
Boštjan Zalar*

THE (UN)ACCEPTABLE LIBERALISATION OF THE (WELFARE) STATE

ABSTRACT

Any state liberalisation policy is justified to the extent that expectations of reform broadening the chances of all individuals for the better realisation of their human rights (including rights with what is termed positive status') are reasonable. In order to fulfill this premise, justice should be combined with freedom and equality as the third basic and obligatory principle of social regulation. This standard, together with some functional conditions for liberalisation within the social services sector, leads to the conclusion that the state need not be the owner of social services. However, it is necessary that state officials exercise permanent and strict control over both the impact of liberalisation processes and the practice of social services in the private sector on all three basic regulatory principles. This premise is also highly relevant for the liberalisation processes within the executive and judicial branches of government, where special attention must be given to the maintenance of the state monopoly over the repression mechanism.

The author concludes by advocating a new development paradigm which favors and connects the liberalisation of the external world with the privatisation of self.

Key words: equality, freedom, justice, human rights, privatization, ownership, control, welfare state

State responsibility for freedom, equality and justice

Liberal constitutional systems are based on the belief that individuals are free and equal beings. In the following subject, the source of this enlightened position is of no importance: whether it be God, the Laws of Nature or simply a social contract. The fact is that with the adoption of the first universal human rights charters in the USA and

* Boštjan Zalar is a Research Fellow at the Institute of Social Sciences (Centre for Evaluations and Strategic Studies) - Faculty of Social Sciences, University of Ljubljana. The subject of this paper was prepared for the International Workshop *Privatization of Social Services and Its Alternatives*, ISA, Research Committee No. 10, Bled, Slovenia, 26 - 29 September 1996.

France, freedom and equality were accepted as basic regulatory principles (conditions) to ensure the individual's dignity, agency and ability to pursue happiness.

However, it is legitimate to question the intended meanings of the principles 'freedom' and 'equality'. At the end of the 18th century, the only suitable way for an institutional system to embody the recognition of individuals as equal beings was to treat them equally as bearers of a particular scheme of human rights.

The individual's civil and (later on) political freedom was also guaranteed by the state protection of a particular human rights scheme.¹ However, freedom was not simply a legal status (as the principle of equality was). The liberal doctrine understands freedom as an ability to function as an agent, to possess rationality, free will, moral agency and the ability to regulate and guide one's life in accordance with an overall tenet that one chooses to accept. To be free means to be a reflected self-directed person (Johnston 1994).

Political reforms of the liberal state should, therefore, be evaluated and justified to the extent to which they promote conditions that foster both of the above-mentioned principles: freedom and equality. The question is: how should state authorities promote and upgrade conditions for an individual's freedom and equality?

One possible solution is to passively accept the fact that individuals are born into unequal starting conditions and that during their lives they have to bear the risk of events over which they - as agents - have no influence whatsoever. Thus, the state should formally ensure a particular scheme of human rights to all citizens, knowing that in reality only some of them will enjoy the worth of liberty. A justification for this solution is that a minimal state, which must not intervene in people's lives, is the most extensive state (Nozick 1974). Furthermore, this position holds that "human dignity is placed in serious jeopardy by the legal features of the welfare state" (Machan 1995: 61). It is even the cause of poverty and of the rise in income inequality (Gingrich 1995). Thus, the welfare state has to be "eliminated" by allowing states and charities to try some new ideas (Business Week 1995: 29, 31).

Accepting the postulate that a person counts if he/she chooses to count, which means that it is an individual who holds the central responsibility for his personal development and has a legitimate (but limited) claim to rewards that his/her abilities can bring from the market, I turn to another possible solution. In my opinion, the following position in no way undermines the above-mentioned existentialist postulate, although it gives the state a much more active role.

A state must accept the strategic challenge (responsibility) to secure the necessary conditions for all citizens to become agents. According to Johnston (1994: 88-89), even J. S. Mill regarded such a mission as "optimal". It is an important social goal for many modern liberal commentators. They plead not just for greater equality of human rights protection, but for greater equality of opportunities overall. They especially endorse equality of educational opportunities (Dahrendorf 1987), full democratic participation by the entire population, a basic source of income together with the opportunity for upward social and political mobility for each individual, low-cost housing, healthcare,

parks and recreational facilities, police, libraries and access to the arts, which is required to a greater extent by the underclass than by the affluent (Gailbraith 1994).

