).

10. Conclusions

In terms of the hypotheses listed at the outset of this paper, it is clear that the liberalization of prisons has resulted from a number of political and economic developments in the United States, United Kingdom and Australia that continue to shape the policies and directions of a number of other First World and developing countries. These “drivers”, which promote the privatization of prisons, are not necessarily consistent with workers’ socio-economic rights and the wellbeing of the public. It is also clear that the liberalization of prisons has had a largely negative impact on the various stakeholders involved in private prisons.

Frequent reference has been made to incidents in the three First World countries of the impact on prisoners, private and public correctional personnel, and the public at large, of understaffed prisons ineffectually managed by non-unionized, demotivated, poorly paid personnel recruited from “the bottom of the barrel”. The frequent human and socio-economic rights abuses have at times led to termination of the contracts with private corrections companies. However, in the majority of cases, the private companies retain control over the prisons despite contract violations. Since the ultimate responsibility for incarceration rests with the government, it is the government’s relinquishing of that responsibility that has resulted in these abuses. Prisons cannot be run solely on business principles.

Nevertheless, it seems that private prisons are here to stay, at least in the First World. Therefore it is imperative that governments take more responsibility for the running of private prisons by, for instance, insisting on contract clauses that protect and guarantee the rights of prisoners and correctional workers, as well as ensuring that private prisons are monitored effectively to prevent understaffing, promote staff training and secure basic rights. Governments should also take seriously the recommendations of monitoring agencies and ensure that the recommendations are enforced (with heavy fines, prosecution and/or contract termination and interdiction of future bidding). Governments should not place cost concerns over and above the rights and needs of prisoners and staff in private prisons. Instead, they should review the best means to reduce imprisonment and create feasible alternatives to incarceration.

The differences in the experiences of prison liberalization between developed and developing countries should also be noted. In First World countries, problems have been mostly related to the operation of private prisons

and the impact on correctional workers, prisoners, the public (in terms of threats to safety) and level of service. In many US states, and in certain prisons in the United Kingdom and Australia, private prisons are operating at a lower standard than their public sector counterparts. In South Africa, that situation is reversed. The quality of service provision of the private prisons is much higher than in public prisons, creating a different sort of discrepancy. Prisoners not in the private prisons, correctional staff not working in the private prisons and communities not surrounding the private prisons stand to lose from the government's insistence that the private prisons deliver First World standards of incarceration. As stated by the Commissioner of the South African Human Rights Commission, Jody Kollapen, in an interview with the author (conducted in 2000 when the construction of private prisons was still being negotiated):

...in [private prisons], the standards and the quality and the hygiene, etc. is remarkably different. What does this mean in terms of a society that is trying to deal with questions of equality? Does it mean that there will be different forms of punishment for the rich and poor? Whereas in fact if people contravene the law then the notion of equality requires that the law must punish them equally, and that means the conditions under which they find themselves must be the same for all prisoners by and large.

Even if standards are lowered to save on costs (this time due to government instruction, not to private sector corner-cutting), the private prisons will still be of a higher quality than most, if not all, of South Africa's public prisons. This is not because of any lack of motivation on the part of public sector staff, but due to the circumstances in which South Africa has found itself — new to the international market, struggling with high crime and large prisoner numbers, and simultaneously trying to enforce democratic principles while catering to the public's fear of crime.

The situation in Lesotho is also unique. If their entire prison system were to be privatized there would not be this duality of imprisonment South Africa is facing. However, the very existence of the public prison system would be undermined, and the input and involvement of public sector staff would be lost. Furthermore, if First World countries have struggled to guarantee the effective, safe and efficient running of their private prisons, how can developing countries such as South Africa and Lesotho manage on fewer resources? Only time will tell to what extent the private prisons in South Africa will affect the rights of all involved. In the meantime, since it would be financially difficult for the government to attempt to take over the existing private prisons, it should avoid commissioning more. Instead, it should address minimum sentencing requirements, bail amounts and blockages in the criminal justice system, and allow more non-custodial sentences to help tackle prison overcrowding. The sharing of ideas and good practices between the private and public sector should

be encouraged, and the government should continue proper monitoring of the private prisons to ensure compliance with their obligations.

In all the countries mentioned, the public sector, the public and prisoners appear to have little say in the decision to privatize. Governments and private companies make arrangements largely behind closed doors. Despite many incidences of abuse and violations of prisoner and correctional officer rights, private corrections companies continue to find markets for the export of prison privatization. Every year, more and more private prisons are built by ever-growing private companies. Florida, the home of Wackenhut, has become a veritable Wackenhut state as more and more facilities and institutions are being delegated to this large corporation.

The prevailing attitude in South Africa and probably in a number of other developing countries is that the private companies cannot do a worse job than government in running prisons. The reality is that governments in transforming and developing countries find privatization appealing due to the pressures they face to improve prison conditions without creating huge budget deficits. Should South Africa opt for the further liberalization of its prison system, or should any other developing country decide on a policy of prison liberalization, it is imperative that the government and private corrections companies remain completely open and transparent during all phases of negotiations up to and including the management of a prison, with documentation, contracts and practices available to all on request. By adopting a policy of prison liberalization developing countries may simply be swapping one burden for another, instead of addressing the situation and finding human rights-orientated solutions. The process of liberalization and its implications should not be hidden from public scrutiny.

Africa's colonial heritage has meant adoption of a criminal justice system that is largely retributive and punishment-orientated rather than restorative. The use of prison liberalization stems from an ideology inconsistent with human rights and democracy and consequently there is a need to address this ideology and transform the means by which crime is addressed, offenders are "processed" and punishment is carried out. Only this can have an impact on the disturbingly punitive nature of governments throughout the world and the consequent perpetuation of violence and crime.

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SECTION VI:
SOCIAL CARE

IMPLICATIONS OF LIBERALIZATION FOR CARE WORKERS' SECURITY

8

by Jane Lethbridge¹

1. Who are care workers?

Care work can be defined as “activities that provide assistance or supervision for someone requiring support in daily life, which can be delivered at home, in the community or in a variety of settings”. Those being cared for include children, adults with long-term chronic conditions, people with physical or learning disabilities, those with mental health problems and older people. This chapter will consider care workers involved in care for children and for older people, and will not discuss the provision of care for people with disabilities or the provision of domestic services such as meals on wheels. The first part of the chapter deals mainly with developments in industrialized countries, but later on there is a discussion of recent trends in caring in several developing countries.

Childcare and the care of older people have traditionally been studied as two separate issues, although this is beginning to change. This separation in research partly reflects different administrative and cultural appreciations of the extent of public responsibility for care (Rostgaard, 2002). In Nordic countries, social care covers public care for everyone who needs it — older people, children and those with disabilities. In the United Kingdom, social care is restricted to older people, people with disabilities and adults with mental health

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problems. This chapter will initially address childcare and the care of older people separately, but will also draw some comparisons between them.

The role of the welfare state shapes care both as an activity and as a set of social relations (Daly and Lewis, 2000). Many typologies have been developed to examine different welfare systems, which may be categorized, for example, according to the expected role of the family in caring for older people and children, or to the way the system is financed through taxation or social insurance (Esping-Andersen, 1990; Alber, 1995). Jenson identified three types of welfare state programmes that influence the way in which care is defined and delivered:

- a. programmes that “redistribute the risk of differential needs for care”, for example, family policy for bringing up children;
- b. programmes that aim to improve the quality of care by regulating providers or professionalizing care;
- c. programmes that provide pensions and allowances to reduce dependency (2002, p. 70).

Government involvement in social care may take the form of funding for care services delivered to a person in their own home or in a residential home; payment of a “carer’s allowance” to informal carers; or payments to people needing care, who can then purchase services from local social care agencies. However, the role of government in the direct provision of social care is declining in many countries and social care services, even when publicly funded, are increasingly provided by the private or non-profit sectors.

Social care for older people in developed countries includes care provided at home and in residential homes, and care provided in specific types of sheltered housing. Home care consists of different forms of support, for example, cleaning, bathing, dressing of wounds and shopping, that enable older people to continue to live in their own homes. Social care is provided in residential homes for those who can no longer live alone and need some combination of nursing and social care. The tendency is for new residential schemes to be built by private, and in some cases public-private, partnerships that provide accommodation and access to centralized care support when needed. Social care workers may work in residential homes, or provide care to older people at home or in sheltered housing schemes. They may be employed by the public sector, usually a local authority or municipality, but increasingly they are employed, either directly or self-employed, by the private or non-profit sectors.

Childcare services are delivered through childcare centres, nursery schools, pre- and after-school centres and family households. In countries with greater

collective provision, many workers are directly employed in the public or non-profit sectors. In other countries such as the United States and United Kingdom, childcare is provided predominantly by the private sector. Childminders, babysitters and nannies are employed directly by a household or family, or are self-employed. They take care of children either in their own homes or those of the children. Babysitters are paid on an hourly basis. Nannies are often full-time, sometimes live with the family, and provide a range of services from childcare to housework.

Child and pre-school care is increasingly characterized as having both caring and educational components, which also influences whether childcare policy is considered as part of education or welfare policy. The last decade has seen instances of governments moving policy responsibility from welfare/health departments to education departments, for example, in England and Sweden. These departmental changes have implications for how the services are organized and delivered, and the way in which care workers are trained and paid (Cohen et al., 2004).

The demand for paid workers to care for older people and children is strongly influenced by demographic factors and by increased female participation in the paid labour force. The latter reduces the supply of unpaid carers, often women, as well as affecting the demand for childcare. The provision of parental leave also has a strong influence on the demand for childcare facilities. This can range from very limited parental leave in the United States to three years' paid leave in Hungary (Korintus and Moss, 2004).

Daly and Lewis (2000) present a concept of contemporary social care that looks at social care infrastructure, the political economy of provision by the family, market, state and voluntary/community sectors, and the contribution of each sector to the organization of care. This provides a useful framework for an examination of care workers because the paid care workforce is influenced by changes taking place in care infrastructure and between key institutional players. Although this chapter is primarily focused on paid care workers, the section on access to services will address how both users of services and informal carers are affected by current changes.

The chapter will go on to explore to what extent:

- certain “levers” are pushing the liberalization of care services, which is resulting in unequal and selective provision of services rather than universal provision;
 - the unequal distribution and emerging types of services are eroding workers' securities;
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- there is a shift away from universal citizenship rights based on provision of services towards two-tiered systems, often leading to a concentration of services for the middle class;
- there has been significant liberalization of health and social care services in many countries, without commensurate changes in protection regulations and systems of social governance.

2. Liberalization and the commodification of care

This section will start by looking at changes in financing and payment for social care for older people and for childcare, and will go on to examine these changes in the context of World Bank and European Union policies.

2.1. Forms of financing and payment for social care for older people

In the past two decades, policies on care for older people have shifted from advocating solely family care to promoting a combination of small-scale institutional and community care, with a mix of public and private responsibility. Home care has expanded as part of community care. National policies that promote market mechanisms in social care have been introduced since the early 1980s in North America, Europe and Australia, leading to the establishment of internal markets, the introduction of user fees, the privatization of some care services and an overall shift from public to private provision (Go, 1998).

The UK Community Care Act 1992 promoted subcontracting by local authorities to private providers by separating local authority purchasing and provision functions. The Community Care Direct Payment Act also led to increased home care provision. In addition, the United Kingdom introduced “attendance allowances” as payment for carers who previously would have provided unpaid informal care. However, the introduction of care allowance programmes was determined more by the aim of allowing older people to remain independent than the desire to reward informal caring (Jenson, 2002).

The 1992 Adel reforms in Sweden have led to an expansion of private sector provision with the contracting out of long-term care facilities, home care services, meal and transport services. In Australia, the Home and Community Care Act 1985 under the Aged Care Reform Strategy resulted in an increase in home care with workers provided by personnel supply agencies (Go, 1998).

In Germany, the Long-term Care Insurance Law 1994 introduced universal insurance to cover the costs of long-term care. Subsidies to private companies to

build new facilities stimulated an expansion of private sector provision, while subsidies for non-governmental organizations were reduced. In Japan, similar policy changes have promoted private social care provision (Go, 1998).

Changes in the healthcare sector have also had repercussions on policies for social care. Attempts to limit the number of older people in acute hospital beds in countries such as the United Kingdom and Sweden have created a new category of “intermediate” care (Pollock, 2004).

Since 2003, local authorities in England are liable for penalties if they fail to provide appropriate care and accommodation, prompting them to change both the organization of social care and the way it is priced. Social care has become more dependent on services provided by profit and non-profit suppliers, creating new opportunities to charge for care services.

Governments have often presented these policy shifts as part of a process of empowering users, with an emphasis on consumer choice and the concept of the service user as “purchaser”. But in many European countries, social policy changes have been driven by reductions in public sector spending (Castles, 2001).

One widely observed trend has been the expansion of home care. With an increase in individually assessed care packages, there is a rising demand for care services delivered at home. There has also been an increase in the range of medical care services, for example, cancer treatments and renal dialysis, that can be delivered at home by trained nurses and other specialized health workers. This parallel development of medical home care services will affect the future of home care services, as can already be seen in North America where the boundaries between home care workers and personal care assistants have become increasingly blurred (Service Employees International Union, 1999).

In some countries, older people and those with disabilities are given grants from public funds to purchase the services they need. User organizations sometimes argue that this gives people with disabilities the opportunity to organise services to meet their specific needs. However, older people often do not feel able to purchase their own services, so social workers do so on their behalf, as a protective practice. To enable users to purchase social care services they must be costed and priced, the first step on the road to commodification. In Denmark, for instance, nursing-home residents were given the right to choose which services they took up, so nursing homes were obliged to define the services provided and their cost (Lewinter, 2004).

The introduction of market principles to the public social care sector has resulted in many home care services becoming “business units” competing with the private sector. Care services in municipalities have been redefined as “care

products”, assessed by methods for “measuring and securing the quality of care” drawn from the private sector and manufacturing industry (Trydefard, 2003).

Services are provided by individual care workers, non-profit care services, and commercial care services. In countries where only the basic costs of care are provided by government, any extra costs have to be covered by the individual in the form of user fees.

2.2. Forms of financing and payment for childcare

In contrast to social care for older people, there is widespread recognition that government has a role to play in providing or subsidizing childcare. The participation of women in the labour market has increased over the last decades, supported by government employment policies. In addition, research has shown that quality childcare that enhances the social wellbeing of young children positively influences their adult life (Hertzman and Mustard, 1997).

Government involvement in childcare can take three forms: first, direct funding of childcare through government centres or subsidies to other arrangements/providers; second, government subsidies to families to offset childcare costs, for example, through tax credits or tax relief; and third, regulation of centre-based care and family care homes. As with social care for older people, national systems of provision are influenced by historical patterns of care and delivery, for example, whether based on targeted or universal provision.

In Sweden, 78 per cent of women are in the paid labour force and 29 per cent of children aged 0-3 years are in day care. Just 8.5 per cent of families with children live at poverty level, though poverty has increased among single mothers in the 1990s. Women are over-represented in the public sector, which has more flexible and part-time working arrangements. However, women’s employment has also been more affected by the privatization of public services (Cohen et al., 2004).

Early childhood education and care services in Sweden were largely protected by central government during the 1990s, and thus have been less affected by privatization and liberalization. Parental leave arrangements are generous, and 98 per cent of municipalities are able to provide care for all children aged 1 year and older within three months of a request. Parents also make some contribution to costs. Low-income parents pay 3-4 per cent of their childcare costs, although this varies according to municipality and whether fixed or sliding fees are used (Allen, 2003).

In the United States, 62 per cent of women are in the paid labour force and 26 per cent of children aged 0-3 are in day care. There is very limited parental leave. One recent study showed that single mothers and minority groups often worked in jobs with poor rates of pay and benefits and long irregular hours (Joyner, 2002, quoted in Allen, 2003). This helps to explain why, despite the high proportion of working mothers, nearly 18 per cent of children under 6 live in poverty.

The US system is characterized by benefits means-testing, targeting of poor people, and minimizing the involvement of government. The Personal Responsibility and Work Reconciliation Act (PWORA) 1997 restructured means-tested welfare programmes and put lifetime limits on public assistance for families with children. This is having an impact on early childhood education and care (ECEC) programmes (Allen, 2003). There are some means-tested subsidies for childcare services for poor people, while middle-class groups benefit from tax credits for child-care.

2.3. *International policy drivers*

Some of the changes in the way that social care is funded and delivered have their origins in policy developments at supra-regional and international levels. Thus childcare policies need to be seen in the context of employment policies and strategies to increase women's participation in the paid labour force or decrease unemployment among single parents.

Policies for older people are strongly influenced by the widespread assumption that they represent a "burden" on society, with the rising proportion of elderly in industrialized countries described as a "time bomb" threatening existing social welfare programmes. This negative view of ageing is reflected in the World Bank's report recommending policies for older people to avert "the old age crisis" (World Bank, 1994). Particularly in relation to economic development, older people are presented as a drain on resources because they sell off assets, use savings and require support by the rest of society. The World Bank also uses measures that give a lower social value to health improvements for people aged over 60, on the grounds that younger people are more productive. This approach, which ignores the contribution that many older people make through economic and social activities, has had a profound influence on national pension and social care policies.

Lloyd-Sherlock (2004) challenges the view that people in mid-life save more whereas older people use their savings. Micro-level research has shown that older people often continue to save albeit at a lower rate. Moreover, the assertion that an ageing population will hold back economic development

depends on the level of social provision and how it is delivered. In many developing countries with weak social protection systems, a growing older population will have little effect on existing social protection levels.

Although a key element of public sector reform involves the promotion and development of the private sector to deliver public services, the process of outsourcing and contracting out of services has been slow in many developing countries. However, the introduction of private sector development strategies in the late 1990s by multilateral financial institutions is aimed at developing a private sector that can both contribute to economic growth and deliver a wide range of public services.

The World Bank's revised private sector development (PSD) strategy (World Bank, 2002) anticipates a wider role for the private sector in providing health and education services. The International Finance Corporation (IFC), part of the World Bank Group, is expected to increase its lending to private companies working in health (Bijlmakers and Lindner, 2003). There appears to have been extensive debate within the Bank on how to promote private provision in health and education, including ways of promoting competition between public and private providers and initiatives that increase access to these services by poor people.

Negative views of ageing and its potential costs should also be set in the context of policies to reduce public spending by reducing the provision of public services. In Europe, the 1992 Maastricht Treaty was one of the most important factors behind liberalization of the social care sector. The rule that "Member States shall avoid excessive government deficits" (Article 104c.1) was one of four criteria for entry into Economic and Monetary Union. Contracting out of services, including social care services, to private or non-profit providers was one way in which governments could reduce their deficits (Public Sector Privatisation Research Unit, 1997).

The role of the European Union (EU) in social care policy has been limited and is similar to the situation in healthcare, where the principle of subsidiarity allows national governments to develop their own approaches. There have been some attempts by the EU to influence social care policy, but these have taken the form of recommendations or advice rather than binding legislation. The 1992 Recommendations on Childcare (92/241/EEC), note that lack of childcare limits women's participation in the paid labour force, but do not oblige member States to meet any minimum requirements (Rostgaard, 2002).

The Green Paper on European Social Policy (EU, 1993) encouraged member States to share responsibility for social policy implementation with voluntary organizations, social partners and local authorities. As part of the EU's employment strategy, each Member State is supposed to incorporate many

groups that are not currently part of the paid labour force (EU, 1997). The provision of childcare has been recognized as an important factor in getting women back into employment. Single mothers with children have been a target group in many countries, for example, under the UK's New Deal Programme.

The EU is expected to have more influence on the social care sector through its internal market legislation. A new draft Directive on services in the internal market (EU, 2004) recommended that "personal social services" should be considered a Service of General Economic Interest (SGEI) and as such be subject to competition law, rather than a Service of General Interest (SGI), which would not be subject to competition. One of the most important implications of this classification is that a service provider operating within the EU would be subject to the laws of its country of origin and not those of the host country where the service is provided. This has aroused fears that companies will establish themselves in countries with weak labour legislation and then expand into other European countries, affecting both the working conditions of social care workers and the quality of services provided (European Public Health Alliance, 2004a).

Following extensive campaigning and lobbying from a wide range of organizations, institutions and governments, the draft Directive was abandoned in its present form. At the moment, it is unclear whether a new Directive will be published by the European Commission and what the implications will be for the social care sector.

Meanwhile, the issue of how social care services should be classified has not been resolved. The *Altmark* judgment by the European Court of Justice (ECJ) in 2003 resulted in the decision "to exclude government support for services, such as public transport, from the term 'state aid' and therefore from the tendering requirement". This is also significant for social care services. Local authorities that are currently providers of social care services will not be expected to put them out to tender.

Discussions are continuing on the possibility of a Framework Directive for Services of General Interest. Many of the issues involved were highlighted at a conference in June 2004 entitled "Social Services of General Interest in the European Union — Assessing their Specificities, Potential and Needs", which brought together the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Platform of European Social NGOS and the Observatory for the Development of Social Services in Europe, with the support of the European Commission.

Concerns raised included the necessity for future social services reforms to take a wider view of how to meet people's needs for social care services, rather than focus narrowly on cutting costs. Though the definition and measurement of

quality of services required more discussion, participants agreed that the language relating to Services of General Economic Interest (SGEI) and economic performance indicators was not appropriate for social services. Social services might need legal recognition to give them a clearer identity, which would include “appropriate modulated application of market and competition rules, according to user needs and quality of services”. The conference noted unresolved tensions between local, regional, national and EU responsibilities in relation to social services. Continued participation of stakeholders in development of the Commission’s “Communication on social and health services in the European Union” was still needed.

Changes in welfare-state programmes affecting social care provision, such as the introduction of payments for individuals to pay for caring services or for informal carers to be paid an allowance or wage, have contributed to the commercialization of social care delivery. Although presented as recognizing the rights of both the carer and the person needing care, these new arrangements also underpin a system of quantified care services where care has become a commodity. The EU is contributing to this process of commercialization by making social care services subject to internal market legislation. Together with policies to reduce public sector spending and promote the role of the private sector in care, the move towards commodification of care will continue. A discussion of how several developing countries are providing care services is included later in the chapter.

