

Introduction

Public Services on the Market: Issues and Arguments

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This special issue brings together a variety of scholars to reflect on the question of the marketization of public services. In the last two or three decades most Western countries have adopted large-scale programs towards liberalization, deregulation, privatization and the use of market mechanisms within the public sector. The boundaries between public and private have shifted in favour of the latter. State provision of essential public services (such as health care, policing, education, public broadcasting, public transport and housing, energy and water) is no longer as self-evident as it had become in the aftermath of the Second World War, when Western countries built up extensive welfare states. At the same time the formerly communist countries of Central and Eastern Europe have made the transition from command-style economies to largely privatized economies. In the developing world too, partly under pressure from the IMF and the World Bank, privatization and deregulation held sway.

This movement towards marketization, which is the topic of this special issue, has received insufficient attention in analytical – moral and political – philosophy. In the 1970s and 1980s philosophers intensely debated the merits of capitalism from the viewpoint of general theories such as libertarianism, (analytical) Marxism and liberal egalitarianism. Since then however, many philosophers turned to non-economic issues (such as identity politics, multiculturalism, citizenship and democratic theory). Others, who kept on working on social justice, argued over increasingly sophisticated ideal-typical distributive schemes, often however without showing what that would mean in the messy practice of actually existing institutions.¹

This special issue seeks to contribute to a reversal of this trend. Philosophical reflection on the role of markets and states in our economies is again urgently needed; we need to think only of the current global financial crisis, and how many have judged this to be caused by a ‘moral’, not just an economic crisis. Whether or not that is correct, philosophical reflection can help us to gain a clearer understanding of the normative concerns underlying socio-economic problems. But it can only do so if it connects philosophical reflection to actually-existing (and of course potentially worthwhile) institutional arrangements. Other disciplines (most notably, economics, but also public administration, sociology, etc.) do give definite analyses and judgments about such

1] For a similar diagnosis of the state of the field, see Heath et al. 2010, 429-30. There are exceptions, of course, of philosophers who did engage with the details of the institutional consequences of their normative theories. Just to mention two examples, think of Philippe van Parijs’ endorsement of a basic income scheme (Parijs 1995), or Thomas Pogge’s defense of a global health care fund (Hollis and Pogge 2008).

matters, but they do so from perspectives which are often only implicitly normative. For moral and political philosophers, who think of themselves as experts in normative theory, it would be strange not to engage in the same type of normative evaluations as authors from other disciplines do (especially given the fact that practical philosophers do engage in exercises of applied ethics in many other fields).

Arguably, there has been a debate in moral and political philosophy which does aim for such a creation and application of normative theories to the central institution of the market; i.e. the debate over “commodification” or the “limits of the market” (Anderson 1993; Radin 1996; Satz 2010; Sandel 1998). In this debate, however, there has been very little systematic attention paid to the commodification of public services, compared to, especially, the commodification of body parts (organs, blood), children (commercial surrogacy) or sexual services (prostitution).² This may be due to the focus on finding examples where what is at stake is whether a certain market should be prohibited or not; inspired by Michael Walzer’s famous list of “blocked exchanges” (Walzer 1983). For public services, however, whether to create a market for a good or prohibit its provision altogether is a poor description of the choice at hand. Rather, it is about market versus state provision, or some third or intermediate alternative, or some combination of these. As the contributions in this issue attest, the commodification debate is an important source of inspiration. It does, however, need to be extended to the public services which every citizen consumes throughout her life time.

In this introduction, I will discuss the main questions and themes that need to be addressed when debating the marketization of public services from a philosophical viewpoint. While doing so, I will introduce the main arguments and topics of the papers that are included in this special issue. I will first discuss the normative questions at stake and then turn to questions of institutional design.

I. THREE NORMATIVE THEORIES

A natural way to start is by asking which normative theories can help us making decisions about questions of marketization. Joseph Heath’s paper “Three Normative Models of the Welfare State” provides a very helpful starting point. He approaches the issue of marketization from the angle of the welfare state literature, which is concerned with defending the public provision of certain goods and services.³ Following this starting point, the market should provide all those goods for which no case for public provision can be made.

2]For some exceptions, most of which not written by professional philosophers, see Leys 2001, Anton, Fisk, and Holmstrom 2000, Kuttner 1999, and Shipman 1999.