However, the question remains as to which principle could provide the grounding for such a comprehensive mission of the state. It cannot be grounded on the basic principles of freedom or equality, which have characterized modern human rights charters. It is worth mentioning the utilitarian argument. For example, R. Dahrendorf warns that the “underclass is a cancer of a society. If some have no stake in society, a society puts itself at risk” (Dahrendorf 1987: 7). Similarly, Plato, Aristotle, Rousseau and Machiavelli feared that the great inequalities between the rich and the poor cause disintegration and instability (King, Waldron 1988). I believe that a utilitarian view is actually covered by the conception of justice, which I intend to advocate as the third regulatory principle of post-modern institutional arrangements.

The principle of justice

Differences which manifest themselves throughout the course of one’s life are indeed an essential component of any individuation process. However, not all of them are welcomed and acceptable. The problem is that we are all susceptible to certain kinds of genetic (dis)abilities. Actually, some of our fundamental characteristics (differences) such as tendencies toward altruism or violence, predispositions to mental illness, mental acuity or intelligence, and learning abilities are conditioned not only by social and environmental factors, but are shaped by genetic (dis)advantages as well (Lappé 1995).² Furthermore, we are born into very different social standings, and some of us become victims of unfavorable events or accidents which are also out of our control.

The common characteristic of these three circumstances is that we - as agents - have no influence over them whatsoever. To find an institutionalized challenge to this problem, it seems that Durkheim’s theory of “justice as fairness” is still quite an appropriate starting point. As one of the first European sociologists, E. Durkheim never changed his early position that people are unequal in abilities, which is a result of (un)fortuitous inheritance. Consequently, it is unfair to treat one individual better than another on the grounds that he happened, by chance, to be born rich, titled or with a high IQ. Since these inborn inequalities of merit are fortuitous, they cannot be objects of desert. The theory of justice as fairness between persons contends that human talents are collective assets, which should be employed for the collective good (Durkheim 1957).

It is beyond justice or injustice whether I was born into a wealthy or poor family, in a safe or an unstable society, whether my parents are educated or hold an important public office or are unemployed, or whether I possess any special talents or am handicapped. This stands as long as human beings are not genetically or otherwise institutionally engineered.

However, it is unfair to establish an institutional system which mostly rewards those who are accidentally advantaged, that is, those who come from favorable genetic, eco-

nomic, social or cultural circumstances and are able to obtain the best possible educational opportunities. The competitive motto: "The devil takes the hindmost" (Lukes 1994: 120) reveals the inappropriateness of such a concept.

Justice, therefore, cannot be done simply by eliminating the privileges of the most advantageous - the wealthiest and noblest - which has already been significantly established by the adoption of freedom and equality as universal regulatory principles at the end of the 18th century in the USA and in France. This passive role of the modern state has to be accompanied by its more active involvement through the incorporation of the third basic regulatory principle, which would bind all three branches of government to discriminate in favor of those who are at the greatest disadvantage, for example the handicapped, victims of natural disasters, people who happen to be young or old yet are unable to satisfy some basic needs which are part of an adequate standard of living, people who need elementary social or health care but do not possess enough resources to provide for this and, in certain cases, the unemployed as well. Respecting Durkheim's criticism of the concept of self-ownership, the institutional structure should, therefore, also incorporate the Rawlsian (1971) premise that economic and social inequalities are justified, as long as they contribute to the benefit of the least advantaged.³

From the budgetary point of view, the special treatment of those who are least able to meet their welfare needs through the market would mean that an increase in resources should be targeted exclusively towards them and, equally important, any cuts in or denials of such an increase must be directed towards those who are able to substitute through the market. Thus, public money could have a greater chance of increasing rather than reducing the total welfare in society (Rose 1989). Similarly, a suitable model of redistribution should be initiated in the taxation system.

A very important fact deriving from the proposed principle of justice is that welfare provisions are not a matter of care, sympathy or a certain measure of charity, but a matter of both justice and contemporary citizenship which see, for example, the right to social security, the right to education, the right to adequate housing, the right to a reasonable income as necessary needs for agency and for the meaningful practice of citizenship activities.

Thus, justice receives quite a different role in the triangle of the three basic regulatory principles. It is, in fact, justice which stands as the paramount regulatory mechanism in society and determines the other two principles. Freedom becomes balanced by its counterpart - responsibility - which means the more someone enjoys the value of liberty, the more he/she is socially responsible. On the other hand, the principle of equality acquires important corrections through the legitimate positive discrimination of the least advantaged.

Although private companies, public corporations, voluntary organizations and individuals are directly or indirectly subjected to the basic regulatory principles, it has to be emphasised that only the state - members of parliament, government, courts and other state officials - should hold the ultimate and decisive responsibility for pursuing all three basic principles. Any reform that aims towards the liberalisation of the state and its functions should entirely respect this premise.