3. Multinational company strategies and activities

Multinational company provision of social and childcare services is only slowly beginning to develop. As a way of understanding potential multinational expansion, this section will start by looking at changes in the provision of services for older people and children at national level, highlighting some of the trends in public and private sector provision. This analysis will be used to inform a discussion of multinational company activity in care services.

During the last two decades, in North America and many European countries, there has been an expansion in private and non-governmental provision of social care services. This is illustrated by the decrease in numbers of residential beds provided by the public sector, often as municipal services (Laing and Buisson, 2003a). It can also be seen in the increase in the number of private sector providers of home care services. Whilst there are clearly identifiable moves from public to private and non-profit provision, the patterns of ownership in the private sector are diffuse. In several European countries and North America, large parts of national markets are dominated by a group of domestic companies whose ownership changes regularly. The rest of the private

sector consists of many small and medium-sized businesses providing residential and/or home care. Most national social care markets have seen a continual process of merger and acquisition in the last decade. These trends are discussed in relation to the United Kingdom, France and the Nordic region.

In the United Kingdom, there has been a widespread transfer of care from the public sector to the private and non-profit sector. The number of local authority residential care beds fell from 54,610 in 1998 to 37,210 in 2002 (Pollock, 2004). This has resulted in the expansion of the private residential and home care sector (Player and Pollock, 2001). Local authorities now purchase more home care services from the private and non-profit sector than they deliver themselves (Laing and Buisson, 2003b). There has also been an increase in the demand for home care following the National Health Service and Community Care Act 1990 (Community Care Direct Payment Act), which enables older people to purchase their care directly from service providers.

Table 8.1. Five largest social care companies in the United Kingdom

Company	Shareholders	Beds	Turnover £million
BUPA Care Services	Non-profit	17 631	357
Four Seasons Healthcare Group	2004: Alchemy venture capital group sold to Allianz Capital Partners (part of Allianz insurance group).	15 315	105
Southern Cross Healthcare	2004: Blackstone Group	7 741	104
Craegmoor Group	2001: Legal and General Ventures – subsequently syndicated a proportion of their interest to a number of other private equity investors including LDC (formerly Lloyds TSB Development Capital), CDP Capital, RBS Mezzanine and funds managed by JO Hambro.	5 828	125
Westminster Healthcare Group	A public limited company until 1999 but since owned by financial institutions. Sold in 2004 by 3i to Barchester Healthcare Group.	5 747	142

Sources: Laing and Buisson (2003b); www.westminsterhealthcare.co.uk; www.craegmoor.co.uk; www.southerncrosshealthcare.co.uk; www.blackstone.com.

The UK social care market is dominated by a group of five companies, all except BUPA set up in the 1980s and 1990s following changes in community care legislation. The main shareholders are private equity, venture capital and business groups involved in the service sector, which are interested in a good rate of return on their investments and buy and sell their shareholdings regularly. In 2004, three of these companies had significant ownership changes.

The companies provide care services for older people, people with disabilities and in some cases children. Pollock (2004) discusses the increasing size of nursing care homes. The larger the care home, the more profitable it will be because larger companies have access to higher revenues and can generate economies of scale (Holden, 2002). But residents may feel that the larger size of homes contributes to a sense of institutionalization and decrease in the quality of care (Pollock, 2004). Many of these companies are also becoming involved in home care.

In France, social care provision is also dominated by a group of 5–6 national companies that have focused on short-term care (Table 8.2).

Table 8.2. Five largest social care companies in France

Company	Shareholders	Percentage	Beds	Turnover £million
Orpea	Dr. Marian	33	6 541	192
	Other founders	25		
	Investors	10		
Medica France	Bridgepoint	70	6 332	210
	Executives	30		
Medidep	Orpea (sold June 2005)	29	4 918	250
	Other shareholders	71		
Domus Vi	Yves Journal	68	4 499	150
	Barclay Capital	24		

Source: Medidep, Annual Report 2003 at www.medidep.com.

As in the United Kingdom social care market, there have been several changes of ownership in the last 2–3 years. Private equity and venture capital also play an important role as shareholders in the social care sector. Orpea bought a 29 per cent share in Medidep in 2003 but sold it in June 2005 (Cerle

Finance, <www.zonebourse.com>). Bridgepoint, a European private equity group, bought 70 per cent of Medica France from *Caisse de dépôt et placement*, a Quebec fund manager for public and private pension funds. In 2003, *Générale de Santé*, a private healthcare company, sold 51 per cent of its shares in its care homes to *Domus Vi*, which allowed the founder, Yves Journal, to regain control.

Most follow-up care and rehabilitation beds are still attached to public sector hospitals in France, while non-profit providers dominate the home care market. However, since 2001, the large private companies delivering residential care have also set up home care subsidiaries by obtaining home hospitalization licences, for example, Medidep and Medica France. Private companies dominate the sale and rental of hospital equipment for use in the home.

In Sweden, there has also been a decline in the total number of nursing-home beds from 32,000 in 1992. Following the Adel reforms these beds were transferred to the social care sector and to the municipalities (Trydegard and Thorslund, 2001), but there has also been some transfer of beds to the private and non-profit sectors. A Finnish trade union (KTV) survey in Sweden noted a process of privatization through competitive tendering, by turning public operations into joint-stock companies owned by local authorities, and by use of the “service voucher” model. This has also led to some contracting out of home care services to the private sector (Savolainen, 2004).

In 1999, private providers in Sweden delivered 9 per cent of public care for older people, although services are still publicly funded, with users paying fees on a means-tested basis (Trydegard and Thorslund, 2001). The market for social care is dominated by four large companies, which are active in Norway, Sweden and Finland. These four companies hold 50 per cent of the social care contracts in Nordic countries. Privately operated care is more common in urban centres than in rural areas, suggesting that delivering care to geographically scattered communities is not profitable. The municipalities that had privatized services were more likely to be run by councillors from conservative political parties (Trydegard, 2003).

In Denmark, under new national legislation designed to eliminate the black market in domestic services, subsidies are allocated for home service or housekeeping activities (Lewinter, 2004). Private firms with as few as two people can register to receive these subsidies. Anyone can hire a home service firm to do cleaning or shopping. The person receiving a service pays an hourly rate and the government also pays the service provider. In this way, the government is effectively subsidizing the expansion of private sector involvement in the home care sector.

3.1. Assisted living

New housing schemes for older people based on the concept of “assisted living” are being introduced in the United Kingdom, several Nordic countries, France, Germany and North America. The schemes, often built with public subsidy, are usually set up by an alliance of property developers, investors, social care providers and sometimes a municipal authority. Each housing unit has a kitchen and bathroom but also shares some common facilities. They are often serviced by municipal home care services, which may be contracted out to private providers. Residents, who are assessed by the municipality, have a tenancy agreement with rent calculated on a sliding scale. Since the introduction of this legislation in 1997 in Denmark, there has been a decline in the number of nursing homes and an increase in assisted living schemes (Lewinter, 2004).

In Canada, the role of the private sector in residential care has been expanding rapidly in the last decade. In 1992 the private sector owned 42 per cent of long-term care facilities and by 2000 it owned 50 per cent. Private sector involvement in the care sector often combines residential investments with care service provision. Real Estate Investment Trusts (REITs), set up to provide tax breaks for investors, usually own commercial property such as shopping malls as well as care facilities and residential property. The management of care facilities is usually subcontracted to another company or subsidiary.

Player and Pollock (2001) also identify the growing links between property investments and care homes in the United Kingdom. In 2005, the UK Treasury published a discussion paper on the development of REITs, a well established form of property investment in North America (www.hm-treasury.gov.uk/media/A61/AB/Bud05Reits.pdf).

To sum up, private provision of social care services has increased in most developed countries. Typically, a small group of mostly national companies dominate the market, accompanied by many small and medium-sized enterprises. The extent of international provision is still limited, although there are signs that financial investors perceive the social care market as a suitable short-term investment.

3.2. Provision of services for childcare

The sectors providing childcare vary from country to country and are influenced by the arrangements for financing and supporting childcare. In Nordic countries, there is extensive public sector provision. Parents pay some contribution to fees but this is dependent on income. In Spain, there is extensive private for-profit provision where parents pay fees directly.

In Sweden, 31 per cent of children aged under 3 were in full- or part-time care in regulated family day-care homes, and 27 per cent were cared for in public day centres. Private day care has only started to expand since 1990 and is still relatively small. Both family care homes and day care homes are subsidized and regulated. Responsibility has been moved down to municipal levels, which was justified by the need to respond more to regional needs although cost cutting was also involved. As a result some municipal contracts were privatized (Cohen et al., 2004).

In the United Kingdom, there is a large private childcare sector, which has been encouraged by government childcare policies. Between 1997 and 2002, the number of children in childcare services increased by 547,000. Most of this increase in provision came through private sector expansion, sometimes supported by new business start-ups in disadvantaged areas (Cohen et al., 2004). The Education Act 2002 also allows schools to set up childcare and out-of-school activities.

Services for children under school age have been another growth area. By 2003, 99 per cent of three-year-olds were receiving “early years” education, with 88 per cent in publicly funded places (ONS, 2003). However, 57 per cent of three-year-olds were in places provided by private and non-profit suppliers. There has also been an expansion of nursery places by private providers.

In the United States, there is extensive private sector provision, with family care homes accounting for 38 per cent, non-parental relatives 27 per cent, and often expensive for-profit day care centres 22 per cent. Publicly funded centres are a minor source of care for young children and are targeted at poor families, although this is being increased through schemes such as Head Start, which now covers 45,000 children (Allen, 2003).

Companies are increasingly involved in several dimensions of care: residential care for highly dependent older people, care for adults with psychiatric or neurological conditions, home care and residential accommodation, sometimes with access to care facilities. In the United Kingdom, care companies are also becoming involved in childcare. Nurseries and homes for older people have “come to exemplify the liberal welfare regime’s emphasis on private provision and market solutions, in which services are treated like any other private product for which there is a demand” (Cohen et al., 2004, p. 72).

3.3. *Multinational companies*

The changing nature of social care provision and the increasing trend towards both privatization and commodification has presented some

multinational companies with new opportunities. Demographic trends suggest a growing demand for care services for older people and companies have identified potential new markets. However, this has not yet resulted in a major expansion by multinational companies into social care. Both childcare and social care work are labour intensive and, as many companies have found in the last decade, do not always generate profits. The following section will identify some movements of multinational companies into social care, childcare and broader investments for services for older people.

4. Social care provision since 1997

A 1997 survey of the privatization of social care provision in Europe, which looked at contracts listed in the EU tenders database, identified five major multinational companies that had been awarded contracts for delivering social care in the United Kingdom, Nordic countries and Germany (Public Sector Privatisation Research Unit, 1997). Multinational companies tended to concentrate on services in residential homes for children, older people and those with disabilities. The contracting-out of home care services was limited to domestic companies. The five multinationals identified in the 1997 survey were Bure (Sweden), ISS (Denmark), Marseille-Kliniken (Germany), Sodexho Partena Care (France) and Sun (United States).

Individual company developments illustrate how the presence of multinationals in the social care sector has changed since 1997. Most striking has been the divestment of services for older people within the last few years by four of the companies.

Table 8.3 Divestments of four multinational companies in Europe

Company	Data services sold	Company acquiring
Bure/Capio	2004	Attendo
Sodexho Partena Care	2001	Attendo
ISS	2002	Management buyout, partial sale of Finnish subsidiary to Medivire, 2004
Sun	1999	Ashbourne Homes

Bure Healthcare was set up by a Swedish investment company in 1994 and entered the markets for both acute and social care. By 1997 it had begun to provide care for older people through a series of acquisitions, with contracts to

provide care to Swedish municipalities and county councils on a long-term basis. In 2000 it became a publicly floated company and changed its name to Capio. It is now a major multinational delivering acute care in northern Europe and France. However, in 2004 it sold its care services for older people to Attendo, a Swedish company operating security, residential and care services for older people in the Nordic region. The chairman of Capio attributed the sale to staffing problems and a lack of synergy with its other activities (Betelson, 2003).

Sodexo is a multi-service global facilities management company. In 1995 it purchased Partena Care, a company providing catering, cleaning, care and security services in Sweden and Norway. After restructuring, especially the security division, Sodexo sold Partena Care to Attendo Care in 2001, the same company that bought Capio's services for older people.

ISS, a Danish company providing cleaning, catering and other facilities management services, is a major competitor to Sodexo. It entered the care market through the acquisition of residential homes for older people. By 1997 it had started to provide home care in Sweden, but in 2002 ISS care services were subject to a management buyout with ISS retaining 49 per cent of the shares. The new company, CarePartner Sverige, sold its Finnish subsidiary in 2004 to Medivire, an occupational health company previously privatized by the Finnish Government.

By contrast, the German company, Marseille-Kliniken, illustrates the growing links between care provision and property interests. It runs retirement homes, rehabilitation homes and specialised geriatric hospitals mainly in Germany, and expanded into the rehabilitation sector in 1996 by buying a company called Kasanag. It is now the largest provider of private nursing care and the third largest clinic operator in Germany. Marseille-Kliniken also operates the Amarita franchise system set up in 2000 to provide nursing care. The company builds nursing homes and then sells the buildings, with the aim of reducing the stock of company-owned beds and releasing resources. The move from owning to renting the majority of the property minimises the investment risk. In nursing, Marseille-Kliniken plans to acquire facilities from public providers, build new facilities and create a national presence.

Sun Healthcare is a US healthcare company that in 1997 owned nursing homes in the United Kingdom and was in the process of entering the Australian healthcare market. In 1995 Sun came under investigation for fraud by the US Federal Government and at least one US State Government. In Connecticut, the company was investigated for "submitting false and misleading information on its 1993 and 1994 Medicaid cost reports" (Sun Healthcare Group, SEC filing 10-Q/A, 22 May 1998). Patient complaints about the standards of care in nursing homes were investigated by the US Federal Government in 1997, and the

company was banned from operating in California. By 1999 the company had filed for voluntary Chapter 11 (bankruptcy) protection and sold all its international operations. It emerged from Chapter 11 protection in 2002, when a restructuring operation was approved. The company is still operating long-term and nursing care facilities, therapeutic rehabilitation centres, home care and medical staffing operations in the United States, but has not attempted to expand into international operations again.

The last seven years have seen continual changes of ownership in the multinational social care sector. Although the strongest trend is divestment, the expansion of Attendo in Sweden suggests that companies with a combination of services including social care may be the most successful. This view is supported by the action of Bridgepoint Capital, a European private equity company, which in February 2005 bought a majority stake in Attendo. Marseille-Kliniken also shows the benefits of combining social care services and property interests.

5. Childcare provision

In many European countries, the public sector is still the main provider of childcare services. However, the expansion of government support for childcare in the United Kingdom has provided opportunities for several types of private company to move into the childcare market. Private equity and venture capital trusts are involved in investing in private childcare companies. Companies already providing social care for older people are also buying childcare companies, such as the Four Seasons Group. There have also been recent movements of US childcare companies into the UK market; the UK arm of the US company KinderCare was acquired by Kidsunlimited, a UK childcare company.

BUPA is a UK-based non-profit company set up in 1947 to provide health insurance and healthcare services for privately insured patients. In the last 15 years it has expanded into Europe and Asia to provide primary and acute care, areas where its UK growth is circumscribed by the National Health Service. However, since 1990 BUPA has also expanded its UK activities into residential care homes and nursery services, where public sector provision is limited or has been reduced. Care services for older people and children contribute most to the company's profits.

6. Broader investments

There are signs that both national and multinational companies are beginning to explore the feasibility of providing a range of services connected with ageing and social care. As mentioned in relation to national markets, the clearest model is the “assisted living concept” which draws a range of services, including social care and security systems, into a residential complex. Social care is provided but may not be the dominant activity. This model, developed in North America, is also being tested in the Nordic region and the United Kingdom.

In North America, multinational companies provide capital for building residential care centres for older people, and often subcontract the provision of social care to a local or subsidiary company. The investment is primarily considered a property investment, realised as part of a larger property investment portfolio. REITs (Real Estate Investment Trusts) are also tax-beneficial for investors.

In the Nordic region, the concept of “assisted care” focuses as much on the investment in property as on the direct provision of social care. This approach can be illustrated by the activities of Attendo Care, a Swedish multinational company. One division provides products and systems that “improve the efficiency of providing care to older people and people with disabilities”, for example, care-phones or response systems. A second division helps to develop monitoring centres that become the focus of the organization of care and support. A third division provides more conventional forms of social care — nursing homes, sheltered housing and home care. This division also provides what it describes as “over the counter” care packages to local authorities or individuals. At the moment, the social care division is the most profitable, perhaps because of acquisitions over the last four years.

To conclude, the liberalization of social care, through the introduction of an internal market for public social care services, contracting-out and privatization, has led to the expansion of the private social care sector in many countries. However, multinational companies have not yet expanded significantly into these national social care markets. What expansion there has been has been slow and often short-term. Even in North America, companies are more involved in property developments, with social care services contracted out to a local company. The interest that private equity and venture capital investors have in both social care and childcare suggest that investments can be made in the short term with some expectation of expansion in the future. The increasing involvement of private companies in property for older people suggests they believe that property investments are more likely to generate profits than care

service provision. In the long term, this can be considered an argument for public sector provision of care services.

7. Changing care workers' securities

7.1. Care work in the workforce

The proportion of care workers as a percentage of the total workforce varies, from 10 per cent in Denmark and 9 per cent in Sweden to 5 per cent in the United Kingdom and 3 per cent in Spain and Hungary (Cameron and Johansson, 2002). The majority of care workers in all countries are women (Cameron, 2003). In the United Kingdom, women make up 90 per cent of the care workforce, which is based mostly in the independent/private sector.

Changing care workers' securities will be analysed using the seven forms of socio-economic security identified by the ILO's Socio-Economic Security programme:

- *labour market security* — adequate employment and work opportunities, through high levels of employment ensured by macroeconomic policy;
 - *income security* — provision of adequate income;
 - *employment security* — protection against arbitrary dismissal, and employment stability compatible with economic dynamism;
 - *work security* — protection against accidents and illness at work through health and safety regulations, regulated limits on working time and unsociable hours, and a reduction in stress at work;
 - *job security* — a niche designated as an occupation or “career”, the opportunity to develop a sense of occupation;
 - *skill reproduction security* — widespread opportunities to gain and retain skills, through innovative means as well as apprenticeships and employment training;
 - *representation security* — protection of collective voice in the labour market, through independent trade unions and employer associations, and other bodies able to represent the interests of workers and working communities.
-

Labour market security

There is an increasing demand for all types of care worker in industrialized nations, but a shortage of people willing to work in the care sector has led to rising numbers recruited from abroad. Only in Denmark, which trains “core” pedagogy workers, is there a growing interest in this care occupation (Cameron et al., 2003).

Most care workers are women, and the percentage of male care workers is still small in all countries. Denmark has the highest proportion (14 per cent) of male childcare workers, but the majority of men work in out-of-school services rather than services for children aged 0–3.

Migrant labour, often insecure in terms of visa or residency status, is a growing segment of the care labour force. Migrant women are increasingly providing care services for children and older people as part of a global transfer of female labour from low to higher income countries. Debates about welfare-state gender issues and the crisis of care have not addressed the role of migrant women in the provision of care services (Kofman, 2004; Yeates, 2004).

In many countries, the majority of social care workers are aged over 40. For example, most professional workers in the home care sector in Canada are aged between 40 and 60 and will soon be retiring and leaving the paid labour force. This has implications for the provision of social care in the long term (Canadian Home Care Human Resources Study, 2003).

Where care allowances are paid directly to the caregiver, these new systems of social care payments have led to a transfer of care from the informal to the formal sectors. Previously informal caregivers have become part of the paid labour force, which has also changed family relationships (Jenson, 2002). However, there is no impact on the local labour market because these care workers are family members who would be providing care whether or not they were paid.

Income security

Both the social care and childcare sectors are characterized by low pay in many countries. Care workers in Denmark and Sweden have higher pay and status than in other countries in Europe. However, a trade union survey found that, in Sweden, wages for women in caring, nursing, cleaning and food preparation have either remained unchanged or declined, while pensions, holiday pay and other benefits have also declined or become more restricted following privatization (Savolainen, 2004).

In Canada, levels of pay and benefits for home care workers are lower than any other group working in the care sector. There is a lack of parity between home care and other institutional care sectors. Home care workers were paid a higher hourly rate when paid by the public sector. Unionized workers also received a higher hourly rate, and there was a significant pay difference between full-time, part-time and casual home care workers (Canadian Home Care Human Resources Study, 2003). Although home care workers have paid holidays, many do not receive paid sick leave, pension plans with employer contributions, or employment-protected maternity leave. Many home care workers also work unpaid for several hours each week because they feel a commitment to completing tasks for the cared-for person.

In the United States, a report commissioned by AFSCME, the public sector trade union, that analysed pay and benefits in the care work sector found that the average of median hourly rates for all types of direct care staff was USD7.97 in 1999, compared to the national median hourly wage of USD11.87 (AFSCME, 1999).

In other countries, where allowances are paid directly to informal carers, middle-aged women are able to enter the paid labour force by joining a social security scheme. However, the extent of their incorporation into the paid labour force is often limited to being part of a small subsection of the labour market characterized by insecurity and low pay (Ungerson, 2003).

Employers of childcare workers such as babysitters and nannies do not always pay statutory contributions. Workers in residential care homes for older people and home care workers, where there is a high staff turnover, also have limited income security because they have temporary or part-time jobs, with limited entitlements to other benefits. Migrant workers working in social care are not always integrated into the social security system, which will affect their income in the long term. Even if part-time or temporary workers are paid the same hourly rates as permanent staff, they are often not eligible for the same holidays, sick pay or pensions. This also has important implications for the long-term income of women workers (Garner (ed.), 1998).

Employment security

In the private sector, contracts for social care and childcare workers are often short-term and part-time. Those working within the public sector are likely to have contracts ensuring more stability. For example, both social care and childcare workers in Denmark or Sweden have higher levels of employment security.

The availability of cash for care work can also stimulate the expansion of non-regulated, unskilled, untrained and undocumented labour. This new type of care worker is often not covered by social rights and employment regulations. Ungerson (2003), writing about the impact of carers' allowances on families in Italy, found that all those who employed a care worker had employed workers without rights of residence who lived locally. Of the care workers interviewed, only one had residence rights in Italy.