3]In this section I do not distinguish between goods that the state should care about (i.e. public interests), and goods that the state should provide itself (public provision), assimilating the former to the latter. This is purely for the sake of simplicity. The distinction is crucial and will be introduced in the next section.

Heath distinguishes three different models of welfare state provision. First, there is the redistributive (or social justice) model, which takes the welfare state to be about redistribution. The market distributes goods unequally, and the goods and services of the welfare state correct for this. While there is a Marxist version of this model, the currently dominant version of it is (Rawlsian) liberal egalitarianism. A related version captures the same egalitarian intuition in terms meeting people's 'basic needs'. Second, there is the communitarian (or anti-commodification) model, which explains and defends the welfare state because it shields certain goods and services from the logic of the market. On this model the state has to provide these goods in kind, so as to make sure that citizens cannot trade their rights away (non-fungibility). Third there is the public goods (or economic) model. In this model the welfare state is meant to provide those goods and services for which the market produces inefficient outcomes. The normative standard here is Pareto-efficiency: state involvement is welcomed when this leads to Pareto-superior outcomes. Heath provides an extensive discussion of the strengths and weaknesses of each of these models and strongly defends the economic model as superior to the others.

Seen from the perspective of this tripartite division, the other papers engage in in-depth discussions of each of these three possible justifications for removing goods from the market.

Tsilly Dagan and Talia Fisher, in their paper "The State and the Market: A Parable on The State's Commodifying Effects," mainly engage with the commodification model. They take as their starting point the central argument in this literature, that commodification may have "corrupting effects" on the goods being commodified, transforming their meaning and alienating people from themselves and those with whom they interact. Instead of bringing yet another version of this argument, however, they make the innovative move of discussing state regulation through the same lens. State intervention, they argue, can have the same or similar corrupting effects as the market. It may reduce persons to certain of their attributes just as much as markets do, imposing an "objectifying attitude" which treats citizens as instruments in the hands of the state. Applying Elizabeth Anderson's plural theory of value, Dagan and Fisher argue that the commensurating and reductive tendencies of the market can also be found in certain forms of state regulation. This can undermine people's autonomy, when the latter is understood in a wider sense than mere freedom of choice.

David Levine, in his paper "Freedom of Choice and Freedom from Need," approaches the issue from a political economy perspective. He takes as his normative point of departure the idea that the welfare state should guarantee that human beings are "free from need." He understands freedom as self-determination, which is only possible where demands of subsistence (whether natural or social) do not dominate. He considers freedom from need in connection to group life and group identity. He contrasts freedom from need both to freedom from want, and freedom of choice. In his view, only freedom from need gives us the capacity to make meaningful choices in the first place. Levine's argument is that welfare institutions should be understood as securing this personal

capacity, while the market tends to undermine it. He illustrates this argument with an analysis of health care provision and income subsidies.

Julian Le Grand, in his paper “Quasi-Market versus State Provision of Public Services” is concerned with a moral assessment of so-called “quasi-markets,” i.e. markets in which providers compete with each other as on a normal market, but in which the financial resources come from the state. This form of organized competition within the public sector provides an important intermediate category between pure market provision (where consumers have to pay out of their own pockets) and pure state provision (where there is no competition between providers). A moral assessment of this market form, Le Grand maintains, has to take into account different sets of issues. One is the expansion of individual choice on quasi-markets, which he considers (unlike Levine) a welcome development. Another issue is whether quasi-markets lead to a higher quality of services and more efficient allocation of resources. Here Le Grand argues that the answer largely depends on empirical considerations. Finally, he maintains that in terms of social justice quasi-markets may actually perform better than classical systems of public provision.

Russell Keat, in his paper “Political Philosophy and Public Service Broadcasting” discusses the justification for state provision of broadcasting, taking as the leading example the activities of the BBC in the UK. The normative case will be different, he maintains, according to the type of programming concerned. Keat’s contribution therefore discusses justifications for programmes bringing news and current affairs, arts and sciences, and entertainment (soaps and the like). Normatively, he rejects both the commodification and the social justice approaches as irrelevant for this topic, but neither does he think the economic approach (which explains public involvement in terms of positive externalities) sheds much light on the issue. Instead, he defends a liberal perfectionist viewpoint (following Martha Nussbaum and Joseph Raz), at least for the arts and entertainment categories. High quality programmes may enlarge our understanding and increase our autonomy in a way that low quality programmes don’t. The market may fail to deliver high quality and this is where the state has to step in.