Regarding the theory of human rights, it has to be pointed out that the above described institutional structure demands further clarification of the structural system which tries to ensure universality of civil and political rights. Universality is also valid for the protection of economic, social and cultural rights. However, this does not infer that, for example, social services should be free of charge, that social services have to be owned and performed by the state or that the institutional arrangements which discriminate in favor of the least advantaged are not in accordance with the principle of universality or legal equality.

The above described institutional structure also requires abandoning the system which sustains the divisibility (disintegration) of human rights. At the international level, the deterioration of human rights was legalized by the adoption of both the International Covenant on Civil and Political Rights (in which human rights are subject to justification) and the International Covenant on Social, Economic and Cultural Rights (in which human rights are not unconditionally guaranteed or protected by legal features). On the contrary, political, civil, social, economic and cultural rights are closely interconnected and interdependent, as human personality (dignity) can only be regarded as integral.

Private rights vs./and public interest

The right to education is perhaps the best example which demands the indivisibility and interdependency of civil, political, social, economic and cultural human rights and it is very suitable in opening the debate over the relationship between an individual's freedom of choice and public interest, which is usually controlled by certain governmental involvement.

Today it is hard to imagine a successful promotion and meaningful realisation of human rights - especially basic liberal freedoms such as the right to personal dignity, to own private property and to participate in political and civil activities - without a secured educational opportunity. However, education becomes a more problematic issue if we attempt to place it exclusively into the private or public sphere.

From an individualistic point of view, there is no doubt that the role of education should lie in developing special capabilities and talents that promote an individual's autonomous agency and self-respect to the highest possible degree. On the other hand, the public benefit of education cannot be neglected. In contrast to, for example, Kant and Mill, who placed education in the private sphere, Durkheim lectured that education is an immanently public issue. According to Durkheim, a society can survive only if there is a certain homogeneity among its members, and to maintain this homogeneity is primarily the role of education. However, education has to be differentiated, otherwise there would be no cooperation or development. In order to achieve this aim, Durkheim proposed a private initiative to be incorporated into the education policy, since it is more likely that innovations will come about through private initiatives, not through the state. Nevertheless, the state must retain control over private educational initiative

in order to protect the homogeneity within society (Durkheim).⁴ This thesis from the early 20th century could, in my opinion, be the guideline for the modern privatisation reform within education.

There are certainly many other issues, including the state of people's health, unemployment, poverty, environmental damage and destruction of biological capital, which cannot be regarded as a matter for some particular interest or responsibility and of no public concern whatsoever. Some even argue that these "economic" issues are, in essence, moral ones (Harmin 1989). Similarly, Drucker rejects the assertion that the "individual market and public communal world are intrinsically separated and antagonistic. Economics and social policy are indissoluble" (Drucker 1969: 9-10).

In theory, it is indeed senseless to argue whether or not the superior value to be maintained is private choice or public interest, and I doubt that it is possible to prove Norton's philosophical thesis (1976) that in the virtue of continuity there is no conflict of principle between true personal interest and true social interest.

My argument is that any reform based on the consequences related to the liberalisation of the state should avoid extreme freedom of choice and overexaggerated governmental paternalism.⁵ In searching for the equilibrium between the freedom of choice and governmental paternalism I would like to point out the following facts, guidelines and predispositions.

Liberalisation within the judicial and executive branches of government

The liberalisation of the state in the field of the legislative, judicial and executive branches is, in principle, unacceptable, but there are some very reasonable exceptions.

For example, in the judicial branch it is commonly accepted that particular disputes - especially within commerce - are subjected to special mediators or arbitrary commissions organised within the civil society. Thus the disputes are settled within an appropriate period of time by arbitrators who specialize in a particular subject area; this usually cannot be the case in the state court procedure.

The important factor to stress is that the decisions of arbitrary commissions have the same legal power as the decisions taken by the state court, but they must be executed neither by the arbitrary commissions themselves nor by their officers. The sworn coercive authority which enforces the arbitrary decisions must remain under the jurisdiction of governmental agencies.

Another opportunity for liberalisation within the judicial branch could be the notary. The civil courts are usually overburdened with routine disputes. For example, the report from the largest district court in Slovenia shows that 47.2% of all its civil cases received in 1995 were divorce cases (District Court of Ljubljana 1996). All consensual divorce cases could fall under the jurisdiction of the notary.