In Austria, where care allowances are also paid directly to people needing care, a major voluntary organization, Caritas, has taken on the role of employer of the care worker/giver, providing access to social security rights, holiday pay, and a contract of employment. Such a system also raises the self-esteem of the care worker, who has often moved from informal caring within the family to paid care work (Ungerson, 2003).

However, the payment of subsidies to care workers in Austria has also stimulated employment of undocumented foreign workers, many recruited by agencies in Hungary and Slovakia. Older people often employ two care workers, who alternate in providing 24-hour care for two weeks. The migrant care workers live with the person they are caring for, which enables them to maintain work in Austria and return regularly to their home countries.

In the United Kingdom, there is a trend towards casual work in the care sector to ensure 24-hour seven-days-a-week cover, especially among large providers. "Care assistants rank as one of the lowest paid jobs in the United Kingdom. Living-in is a solution to the 24-hour demands of care work, and live-in care workers are particularly prone to working excessive hours" (Anderson and Rogaly, 2005). This makes care workers vulnerable to owners of care homes, dependent on them for accommodation, telephone and other facilities.

In Canada, home care workers in the public sector have better terms and conditions than home care workers in the private sector where tenure is shorter and wages lower. Workers in the private sector are less likely to receive pay for meetings related to management or administration. They are also more likely to feel underemployed because of the way the work is organized and the standards of care (Canadian Home Care Human Resources Study, 2003).

Childcare workers in publicly run childcare centres are often more secure in their jobs than the self-employed or those employed by private companies. Lack of employment security is most often found in childcare workers operating from their own homes or the homes of the children they look after (Daly (ed.), 2001).

Work security

Workers caring for children and older people work long hours. In many countries, where care workers operate in private homes, there is a lack of supervised health and safety standards. There is pressure to complete tasks quickly with resulting health and safety risks. Care work is considered to be mentally and physically stressful. Nursing home workers who have to lift and turn patients often develop back injuries. Childcare workers also suffer from muscular-skeletal disorders as a result of lifting children, and are exposed to children's infectious diseases. Where care workers lack paid sick leave, this leads to presenteeism, when they have to work when ill or lose pay.

A UK Labour Force Survey found that 10 per cent of social care workers, including social and probation workers, had a work-limiting disability, which is above average for women workers (Simon et al., 2003). In addition, 7 per cent of childcare workers had a work-limiting disability.

In Canada, home care workers, because of limited public sector funds, often experience pressures to deliver care as quickly as possible, which also affects the quality of care delivered. Many workers experience work-related injuries and stress. Stress is made more intense by the increasing complexity of cases and the lack of employment stability. Workers also feel isolated and lack support in the home setting. "Time-for-task" makes workers feel unable to provide higher quality care (Canadian Home Care Human Resources Study, 2003).

Occupational health and safety is an important concern for home care workers, who often work in unsanitary conditions. They also have to deal with a lack of cooperation from users or informal caregivers, and in some cases experience verbal or physical abuse. Home care workers feel that it is more difficult to obtain assistance in a home setting than in a residential setting (Canadian Home Care Human Resources Study, 2003).

Job security

The impact of social welfare policy changes, particularly the introduction of direct payments made to those needing care, is affecting the organization and status of care workers. There are some significant variations from country to country in Europe (Ungerson, 2003), which can be seen in terms of how care work is developing as a career.

In countries where older people can purchase services themselves, the creation of new professional categories is beginning to influence the status of care work. In Germany, where a new professional category of social care worker was created at the same time as care insurance was introduced, there has been an

expansion of registered care workers (Jenson, 2002). In the Netherlands, a similar process is taking place.

In some countries, a more structured and regulated labour market for care workers has developed where private and non-governmental agencies provide care services. Care users access these care providers through agencies. In France, Ungerson (2003) found that care workers were engaged in “multiple care relationships”, often visiting up to 13 clients a day. Many had a basic qualification, which had provided them with access to training and an ability to reflect on their work. This made them aware of the boundaries and some of the contradictions between the different tasks that they undertook. They were involved in a wide range of tasks, including cooking and shopping. The significance of these care workers being able to reflect on their work and what it means for their clients may be important for the future development of care work as an occupation.

A study of workplace privatization in Sweden, where private companies now run care homes, shows inconsistent findings on how care workers are able to influence their work. In some cases privatization has improved the workplace atmosphere; in others it has increased insecurities and anxieties among workers. In some cases privatization has shortened the decision-making process and introduced a simpler management structure. Workers often then feel that they have more power to influence their own work and to act on their own initiative (Savolainen, 2004).

In Denmark, changes in home help services since the late 1970s have involved the introduction of 24-hour care by home help workers and home nurses (Lewinter, 2004). As this arrangement became more established, home help workers moved from working from their own homes to becoming part of a “semi-autonomous group”, where a group of home help workers operates as a team, divides work up and sorts out problems themselves. The municipalities in charge of these teams present this as a form of empowerment for home care workers. The introduction of the internal market and the contracting-out of services by municipalities are also influencing the way in which home help services are organized and delivered.

In North America there are trends in home care towards more skilled administration of medicines delivered by trained nursing staff. However, in Canada, because of limited resources, home care workers feel that they are not respected, particularly non-unionized workers (Canada Home Care Human Resources Study, 2003).

Different occupational models for childcare and out-of-school care influence to what extent there is a defined career. The type of training needed to enter the sector and the provision for in-service training and maintaining skills

also affect the perceptions of childcare work as a career (Cameron et al., 2003). In Europe, the move towards integrating childcare with out-of-school care and schools is leading to increased professionalization of the workforce. However, Cohen et al. (2004) argue that, in countries where there is large private sector provision in the childcare sector, the scope for transforming childcare workers into a professional group is limited by the resources and investment needed.

Skill reproduction security

Training for the care of older people tends to be less extensive than for childcare in many countries. However, in some European countries there are moves towards increased training of social care workers, as a way of upgrading the work and so improving recruitment and retention. This training is often less accessible for migrant workers. In the United Kingdom, competency training for social care is expanding, although rapid staff turnover means that take-up is often limited. In France, there is a more formal system of training, and many social care workers now have a qualification (Ungerson, 2003). In Canada, professional home care workers have qualifications, even though there are provincial differences in required education levels (Canada Home Care Human Resources Study, 2003).

Childcare workers often have a higher initial level of training than care workers working with older people, although sometimes this only involves two years of training after the age of 16 or 18. However, three years of training at tertiary level is becoming the norm for childcare and “early years” workers in Nordic countries. Core “early childhood” workers in New Zealand and Spain have similar qualifications (Cameron et al., 2003).

In Australia, New Zealand and the United States, there is still a divide between childcare and education, with qualified teachers having higher status than childcare workers. There is little pressure to improve the training of or to upgrade childcare workers, and the private provision of childcare and the resulting focus on profits rather than investment in a qualified workforce sustains the existing system.

In the United Kingdom, Cameron et al. (2003) found that at least half of all childcare workers did not have specialist training. These include childminders, many childcare staff in private nurseries, some play-workers and nannies. In the United States, there is a certification requirement for kindergarten workers, but not all states require specialization in childcare. Private centres and family day centres have to adhere to licensing standards, but these do not always include staff training. There is no system for setting qualifications for “early childhood” workers.

In the Nordic countries the situation is different. In Denmark, the status of professional childcare is high, and training and job prospects are good. There is also a higher proportion of men working in the sector. Among family day carers, who are not required to have a qualification, over 75 per cent have a childminder certificate or have received 50-100 hours mandatory training from municipal employers (Cameron et al., 2003).

In many European countries, funding for in-service training is often decentralized to municipalities, for example, in Sweden, Finland, the Netherlands and Italy. In Denmark and Belgium, funding for in-service training is decentralized to schools. In the United States, there is a requirement at state level that childcare centre workers spend a certain number of hours per year in in-service training. Opportunities for further training in childcare are also available in Spain, Denmark and Hungary (Cameron et al., 2003).

The recruitment of migrant labour can result in exploitation of skilled workers trained abroad. "Both private homes and National Health Service (NHS) trusts may obtain work permits to employ nurses, but nurses who have received their training abroad are usually subject to a probationary period to 'upgrade' on the job, during which they are paid as care assistants" (Anderson and Rogaly, 2005). This usually takes 3-6 months, after which they can register with the Nursing and Midwifery Council, practise as nurses and be paid on the nursing pay scale. The employer is responsible for declaring that the probationary period has been completed but "there is a financial incentive for the home to delay registration, continuing to pay on a lower scale". Nurses often borrow money to travel to the United Kingdom and the lower rate of pay restricts their ability to repay the loan.

Representation security

With the majority of care workers part-time and low-paid, unionization is limited in many countries. Care-home owners often do not recognize trade unions and discourage trade union contacts (Anderson and Rogaly, 2005). Care workers employed in domestic settings are handicapped in organizing themselves into trade unions because they are scattered and do not have the opportunity to meet other home care workers. The growing use of migrant labour in Europe and North America also militates against unionization because workers with insecure residency are often afraid to access trade union support.

A Finnish trade union survey of Swedish privatization found that participation in trade union activity there has also become more difficult (Savolainen, 2004). In some companies, employees have lost the right to criticize their workplaces.

A UK survey in 1997 found that two-thirds of care homes did not have any trade union members and did not recognize trade unions for bargaining purposes (Garner (ed.), 1998). In Canada, unionized workers feel more satisfied with levels of pay than non-unionized workers (Canadian Home Care Human Resources Study, 2003).

In Sweden, trade unions have played a significant role in recruiting the childcare workforce through integrating their own trade unions and so strengthening their bargaining power (Cohen et al., 2004). This will also contribute to further development of the childcare profession.

In sum, the processes of liberalization have affected the socio-economic security of care workers. However, the security of many childcare workers is greater than for many social care workers, and the prospects for improvements in the childcare workforce also appear to be better because of the recognized links between care and education for children. In social care, there is not the same force for change, even though new categories of social care workers are developing in some countries as a result of older people being able to purchase their own care. More widely, social care in residential and home settings is poorly paid and undervalued. Workers often have little training, and the level of unionization is low.

8. Changing access to services

The ways in which changes in financing, organization and delivery of services have affected both access to services and the quality of services need to be seen in the context of how social welfare policies have developed in the twentieth century. In most countries there are significant differences in how childcare and care for older people have evolved as public services.

Childcare has developed largely as a response to the growing participation of women in the paid labour force. In Europe, this should be seen in the context of the EU's Employment Strategy, which aims to expand the workforce (European Union, 1997). The United Nations Convention on the Rights of the Child has also added to pressure on governments to guarantee childcare as a social right.

By contrast, care of older people often has its origins in legislation to relieve poverty and social and social assistance (Anttonen, 2001). Defining and maintaining older people's rights to good quality social care has been much harder to achieve. The introduction of cash payments and cash transfers is considered one of the few recent examples of the expansion of welfare state programmes (Daly and Lewis, 2000). The attitude of societies towards older people is a significant barrier to improving services. Commercialization of social

care has often not led to improved services, and research is beginning to show that access is often restricted.

Ungerson (2003) argues that the new financing arrangements enabling individuals to pay for their own care are creating a new context for care, but that the impact on the nature of the care relationship has still to emerge. The increased targeting of programmes has an effect on the distribution of care. Increased targeting of services to those with high levels of need can result in those who have lower levels of dependency and need (especially older people) receiving fewer or even no services. The income level of an older person often determines whether additional services are paid for or whether family members take on some caring tasks.

Studies examining changes in the provision of home-based services to older people in Sweden since 1990 have shown falling numbers of people receiving services, with service provision often focused on the most frail. A decline in beds for older people in the healthcare sector has led to more frail older people being looked after by municipal services at home. Resources are then limited to personal and home nursing care rather than municipal provision of services for shopping, cleaning, laundry and walks (Trydegard, 2003). The needs assessment required to judge eligibility for care has been implemented more strictly, resulting in people with minor needs being excluded from access. Instead, family members — or, for those on higher incomes, paid carers — have been drawn in. Szebehely (2004) found that changes in home help arrangements in Sweden resulted in an increase in informal care for frail older people with lower education levels, and an increase in private care for frail older people with higher education levels.

Lewinter (2004), who examined changes in provision of home care in Denmark to older people over 67, found a rise in the proportions of people on low levels of care (less than 2 hours a week) and the highest levels of care, and a fall in the proportion receiving intermediate levels of care (2–8 hours a week). Trydegard and Thorslund (2001) also found a wide variation in the level of home care available at municipal level in Sweden. Sweden's move towards assisted housing is seen administratively as a type of housing rather than care, requiring older people to pay rent and charges for different means-tested services.

Ungerson (2003) found that paying relatives to undertake tasks that were previously unpaid could lead to changes in family and household relations. Where a care worker is a resident member of the family, payments will contribute to the family income. But if the care worker is non-resident, commodified kin relations are more likely. In Italy, payment for care was often

used to subsidize a low income, with family and relatives continuing to provide informal care.

In the United Kingdom, there have been several trends in service provision that have directly affected users of services. Following the Community Care Act 1990 and the introduction of standards for care homes, the higher costs of meeting national standards prompted both local authorities and private providers to close residential homes. By 2003, 88 per cent of the remaining residential care had been transferred to the private sector and 66 per cent of home care funded by local authorities was provided by the private sector. This shift has been accompanied by a move towards home care, which provides support for people to remain in their own homes or in sheltered housing provision. Care is provided through home care agencies, several of which, both public and private, may provide care to residents in the same sheltered housing facilities as well as to people in their own homes.

Home care services show varying levels of quality. A recent survey of UK social workers (Centre for Public Services, 2004) found that providers felt unable to commission suitable packages of care for service users because they had to use agencies that they were not happy with, or were constrained by budget restrictions. The increase in the number of social care providers has led to more fragmented services rather than “joined-up” service provision.

Cost-cutting and making social care workers do more tasks in a limited period of time have an effect on the quality of care delivered. Land (2003) gives an example of how savings on insurance may mean that a social care worker is no longer covered to take a client in a wheelchair to shops or the park. This directly affects the quality of the older person’s life.

The UK Social Services Inspectorate compared local authority services with those provided by the private sector. Although there was evidence of good services in both sectors, the inspectorate also heard about “domiciliary care, which was not providing good quality service. This was almost always in relation to independent agencies. We heard about high staff turnover, unreliability, poor training and failure to stay the full time” (quoted in Land, 2003). This shows how the socio-economic security of social care workers, in relation to pay and training, has a direct influence on the quality of services delivered.

In North America, two companies illustrate how private sector involvement in property investment can affect the quality of social care. Central Park Lodge Real Estate Investment Trust (REIT) owns 69 long-term care facilities in Canada and 20 in the United States. Central Park Lodge subcontracts the management of its care homes to a subsidiary. Its nursing homes have been criticized for poor standards of hygiene and care (Canadian Union of Public Employees, 2001).

Extendicare, a US company that owns both property and care homes, has 276 facilities in North America. It recently had to abandon its operations in Florida because of the continuing threat of legal action over poor standards in its care homes.

To sum up, changes in the way in which social care is financed are having an impact on users' access to care and the quality of care. In Sweden and Denmark, the targeting of care towards frail older people is resulting in less dependent older people losing access to public social care services. This affects low- and high-income groups differently, creating a demand for informal carers in low-income groups. Care payments have affected family relationships in both positive and negative ways. In the United Kingdom, there are early signs that the high costs of home care could result in a long-term move towards institutional care for people with disabilities, and away from care in the community.

In Brazil, there has been an increasing awareness that childcare should be seen as a social good. This is partly the result of the growing participation of women in the labour market, but people in low-income groups have also recognized the importance of pre-school education. Since the 1970s, popular mobilization has led to the creation of community pre-schools, predicated on the right of working women to pre-school facilities and the right of poor families to access such schools. By the 1990s, the argument for pre-schools was placed in the context of the "right of the child to education" enshrined in the 1988 Constitution. The government has responded by providing funding, sometimes managing the schools directly or contracting them out to non-governmental organizations (NGOs) or private providers. But it has not invested in the development of professional pre-school workers with training and increased pay (Sorj, 2001).

This gap has been partly filled by national and international NGOs, which have focused on training of pre-school workers and reinforcing their professional identity, obtaining funding for pre-schools, and supporting organizations campaigning for pre-school education. NGOs have formed national coalitions, for example, the InterForum Movement for Infant Education. In 1996, the new Guidelines and Foundations of Infant Education Law established regulations at national, state and municipal levels to guarantee quality services in pre-schools through the creation of responsible councils. The law also required registration of pre-schools, a move resisted by the private sector. Other critics fear the emphasis on education will undermine the pre-school as a space to play (Sorj, 2001), echoing Swedish concerns about "schoolification" of children who are entering some form of institution from a year old and continue through pre-school and school education (Cohen et al., 2004).

The recognition of childcare as a social right has evolved over the last three decades with an increasing emphasis on education, which is seen as part of a wider public policy to reduce poverty. There has been an expansion of childcare facilities in many countries, which is resulting in greater access to care. However, where the private sector is the main provider of childcare services, there are issues about how standards are maintained and how complaints are addressed.

9. Developing countries — new trends

This section gives examples of the approach to care work in some developing countries. The relationship between pension provision for older people and payment for care services is considered in the cases of South Africa and Brazil. South Africa is dealing with a crisis in care services, resulting from HIV/AIDS, and is attempting to train and recruit care workers from the ranks of unemployed. In Brazil, there is a growing demand for childcare services from all income groups.

In most developing countries, the participation of women in the paid labour force is lower than in rich nations, and care of older people and children is more often undertaken by family members, particularly women. However this situation is beginning to change with growing numbers of older people.

In India, very few older people are covered by retirement or insurance schemes, and many face poverty. Although traditionally the family has been the main provider of care for older family members, the growing mobility of many young adults has resulted in a lack of care for older relatives, particularly older widows. New residential complexes for older people are being built in India for families able to afford them.²

In Thailand, statutory retirement benefits were introduced in 1998 to meet the needs of an increasing older population. The trend towards nuclear rather than extended families is seen as presenting problems for the provision of care, prompting a debate on the need for extension of institutional care by public and private providers.³

² “Half of India’s older people on the verge of poverty: UN”, in *Press Trust of India*, 3 Dec. 2002; “LIC Housing FIN launches project for elderly”, in *Business Line*, 2 Jan. 2003.

³ “Demographics and family stress”, in *The Nation* (Thailand), 14 Apr. 2002.

The provision of pensions is a critical factor in how older people are viewed and whether they can pay for social care. In countries where older people have some access to pensions, this often affects inter-generational living arrangements. Where younger people do not have stable jobs and incomes, an older person in receipt of a pension becomes a valued member of the extended family. This can be seen in both Brazil and South Africa.

By 2000, 9 per cent of the Brazilian population was over 60. Although pensions were introduced in Brazil in the 1920s they only covered workers in the formal paid labour force. As the size of the informal paid labour force increased, the percentage of the population covered by pension benefits decreased. After 1988 and the new Constitution, which gives a universal right to social security, social protection and social insurance became important policy issues.

Pension provision was subsequently extended to rural areas in Brazil, which have higher levels of poverty than urban areas. In 1999, 27 per cent of those in rural areas lived below the poverty line. Ageing of the rural population has been more noticeable than in urban areas because of the out-migration of younger people (Camarano, 2004). As a result of extending the right to social security to the rural population, introduced in 1993, a flat-rate benefit of the same value as the minimum wage is now paid to women aged 55 and over and men aged 50 and over in rural areas (Barrientos, 2004). This has had a bigger effect on women because it has given them access to income they did not have before. The proportion of women in rural areas without any income has declined from 45 per cent to 10 per cent in the 20 years to 2001. Women are allowed to receive retirement benefits, widow's pension and earnings from employment simultaneously (Camarano, 2004). In rural areas, 85 per cent of older people receive some social benefit.

A 2001 General Household Survey in Brazil found an increase in older heads of household, which suggests either an increase in older family heads or more older people living alone. This may result from greater access to pension benefits that provide an important regular income when younger adults may not have stable employment.

In South Africa, until 1994, pension provision was mainly for the white population. After 1994 a social pension, a non-contributory pension plan paying a means-tested old age, disability and survivor pension benefit was introduced, and there was a rapid rate of take-up among black people (Barrientos, 2004). The means test assesses income and assets but excludes homes and outputs from subsistence farming. Below a certain level, the pension benefit of USD75 per month is paid in full. This is important for the growing number of grandmothers who are caring for families with HIV/AIDS.

Providing care for people with HIV/AIDS is one of the most important challenges for social care in sub-Saharan African countries. South Africa is addressing the shortage of care workers by training unemployed people. Following the dismantling of apartheid in 1994, there have been significant changes in social policy. The African National Congress (ANC) blueprint for social development, the Reconstruction and Development Programme (RDP), redefined social welfare policy and systems with reference to concepts of human rights, democracy and peaceful coexistence. Although by 1996, the Growth, Employment and Redistribution Programme (GEAR) took a more conventional neo-liberal approach, the RDP has remained influential in promoting social change in conjunction with economic development. New issues such as ageing, women's concerns, children's rights and HIV/AIDS have emerged over the past decade, which require some form of social policy response (Gray and Mazibuko, 2002).

The impact of HIV/AIDS and the need to provide care in different settings has led to the development of both intermediate and home care. There has been a gradual move from hospital to home-based care because hospitals have been unable to cope. Consequently, home-based care in South Africa has been a response to crisis rather than part of a longer-term strategy to develop home-based services. This has placed the burden of care on family members, especially older women and girls, who often have little training in providing care for people with HIV/AIDS (Akintola, 2004).

South Africa is attempting to increase the size of its care workforce through a programme for training unemployed people to care for people with HIV/AIDS and children. A national employment strategy aims to bring a million unemployed people into the workforce between 2004 and 2009, with at least 60 per cent women, 30 per cent youth and 2 per cent people with disabilities. Two programmes cover childcare and social care. The Home Based Community Care programme aims to create 122,240 jobs over five years jointly with the Health and Welfare Sector Educational Authority. A smaller programme is aiming to recruit 22,000 childcare workers over five years so that they can generate income and improve the care provided for children.⁴

Once trained, the workers will be employed through non-profit organizations that provide most of the home care services for people with HIV/AIDS in South Africa. The ultimate aim of this programme is to give unemployed people foundation skills and experience so that they can enter a

⁴ <http://www.capecgateway.gov.za/eng/directories/projects/7319/86919>.