Similarly, in his paper “The Commodification of the Public Service of Water,” Adrian Walsh argues that perfectionist considerations are indispensable when discussing the commodification of water. These include the integrity of the environment as well as several aesthetic and spiritual values associated with lakes, springs and rivers. These perfectionist concerns stand next to more conventional social justice concerns over the distribution of water (making sure that each citizen has access to at least a basic quantity of water) as well as concerns for the historical rights over water held by landowners. Traditionally, landowners often had a right of use of the water that passes through or falls on their lands (so-called “riparian rights”). The commodification of water requires an ‘unbundling’ of rights, such that this right is revoked. Unbundling may be unjust, Walsh argues, when the traditional arrangement goes back many generations.

In his contribution “The Marketization of Security Services,” Rutger Claassen discusses functions traditionally associated with public police: surveillance and

protection against crime. The rise in commercial security companies makes this a pertinent issue. He rejects Nozick's invisible hand explanation for thinking that security functions must necessarily be monopolized by one protective agency (which then becomes a state). Instead, he argues that the state's role here, as for other public services, must be defended in normative terms. He considers two essential ones in tandem. The first is the symbolic contribution of public security provision towards sustaining a sense of (national) community, which is inextricably entwined with an egalitarian concern for equal provision to all citizens. The other has to do with a transformation of the good involved: ideal-typically, the focus of the state is on doing corrective justice instead of the commercial aim of (merely) preventing and managing risk. Claassen shows how both of these concerns do not stand in the way of a market for security services additional to what the state provides, if certain conditions can be met.

All in all, the papers show that the tripartite division in normative concerns (commodification, justice, efficiency) proposed by Heath is reasonably stable. We can discern in almost all of the papers a concern with these three as the major alternatives. Nevertheless, several questions are open for further debate.⁴

II. EXTENSIONS AND COMBINATIONS

One question is whether the list is exhaustive. To this extent, Keat's introduction of liberal perfectionism as a normative theory in the context of the media is especially interesting. The perfectionist may be close to the egalitarian, in the sense that both start from an objective theory of the good (e.g. in the early Rawls's case, a thin theory of the good) and argue that certain goods (like Rawlsian primary goods) are necessary to realize that theory's demands. But perfectionists tend to have a more expansive theory of the good than most egalitarians. This will probably lead them to define a broader range of services as public. They also direct our attention to objective standards of quality that we want providers to maintain (in the context of health care or education this may be highly relevant). This makes it interesting to explore perfectionism (liberal or not) as a separate theory.⁵ David Levine's normative framework is similar to this. His expansive understanding of our capacity for self-determination brings him close to some (e.g. Razian) forms of perfectionism. And as mentioned earlier, the concern for environmental integrity that Walsh mentions in the context of water supply moves in the same perfectionist direction.

4] I continue to treat these three models as coherent theories, while of course strictly speaking they are families (or directions) of theorizing, with an enormous internal variety within each model.

5] My own understanding would however be that most of the concerns discussed by authors in the commodification literature can be classified as 1) either perfectionist in the sense discussed here (defending the development of certain valuable individual traits), or 2) communitarian, in the sense of using public goods provision to create and express a sense of community amongst citizens, or 3) egalitarian, or 4) a mix of the previous three.

As for exhaustiveness, it deserves special mention that there may still be other theoretical alternatives in thinking about the issue of public services that have not been included in this issue. One obvious candidate, which (unfortunately) does not receive much discussion here, is libertarianism, both in its left-wing and right-wing guises. In a way, all of the theories mentioned so far can be seen as providing a challenge to the (right-) libertarian view that in principle (almost) *all* public services should be marketized (for a libertarian view on public services, see Narveson 2001; Shapiro 2007).