In addition to the judicial branch, the executive branch of government also has some acceptable opportunities for liberalisation. Innovative approaches and private initiatives are in fact welcomed in community correction activities. Various programs such as job training, education, drug treatment for those who are under supervision and sophisticated technologies for the surveillance of probationers will more likely emerge in either private for-profit or non-profit organisations (Nellis 1989; Feeley 1991). Furthermore, policy makers have turned to the private sector in order to provide a variety of prison services, for example food and laundry services. This sort of contractual transfer of functions from state agencies to the private sector should not cause any serious objections, as long as the state maintains ultimate and permanent control over these practices in respect to the three basic regulatory principles. However, I agree with Gormeley (1991) and DiIulio (1988) in that any further privatisation of punishment, which would be manifested in the private ownership of prisons, the promulgation of disciplinary rules made by owners of prisons and the employment of private guards, should not be the order of the day, even in case that the state formally retains control over these activities. Under such privatised circumstances, I assume that it would be much more difficult to fully secure and monitor the respect and the realisation of basic principles of justice, freedom and equality according to appropriate human rights charters. The risk of violating these principles and basic human rights of prisoners would be too high.

Furthermore, it has to be emphasised that the privatisation of punishment is a dangerous starting point for the eventual further privatisation of the institutions which should be exclusively entitled to use force in relation to individuals and organisations in the territory of the state. This sort of privatisation probably poses the most serious threat to the existence of the civilised state.

In the field of public security, it is quite acceptable for public police to encourage the formation of what is called neighborhood crime watch programs which are staffed by community members who observe strangers who access private places and monitor and report suspicious behaviour to the public police. Such crime watch participants do not have the authority to enforce public or even private laws, though.

However, the fact is that private security businesses, which are under immense pressure partly due to the accumulation of capital and private ownership, have gone much further than this. The public police monopoly is now drastically changing (Reiss 1991; Bayley, Shearing 1996).

Since private engagement in law enforcement is quite a common and extensive practice in post-modern societies, it is worth considering how we should minimise the problems regarding this matter, in order to eliminate the danger of the privatisation of state repression mechanism. The case of the Japanese Security Business Act is perhaps a good example in demonstrating the right way to regulate the supervisory power of public police over private security companies.

The first private security companies in Japan were established in 1962 when the Japanese economy was starting to grow. From 1962 to 1972 this industry grew to 775 companies with 41.116 employees. In 1970, even while private officers assisted the police (in 72 cases), they also committed 95 Criminal Code offences; additionally, many

presidents of the security companies were convicted criminals. The Security Business Act of 1972 finally gave the police the legal basis to regulate the security industry directly. The Act prohibited certain convicted criminals from starting businesses or being employed in the private security business. In 1973, the Public Safety Commission received the authority to take disciplinary action, including the supervision of security businesses. Nevertheless, the National Police Agency stated in its report that there remained a strong need to strengthen control over security companies in the future. In 1981 there were 1513 violations of the Act. Approximately 200 companies had corporate officers who had spent time in prison. In 1982 there were already 3546 companies with 133.946 employees, and the Act was amended to further expand the regulatory power of the police over private security companies. Under the amended Act, private security companies can be established only upon approval by the Prefectural Public Security Commission and must be re-approved every 5 years. The Prefectural Public Security Commissions received authority to exercise the knowledge and skills of employees in private security companies. In 1987 there were 4586 companies and 202.611 employees. The private security industry now provides the police with an enormous network of cooperating private officers who are better skilled, trained, organised, and equipped than any other neighborhood or citizens' group and is almost as large as the police force itself (Miyazawa 1991).

Of course, there are many other more specific issues (no less important) which are related to the privatisation of security and law enforcement. Two such issues include the possession of weapons and the question as to whether or not private security officers should be allowed to collect evidence at the crime scene; these topics are, however, far beyond the scope of this paper. One point not mentioned in the Japanese case that should be pointed out is that legislation must be clear, strict and detailed in regard to the regulation of private security agents' powers. Regulation must include the methods of (minimum) force (required) in exceptional circumstances, because liberalisation of the state's activities within the judicial and executive branch of the government is acceptable only if it does not result in the privatisation of the repression mechanism. This must be an essential condition for any liberalisation reform. Furthermore, hybrid models of joint cooperation between government agencies and private organizations are in some cases very desirable, as long as the state retains and exercises ultimate and permanent control over those activities in order to protect basic regulatory principles which constitute a civilised state.