Community Health Worker Development Programme, which will train community health workers to meet future health needs at local level.

One evaluation of such a scheme found that although volunteers received some training, providing home care is both physically and emotionally stressful (Uys, 2002). Volunteers, because they are unemployed, tend to have economic difficulties, which lead to high dropout rates. The results of this evaluation demonstrate some of the problems that affect care workers in many countries and settings.

The South African training programme is an attempt to find a solution for the care challenges that face South Africa and many other African countries. It will be important to find out whether such an extensive training programme for unemployed people is successful in generating large numbers of carers in the long term.

As well as older women, children, often girls, are also being drawn into caring for people with HIV/AIDS. The perspective of young carers is rarely explored in social care research. In a study of young carers in Zimbabwe Robson (2004) argues that both the HIV/AIDS pandemic and the privatization of health services have influenced young people's experience of caring, with poverty an important factor. They have to take on a caring role when public healthcare or other support services are not available or are unaffordable.

For girls and young women, their sense of obligation and lack of decision-making power are also contributory factors. A parent or relative frequently makes the decision for a young person to become a carer rather than the young person her/himself. These decisions are influenced by the loss of income experienced by the family when an adult becomes ill, and can be seen as a part of a survival strategy. For a child to take on a caring role may mean that the family continues as a unit rather than being broken up (Robson, 2004).

The policy implications of children taking on caring roles are far-reaching, but many agencies do not recognize the presence of young carers or their specific support needs. Young carers may be unaware of the nature of HIV/AIDS. Government agencies are supporting home care but are not providing adequate support systems. International agencies may not perceive the needs of young carers because of the way in which they fail to recognize the role of work in a child's life (Robson, 2004).

The South African approach of integrating social care needs into economic development strategies is unusual, although there are signs that economic regeneration policies in Europe are also beginning to link up with strategies for social and healthcare workforce development. Considering the South African training and recruitment programme as part of an economic growth strategy,

which will also solve its shortage of care workers, will make its results of interest to countries in Europe that are also struggling with the problems of economic growth and a shortage of care workers.

The further example of Brazil is useful for understanding how childcare policies are being approached in developing countries, as well as showing some parallels with childcare services in developed countries. The 1988 Constitution has had an important impact on access to childcare services. By 1999, 27 per cent of children aged 0–6 were in crèches or nurseries. This proportion has expanded since 1995. Income directly affects access to childcare, with 56 per cent of children aged 0–6 in higher income groups receiving some childcare, compared with 17 per cent of children from low-income groups, which have higher fertility rates. Female participation in the paid labour force also affects access to childcare. Informal childcare is provided most often by mothers, but also by grandparents, siblings and domestic employees (Sorj, 2001).

Pre-schools in Brazil may be funded and run directly by a public authority, a philanthropic or a religious institution. Companies also provide pre-schools as part of a labour legislation requirement for workplaces with more than 30 employees to provide facilities for nursing mothers. Informal pre-schools are also being set up by community associations, which receive funding from public authorities and NGOs. There are also private pre-schools for higher income parents. These apart, many pre-schools receive income from several sources and have to struggle to survive. Pre-school workers often have low levels of education and income. Parents are sometimes involved in the running of pre-schools, which may mean some financial contribution or help with cleaning or building repairs. In some pre-schools there is no parental involvement, and the pre-school director takes all the decisions. In others, parents are so well organized they take decisions without the pre-school workers (Sorj, 2001).

10. Future regulatory role of government

Regulation of home care provision is perhaps more difficult than residential provision. In many countries, some form of licence is required to set up a nursing home but there are rarely any registration requirements for home care services. This makes entry into the home care market easier for new private sector providers.

There seem to be two issues that regulation has to address in the future. The first is how to protect the child or older person receiving care, and to assess whether the care is appropriate and delivered in a sensitive timely manner. The second is how to protect workers delivering care to children or older people from poor working conditions, low wages and minimal or no benefits. Systems of

regulation for services and labour have to be able to deal with the often small-scale domestic settings in which care is delivered.

The increased role of the private sector as a provider of care makes crucial new more effective systems of regulation. There are different approaches to regulating the private sector, ranging from a central government regulatory agency that inspects services, most often delivered in residential homes or settings, to locally arranged inspection processes.

In Australia and the United Kingdom, social care inspection agencies visit residential homes and make reports publicly available. Private sector providers are often enthusiastic about being regulated in the same way as public sector providers because they feel it legitimizes them as equals. However, inspecting hundreds of care homes is a large task, and annual inspections do not always convey how services are delivered on a daily basis. The problems of setting up adequate regulatory systems apply to both childcare and care of older people.

The nature of the relationship between government, national or local, and private sector providers plays an important role in regulation. Ayres and Braithwaite (1992) developed a concept of “responsive regulation”, arguing that government regulatory strategies should respond to the behaviour of companies, taking into account that companies sometimes seek to shape regulation to their own ends. This requires governments to develop a better understanding of how companies operate, and the types of strategy they are developing. The evidence suggests that the private sector views social care and childcare as short-term investments. However, demographic changes in many countries with an ageing population will contribute to growing demand for services. The form in which these services will be delivered is still uncertain.

11. Conclusions and policy recommendations

Changes in the provision of care for children and older people over the past two decades have been strongly influenced by financial and demographic factors. Rising numbers of older people, the expected reduction in the tax-paying population, increased participation of women in the paid labour force, and limits on government spending, have all influenced care policies.

Public subsidization of childcare is becoming more widely accepted by national governments. In some countries, childcare is seen as a universal service or a basic right for a child. Childcare is also acknowledged to have both caring and educative elements. This is in contrast to funding for services for the care of older people, which is influenced by the fear of escalating costs with an emphasis on ways of reducing public spending (Daly and Lewis, 2000).

Care services are provided by a range of agencies and sectors, often strongly influenced by the historical patterns of provision in different countries, especially in relation to whether services are universal or targeted. Different forms of funding also exert an influence on types of care services and the demand for care workers. The growing use of cash benefits is also shaping how services are delivered and by whom (Ungerson and Yeadle, 2002). It is also leading to different levels of take-up and so creating differing levels of access to services for older people.

Provision by non-public providers has been encouraged in almost all European countries, although family provision of care is still important. The proportions of private provision vary widely from country to country. For example, in Germany and the Netherlands, families as well as the voluntary sector provide services. In the United Kingdom, the family and the private sector are dominant care providers (Rostgaard, 2002). However, a public role in provision is still maintained in many countries, even if there is a move away from direct provision to the role of commissioner and regulator.

In developing countries, the provision of care services for older people is linked to the provision of pensions and other benefits. South Africa is trying to develop a care workforce through training unemployed people. Brazil provides an example of how childcare services are developing, partly linked to an increase in the participation of women in the workforce, but also influenced by the concept of the social rights of a child.

The influence of international policy is felt in relation to national policies for older people. Liberalization of services in the EU has pushed governments into using the private sector in service provision, and this is expected to become an even stronger force. User fees have also been introduced in many countries.

Evidence of the effectiveness of new systems of regulation is limited. Expanded home care services require new ways of ensuring high quality standards of both service provision and worker rights.

Just as social care and childcare have only recently been researched together, so public policies need to consider care work within a single framework. Care workers are mainly women, often poorly paid, with little formal training. The future for paid social care workers lies in developing an understanding of the implications of an increasing demand for care and an apparently decreasing supply of labour in high-income countries. It also involves developing a better understanding of how the needs of older people could be met through a better trained and more highly skilled workforce. There is a growing body of evidence that the health and wellbeing of older people is enhanced through increased social and intellectual activity (World Health Organization, 2002). Caring for older people needs to involve these activities, in the same way

as childcare now combines caring and pedagogic elements. Care workers will need more and continuing training to do this. As a greater proportion of the population becomes older, the need to link care with education may also become clearer, for both care workers and receivers of care.

A number of policy recommendations, directed at international agencies, national governments, researchers, trade unions and NGOs, can be drawn from this review of liberalization and the security of care workers:

- Promote the identification and analysis of global trends in the provision of care in both developing and developed countries. The inter-relationship between the impact of changes on those being cared for and those providing care needs greater recognition.
 - Monitor the effects of global and regional trade agreements on care services in the public, private and non-governmental sectors.
 - Monitor the effects of short-term private equity investments in social care companies and raise the awareness of national governments of the impact of these trends on the long-term development of the care sector.
 - Promote positive ways of viewing older people and the wisdom, knowledge and experience they bring to societies. The WHO Active Ageing approach should be integrated into all policies that affect older people at all levels.
 - Ensure that regulatory systems for childcare, social care and home care are more adequately resourced at national level so that the needs of both users of services and care workers are safeguarded. This will require investment in inspection expertise and additional staff to undertake regular inspections.
 - Monitor the effects of “direct payments”, where individual care users are given money directly to purchase their own care services, on the quality of care services provided and the working conditions of care workers.
 - Develop ways of involving local service users and care workers in systems of monitoring and regulation.
 - Develop research and campaigns that bring childcare services, residential and home care services together to share learning and good practice and develop policy recommendations.
 - Promote campaigns that highlight the costs of good quality care, recognising care as a public service.
 - Trade unions, at national and international level, must focus more specifically on the needs of social care workers, separately from
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healthcare workers. They must develop ways of organizing home care workers, overcoming the problems of a scattered workforce.

- Trade unions must also address the needs of migrant workers in the care sector, researching and campaigning on the systems that lead to care worker exploitation, as well as finding ways to provide advice and support to isolated workers.

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SECTION VII:
PENSIONS

GLOBAL PENSION LIBERALIZATION: CHALLENGES FOR WORKERS' SOCIO- ECONOMIC SECURITY

9

by Fabio Bertozzi and Giuliano Bonoli¹

1. Introduction

Different degrees of pension liberalization can be highlighted around the world. The strongest liberalizations have been implemented in Latin America and, partially in Eastern Europe. Other world regions display contrasted trends. International actors are found to be important drivers of pension liberalization, although domestic factors also play a role. The factors that are found to influence the social performance of older liberalized pension systems are the quality of first pillar provision and the regulatory regime for private pensions. Their analysis in the newly liberalized systems suggests that these will fail to provide universal income security to the old.

The last 15 years have seen a number of important transformations in policies on retirement provision. Partly in response to population ageing, pension reform has been high on the agenda in many countries, especially in Europe, North America, Latin America, and in some Asian countries such as the Republic of Korea and Japan (Bonoli and Shinkawa, 2005). In very broad terms, one can say that the main current trend in pension policy is towards a reduction of state involvement and the inclusion of private sector provision. This general trend hides important regional and country differences in relation to the shape

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and extent of privatization and liberalization. In some countries, a true liberalization of pension provision has taken place, resulting in the abolition of all state schemes and the setting up of a competitive market where providers fight for customers. In most cases, however, liberalization and privatization have not gone that far, and newly introduced private schemes exist alongside reformed state programmes in what can be described as multi-pillar pension systems.

This observation raises a conceptual issue that needs to be clarified prior to any discussion of trends towards privatization, liberalization or “multi-pillarization”. If liberalization is understood as a process whereby goods and/or services that were provided by a monopolist, usually owned by the state, are now traded in competitive markets, then it is probably not the best concept to describe global pension policy developments of the last two decades or so. Such complete transfers of competence from state to market have occurred only in a very small number of countries (notably Chile and Kazakhstan). In the vast majority of countries, the shift has been from a state-run single-pillar system to a mixed public-private multi-pillar system. Pension provision can be understood as comprising two different functions: the provision of a subsistence income to ensure poverty-free retirement, and the guarantee of an income level close to that gained while in work. In a multi-pillar pension system, these two functions are catered for by different instruments: a public first pillar provides a subsistence income while occupational and private individual pensions (second and third pillars) provide earnings-related coverage.²

Yet multi-pillarization and liberalization are not completely unconnected processes, even though the relationship between the two is a rather complex one. We can identify at least three ways in which multi-pillarization is likely to lead, directly or indirectly, to liberalization.

First, the second and third tiers of pension provision are often provided on a market competitive basis. This is not necessarily the case; there are examples of countries with multi-pillar systems, where second-pillar pensions are provided by employers and leave little room for employee choice. The Netherlands, Denmark, Switzerland and Australia have over the years built up multi-pillar pension systems that include an important occupational, and thus private, component strictly tied to the workplace. However, in most of the new multi-

² Our numbering of pillars follows the World Bank approach: the first pillar consists of a state-provided universal pension guaranteeing benefit at a subsistence level; the second pillar offers additional provision and is typically provided by employers; and the third pillar consists of further private provision that people can buy on the market on a voluntary basis.

pillar systems that have been developed in Eastern Europe and Latin America, second-pillar pensions are traded in a competitive market. In this case, multi-pillarization leads to at least a partial liberalization of pension provision.

Second, countries can in theory decide the desired degree of liberalization for each of the three pillars. A country could for example opt for a state-run basic pension, an occupation-based second pillar, and a fully private third pillar. However, international trade agreements may de facto limit the ability of countries to determine the degree of liberalization of their pension systems. In fact, if the first pillar of pension provision is excluded from international treaties such as the General Agreement on Trade in Services or the competition regime of the European Union (EU), the same cannot be said for second- and third-pillar pensions. In the EU, third-pillar pensions are likened to other financial services (such as life insurance) and are consequently subject to the competition directives. However, between state pensions and life insurance there is a grey area of heavily regulated private provision that cannot easily be attributed to one or other regulatory regime. Given the lack of clear indications on this in the EU treaties, decisions are generally left to the European Court of Justice.

In this respect, one can clearly see a trend over the last few years. The more welfare provision has market-like attributes and the less it conforms to the solidarity approach typical of state social policies, the more it is likened to any other economic activity and thus subject to the competition regime of the single market. This has applied particularly in relation to health service provision, but the same reasoning could be used for pensions as these acquire more “private” characteristics (Leibfried and Pierson, 2000). This second link between multi-pillarization and liberalization is also likely to be strong in the GATS agreement. While it will be relatively uncontroversial for countries to keep first-pillar pensions out of the remit of the GATS, occupational and individual private pensions may prove more problematic.

Finally, there is a third, more surreptitious way in which multi-pillarization contributes to liberalization. In most countries in the late 1970s, pension systems already consisted of two segments — a largely predominant one, consisting of social insurance pensions, and a much smaller one, consisting of private individual provision, essentially limited to the wealthiest in society. The first was provided monopolistically by governments, while the second was already a competitive market. Today, after multi-pillarization, countries still have two segments, but their relative size has changed dramatically. Public pensions provide reduced coverage to currently working generations, who are expected to make up the difference by buying private cover. The result is that, even without “liberalizing” basic pension provision, competitive market provision today plays a much bigger role than 20 years ago.

Against this background, the objective of this chapter is twofold. First, it will provide a picture of the main trends across world regions in pension policymaking, paying particular attention to the extent to which pension systems are being liberalized and why. The role played by international organizations in this process is also examined. Second, the chapter will try to assess the likely implications of these trends as far as the pension coverage of current workers is concerned. Can liberalized pension systems provide inclusiveness and income security to the same extent as pay-as-you-go (PAYG) state-controlled schemes? What are the likely distributional consequences? Are we to expect more inequality among pensioners in the future? These are questions addressed in the second part of the chapter. Our main argument is that multi-pillarization and some moderate degree of liberalization do not necessarily produce more inequality and less effective prevention of old-age poverty than traditional PAYG systems. However, the kind of multi-pillar and liberalized systems that have emerged over the last decade in particular are unlikely to perform as well as traditional systems on these two counts.

2. Global trends in pension policy

The liberalization trend in pension systems, either the “radical” form of complete transfer from state to market or the “multi-pillarization” form, has had a differential impact around the world. In fact, as the second part of this chapter will illustrate, differences can be highlighted not only between regions but also among countries in the same region. This situation is the result of a wide range of dissimilar circumstances, including socio-economic conditions, the political situation (institutions and actors), and the type of existing pension system and the influence of international organizations.

2.1. Liberalization and international organizations

To understand the conditions under which countries elaborate or reform pension schemes, we must analyse the interaction between domestic and external variables. On the one hand, endogenous variables such as pre-existing forms of old-age security, the balance of political power, the design of political institutions, the socio-economic situation (economic performance, employment, population ageing, etc.) must be included. On the other hand, the impact of exogenous factors such as trans-national economic exchanges and rulings, and the influence of international organizations, cannot be ignored.

The role played by supranational and global actors has been often neglected in the explanation of social policy change, but they have been a major source of diffusion of “best practice” pension models around the world. Economic

globalization has further increased their influence on social policy. In fact, globalization “raises social policy issues to a supranational level, and generates a global discourse on the best way to regulate capitalism in the interests of social welfare East and West, North and South”(Deacon et al., 1997, p. 195). As a consequence, “policy ideas travel faster now, perhaps because of the increasingly powerful role international organisations play in spreading policy ideas across regional boundaries” (Orenstein, 2003, p. 185). International organizations have become global policy advocates, and pension policy is no exception.

For instance, the World Bank has paid particular attention to pension systems and its activity in this area has been increasing over the years, especially since publication of its 1994 report, *Averting the old age crisis* (World Bank, 1994). In this report, the Bank argued that, in order to confront changing demographics and at the same time promote economic growth, countries should move away from exclusively PAYG-financed systems and develop multi-pillar pension systems. The report specifies three pillars: first, a public mandatory PAYG pillar with the limited goal of reducing poverty among the old; second, a private mandatory funded savings pillar; third, a voluntary private savings pillar. The supremacy of this multi-pillar approach has been maintained over the years and countries like Australia, Denmark, the Netherlands, Switzerland and the United Kingdom are mentioned as illustrations of this model (Holzmann, 2000).

The main arguments of the World Bank in favour of this model are that it enables countries to distinguish clearly the aims of each pillar (poverty prevention versus income maintenance) and to diversify the risks involved with different financing mechanisms (PAYG versus pension funds). In general, the Bank’s approach aims to reduce the importance of PAYG schemes and promote private pension funds. Nevertheless, as the suggested multi-pillar system illustrates, the Bank does not promote a radical shift from one financing mechanism to the other. This intermediate and pragmatic position results partly from internal World Bank conflicts between supporters of neo-liberal and more universalistic approaches to social policy (Deacon, 2001), and partly from implementation experiences around the world (Queisser, 2000).

The pension policy of the International Monetary Fund (IMF) is less profiled than that of the World Bank. No single detailed reform model is suggested. Nevertheless, IMF advice usually points in a similar direction (Queisser, 2000).

The International Labour Office (ILO) argues that the main targets of pension policy should be coverage of the entire population, the eradication of poverty in old age, and the guarantee of decent income maintenance to retired persons (ILO, 2000; Gillion, 2000). While economic preoccupations should be

taken into account, solidarity within and among generations must be the guiding policy principle (Queisser, 2000). In concrete terms, a four-tier pension system is suggested: first, an anti-poverty means-tested state welfare pension; second, a public compulsory PAYG pension; third, a mandatory funded pension managed by the private sector; and fourth, additional voluntary private pension savings (Gillion, 2000).

Because of the economic dependence of many countries on the World Bank and the IMF, their influence is particularly strong in the developing world. By contrast, the most influential supranational actors in western Europe are the Organisation for Economic Co-operation and Development (OECD) and the EU. The EU is involved in pension policy in several ways. A first objective is to implement a single market for private pensions, thus reducing national barriers to private pension provision.³ Second, concern over national pension reforms has surfaced since the late 1990s, linked to economic and fiscal preoccupations.⁴ The result was a “soft” harmonization initiative, the Adequate and Sustainable Pensions Process, in 2001. EU member countries agreed on common objectives,⁵ which nevertheless remained imprecise, the result of a struggle between countries taking a more social or a more economic approach to pensions (de la Porte and Pochet, 2002, p. 226). In short, EU recommendations in the area of pensions are unclear.

OECD activity is concentrated on private pension schemes in member countries, with the elaboration of guidelines for government regulation and governance of pension funds. Nevertheless, since the late 1980s recommendations on public pension policy have increasingly featured in the OECD’s regular Economic Surveys of individual member countries. The OECD’s main concern is the economic and fiscal impact of pensions, and social

³ One of the EU’s main objectives is to consider “how the security of benefits can be maintained, removing the current disproportionate restrictions whilst allowing a real Single Market in pension funds to develop for the benefit of pensioners and future pensioners” (European Commission, 1997, p. II).

⁴ “[...] pension reform came on the European agenda at least in part as a spill over from Monetary Union and the Stability Pact and their concern with the soundness of national fiscal commitments” (Scharpf, 2002, p. 9).

⁵ The three main objectives of the “Adequate and Sustainable Pensions process” are: (1) Adequacy of pensions (member states should safeguard the capacity of pension systems to meet their social objectives); (2) Financial sustainability of pension systems (member states should follow a multi-faceted strategy to place pension systems on a sound financial footing); (3) Modernization of pension systems in response to changing needs of the economy, society and individuals (SPC and EPC, 2001).

considerations are discussed only when they are regarded as a help or hindrance to economic growth (Deacon et al., 1997, p. 70). The most common OECD suggestions favour employment of older workers and the implementation of multi-pillar pension schemes that combine different financing mechanisms (Armingeon and Beyeler, 2004). However, no precise pension policy model is suggested.