A second question that remains up for debate is whether these competing normative theories are really as mutually exclusive as may appear at first sight. There seems a more or less clear-cut dichotomy between the economic model and the social justice model. The former is subjectivist in focusing on the utilitarian standard of individual preference satisfaction (whether the criterion is Pareto or some other concept of efficiency or optimality). The latter is objectivist in arguing for a preference-independent view of what is (morally) required: the provision of some goods is, to use Scanlon's language, a matter of urgency (Scanlon 1975). To put it bluntly, the economic model essentially sees the state as being in the same business as the market: satisfying preferences. It then becomes a matter of expediency whether the state or the market is better at satisfying preferences for a certain good. If markets are subject to significant market failures, the state steps in. The social justice model is different, and not just in the usual sense that it is concerned with (a certain measure of) equality in distributive outcomes. Underlying many forms of egalitarianism is a good-specific concern. Egalitarian intuitions make us differentiate between goods to which people should all have a certain level of access (e.g. health care or education) and goods whose distribution is of purely individual concern (caviar and speed boats).⁶ The role of the state here is qualitatively different than that of the market. Given the deep divide between subjectivist and objectivist starting points, I can see no easy way of combining these two types of theory. By contrast, anti-commodification theories often tend towards an objectivist theory of the good, which may or may not be combined with egalitarian intuitions. Indeed, in many anti-commodification texts we find egalitarian objections. For example, in the debate about prostitution or surrogate motherhood, the unequal social position of women performing these roles is one of the key concerns which leads to judgments about the degrading nature of the work. Commodification and social justice arguments are often not easy to separate.⁷

This is all at the general level of theory. But, as some of the contributions attest, when thinking about specific cases it may be useful to combine various normative considerations. Thus, Le Grand uses both intrinsic and outcome oriented arguments

6] Admittedly, some forms of social justice theorizing are not goods-specific, but formulate all their required entitlements in monetary terms.

7] This may lead one to give up on the separate commodification argument and argue that if social positions of men and women were equal, there would be nothing to object to in these kinds of transactions. E.g. see Satz 2010. For my own view on the relation of commodification concerns with egalitarianism, see my Claassen forthcoming, 2012.

in favour of quasi-markets. Claassen also argues that communitarian and corrective justice considerations reinforce each other in thinking about the state's role in security provision. Keat uses different normative arguments for news provision (mainly taken from democratic theory) compared to the perfectionist case for arts and entertainment. Walsh similarly provides several objections to the commodification of water. There is a danger of eclecticism, of course, in taking normative criteria from otherwise conflicting normative approaches and combining them. On the other hand, too strict a separation may leave one with a normative repertoire that is insufficiently rich to deal with intuitively important concerns surrounding a certain public service.

Important work remains to be done on getting a clear grasp of the alternative theories guiding our thinking on the role of the state and the market in providing public services and the relations between them. But, as I will now discuss, there are also several institutional issues that deserve attention from philosophers.

III. INSTITUTIONAL ISSUES

In making the transition to institutional issues, it is useful to change the vocabulary used so far. The normative models discussed up to this point I will henceforth call "moral" models. They are a response to the moral question whether or not a certain good *must* be provided (whether it is a moral requirement to do so). This question should be separated from the institutional question whether the market or the state can best take care of this. The moral question is *what* should be done, the institutional question *who* should do it (or *how* it should be done). As I will argue below, the institutional question is also a normative question.

The three models described by Heath do not only differ in their stance about the moral question. They also differ in the extent to which they follow this distinction between the moral and the institutional question. As a first approximation, we can say that the economic model is clearest in its distinction between these two questions.⁸ Within both other models there is a tendency to conflate the two. If it is established that the provision of a certain good is required – let's say its provision represents a "public interest" – then quasi-automatically it is supposed that the state should provide this good itself. That however, could also be treated as a wholly separate matter. The social justice model in principle seems open to this thought. While egalitarians in practice often conflate the public interest in having a (minimum quantity and quality of a) good provided with the claim that this good should be provided by the public sector, their moral concern is only with the interest being met. If the market can do the job better, there is no principled

8] The weight of the economic model is on the second question. It often tacitly assumes that people have preferences for a certain good, then to argue that providing it would lead to an inefficient market structure. But strictly speaking these preferences should be revealed before we know this. And if they are revealed in the political process, they aren't preferences in the same crude sense as we find in the market (but transformed into deliberate reasons to vote for a certain party or person).

objection to using it for egalitarian aims. The commodification model, by contrast, often rejects the distinction on purpose, suggesting that every institutional setup has a moral character of its own. This is especially clear for the different versions of the corruption argument, where it is argued that markets by their very nature mould the exchanges of goods and the interactions between people in ways that undermine valuable personal and social attributes.

There is a tendency, both on the side of philosophers and on the side of empirical scientists, to use this distinction to mark their field of expertise. This has led to a sometimes rigid academic division of labor between philosophical expertise on moral questions and economic and other expertise on institutional questions. Keat, in his contribution, exemplifies this when he states that “concrete issues of institutional design clearly go beyond the remit of political philosophers.” At the same time, he also recognizes that “issues of institutional design [...] should be addressed with ethical purposes in mind.” The division of labor should never become too rigid. At the very least those with primarily moral interests and those with primarily institutional interests must understand the issues and problems that arise on the other side of the divide. But I think that philosophical interest in the institutional question should go beyond mere understanding. The institutional question is itself a normative question, not a “merely technical” one. Rather, different institutional arrangements raise normative questions of their own. A specific institutional set-up may score well on some moral theories and bad on others. So here these theories can be helpful in a way that goes beyond the work they do in identifying whether or not the provision of a certain good is a matter of concern for the state, or a public interest.

Both Le Grand and Heath in their papers point us to the fact that the institutional question cannot be treated in simple “market or state” terms. If anything has happened over the last two decades, it is that market mechanisms are used within the public sector, leading to intermediate forms which share features of a “pure” market and of classical “public provision.” The state retreats, but only with respect to its role as the *provider* of goods. It retains an important role in financing them, and carries the responsibility for final output. Not coincidentally, states are heavily regulating markets for services previously provided by the state. Some theorists have gone so far as to interpret this as marking a new age of capitalism: we do not live in the age of neoliberalism (with markets left unrestrained), but of “regulatory capitalism” (Braithwaite 2008). In public management language, the state is now “steering,” not “rowing.” Le Grand has contributed to this movement in theorizing what he calls “quasi-markets.” Heath similarly believes an important role is to be given to institutional setups which realize a “purchaser-provider split.”

Too much of philosophical theorizing has missed these developments towards more fine-grained institutions, and still frames the debate in simple “market or state” terms.⁹ But

9] For an exception in the commodification debate, see Radin’s idea of “incomplete commodification” in Radin 1996.

if these mixed private-public institutions are now important in the practical realities of many countries, normative attention should be directed towards their specific (de)merits. For example, Le Grand argues that quasi-markets, by giving every consumer publicly financed purchasing power, can put to rest concerns about unequal access that are at the heart of the social justice model. If he is right, this would be a significant improvement. So that is an important topic for normative assessment (questions may arise over effective rather than formal access, over the admissibility of additional private money in these arrangements, over the influence of private capital investors in these markets etc.). Similarly, both Le Grand and Heath largely dismiss concerns over the erosion of the public sector ethos (or altruistic motivation) of workers in these mixed markets. This too, is an area where more debate is needed.

A very different way of going beyond “market or state” is when markets and states both provide more or less the same good simultaneously. An example of this is Claassen’s discussion of security, provided by public police and private security companies. This kind of arrangement also raises distinctive normative questions, e.g. about the sort of regulation adequate for these additional markets (should security companies be allowed to stimulate market demand by increasing anxiety about the risk of crime?); about cooperation between private and public sector organizations (how far should security companies cooperate when confronted with breaches of criminal law?), and also, again, about inequality. The latter concern now emerges in a different shape, namely where commercial provision of security services may tend to undermine the willingness to pay taxes for the public service or lower the quality of the public service. All of this is by no means confined to the area of security. In health care, the media, education and other areas private and public organizations also compete for clients, raising similar questions (Claassen 2009).

Finally, we should be aware that answering the normative question of which institutional setup best satisfies our moral interests always requires a *comparative* focus. We cannot judge the performance of the market or the state (or any mixed set-up) in isolation. Rather, we must comparatively judge which institution performs better. This point, brought home effectively in the context of justice by Amartya Sen (2009), also applies to the marketization debate. As Dagan and Fisher show in their contribution, it is pointless to condemn markets for having commodifying effects when state regulation has the same effects. To the extent that these effects are morally problematic, the normative question would be which institution would have the *least* commodifying effects. While Dagan and Fisher focus on the commodification concerns, similar comparative exercises may need to be made when judging the relative performance of market and state in terms of equality or efficiency. For example, in the economic literature, the identification of a market failure for, let’s say, health insurance, is inconclusive without having looked at possible ‘government failures’ if the state would take over.

IV. CONCLUSION

The present special issue will hopefully contribute to discussions, both within and outside of moral and political philosophy, about the marketization of public services. With many welfare states being under severe pressure because of the financial crisis that began in 2008, we can expect more and more political calls for relieving the state from some of its long-standing obligations and shifting responsibilities to the market. To what extent this is a good idea remains to be debated.

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