Finally, it is important to note that, despite differences in the overall orientation of the international organizations discussed here, their actual recommendations go in a similar direction. These are largely based on the generally recognized need to diversify the financial mechanisms for pension provision. As a consequence, recommended pension policy models have tended to converge on multi-pillarization of existing pension schemes (Queisser, 2000), which can be considered as the new paradigm in pension system design (Orenstein, 2003). However, differences persist in the conception of the size of each pillar and the importance of each financing mechanism in the overall system. Some convergence also appears to exist on another solution reconciling PAYG with funding principles — notional defined-contribution pension schemes (NDC, or virtual capitalization) — which is also mentioned by different organizations.⁶

As already underlined, recommendations by international organizations are not automatically adopted by member countries when implementing pension reforms. The impact of the suggested policy recipes is particularly dependent on two sets of factors, the political-institutional configuration and socio-economic conditions. In Latin American countries, the degree of dependence on international financial institutions (IFIs),⁷ and the domestic distribution of power between advocates and opponents of privatization, has played a major role in determining the extent of the privatization of pension systems (Huber and Stephens, 2000). In fact, pension reforms are often an integral part of the structural adjustment programmes supported by IFIs, which are in turn indirectly backed by international financial markets as well. These external pressures are mediated by endogenous factors such as the degree of power concentration in the executive and the extent of democratization. Both these elements determine the room for manoeuvre available to governments and to opponents of pension

⁶ On this type of scheme see Williamson and Williams (2003). Only six countries have adopted this model up to now: Sweden, Italy, Poland, Latvia, Kyrgyzstan and Mongolia.

⁷ Most importantly the IMF and the World Bank. In the specific case of Latin America, the Inter-American Development Bank has also played a relevant role.

privatization (usually trade unions, opposition parties or members of privileged pension schemes).

2.2. Pension reform trends around the world

It is here impossible to make an exhaustive review of the pension policy reforms leading to liberalization all over the world. Nevertheless, we will try to highlight the most representative and interesting ones for each selected world region. At the same time, examples of policy inertia or counter-liberalization experiences will also be discussed in order to provide a general picture of contemporary developments.

This section will also show that the problems confronted by pension systems in different regions are rather dissimilar. Variables such as population ageing, the coverage of pension schemes and the size of the informal economy can show large variations. For instance, in 2000 the share of population over 65 ranged from 3.3 per cent in Africa to 14.7 per cent in Europe (United Nations, 2002).⁸ The same year the average size of the informal economy labour force (as a percentage of the official labour force) was 16 per cent in European countries and 48 per cent in Africa (Schneider, 2002, p.45).⁹ The same type of pension scheme, whether PAYG, funded or universal, can be expected to perform differently depending on the socio-economic context. For example, systems based on employment-related contributions will provide limited coverage in countries with a big informal economy, and PAYG-based systems will face major problems in countries with strongly rising numbers of older people. Liberalization and multi-pillarization, particularly the shift towards private pension tiers, can thus have different results depending on these contextual variables.

⁸ Share of population over 65 in other world regions (2000): Asia 5.9 per cent, Latin America 5.4 per cent, North America 12.3 per cent and Oceania 9.9 per cent (United Nations, 2002).

⁹ Average size of informal economy in other world regions (2000): Central and South America 45 per cent, Asia 33 per cent (Schneider, 2002, p. 45).

Western Europe

Continental Europe is where public old-age pensions were first introduced, in some countries as early as the end of the nineteenth century.¹⁰ All European countries have since introduced pension schemes for the elderly based either on the Bismarckian social insurance model or on Beveridge's universal model. Over the years, the coverage of these public schemes has generally been extended. As a result, in most western European countries, private pension arrangements have traditionally played only a limited role.¹¹

The situation has been partially modified by the new challenges that have emerged during the recent decades: population ageing (particularly strong in Europe), lower economic growth and increased unemployment. The share of public expenditure devoted to pension benefits has grown and the long-term financial sustainability of existing pension arrangements has become more uncertain. These transformations have been accompanied by a parallel change at the level of the dominant economic paradigm (Hall, 1993; Jobert, 1994), which has also influenced conceptions of social policy (Gilbert, 1992). Although the real impact of this new ideological and political context on existing pension policies has been weaker than expected (Pierson, 1994), it is beyond doubt that private pension arrangements nowadays enjoy a much higher level of support than in the past.

As summarized in Table 9.1, a series of pension reforms have been implemented in western European countries during the last two decades, the most notable feature of which is the expansion of private pension tiers. In several countries new mandatory or voluntary private occupational or individual pension tiers have been introduced. Nevertheless, the public tiers have not been removed (though they have sometimes been reformed). This means that no radical liberalization has taken place, contrary to what has happened in some Latin American or eastern European countries. Western European countries have rather opted for multi-pillarization or mixed financing mechanisms (which rely on both PAYG and funding) to tackle the problems of contemporary pension schemes. As underlined by Hinrichs (2000), "increasingly the leitmotiv is to design a sustainable system of different components of retirement income. It

¹⁰ The first country was Germany, where Chancellor Otto von Bismarck introduced old-age and invalidity insurance in 1889.

¹¹ The exceptions are countries — Denmark, the Netherlands, Switzerland and the United Kingdom — that did not extend public provision to the middle classes. They developed multi-pillar pension systems well before the World Bank started promoting this model.

implies that public policy has become engaged more frequently in shaping the non-public components” (pp. 372–3).

Table 9.1 Selected recent pension reforms in western European countries since 1980

Country	Year of reform	Old system				New system			
		Public tier		Private tier		Public tier		Private tier	
		U*	C*	O*	I*	U*	C*	O*	I*
Denmark	.1					X	X	X	
France	1993		X				X		
Germany	2001		X				X		X
Italy	1995		X				X		
Netherlands	.1						X	X ²	
Sweden	1998	X	X				X		
Switzerland	1982		X				X	X	
United Kingdom	1986		X	X			X	X	X

U* — *Public universal scheme*: Pension normally based on residence but independent of earnings, providing flat-rate benefits. Generally financed through government contributions

C* — *Public contributory scheme*: Pension financed by employment-related contributions (employee and/or employer) and providing flat-rate or earnings-/contributions-related benefits.

O* — *Private occupational scheme*: Employers are required to provide private occupational pensions for their employees, financed by employer and/or employee contributions. Benefits are generally contributions-related.

I* — *Private individual scheme*: Employees (and sometimes employers) must pay earnings-related contributions to an individual account managed by a public or private fund manager chosen by the employee. Benefits are generally contributions-related.

¹ — No significant reforms in period.

² — Not legally compulsory but binding in practice for most employers.

Source: SSA, 2002. Only mandatory schemes are included.

Multi-pillar schemes combining public and private tiers are already in place in Denmark, Netherlands, Switzerland and the United Kingdom. Sweden and Germany have recently begun to follow a similar path. Up to now, the country with the most reticence towards private pensions is France, where no mandatory private tier is in place.

Another important development is the expansion of the notional defined-contribution model (NDC). While the financing of the pension system is still PAYG-based, benefits are calculated according to the logic of capitalization, based on contributions paid during the entire working life and on a notional rate of return. This system was adopted in 1995 in Italy and in 1998 in Sweden. It remains under public control, but applies a pension benefits calculation that mimics what happens in funded private schemes. While the NDC model

introduces a more explicit link between contributions and eventual pension benefits, it also reduces the degree of income redistribution when compared to standard PAYG old-age insurance. It thus provides less adequate pension benefits to women, low-wage workers and other workers with irregular employment histories (Williamson and Williams, 2003). The same problems arise with private occupational or individual pension schemes as well.

It must be underlined that similar policy developments do not necessarily imply identical reform goals. For instance, the introduction of private tiers in Switzerland and the United Kingdom in the 1980s was not driven by the same aim. In the United Kingdom the goal was a long-term shift of the pension burden from the public to the private sector, whereas in Switzerland the objective was rather to improve pension coverage without expanding the existing public scheme.

Eastern Europe

The political and economic transition that followed the collapse of Communism in eastern Europe after 1989 saw important changes in welfare systems, including a number of extended pension reforms (see Table 9.2). The inherited pension systems were designed for a very different social and economic context, and performed badly in the early 1990s, which were characterized by high inflation rates and widening differences in earnings (Gillion et al., 2000, pp. 555–6). Nevertheless, during the first transition years, eastern European governments first dealt with political and economic reforms, relegating social policy concerns to second- order priorities (Deacon et al., 1997, p. 92).

The former state bureaucratic collectivist systems generally relied on PAYG public pension schemes, though with some differences compared to analogous schemes in western Europe.¹² However, the reforms implemented during the 1990s have resulted in a shift towards private pensions (see Table 9.2). The dominant ideology during the transition years tended to view the market as the best problem-solving mechanism and all social aspects as essentially “socialist”, linked to a past best forgotten. As a result, “into the vacuum of national social policymaking in the wake of the 1989 events stepped the international organisations” (Deacon et al., 1997, p. 92). Latin American

¹² For instance, in some countries only employers had to pay pension contributions, the retirement age was usually earlier (often 60 for men and 55 for women), and earlier retirement ages often applied to mothers with more than four or five children.

reforms were held up as examples, in particular the “Chilean model” and the “Argentine model” (Müller, 2003, p. 48).

Table 9.2 Selection of main recent pension reforms in eastern European countries

Country	Year of reform	Old system				New system			
		Public tier		Private tier		Public tier		Private tier	
		U*	C*	O*	I*	U*	C*	O*	I*
Bulgaria	2002		X			X			X
Czech Republic	1995		X			X			
Hungary	1998		X			X			X
Kazakhstan*	1998		X			X			X
Poland	1999		X			X			X

* Kazakhstan has been included here rather than with Asian countries because it shares with eastern European countries a post-socialist transition path.

U* — *Public universal scheme*: Pension normally based on residence but independent of earnings, providing flat-rate benefits. Generally financed through government contributions

C* — *Public contributory scheme*: Pension financed by employment-related contributions (employee and/or employer) and providing flat-rate or earnings-/contributions-related benefits.

O* — *Private occupational scheme*: Employers are required to provide private occupational pensions for their employees, financed by employer and/or employee contributions. Benefits are generally contributions-related.

I* — *Private individual scheme*: Employees (and sometimes employers) must pay earnings-related contributions to an individual account managed by a public or private fund manager chosen by the employee. Benefits are generally contributions-related.

Source: Müller, 2003, p. 50; SSA, 2002. Only mandatory schemes are included.

Nevertheless, the degree of liberalization of national pension systems is not uniform across all post-socialist countries. It ranges from countries that have essentially excluded mandatory private pension tiers (for example, the Czech Republic) to those that have opted for total privatization. In reality, only one post-socialist country has completely replicated the Chilean model, namely Kazakhstan. Most countries have instead adopted intermediate multi-pillar solutions: private tiers have been added to the existing public tiers, though these have sometimes been modified. For instance, the public tier in Poland has been transformed to apply the notional defined-contribution principle (NDC).

Compared to other geographical areas, the private schemes implemented in eastern European countries have more in common with those of Latin America than of western Europe, being mostly private individual schemes rather than private occupational schemes.

Latin America

Latin America is certainly the region where the liberalization trend of pension schemes has been the strongest over the last two decades (see Table 9.3). It was the first region where social security privatization became politically viable (Kay, 1999, p. 403).

Table 9.3 Main recent pension reforms in Latin American countries

Country	Year of reform	Old system				New system			
		Public tier		Private tier		Public tier		Private tier	
		U*	C*	O*	I*	U*	C*	O*	I*
Argentina	1994		X				X		X
Bolivia	1996		X			X*			X
Brazil	1998		X				X		
Chile	1981		X						X
Colombia	1993		X				X		X
Costa Rica	2001		X				X		X
El Salvador	1998		X						X
Mexico	1997		X						X
Peru	1993		X				X		X
Uruguay	1996		X				X		X

* *Bonosol (Bono Solidario)*: Flat-rate payment to all those over age 65. See Box 1 for further details. transition path.

U* — *Public universal scheme*: Pension normally based on residence but independent of earnings, providing flat-rate benefits. Generally financed through government contributions

C* — *Public contributory scheme*: Pension financed by employment-related contributions (employee and/or employer) and providing flat-rate or earnings-/contributions-related benefits.

O* — *Private occupational scheme*: Employers are required to provide private occupational pensions for their employees, financed by employer and/or employee contributions. Benefits are generally contributions-related.

I* — *Private individual scheme*: Employees (and sometimes employers) must pay earnings-related contributions to an individual account managed by a public or private fund manager chosen by the employee. Benefits are generally contributions-related.

Source: SSA, 1999; Müller, 2003, p. 49. Only mandatory schemes are included.

The countries of South America have a long tradition of pension schemes (Gillion et al., 2000, pp. 532–45), with retirement benefits in place for at least 50 years. Most of these schemes were originally designed according to the European social insurance model. Nevertheless, compared to western European schemes, coverage rates have remained more limited, mainly because of the large informal sector. The circumstances inducing reform were also different from those driving reforms in western countries. Population ageing was usually

not the main problem; Latin America was rather confronted by a decline in the ratio of contributors to beneficiaries and contribution evasion. Moreover, multiple schemes often coexisted, tending to provide generous benefits for powerful groups (such as the army and civil service) and little or no coverage for the poor. In general, the link between benefits and contributions was very weak.

Chile has played a pioneer role both as the first country in the Americas to adopt an old-age benefit scheme (1924) and as the first country to replace its public pension system with a mandatory individual fully funded scheme (1981). This radical reform entailed a complete shift from public to private pension provision. However, it must be noted that this reform was adopted under specific political conditions: Chile was then ruled by a repressive dictatorship. The weakness of opponents of reform, and the extreme concentration of power in the hands of General Augusto Pinochet, made a complete pension privatization possible (Huber and Stephens, 2000, p. 21; Williamson, 2001, p. 287). Other countries following a similar path reformed their schemes during the 1990s, but not all to the same extent as Chile.

In fact, Latin American reforms can be divided into three groups (Gillion et al., 2000, pp. 543-4; Müller, 2003, p. 49). The first group of countries, Bolivia, Chile, El Salvador and Mexico, have completely privatized their pension schemes. Public mandatory pension tiers have been closed or are being phased out — that is, the “old” systems are closed to new entrants. Defined contribution schemes have replaced the former defined benefit schemes. A second group, Argentina, Costa Rica and Uruguay, have implemented mixed multi-pillar systems. All covered workers participate in both the public contributory tier and the private individually funded tier. The “old” tiers have been reformed but continue to operate alongside the “new” private tiers. The third group of countries includes Colombia and Peru. Here the public tier and the new private tiers are parallel, so that workers can choose to participate in one of the two schemes. The public and private pension tiers are not complementary but compete against each other. One country, Brazil, remains out of the classification. Although pension privatization was on the agenda of the Cardoso Administration, widespread protest organized by a labour-led opposition coalition blocked the privatization project (Kay, 1999, p. 418). As a result, the Brazilian pension reform simply focused on the public PAYG system.

In summary, despite a general trend towards pension liberalization in Latin America, individual countries have chosen different reform patterns resulting in different degrees of privatization. Moreover, some countries are still exclusively reliant on public pension schemes (for example, Brazil) and others have introduced temporary measures during the transition phase to the new private schemes (see Box 1).

Most assessments of the impact of pension privatization in Latin America rely chiefly on the Chilean experience, which is the only privatized scheme in existence long enough to be evaluated. Both the social and economic effects of the reform are far from being uniformly positive, contrary to the initial claims of privatization supporters (Huber and Stephens, 2000; Williamson, 2001). While the administrative costs of the scheme have increased, coverage has not expanded. Moreover, high-wage male workers are the main beneficiaries of the reforms, with low-wage and female workers receiving considerably lower benefits. The economic effects are questionable as well. The reforms have boosted financial institutions and the availability of investment capital, but the impact on economic growth has been marginal (Huber and Stephens, 2000).

Box 1: Bolivia's Bonosol

An interesting experiment accompanying privatization of the pension system is represented by the *Bonosol (Bono Solidario)* in Bolivia. This flat-rate benefit for all those over 65 was created during the 1996 pension reform. The objective was threefold: 1) to provide pension coverage for those outside the formal pension system; 2) to distribute the profits of the privatization programme; and 3) to reduce poverty. Eligibility for the *Bonosol* requires that individuals are resident Bolivian citizens who were 21 at the end of 1995. The first *Bonosol* payments were made in 1997 and the annuity was set at USD248 per person per year. It was financed from the capitalization of five major public enterprises, utilizing returns on a portfolio of shares representing the Government's 50 per cent ownership. The shares are credited to a "collective capitalization fund" run by the private pension funds.

Implementation of the scheme raised important problems, the most relevant being that the accumulated dividends were not enough to cover payments. For this reason (but for political reasons as well), in June 1998 the *Bonosol* was replaced with another scheme, the *Bolivida*. This scheme, which started to pay benefits only in December 2000, was less generous, paying an annual pension of USD60 to citizens over 65 who were over 50 at the end of 1995.

Nevertheless, a law voted in November 2002 reintroduced the *Bonosol*. The first payments were made in January 2003. The annual benefit was set at 1,800 Bolivianos (about USD235) until the end of 2007, and thereafter the benefit will be indexed every five years. All persons reaching age 65 and born before 1975 are entitled to the benefit.

Source: http://poverty.worldbank.org/files/7914_bolivia.pdf; <http://www.bonosol.bo>; Müller, 2003, p. 55.

Asia

In general, old-age pension schemes in Asian countries tend to be less developed than in Europe or Latin America. There are important differences in national systems used to provide people with pensions, which partly reflect different stages of economic development (Gillion et al., 2000, pp. 499–514). Nevertheless, the rapid economic growth experienced particularly in East Asia during the last decades has drawn more and more of the labour force out of self-

employment, usually in agriculture, and into wage employment. Urbanization and industrialization have increased the need for retirement schemes and an expansion of their coverage; this is still far from extensive in most countries of the region, where systemized social welfare is a relatively new development (Goodman and Peng, 1996, p. 192). Most of the pension schemes initially introduced were not mandatory or covered only small groups of the population, usually consisting of provident funds¹³ or social insurance schemes. Provident funds can typically be found in former British colonies such as India (until 1995), Singapore and Malaysia. Countries less exposed to British influence, including the Republic of Korea, Vietnam, but also India after 1995, have mainly relied on social insurance.

Besides limited coverage, an important problem in Asia is the absence of regular benefits in countries relying on provident funds. These pay a lump-sum benefit at retirement age, and the risk of outliving this money is therefore very high.

Concerning the main recent pension reform trends (see Table 9.4), it is difficult to highlight a single direction. In fact, the problems confronted by each country are highly dependent on the socio-economic context, the type of pre-existing scheme (or, in some cases, the absence of a compulsory scheme), its coverage and so on.

The reforms in the selected Asian countries can be classified in three different categories (Gillion et al., 2000, p. 506): first, a shift to pension schemes by countries formerly relying on provident funds (India, under study in Malaysia); second, countries reforming already existing pension schemes (China, Japan, Vietnam); and finally, countries implementing compulsory pension schemes for the first time (Republic of Korea, Thailand). In terms of liberalization, there seems to be no clear pattern in Asia. There have been no radical shifts from public to private tiers and multi-pillarization is limited to countries with an already extensive pension system (China, Japan and, in part, India). On the contrary, a number of countries are moving to public contributory

¹³ Provident funds are essentially compulsory savings programmes in which regular contributions withheld from employees' wages are enhanced, and often matched, by employers' contributions. The contributions are set aside and invested for each employee in a single, publicly managed fund for later repayment to the worker when defined contingencies occur. Typically, benefits are paid out in form of a lump sum with accrued interest, although in certain circumstances drawdown provisions enable partial access to savings prior to retirement or other defined contingencies. On retirement, some provident funds also permit beneficiaries to purchase an annuity or opt for a pension (SSA, 2003a).

pension schemes, a trend that strongly diverges from those in Eastern Europe and Latin America.

Table 9.4 Main recent pension reforms in Asian countries

Country	Year of reform	Old system				New system			
		Public tier		Private tier		Public tier		Private tier	
		U*	C*	O*	I*	U*	C*	O*	I*
China	1995		X			X			X
India	1995		X*			X+X*			
Japan	1986		X		X	X			
Malaysia	-		X*			X*			
Singapore	-		X*			X*			
South Korea	1986		— No scheme —			X			
Thailand	1990		— No scheme —			X			
Vietnam	1993		X			X			

* *Provident funds*: Employee and employer contributions are set-aside for each employee in publicly managed special funds. Typically, benefits are paid as a lump sum with accrued interest.

U* — *Public universal scheme*: Pension normally based on residence but independent of earnings, providing flat-rate benefits. Generally financed through government contributions

C* — *Public contributory scheme*: Pension financed by employment-related contributions (employee and/or employer) and providing flat-rate or earnings-/contributions-related benefits.

O* — *Private occupational scheme*: Employers are required to provide private occupational pensions for their employees, financed by employer and/or employee contributions. Benefits are generally contributions-related.

I* — *Private individual scheme*: Employees (and sometimes employers) must pay earnings-related contributions to an individual account managed by a public or private fund manager chosen by the employee. Benefits are generally contributions-related.

Source: SSA, 2003a; Feldstein, 1998; Holzmann et al., 2000. Only mandatory schemes are included.

The Korean and Thai experiences are particularly interesting in this perspective. In both countries there was no mandatory pension scheme until the mid-1980s (except for some particular categories of workers). In both cases it was decided to introduce a mandatory public contributory scheme with extended coverage providing earnings-related pension benefits. The implementation phase has been lengthy, but both schemes have been fully operational since the end of the 1990s.

The extension of coverage of pension schemes is a common feature of most reforms in the selected countries. For instance, Vietnam extended compulsory affiliation to the private sector in 1993.

Africa

Mandatory pension systems in Africa are generally poorly developed and cover very limited parts of the population. The existing schemes are often costly, ineffective and have problems of financial sustainability. Nevertheless, these common features hide important regional differences, in terms both of the extension of old-age schemes and their design (Gillion et al., 2000, pp. 515–25).

The first compulsory pension schemes were introduced in North African countries (for example, Algeria, Egypt, Tunisia), where the proximity to Europe exerted a significant influence. These schemes, mostly implemented in the early 1950s, figure today among the most comprehensive in Africa. By contrast, in sub-Saharan Africa the first mandatory schemes were introduced only after independence, beginning in the mid-1960s. However, it must be underlined that not all countries in Africa have compulsory social security systems in place even now.

Besides these timing disparities, there are also important differences in the formal design of the systems. North African countries and former French colonies in sub-Saharan Africa have adopted old-age schemes based on the social insurance principle, with earnings- and/or contributions-related schemes financed by employers and employees. These systems are often partially funded. A second group of sub-Saharan African countries, essentially former British colonies (for example, Nigeria, United Republic of Tanzania, Ghana, Kenya), rely on provident funds, which usually pay lump-sum benefits at retirement age. Finally, a group of countries in southern Africa rely on non-contributory old-age schemes financed by general taxation, the result of endogenous developments rather than a colonial heritage. Botswana, Namibia and Mauritius have adopted universal schemes, while South Africa has opted for a means-tested system.

The most common problem of African pension systems is the low coverage of mandatory schemes. In most African countries, social insurance pension schemes or provident funds cover less than 10 per cent of the total labour force (Gillion et al., 2000, p. 520), mainly due to high and rising informal employment. By contrast, coverage is much more extensive in southern African countries relying on non-contributory schemes. Despite a favourable demographic situation in Africa,¹⁴ the financial sustainability of current pensions

¹⁴ As underlined by Gillion et al. (2000, p. 518), “Africa will remain young until well into the twenty-first century and the implications of ageing for social security financing do not represent an immediate problem”.

systems is also a concern. Paid contributions are low because of high rates of tax evasion and recurrent periods outside the formal labour market. Moreover, where pension funds are in place, the investment returns are generally low, and this is exacerbated by high inflation and frequent monetary devaluations. In most countries administrative costs are also very high and have a big impact on the overall budget of the schemes.

Table 9.5 Main recent pension reforms in African countries

Country	Year of reform	Old system				New system			
		Public tier		Private tier		Public tier		Private tier	
		U*	C*	O*	I*	U*	C*	O*	I*
Algeria	#								X
Botswana	1999	— No scheme —				X			
Egypt	#								X
Namibia						X			
Nigeria	1994		X *						X
South Africa	1994	X **				X ***			
Tanzania, United. Republic	2001		X *						X
Zambia	2000		X *						X
Zimbabwe	1990	— No scheme —							X

No major reforms in recent years.

* *Provident funds*: Employee and employer contributions are set-aside for each employee in publicly managed special funds. Typically, benefits are paid as a lump sum with accrued interest.

** Differentiated pension benefits according to racial classifications (see Devereux, 2001).

*** Means-tested, equal rights for all citizens.

U* — *Public universal scheme*: Pension normally based on residence but independent of earnings, providing flat-rate benefits. Generally financed through government contributions

C* — *Public contributory scheme*: Pension financed by employment-related contributions (employee and/or employer) and providing flat-rate or earnings-/contributions-related benefits.

O* — *Private occupational scheme*: Employers are required to provide private occupational pensions for their employees, financed by employer and/or employee contributions. Benefits are generally contributions-related.

I* — *Private individual scheme*: Employees (and sometimes employers) must pay earnings-related contributions to an individual account managed by a public or private fund manager chosen by the employee. Benefits are generally contributions-related.

Source: SSA, 2003a; Feldstein, 1998; Holzmann et al., 2000. Only mandatory schemes are included.

Concerning the pension reforms implemented in recent years, different trends can be highlighted (see Table 5). For instance, countries relying on provident funds are progressively abandoning this instrument and replacing it with earnings-related old-age insurance systems. At the same time, in southern

Africa countries are converging on non-contributory schemes. While there has been no pension privatization in Africa up to now, private pension schemes play an important complementary role in countries relying on non-contributory schemes, notably South Africa, or where no mandatory scheme is available. Nevertheless, the importance of private pension provision is linked to incomes and the level of benefits provided by the public schemes.

Conclusion

In conclusion, this overview of pension reform trends around the world shows that Latin America, and to a certain extent eastern Europe, have experienced the highest degree of pensions privatization over the last decades. In both cases particular conditions have favoured this development, such as political and/or economic transition, dependence on international financial institutions supporting the privatization option, and so on. But even in these regions, the liberalization trend is not absolute and uniform. The degree of privatization varies from country to country, and also takes differentiated forms such as complete privatization or multi-pillarization. Moreover, some countries still have not adopted any form of privatization (for example, Brazil and the Czech Republic).

Privatization is also increasingly debated in western European countries. But in this region privatization occurs exclusively through multi-pillarization, which leaves basic public pillars in place. No radical reform has been adopted here. This can be explained by the social, political and institutional obstacles that the complete removal of mature and extensive old-age schemes would raise.

In Asian and African countries it is difficult to highlight common trends. The coverage and maturity of the schemes are very heterogeneous. In many countries the implementation of an extended pension system is still under way. Furthermore, stages of economic development vary from country to country and often limit the opportunities to introduce comprehensive social security schemes. There has been little or no reform in the direction of private schemes. On the contrary, many countries that had no mandatory scheme until recently have opted for public universal or contributory systems (for example, southern African countries, Republic of Korea, Thailand).

Globally, there is a contrasting picture. Liberalization of pension systems is not a uniform phenomenon, but has a differentiated impact around the world. Moreover, while some countries are moving in direction of private pensions, other countries have recently adopted new public pension pillars.

3. The social consequences of pension liberalization

The previous sections have highlighted a number of trends in pension policy across world regions. In many cases the trend is definitely towards a greater involvement of the private sector in the provision of retirement income, with the establishment of fully liberalized or multi-pillar pension systems. What are the consequences of these developments for older people's economic security? Private pension provision is known to be less egalitarian than public pensions, in terms of both access and benefit levels. At the same time, multi-pillarization typically includes a basic redistributive pillar that compensates for these inegalitarian tendencies.

It is no easy task to assess the consequences of the trend towards pension liberalization on the adequacy of coverage available to currently working generations. Changes in legislation adopted today will affect pensioners' incomes in a few decades' time. The exact time lag between the adoption of new pension legislation and the payment of the first new pensions depends on the shape of the reform itself. Especially when reforms include a partial or a total shift from PAYG to capital funding, workers must be given a sufficient period of time to accumulate a reasonable amount of capital. This is why most reforms are fully effective only for workers in their forties or younger. Older workers are usually covered by the pre-reform system or by a transition regime until retirement. This means that, in order to assess the impact of pension liberalization in, say, Latin America or eastern Europe, it is rather pointless to look at patterns of poverty and inequality among current retirees. The present situation is the result of policy decisions taken decades ago.

The best way to solve the time-lag problem is to use micro-simulation techniques. This consists in determining pension entitlements for hypothetical career profiles of people starting work after the adoption of new pension legislation, spending the whole of their working lives under that particular regulatory regime, and retiring some time in the future.¹⁵ Unfortunately, the sort of large-scale micro-simulation exercise needed to assess the social consequences of pension liberalization in a few dozen countries is beyond the scope of the present exercise.¹⁶

¹⁵ For an example of micro-simulation applied to pensions, see Bonoli and Gay-des-Combes (2003).

¹⁶ The authors have been involved in an EU-funded research project on "Private pensions and social inclusion" (2003-2005), which used micro-simulation techniques in order to assess the

An additional problem relates to uncertainty over future socio-economic developments that can have an impact on pension entitlements. The issue is particularly important in relation to pension systems that contain a sizeable funded component. The amount of the pension that people will receive from these schemes will depend significantly on the performance of the invested capital. The simulations run by Thompson (1998) show that the level of someone's pension can change dramatically simply as a result of a shift in the order of bad and good years. In addition to investment performance, pension entitlements are likely to be sensitive to such diverse variables as wage increases, life expectancy at age 65 and inflation.

Here we assess the likely impact of pension liberalization on entitlement on the basis of a two-stage strategy. First, we look at the performance, in terms of poverty prevention, social inclusion and adequacy, of pension systems with a large private component that have been in operation for at least a few decades. The objective here is to uncover cause-effect relationships between pension-system structural variables and social outcomes. Our observation of "early-developers" of liberalized pensions will also allow us to uncover the main problems associated with this form of provision. These cause-effect relationships and problems may well be at work in the new, partly liberalized pension systems that have emerged over the last few years. Second, we look at those indicators, insofar as they are available, that are likely to provide insights into the degree of inclusiveness of the new pension schemes. If there is substantial uncertainty in relation to future economic developments, it is difficult to imagine how a pension regime with low coverage today will be able to provide inclusive pension coverage in 20 or 30 years' time. In this respect, the observation of some current indicators may give us a hunch about the likely social performance of a pension system.

3.1. The social performance of traditional multi-pillar pension systems

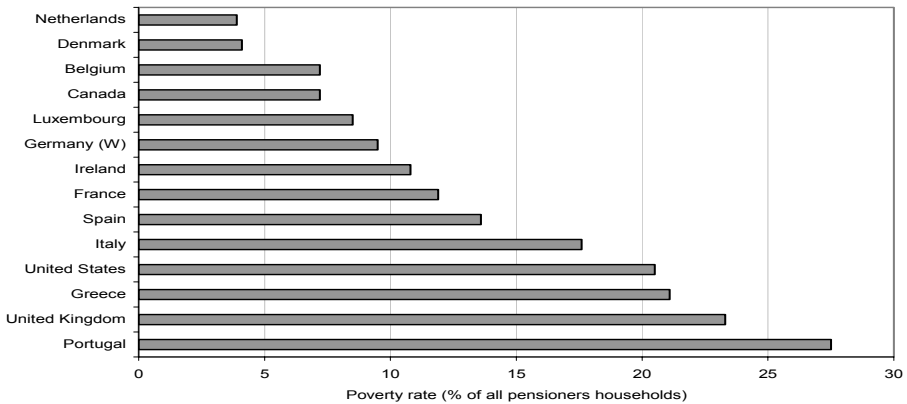
Multi-pillar pension systems combining universal subsistence-level public provision with additional private cover existed long before the World Bank's launch of the three-pillar model. However, these systems tend to differ in important respects from the World Bank model as adopted by several countries

social adequacy of the mixed pension regimes that have developed in Europe since the 1990s. The country coverage was limited to Germany, Italy, The Netherlands, Poland, Switzerland, and the United Kingdom.

over the last decade or so. First, traditional multi-pillar systems tend to rely on employer-based or even branch-based second-pillar schemes and, as a result, they have some insulation from market forces. Second, they are truly multi-pillar systems in the sense that they generally include a strong first pillar, usually further reinforced by means-tested benefits for those who fall below the poverty line. Finally, they have been in operation for several decades, and have been subject to incremental changes, so that their social performance has improved over the years.

In international comparisons of poverty rates among older people, multi-pillar pension systems do not systematically fare less well than those based on social insurance. A paper by Whitehouse (2000), reviewing 11 international comparative studies on poverty and income distribution in old age, suggests that multi-pillar pension systems are both the most and the least efficient as far as poverty prevention is concerned. Poverty rates tend to be highest in countries like the United States or the United Kingdom;¹⁷ they are average in most continental European countries (for example, France, Germany, Italy); and they are lowest in multi-pillar countries such as Denmark and the Netherlands. One of the studies reviewed (Hauser, 1998) shows this pattern quite clearly (Figure 9.1).

Figure 9.1 Poverty rates of persons living in pensioner households, 50% of average net equivalent income (OECD scale), 1990 (or nearest year)



Source: Hauser, 1998, p. 22.

¹⁷ The United Kingdom tends to fare rather badly in international comparisons of old-age poverty rates because studies often ignore in-kind benefits available free of charge, which in the United Kingdom includes health care (Whiteford and Kennedy, 1995).

The meta-study by Whitehouse also shows that social insurance pension systems tend to replicate among the elderly the same sort of inequalities that one finds among the working-age population. Social insurance systems tend to be based on the so-called “equivalence principle”, which mimics actuarial fairness and relates the amount of the benefit in some way to the contributions paid while in employment (Clasen, 1997). By contrast, the income distribution generated by multi-pillar pension systems differs from that of the working-age population. Older people are less likely to be very poor (lowest deciles), more likely to be in the middle of the income distribution, and less likely to be in the top income groups than those of working age. This pattern is clear in Australia, Canada, the Netherlands and the United Kingdom, but less so in the United States, where the income distribution among the elderly is more skewed towards the extremes (there are many very poor and many very rich pensioners).

These findings have generally been confirmed by subsequent studies. Berhend (2000), for example, shows that private pension regimes, if looked at on their own, actually strengthen labour market inequalities. However, when the analysis focuses on both private and public regimes, multi-pillar pensions are not systematically less egalitarian than social insurance ones. As a matter of fact, the most egalitarian pension system turns out to be the Australian system, which includes an important private fully funded component.

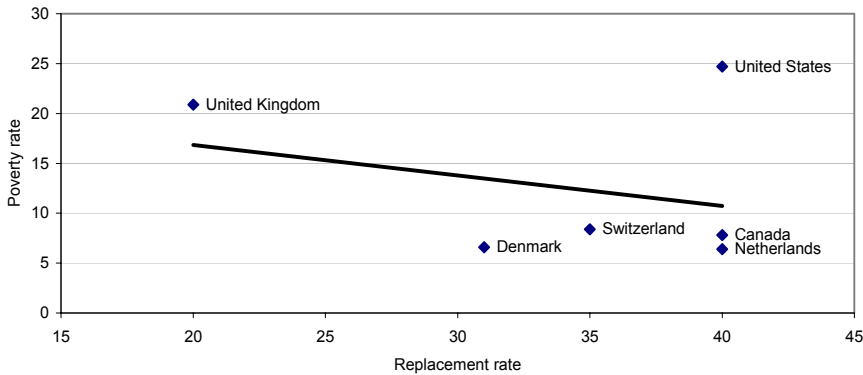
Overall, multi-pillar systems are neither less nor more effective than social insurance pensions at preventing old-age poverty. The fact that the multi-pillar countries bifurcate in terms of their social effectiveness suggests that it is not the multi-pillar character of a system that matters most for social effectiveness, but some other factor. Two factors are likely to be particularly important in this respect. First, the overall effectiveness of a multi-pillar system can be expected to depend heavily on the quality of the first pillar of pension provision. The systems that fare best, such as Denmark and the Netherlands, provide universal residence-based pensions and means-tested supplements for those retirees who do not have access to additional cover. Under such circumstances, poverty among the aged is successfully prevented. This is understandable. The basic pension is the only encompassing element in the system, and if it provides generous and inclusive benefits, then the whole system can be expected to fare rather well in terms of poverty prevention. By contrast, if the basic pension provides below- poverty-level benefits and/or access to it is not generalized, then we can expect the pension system to be less effective in guaranteeing universal income security (United Kingdom, United States). The second factor is the regulatory regime for private pensions, the extent of coverage and also the level at which second-pillar provision is organized. Are pension funds branch-based or company-based, or is provision individual? These two aspects of multi-pillar systems are looked at in turn.

The quality of the first pillar

It is reasonable to expect that countries with a strong first pillar will fare better in poverty prevention than those that provide only modest incomes. Of course, what matters is not only the size (in terms of expenditure, for example) of the first pillar, but also its distributional features, and in particular the sort of benefits that are provided to low-income individuals or to those with career interruptions or who spend long periods of time working part-time or in the informal sector. The presence of a means-tested supplement set at an above-poverty level is also important in this respect. Unfortunately, information on benefits for these career profiles is not available on a comparative basis. What we use instead is simply the replacement rate of the basic pension for a worker with a full contribution record on an average wage. The rate corresponds to the proportion of earnings represented by the pension benefit.

The data presented in Figure 9.2 are only partially suitable for our purposes, insofar as they provide a picture of pension systems' treatment of average earners, not of those most at risk of old-age poverty. However, we can assume the two to be related in some way. As expected, replacement rates for the basic pension are negatively related to poverty. However, the relationship is weak and largely due to a UK effect.

Figure 9.2 Public pension replacement rates and poverty rates in multi-pillar countries, related to the average wage, 2000

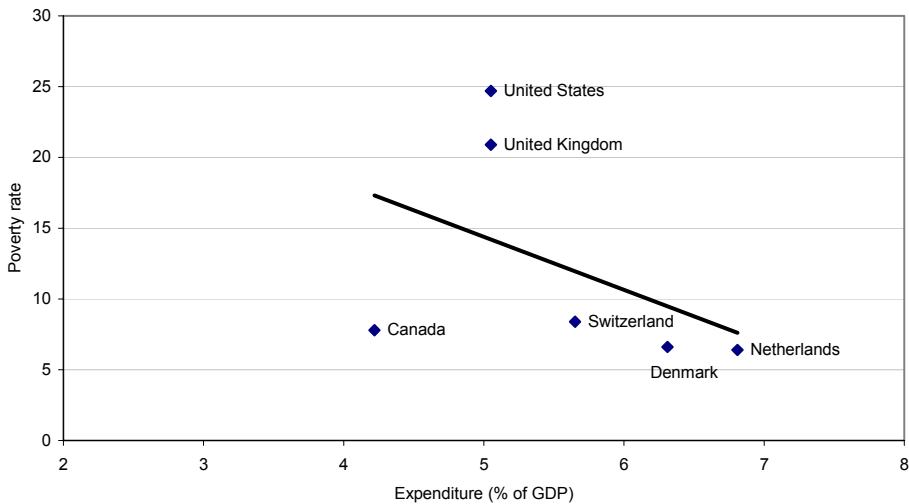


Sources: Replacement rates: Canada: B eland and Myles, 2005; Denmark: Jon Kvist, personal communication; Netherlands: SZW, 2001; Switzerland and United Kingdom: own calculations; US: GAO, 2002. Poverty rates: LIS, 2003.

An alternative approach to studying the relationship between the quality of the first pillar and the effectiveness of a pension system in combating old-age poverty is to focus on public pension expenditure as an indicator of the effort

made by the public tier of pension provision. Figure 9.3 confirms the existence of a negative relationship between the size of the first pillar and the prevalence of poverty among older people. This time the relationship is stronger, suggesting that expensive first-pillar pensions are more effective in providing income security in old age.

Figure 9.3 Public pension expenditure and poverty rates in multi-pillar countries, 2000



Sources: Expenditure data: OECD, 2001. Poverty rates: LIS, 2003.

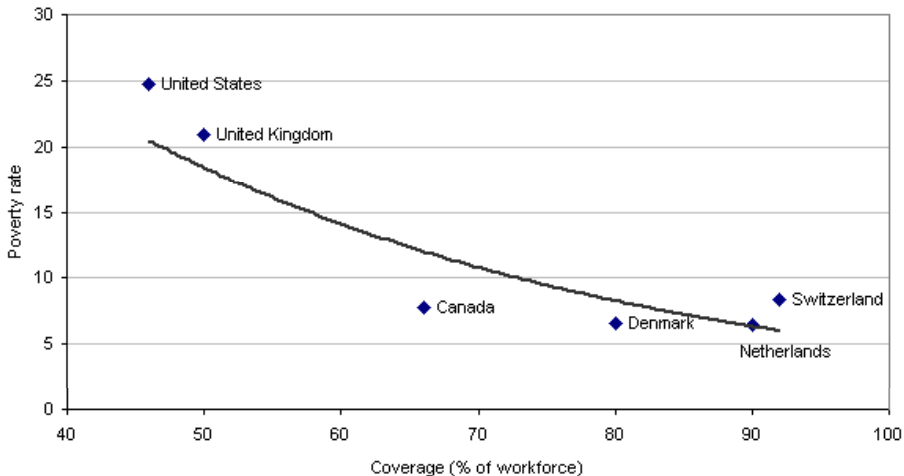
Overall, the quality of the first pillar seems to affect considerably the capacity of multi-pillar pension systems to provide adequate income security in old age. The best systems are those found in the Netherlands and Denmark, which provide universal flat-rate citizenship pensions. Switzerland and Canada fare rather well too, thanks to a basic pension that provides a floor to all pensioners and some earnings-related provision that remains widely available. Less successful are the United Kingdom and the United States. These countries have very different basic pensions, the United Kingdom a nearly universal but very low-level scheme, and the United States a modest earnings-related programme.

The regulatory regime of second-pillar pensions

One of the best measures of the inclusiveness of a private pension regime is its coverage rate, typically defined as a proportion of dependent employment. Unfortunately, it is not always easy to find accurate and comparable data on

coverage rates. Problems include the denominator (the entire working-age population, those in employment, those in dependent employment or those employed in the private sector). In Figure 9.4 we have tried, as much as possible, to use comparable data. However, they should be treated with caution, given the variety of sources used. Still, the results are in the expected direction. Poverty rates are lower in those multi-pillar countries where second-pillar pensions provide extensive coverage

Figure 9.4 Coverage rate of second-pillar pensions and poverty rates in multi-pillar countries, 2000



Sources: Coverage: United States, United Kingdom, Denmark, Switzerland: Rein and Turner, 2001; Canada: Béland and Myles, 2005; Netherlands: SZW, 2001.

In addition to coverage, other regulatory features of second-pillar pensions are likely to play an important role in determining the extent to which a multi-pillar pension system is successful in preventing old-age poverty. One is the existence of minimum benefit guarantees. In Switzerland, these take the form of minimum contribution rates and a minimum interest rate that must be credited to all second-pillar pensions, and in the Netherlands there is a guaranteed combined replacement rate of 70 per cent of previous earnings for the first and second pillars together. In the United Kingdom, a guaranteed minimum is applicable only to defined-benefit schemes. Other countries do not have statutory provision for minimum second-pillar pensions.

A third issue concerns administrative fees. These need to be paid by scheme members and can vary substantially. As a general rule, the larger the scheme the lower the administrative expenses that need to be borne by each

member, because of economies of scale. Additional factors are whether providers are operating in a competitive market and whether they are profit-making organizations, which oblige schemes to incur additional costs for marketing and payment of shareholders' dividends.

Finally, how administrative expenses are shared among members is important, especially for low-income workers. The management of a pension account has some fixed costs, which are proportionally higher for those on low incomes. If a pension fund charges fixed or partially fixed fees, then low-income workers are likely to fare less well than they would in a fund where each member contributes proportionally to his or her assets in the fund. Generally speaking, low-income workers tend to fare better in larger schemes, particularly at the branch level. These do not operate under market conditions, which means that they do not have to generate profits for shareholders or invest in marketing. Company pension schemes, for the same reasons, also tend to provide a rather good deal to low-income workers. It is individual private pensions marketed by commercial providers that offer the worst terms to low-income workers. In this case, market conditions require fees to reflect the true cost of managing pension accounts, and they are as a result proportionally higher for low-income workers. Putting it another way, before low-income workers can start to accumulate funds, they must cover the fixed fee, which can constitute a significant proportion of annual contributions.

The evidence reviewed in this section suggests the following conclusions:

- The structure of a pension system, whether it is of the multi-pillar or social insurance kind, does not per se affect the ability of the system to provide income security in old age.
- The extent to which multi-pillar pension systems are successful in preventing old-age poverty depends crucially on the quality of their first pillar and in particular on its treatment of low-paid workers.
- We can expect some additional variables to play an important role, such as the coverage rate of occupational pensions; the level of administrative fees levied by private pension providers, and the presence or absence of guarantees (such as a minimum interest rate and protection in case of bankruptcy).

3.2. *The social performance of the new multi-pillar pension systems*

As mentioned above, analyses that link features of current pension systems to current patterns of poverty and income distribution among the older population cannot be performed with regard to newly established multi-pillar or

fully liberalized pension systems. However, the indicators that have been found relevant in explaining the effectiveness of established multi-pillar systems can give useful insights into their likely future social performance.

The quality of the first pillar

Various methods can be used to assess the quality of a first-pillar pension scheme. Above, in relation to traditional multi-pillar countries, we relied on the replacement rate for an average earner and on total public pension expenditure. These are approximations that have been used for want of a better alternative because, ideally, what matters most in relation to the poverty prevention capacity of a pension system are the benefits provided to low-income workers. The situation is slightly more complicated for the new multi-pillar countries. Here, available data concern the pre-reform situation, both with regard to pension expenditure and to replacement rates. The analysis is further complicated by the fact that those countries retaining a first pillar have often adopted a notional defined-contribution (NDC) approach or a pension points system. In both cases, it is extremely difficult to know with any degree of accuracy the likely amount of future benefits, as this will depend on a number of socio-economic and demographic developments. In addition, while coverage of first-pillar pensions in older systems is generally universal, the same does not necessarily apply to newly liberalized systems in countries with large informal and self-employed sectors that remain outside the remit of social insurance.

Table 9.6 Countries with universal pensions

Country/territory	Year of introduction	Age of eligibility	Level as % of per capita income
Bostwana	1996	65	10
Canada	1927	65	31
Denmark	1891	67	30
Finland	1956	65	22
Iceland	1909	67	30
Hong Kong, China	1973	70	20
Mauritius	1951	60	21
Namibia	1949	60	17
New Zealand	1898	65	39
Nepal	1995	75	10
Norway	1936	67	30

Source: Palacios (2003).

In countries with a large proportion of informal and self-employed workers, the most effective instrument to prevent old-age poverty is arguably a universal pension, paid to all regardless of contributions, at a level above the poverty line. Such pensions exist in very few countries, and generally not in those that have recently liberalized their pension systems.

These countries have followed different directions in relation to their first pillar. Some have abandoned the first pillar altogether. Others have reformed it, often with the adoption of a notional contributions system. A third option has been to maintain a reformed first pillar as an alternative to the newly introduced private system (Table 9.7).

Table 9.7 Basic pensions in newly liberalized pension systems

Pension	Countries
Basic has been repressed.	Bolivia*, Chile, El Salvador, Kazakhstan, Mexico, Nicaragua.
Basic pension has been reformed and maintained as first pillar.	Argentina, Bulgaria, Costa Rica, Croatia Hungary, Estonia, Latvia, Poland, Uruguay.
Basic pension has been reformed and maintained as an alternative to private pensions	Colombia, Peru

* A temporary universal pension has been introduced, See Box 1.

Source: Müller (2003).

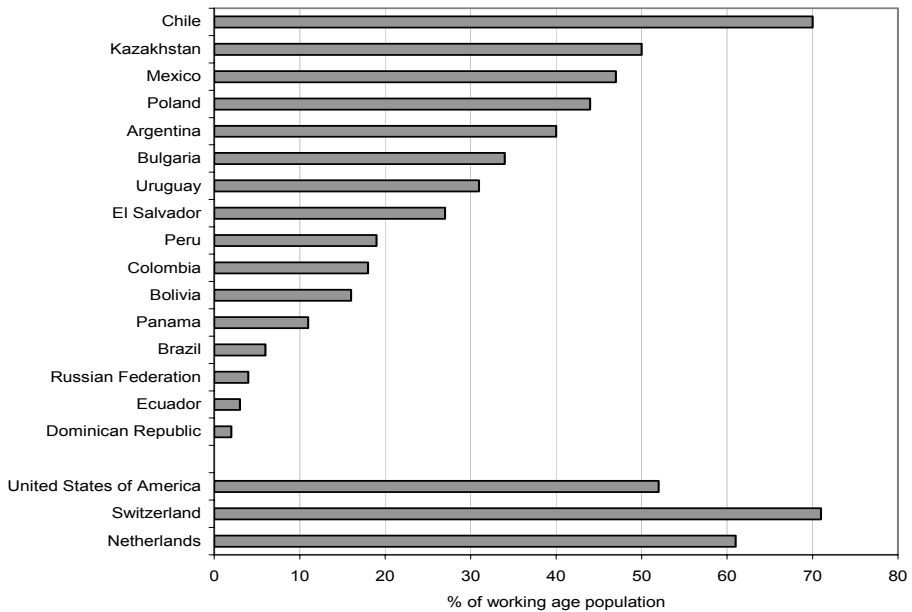
As seen above, the effectiveness of a largely privatized pension system in protecting older people from the risk of poverty is related to the quality of first-pillar provision. Pension systems that have suppressed their first pillar will inevitably be less effective in preventing old-age poverty. Those countries, mostly in eastern Europe, that have maintained a publicly financed first pillar are certainly going to fare better in poverty prevention. It is not clear what the outcome is likely to be for countries that have maintained a public scheme as an alternative to the newly introduced private pension. This approach seems promising insofar as it allows individuals to choose the most appropriate scheme for their situation. However, competition between the public and the private sector in pension provision in the United Kingdom has produced disastrous results, such as widespread mis-selling of private pensions. In many cases, members of the state scheme (and even of company schemes) were persuaded by aggressive marketing and often poorly qualified sales staff to leave their existing schemes and buy personal private pensions. Because of the high administrative fees, many of these workers found themselves worse off than if they had stayed in their original schemes. In the end, private providers were forced to pay

compensation to those who had been wrongly advised (see Bonoli, 2000, Chapter 3).

The coverage of second-pillar pensions

The second important factor affecting the ability of liberalized pension systems to prevent poverty in old age is the coverage rate of private pensions. In extending the analysis to the newly privatized systems we again run into data problems. As mentioned above, it is difficult to find comparable data on coverage rates of private pension schemes for OECD members, let alone for developing countries. The strategy chosen here is to use data on the numbers affiliated to private pension schemes compiled by the International Federation of Pension Funds Administrators, and to calculate coverage rates in relation to the working-age population. The results are shown in Figure 9.5. Because this is a slightly different procedure to the one used for the data on OECD countries in Figure 9.4, Figure 9.5 includes comparative results for the United States, Switzerland and the Netherlands.

Figure 9.5 Coverage of private pensions in new multi-pillar countries, 2002



Note: Coverage rate has been calculated as the number of affiliates to private pension funds as a proportion of the population aged 15 to 60.

Sources: Number of affiliates: new multi-pillar countries: FIAP, 2003; US: GAO, 2002; the Netherlands: SZW, 2001; Switzerland: OFS, 2002. Working-age population: UN, 2003.

It is evident that there is a huge variation in coverage rates of private pensions in the newly liberalized pension systems. The factors that seem to affect coverage most are the age of the new system, and the existence or not of a first pillar. Chile, the first country to move in the direction of a liberalized pension system, has a coverage rate comparable to that of western European multi-pillar countries. However, there is a growing gap between the number of affiliates and the number of contributors. In 1999, out of some six million affiliates to private pension funds, only 3.2 million were actually paying contributions (Jimenez, 2001). This suggests that affiliate figures are likely to overestimate the extent of coverage. Being affiliated to a fund without paying in obviously does not do much to secure one's retirement. Other countries have lower rates of affiliation. Kazakhstan and Mexico, two countries that have abolished their first pillar altogether, have relatively high coverage rates. Most countries, however, have coverage rates that are well below those found in western multi-pillar systems. In relation to what has been seen above, and unless coverage develops rapidly in these countries, this factor too suggests reduced effectiveness in terms of poverty prevention for the newly liberalized pension schemes.

3.3. The social effectiveness of pension schemes

Our analysis suggests that the social effectiveness, above all the capacity to prevent old-age poverty, of pension systems that contain a sizeable private component largely depends on the presence of a good quality public first pillar of provision and on the extent of coverage of private pensions. Of course, this conclusion is based on data that are only partially suitable for our analysis. Nonetheless, there are strong theoretical reasons to believe that even with better data our conclusion would not differ much. In the absence of a first pillar and of compulsory or near-compulsory second-pillar pension coverage, it is difficult to see how low-income individuals can accumulate decent pension entitlements. Saving for retirement is obviously going to be a low priority for working-age poor people. Unless forced to do so, they are unlikely to forgo current consumption to finance their retirement. In addition, low-income individuals may simply be unable to fund their own retirement autonomously, as the sums involved may be too high for them. It can be argued that a poverty-free retirement is a good that can be bought only by individuals that dispose of a given purchasing power throughout their lives. If those who do not have this level of purchasing power are to enjoy a poverty-free retirement, then some form of redistribution is going to be needed. In most cases, the most efficient way to provide this kind of redistribution is through a public first pillar of pension provision.

Our comparison of the “old” multi-pillar pension systems has suggested that these can be quite effective in preventing old-age poverty, provided they have good quality universal first-pillar provision and high coverage rates for second-pillar pensions. Unfortunately, these two conditions do not seem to be met in most of the newly liberalized pension systems. Despite data inadequacies, it is clear that coverage rates in the newly liberalized pension systems are unlikely to reach levels similar to those achieved in the best performing old multi-pillar systems. To a large extent, this is a result of the higher prevalence of informal employment in developing countries. In addition, very few countries provide truly universal pension schemes. Where they do, the benefit level tends to be much lower (in relative terms) than in the older multi-pillar countries (for example, Denmark and Canada).

4. Conclusion

Our overview of pension policy developments worldwide suggests that the dominant trend is towards more private sector involvement and partial liberalization. This is obviously a very broad approximation and hides some important regional and country differences. First, the trend towards liberalization and privatization is definitely stronger in Latin America and eastern Europe. In some cases these countries have gone as far as to abolish their basic pension schemes, and have generally introduced competitive markets for the provision of second-pillar pensions. It is in these regions that the social consequences of pension liberalization are likely to be greatest. The emerging new pension systems are in fact rather different from those that, through a heavily regulated multi-pillar structure, have delivered economic security to older people in western Europe over several decades. They tend not to include generous universal basic schemes nor do they oblige employers to provide occupational pension coverage. In addition, especially in Latin America, the extent of informal employment makes it difficult to include the whole working population under such schemes. In eastern Europe, liberalization has been less extreme, as most countries have retained a universal or nearly universal basic pension. Other world regions have more successfully resisted international pressures for pension liberalization, particularly southern African countries, the Republic of Korea and Thailand, all of which have introduced public pension schemes in recent years.

While it is difficult to evaluate the social consequences of these developments, all the evidence reviewed in this chapter points in one direction: the newly liberalized pension systems are unlikely to provide effective and inclusive income security in retirement. This reflects low coverage rates for private pensions, the fact that these are mostly run by commercial organizations, and the absence, generally speaking, of anti-poverty universal first-pillar

pensions. Moreover, large informal employment sectors in many of the countries will entail continued low coverage in future years. As a result, countries that have liberalized their pension systems in Latin America and eastern Europe are likely to follow a trajectory that in the best case scenario will be similar to that of the United States, characterized by comparatively high old-age poverty rates and big inequalities. But the US scenario is an optimistic one for most countries. Few Latin American countries possess first-pillar pension schemes that match the US Old Age, Survivor and Disability Insurance (known as Social Security) in terms of coverage, generosity and redistribution. Basic pensions, where they have not been abolished, tend to cover a fraction of the population and provide meagre benefits. Old-age poverty in these countries can thus be expected to be more widespread than in the United States.

The recent wave of pension reforms in Latin America and eastern Europe is therefore unlikely to constitute a significant step towards resolving the pension problem. If pension privatization helps contain public spending, it also reduces the ability of the pension system to fulfil its main social objectives — the guarantee of a poverty-free retirement for all and adequate benefits for those who have made substantial contributions during their working lives. Rather than providing a solution to this dilemma, privatization is likely to constitute its transformation from a financial to a social problem.

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LIBERALIZING PENSIONS: EU AND WTO ROLE IN PENSION REFORMS

10

by Pascal Annycke¹

1. Introduction

The authors of the World Trade Organization (WTO) document *GATS — fact and fiction*, asked, “Why is the liberalization of services important?” and then stated that “It is impossible for any country to prosper today under the burden of an inefficient and expensive services infrastructure” (WTO, 2001). The WTO’s answers to its ambitious question do not provide detailed evidence to support its view in favour of liberalization of services. Moreover, in the debate over liberalization of services, including public pensions, stakeholders are rarely impartial in distinguishing between reality and ideology. Political parties, lobbyists and even international organizations may present biased views on the reform debate.

Various actors intervene in the area of social services. Pensions are usually the social service branch that incurs the highest level of expenditure, particularly in industrialized and ageing countries. Liberalization implies changes to the role of those actors and their share of total expenditure. Christiane Kuptch defines liberalization as a process where “restrictions on market access are removed at international level” (Kuptch, 2001, p. 14). In some circumstances liberalization may be considered a synonym of other terms such as privatization, deregulation, competition or commercialization. All these terms present some nuances in their

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description, as the large variation in definitions serves to highlight the ambiguities within this concept and the wide range of misunderstandings that can occur during international debate. The debate is both over the division between public and private services as well as over the different strategies advanced by public and private stakeholders in the market development of social services.

This public-private mix has been on the domestic political agenda for many years, and has been taken up at international level, regionally by the European Union (EU), for example, and worldwide by the WTO and its General Agreement on Trade in Services (GATS). With the growing primacy of international law over domestic law, will international agreements dictate the direction of reform in social services, and more specifically in pensions?

This chapter examines recent pension reforms in the context of the liberalization process. It then investigates EU and WTO approaches with regard to their impact on pension reform, as well as their similarities and differences.

2. Pension reforms: Systemic or parametric choices?

The need for pension reform differs according to a country's circumstances. While industrialized countries face increasing pension costs due to an ageing population, many Asian and African countries are concerned with broadening their pension coverage. Other regions have had other priorities: eastern European countries and members of the Commonwealth of Independent States (CIS) have attempted to adapt to the market economy, while some Latin American countries have tried to protect pension schemes from political mismanagement and corruption. It can be challenging for governments to obtain public support for pension reform, as well as any other reforms, if they involve an alteration of social rights, a fortiori when they entail a reduction in such rights.

Reforms may have different effects on social rights, depending on whether they are parametric or systemic. The former alter the parameters that influence the balance of a scheme, such as contributions, benefits or retirement age. These reforms do not modify the pension system but adjust parameters to maintain a balance, usually with no link to a process of liberalization.

In contrast, systemic reforms imply structural changes in the pension system, accompanied by a shift from public pay-as-you-go to privately funded schemes. These reforms could be considered as irreversible. The ideology behind them is supported by a liberalization approach, which contends that the market is more efficient than state-related organizations in providing pension services. Other taxonomies of reform exist, but implementation of a mandatory

private funded pension scheme is here considered a key element in the distinction between parametric and systemic reforms.

2.1. Parametric reforms (also called “technical reforms”)

Many factors can influence the financial balance of a pension scheme. For a pay-as-you-go pension system, financial balance is reached when the contributions paid in equal the benefits paid out. Parametric reforms concentrate on altering the parameters that control the size and scope of the pension system (Thompson, 2001). A pension scheme can be operational or unbalanced due to external factors.

Actuarial calculations are undertaken to balance a pension scheme under a given set of hypotheses. Parameters can be modified to adapt to external changes, with the help of actuarial simulations. Ageing, for example, results in a relative increase in the number of pensioners receiving benefits under a pension scheme. Unemployment is another factor: the higher the unemployment rate, the lower the contributions collected by the pension scheme. Thus the financial balance of a scheme cannot be considered as automatic and requires adjustments. Parametric reforms, therefore, technically adjust pension rules in accordance with external factors. Table 10.1 presents some examples of parametric changes.

The parametric reforms mentioned in Table 10.1 are the most common. They are part of the “life cycle” of a pension scheme and can guarantee the scheme’s long-term viability in adapting to external changes. A priori these reforms do not have a direct effect on pension liberalization, but rather correspond to an adaptation of public schemes. It can nevertheless be argued that, if recurrent parametric reforms result in a decrease in pension benefits paid out, they will reduce the role of public provision relative to private provision. Moreover, governments do not use only parametric adjustments. They also propose and implement more drastic solutions.

Table 10.1 Examples of parametric reforms

Country	Date	Changes
Brazil ¹	1991	Contribution rates fro employers increased, the basic rate doubling from 10 to 20 per cent of the payroll. Number of months of contribution now required for entitlement to old age pension raised from 60 to 80 months.
Norway ²	1992	Rate of calculating supplementary pension reduced from 45 per cent to 42 per cent of earnings. Income taken fully into account for calculating size of pension cut from 8 to 6 times the national basic amount "G" or <i>grunnbeløep</i> . One-third of income between 6 and 12 times the basic amount credited for the purpose of pension calculation.
France ¹	1993	Extension of the contribution period from 150 to 160 quarters to qualify for a full pension rate calculation (50 per cent). Calculation of the pension received based on the best years of earnings increased from 10 to 25 years.
Ethiopia ²	2003	Retirement age for public servants (except military and police personnel) increased from 55 to 60.

Sources: ¹ International Society Security Association (1992, 2004);

² Annycke (1997).

2.2. Systemic reforms (also called "ideological reforms")

Systemic pension reforms often result in a shift from a pay-as-you-go system to a funded scheme. These reforms find strong support among neo-liberal economists, who influenced the 1980 Chilean pension reform. Based in part on the Chilean experience, more recent support for systemic reforms has emanated from the World Bank and its multi-pillar pension approach, which gives more importance to mandatory private pensions and restricts public pensions to a minimum role in social assistance (World Bank, 1994).

Such reforms assume that privately managed funded pension schemes provide a better rate of return than pay-as-you-go schemes. This controversial assumption has been debated for decades. The two key questions are: does a funded scheme guarantee equal, better or worse pension benefits compared with a pay-as-you-go scheme? And what are the economic and social effects of pay-as-you-go and funded schemes? This chapter does not answer these complex questions, but reviews some of the analyses.

In relation to the first question, the opposing positions held by Feldstein and Barro in 1974 are still relevant. Feldstein argued that pay-as-you-go pension schemes reduced savings, and therefore investment, in the economy (Feldstein,

1974). By contrast, Barro claimed that pay-as-you-go schemes had no effect on savings (Barro, 1974). Related debates include the question of a substitution effect between public and private pensions. The life cycle hypothesis suggests that households would increase their savings if there were no compulsory public pension programmes. This approach is based on the assumption of rational household behaviour (Modigliani, 1986).

Other researches have revealed a “recognition effect” (Cagan, 1965). Cagan explains his results, based on a sample survey, by the fact that “pension plans call attention to retirement prospects and needs — perhaps we should say force attention — given the human disinclination to worry about the day after tomorrow’s problems or to dwell when young on the eventual loss of health and earning power”. In other words, when a pension scheme is mandatory, households are more aware of the effort required to benefit from a decent pension. Therefore, instead of a substitution effect between public and private pensions, these researches emphasize a complementary effect between the two (Barro and MacDonald, 1979). Reviewing studies on the interaction between public and private pension incomes, Pedersen examined sources of income for the elderly in nine OECD countries (Pedersen, 2004). He concluded that there was no clear relationship between public and private income provision in retirement and posited “the support found for the hypothesis about substitution between income components is weak and inconsistent at best”.

Since the initial debate, other models have produced contradictory results on the influence of public and private pension schemes on the economy. As things stand, there is no actuarial evidence of better results for one rather than the other. Yet despite the lack of clear evidence to support private over public pension schemes, countries have pressed ahead with market liberalization and the privatization of pensions, as demonstrated by the examples in Table 10.2.

As shown in Table 10.2, systemic reforms have been implemented in a number of Latin American and eastern European countries. We can question whether these radical reforms resulted from domestic choice or the international liberalization process. We can also question whether such reforms are appropriate in developed and developing countries alike.

Chile was one of the first Latin American countries to develop a pension programme, with its first law in 1924. Historically, many schemes were developed for privileged groups. Indeed, various governments have attempted to reform the pension system to reduce inequalities and the cost burden. Instead of using the parametric options, the Pinochet regime decided to reform the pension system. The pay-as-you-go pension schemes were phased out without any bargaining and replaced by mandatory private funds that managed individual accounts (*Diario Oficial de la República de Chile*, 1979). By the end of the

1970s, there was a consensus concerning the need for pension reform in Chile. But, apart from an ideological stance, there was no justification for favouring the selection of systemic over parametric reforms.

Table 10.2 Examples of systemic reforms

Country	Date	Changes
Chile ¹	1981	Introduction of a mandatory private insurance system. The pay-as-you-go social insurance system was phased out. Workers entering the labour force after 1982 have to take out private mandatory funded individual accounts.
Mexico ²	1992–1996	1992: Introduction of a mandatory savings scheme (SAR) aimed at supplementing the general pension scheme. The employer contribution to SAR is equal to 2 per cent of the payroll. Employers are required to pay contributions by transferring the appropriate amounts to a financial organization to be credited to individual retirement savings accounts opened on behalf of each worker. 1996: Around half of the contributions (4.5 per cent) to the general pension scheme (which were 8.5 per cent of wages) are transferred to a system of individual accounts. Contributions to individual accounts are increased by the transfer of the 2 per cent of SAR and 5 per cent that was going to a mandatory housing fund. Individual pension accounts are invested with special retirement fund administration companies (AFORES). These companies are responsible for the administration of the individual retirement accounts and can be selected by the employees themselves.
Hungary ²	1998	Introduction of a new system of mandatory private pension funds. Membership to the new private pension scheme is compulsory for all new entrants to the labour market on or after 1 July 1998.
Poland ²	1999	Creation of mandatory private pension funds. These funds will make up a second, funded pillar of a reformed multi-pillar pension system. Former contributions (a global social security contribution of 45 per cent of the payroll) were fully financed by employers to pay old age, survivor and disability pensions, but also family allowances, sickness, maternity and work injury benefits. With the reforms, pension contributions are equally split between employer and employee contributions. Insured persons pay in 9.76 per cent of their current gross salary, 2.46 per cent for the first pillar and 7.3 per cent for the second funded pillar. Employers also contribute 9.76 per cent of gross payroll, which is totally applied to the first pillar.

Sources: ¹ *Diario Oficial de la República de Chile* (1979);

² International Social Security Association (1996, 1997, 1998).

The World Bank report, *Averting the old age crisis*, promoted a multi-pillar pension system that implies large-scale privatization of public pension schemes (World Bank, 1994). Table 10.3 summarizes the “pillars of old age income security” advanced by the World Bank model, which limits the role of public pensions and enhances that of savings plans.

Table 10.3 The “World Bank” pillars of old age income security

Objectives	Form	Financing
Redistributive plus co-insurance	Means-tested minimum pension guarantee, or flat-rate pension	Savings plus co-insurance
Savings plus co-insurance	Personal savings plan or occupational plan	Personal savings plan or occupational plan
Savings plus co-insurance	Regulated fully funded	Fully funded
Mandatory publicly managed pillar	Mandatory privately managed pillar	Voluntary pillar

The most common systemic reform consists of phasing out a public social insurance scheme and phasing in a mandatory private insurance scheme. However, in a different context, some African and Asian countries have undertaken another shift, replacing provident funds by a social insurance programme, as in Ghana (1991), India (1995) and Tanzania (1998) (Annycke, 2004). In these countries, provident funds were paying a lump sum as the only old-age benefit, which turned out to be unsatisfactory. The lump sum was not a long-term source of income and the main target of the reform was to provide a regular source of income for the elderly.

The 1994 World Bank model, widely used to “export” systemic reform, has been severely criticized. It is worth repeating the “10 myths” identified by Peter Orszag and Joseph Stiglitz (1999).

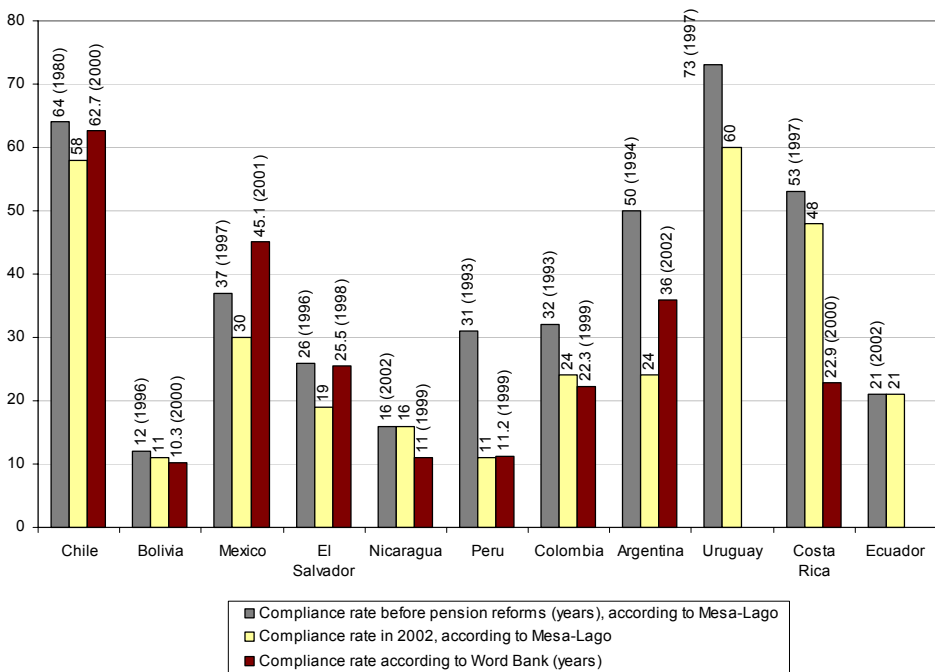
Table 10.4 Ten myths

Macroeconomic myths	
Myth 1:	Individual accounts raise national saving.
Myth 2:	Rates of return are higher under individual accounts.
Myth 3:	Declining rates of return on pay-as-you-go systems reflect fundamental problems.
Myth 4:	Investment of public trust funds in equities has no macroeconomic effects.
Microeconomic myths	
Myth 5:	Labour market incentives are better under individual accounts.
Myth 6:	Defined benefit plans necessarily provide more of an incentive to retire early.
Myth 7:	Competition ensures low administrative costs under individual accounts.
Political economy myths	
Myth 8:	Corrupt and inefficient governments provide a rationale for individual accounts.
Myth 9:	Bailout politics are worse under public defined benefit plans.
Myth 10:	Investment of public trust funds is always squandered and mismanaged.

A worrying outcome of systemic pension reforms is that mandatory funded schemes result in high contribution evasion (McGillivray, 2001). The World

Bank argued in the 1990s that pay-as-you-go pension schemes in developing countries (and particularly in Latin America) had an unsatisfactory compliance rate. However, the reforms put in place according to the World Bank model did not produce better compliance and coverage rates (World Bank, 2004). According to the Bank and other estimates by Mesa-Lago (2004), the participation of the workforce in pension schemes in Latin America has actually decreased since the implementation of such reforms (Figure 10.1).²

Figure 10.1 Participation rate of the workforce before and after the pension reforms



Sources: Mesa-Lago, 2004; World Bank, 2004.

² The *coverage rate* refers to the proportion of the population covered by social security schemes, and is the converse of the coverage gap. The *compliance rate*, applied to social insurance programmes, measures the extent to which contributions are paid by or on behalf of those covered. Compliance refers to the payment of contributions in accordance with the rules. The compliance rate is the converse of contribution evasion. The *participation rate* refers to the number of contributors to social security programmes as a share of the labour force. The difference between compliance and participation rates arises from the fact that employers are also taken into account in the compliance rate.

Systemic reforms have in reality had a negative effect on the participation rate in pension schemes in each of these Latin American countries. High management fees for private pension funds have depressed the returns on savings, as has the volatile nature of stock exchanges. Poverty also explains the low rate of savings for retirement. High poverty rates exist in Bolivia (where 47 per cent of the population live on less than US\$2 a day), Columbia (30 per cent), Ecuador (41 per cent), El Salvador (37 per cent), Guatemala (36 per cent), Honduras (37 per cent), Nicaragua (38 per cent), Paraguay (30 per cent) and Peru (32 per cent). How can people living on less than USD2 a day be expected to save money, particularly for the long-term target of retirement? In addition, the life expectancy of these poor populations is often below retirement age. So saving for old age is not very rational for these people, as they have little chance of reaching it.

It is difficult to support systemic changes without awareness of the risks of failure, or at least without knowing the risk of diminishing the participation of the workforce in pension schemes. Nonetheless, about half of Latin American countries have opted for such reforms under the influence of the World Bank. The World Bank's role is controversial, as it is not only an adviser on "pension reforms" but, as with any other bank, it has a direct interest in ensuring that borrowers (such as developing countries) pay back their loans. This ambiguous position of the Bank (as "both advisor and judge" of state policies) means it cannot play an impartial role in assessing the consistency and development of a viable social security pension system.

3. Liberalization of pension services in Europe and under the GATS

How does the liberalization of pensions take place at supra-national level? Here we try to investigate two sources of international change: the European Union, which is the world's most advanced politically, socially and economically integrated region; and the WTO's General Agreement on Trade in Services (GATS), which, with 148 member states, has an impact worldwide.

3.1. *The European Union*

The EU has become an integrated regional market, with fewer and fewer border constraints between its member states. This process started with the 1957 Treaty of Rome, which had the eventual objective of an integrated internal market with free movement of people, services, goods and capital. This objective was, broadly speaking, achieved by the Treaty of Maastricht in 1992.

Are pension schemes part of this internal market? Can they be likened to a service, and more especially to a commercial financial service?

It seems that the wide variety of pension provision within the EU has led to differing treatment of pension schemes, taking into account characteristics that could fall under the principles of Articles 85 and 86 of the Treaty of Rome on the one hand or Article 90 on the other (European Union, 1957). The EU's approach can be interpreted as a binary one.

Competition is one of the EU's core principles. The principles of "freedom of competition" and "freedom to establish and provide services" should therefore apply to pension schemes. Articles 85 and 86 of the Treaty of Rome try to protect these principles:

Article 85: The following shall be prohibited as incompatible with the common market; all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention restriction or distortion of competition within the common market...

Article 86: Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market in so far as it may affect trade between Member States ...

These Articles support and legally protect the market approach. So any pension scheme that falls under these Articles should respect their principles of equal treatment between companies and fair competition.

However, the EU has also decided that the common good and the general interest of the consumer must be taken into account. This may concern pension schemes if they are deemed to fall under Article 90§2 of the Treaty of Rome, which states: "Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them".

So, on the basis of these Articles, a pension scheme has to follow the rules of competition when it is considered a participant in the market. But a scheme considered to be providing services of general economic interest, or having the character of a revenue-producing monopoly, must fulfil its particular tasks as a priority, even if it does not follow competition rules.

Two different criteria therefore apply, according to the nature of the pension system in question. The EU is trying to formulate a dual approach to classifying pension systems, under competition principles and solidarity principles. It is trying to integrate both the economic and the social aspects of pension schemes. As an example of European social integration, basic social security schemes are covered by two European Regulations, No. 1408/71 and No. 574/72, which preserve national provisions without implying harmonization and allow European workers to move without risking loss of basic social security pension rights.

However, the theoretical split between the two is not as clear in practice as it might initially appear. The European Court of Justice (ECJ) has the role of ensuring compliance with European law. It is mandated to ensure that each piece of EU legislation is interpreted and applied in the same way in each member state. The large variety of pension schemes and other social protection provisions within the EU provides much work for the ECJ. We will now proceed to examine some of the case law and jurisprudence emanating from the ECJ in the area of pensions.

Basic social security schemes have so far been protected from competition by the ECJ, which has ruled that the social solidarity intrinsic to them is not compatible with competition. This solidarity is expressed by risk pooling, that is, the equal sharing of one or several social security risks among a group of people. The eventuality and cost of designated contingency risks to an individual are borne by all the members of the pool and not by that person alone. As risk pooling implies financial redistribution (from the rich to the poor, from the population more vulnerable to risk to the population less vulnerable, from the productive to the unproductive stages of the life cycle, and so on), membership must be compulsory for all groups subject to the specified risk. This is essential to guarantee the viability of such schemes.³

As a consequence, schemes involving voluntary membership cannot be considered as being based on social solidarity. They must be part of a competitive market and legislation should guarantee “freedom of competition”. As an example, the ECJ decided in 1995 to stop the French monopoly on tax deductibility for a voluntary additional pension scheme for farmers called COREVA.⁴ In the late 1980s in France, the *Mutualité Sociale Agricole* (MSA), a

³ Poucet and Pistre Decision of 17 Feb. 1993 and Garcia Decision of 26 Mar. 1996, Court of Justice of the European Communities.

⁴ Coreva Decision of 16 Oct. 1995, Court of Justice of the European Communities.

body providing basic social security in agriculture, obtained a monopoly to offer an additional old age pension scheme to farmers based on voluntary membership. On the basis of EU freedom of competition legislation, the *Fédération Française des Sociétés d'Assurances* (FFSA — French Federation of Insurance Companies) pleaded before the ECJ that the monopoly resulted in a distortion of competition.

European jurisprudence forced the French authorities to change the national legislation and thus eliminated the MSA monopoly on the pension scheme. With the implementation of new legislation, any provider of a voluntary additional pension scheme for farmers could benefit from tax deductibility and all providers would be competing on the basis of free market principles (*Journal Officiel de la République Française*, 1997).

Solidarity could therefore be considered as the cornerstone determining whether or not a scheme providing social protection should compete with other schemes or maintain a monopoly in recognition of its contribution to the common good. The COREVA decision mentioned above could be described as part of the liberalization process, with the extension of competition rules to all pension schemes based on voluntary membership.

In spite of this clarification at EU level between what can be considered within the public sphere, comprising compulsory basic social security programmes based on solidarity, and the private sphere where competition rules apply to additional voluntary schemes, many schemes do not correspond precisely to either of these categories. There are various private non-profit organizations providing social benefits, which can be described as social security schemes due to their compulsory solidarity-based rules, but could also be considered as part of the market realm as they are privately managed.

The decision by the European Court of Justice in September 1999, dealing with Dutch industry-wide pension schemes, further clarified the issue. Compulsory membership was confirmed as protecting the solidarity provided by these schemes.⁵ Solidarity was deemed to exist because there was no risk selection by the pension funds, which contributed to the “common good”, even though they provided pensions additional to the basic social security existing in the Netherlands. The ECJ considered that Dutch industry-wide pension schemes were in the market realm, but recognized that being compulsory was not an “abuse of dominant position” as these schemes implied a high level of solidarity.

⁵ Brentjens, Albany and Maatschappij cases (C-115/97 to C-117/97), Court of Justice of the European Communities.

The monopoly of Dutch industry-wide schemes was not destroyed by the ECJ and that decision implicitly recognized that private bodies, indeed civil society, can also contribute to solidarity in social protection. It can be considered as an opening for other schemes with similar characteristics. Yet for now it appears to be an exception in the prevailing binary approach, as no concrete legal status has been given to such types of occupational non-profit schemes.

The proposal for a European Directive on services (known as the Bolkestein Directive) puts forward a quite different approach (EU, 2004). One of its main aspects concerns the application of “the country of origin principle”.⁶ Service providers will be subject to the law of the country where they are established, even if they provide services to other EU member states. This new approach on services does not directly affect basic social security schemes, as they are excluded from the field of application of the proposed directive.

The provisions of Regulation No.1408/71 are indeed among the derogations from the country of origin principle, and basic compulsory pension schemes are covered by that Regulation. However, these schemes could indirectly be seriously affected by this proposal. There is a strong risk of social dumping as service providers could find a financial interest in moving into countries where social protection and financial costs are lower.

Under the EU’s subsidiarity principle, social protection has so far remained under control of member states. No harmonization proposals have yet been put on the European agenda concerning social policies. But as the Bolkestein draft expands the country of origin principle, harmonization of social protection may indeed be suggested. At least, such harmonization could avoid an excessive distortion between social costs within the EU.

Most countries would agree on a harmonization process, but it is less sure they would agree on how to harmonize social protection. There may be countries that consider that a high level of social protection would reduce productivity and competitive advantages of their companies, while other countries might consider that higher social protection was necessary in countries with lower social security standards. It would seem difficult to achieve a compromise between the

⁶ The “country of origin principle” was included in the version of the Directive at the time this chapter was written (see EU, 2004 in references). In February 2006, the European Parliament adopted an amended Directive in which the “country of origin principle” was removed. Since no “country of destination principle” was included to replace it, there is uncertainty that this applied principle is likely to be sorted out by the European Court of Justice through jurisprudence.

opposing opinions on harmonization, either towards lower or higher social provisions.

To sum up, the EU has, from its creation, planned to separate competition rules from the role of services of general economic interest and monopoly. As shown above, this dual approach needs to clarify borderline cases when competition and general economic interest are in conflict. By its very nature, pension provision may combine these two aspects. Liberalization of pension services is taking place according to the different interpretations of the European Treaties in a series of case law decisions of the ECJ. However, we can wonder how jurisprudence will be maintained or changed towards increasing liberalization. There is indeed no guarantee that the current interpretation of the Treaties will continue. Moreover, EU jurisprudence and laws could be subject to the primacy of another source of law, such as the GATS, and would have to follow different rules if there were to be a conflict between the two.

3.2. The WTO and GATS

The GATS was an outcome of the trade negotiations of the Uruguay Round and entered into force in 1995. As part of the WTO approach, the target of GATS is to eliminate barriers and promote trade in services to improve economic growth and development.

This same competition principle is also one of the main factors prompting the EU's process of economic integration. Competition is perceived, by the EU and the WTO, as a motor for economic growth and well-being. Because pension schemes and other social provisions are categorized as services, they could be affected by the GATS. However, there has been no WTO case law on pensions yet, which would serve to clarify obscure legal points. Therefore, it is not clear how the GATS will affect pensions, and in particular public service pensions.

Articles 1(3)(b) and 1(3)(c) of the GATS define "services" as follows: "services' includes any service in any sector except services supplied in the exercise of governmental authority." GATS also considers that the "supply of a service' includes the production, distribution, marketing, sale and delivery of a service" (WTO, 1995). Thus the GATS do not define services as such. But with the two broad approaches (especially "any service in any sector"), there is no doubt that GATS considers private pension schemes as part of the agreement, and that competition rules would therefore apply to them at the EU level as well. Therefore, all privately managed pension schemes can be likened to a financial service and may be covered by a country's GATS commitments in the financial services sector (see below).

However, market and competition rules may not apply to all privately managed services. Concerning pension services, similar issues to those presented in EU case law do not seem to be resolved in the GATS. What happens to a privately managed pay-as-you-go pension scheme? Financial management and implied rules are very different between a funded and a pay-as-you-go scheme. There is no distinction between for-profit and not-for-profit institutions. Some of the pension schemes not “supplied in the exercise of governmental authority” may also have solidaristic rules, which may not be consistent with the competition rules implied by the GATS.

The GATS also does not make clear whether public services provided by not-for-profit institutions fall under the exception of “services supplied in the exercise of governmental authority”. This represents an additional risk for all institutions that may face a change in their legal environment and status. In these circumstances, what is the future of privately managed not-for-profit social security institutions? There is a risk of impoverishment of social security provisions when there is no legal space between public/state social security programmes and private/market-based schemes. At EU level, the ECJ has not finished sorting out the complexities of pension systems in its 25 member states. However it may be useful to investigate such issues and their consequences for an agreement intended to be applied worldwide.

According to the GATS’ “most-favoured-nation” principle, “each member (of the GATS) shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country.” Therefore, in the countries that have made relevant GATS commitments, all private pension suppliers should be treated equally with no national preferences, thus following purely competitive rules.

The main debate concerns public pensions, which are protected “by default” as an exception to the rule. Strangely, the concept of “services supplied in the exercise of governmental authority” is defined in two parts and the definitions can be interpreted in two ways.

One definition is in the GATS annex on financial services:

- activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;
 - activities forming part of a statutory system of social security or public retirement plans; and
 - other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.
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This definition gives the impression that “public retirement plans” are fully protected, as in (ii) they are explicitly mentioned. However, this definition may be in contradiction with Article 1(3)(c) of the GATS, which states ““a service supplied in the exercise of governmental authority’ means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers”.

We can speculate on what would happen if a service supplied in the exercise of governmental authority were in competition with other suppliers. For example, what happens to a public hospital if it is in competition with a private clinic? Concerning pension schemes, in some countries the law allows insured persons and/or their employers to opt out of a public social security scheme and to contribute to a private pension scheme. In such cases, how is Article 1(3)(c) to be applied? What would be the consequences for “activities forming part of a statutory system of social security or public retirement plans”, especially since public provision is also in some cases a reference point to define a minimum pension level.

The GATS is not as integrated as the EU process described earlier. While EU states are bound by the rules decided at the EU level, WTO members are only bound by what they have decided to include in their schedules of specific commitments. On the basis of a classification of all services (United Nations, 1991), a state decides which sectors it will include in its schedule. Within a given service sector, it can decide to exclude certain, even most, services and modes of supply. Developed countries, such as the EU and the United States, have included more sectors and services in their schedules than developing countries, but most of these commitments are hedged about with restrictions and few countries have made commitments in services generally considered to be public services such as education and health.

However, under Article 19 of the GATS:

Members shall enter into successive rounds of negotiations...with a view to achieving a progressively higher level of liberalization. Such negotiations shall be directed to the reduction or elimination of the adverse effects on trade in services of measures as a means of providing effective market access. This process shall take place with a view to promoting the interests of all participants on a mutually advantageous basis and to securing an overall balance of rights and obligations.

Countries will open a service sector as long as they can also gain access to other markets. This “give and take” principle, important in extending liberalization, adds to the pressure to liberalize further, especially since some countries are more powerful in the negotiation process than others. The progressive approach implies that a “protected” service sector today will not

necessarily be protected in the future. In such circumstances, it may become difficult to preserve any protection of social services and pensions.

A social security coverage gap is common in developing countries, as the majority of the population is excluded from social protection. Therefore, public social security provisions have a large margin of extension in developing countries. Ideally this could occur at the same time as their economic development. Could the GATS interfere in this potential public extension (Yeates, 2002)? Would the extension be allowed? The possibility exists for a country to modify its commitments once made, but only as part of a system of compensatory adjustments, which means the country would have to “maintain a general level of mutually advantageous commitments not less favourable to trade” than before.

A recurrent criticism of the WTO is that its agreements make no room for any social dimension. The lack of potential for social security extensions, especially in countries where social security coverage is inadequate, again shows that the WTO does not consider social development when framing its agenda. The implication is that social policy is a burden on economic development. However, it seems outdated to consider that a conflict exists between social and economic development. Although there is no clear understanding of all the relationships between social and economic development, many sustainable and successful experiences of development have been based on a combination of both.

4. Conclusion

Pension policies have been at the centre of the political agenda for several reasons. Ageing populations and slower economic growth have put pressure on the financial balance of public schemes, which need reform. As shown earlier, reform can either reiterate the logic of the pension system in adjusting its parameters (parametric reforms) or institute radical change in implementing individual funded private accounts while phasing out pay-as-you-go pension programmes (systemic reforms). There is no clear evidence that systemic reforms produce better results. On the contrary, they appear to produce a growing coverage gap. Nonetheless, interest in such reforms is increasing.

This interest in systemic reform reflects its connection with pensions liberalization. International regulation is influencing policy in that direction. Through case law, the EU has tried to clarify the borderline between pension schemes that fall under competition principles and those that imply solidaristic principles and the general interest of the consumer. The GATS has not yet developed such jurisprudence on pensions. In the GATS, public social services

are ignored though potentially they could be affected and treated as any other service. The progressive liberalization process implies that an area protected when a state makes a commitment is not guaranteed the same protection later. There may be a disconnection between long-term liabilities of pension schemes and the risk of a mid-term change in the national and international legal environment.

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