Liberalisation of the welfare state

Outside the executive and judicial branch of government, there is a variety of other social activities which are also subjected to governmental paternalism. In principle, though, the unacceptability of the liberalisation policy should be limited only to those activities which can in some cases be classified as dangerous or ruinous, such as the production of nuclear facilities, explosives, and poisons. Nevertheless, state paternal-

ism is far more extensive. It usually means that the government owns (and runs) hospitals, schools, kindergartens, museums, art galleries, transport companies, gas, electricity and petroleum companies, streets, roads, traffic signals, airports, parking garages, convention halls, land, mineral assets, and refuse disposal companies, among other things.

Speaking of the following items: education, health-care, arts, culture, social services such as retirement funds, securing the livelihood of children after their parents divorce, securing adequate food, clothing, housing and special protection of mothers during a particular period before and after childbirth, and security in case of unemployment, sickness, disability or work accidents it is interesting to see that states still hold a very strong interest in these subjects, despite the fact that these subjects are related to the realisation of social, economic and cultural human rights which have, according to international human rights law, only a positive status. Nevertheless, the state's interest is expressed in the ambition to own, control and manage the above-mentioned activities.

The question I intend to answer is whether or not there is any justification in the international human rights law for such extensive government involvement, or if, for any state which does not provide full realisation of social, economic and cultural rights, there is an obligation for it to liberalise itself.

According to the International Covenant on Economic, Social and Cultural Rights (hereinafter ICESCR), a state party must take steps "to the maximum of its available resources, with a view to achieving progressively the full realization of the rights in the present Covenant, by all appropriate means" (ICESCR 1988: Art. 2). As Robertson (1994) states, the above sentence raises questions such as: What is a resource? What resources must be made available? How can state compliance be measured? Which means are appropriate?

During the drafting process of the ICESCR, some delegates asserted that the resources of the state should be interpreted broadly to include budgetary appropriations, technical assistance, and international cooperation (Alston, Quinn 1987).

Danilo Türk, the Special UN Rapporteur on the Realization of Economic, Social and Cultural Rights, asserts that in recognising such inadequacies, states should encourage people's movements, campaigns and private initiatives, thus creating conditions which aim to satisfy the citizen's needs which are regulated in the charter (The New International Economic Order and the Promotion of Human Rights: Progress Report 1990; The Realization of Economic, Social and Cultural Rights: Second Progress Report 1991; The Realization of Economic, Social and Cultural Rights: Final Report 1992).

The Committee on Economic, Social and Cultural Rights, which is responsible for ICESCR monitoring, interprets the ICESCR's formulation as the state's obligation "to move as expeditiously and effectively as possible towards that goal" (Committee on Economic, Social and Cultural Rights 1990).

The Limburg Principles on the implementation of the ICESCR declare that "states parties are obliged, regardless of the level of economic development, to ensure respect for minimum subsistence rights for all" (The Limburg Principles on the Implementa-

tion of the International Covenant on Economic, Social and Cultural Rights 1987).

The basic idea is that the state is obliged to consider all domestic and internationally available resources when determining strategies for the satisfaction of economic, social and cultural rights. This means that state responsibility extends well beyond the resources over which it exercises direct control, and, what is more, it is not influenced by the present level of economic development, in the case of ensuring the minimum subsistence rights for all (Robertson 1994).

ICESCR, therefore, represents a strong legal basis for liberal reforms within the social services sector, although it is very unlikely that anyone could provoke a court decision which would burden the state policy makers with this sort of obligation.

However, in the case that the liberalisation of social services is accepted as the reform process, it should fulfill the following conditions.⁶

1. All alternative strategies have to be open to public discussion participated in by all relevant experts, state policy makers and representatives of civil society (associations of consumers, professional chambers) before adopting any regulation in parliament. Experience shows that many privatisation policies came out as “a political bundle (put together in a confused way) not logically, but ideologically connected” (Starr 1991). The process has to be constantly assessed by the state and civil institutions. The political responsibility rests on the government.
2. Liberalisation should reduce state bureaucracy and its power in order to increase both the freedom of individuals and their (civic) responsibilities. This individual empowerment would mean:
 - greater consumer choice;
 - greater freedom of choice for providers to pursue their work, professional and entrepreneurial initiatives;
 - employees within the social services sector should have a comparable status regarding participation rights of economic and industrial democracy with the employees in commercial companies; they must be entitled and encouraged to offer suggestions and to participate in the planning process and especially in self-regulation of the working environment. However, neither group of employees, in both commercial and non-commercial companies, has the constitutional right to participate in ownership or profit-sharing schemes within organisations, which comprises one of the main obstacles for the real empowerment of individuals, democratisation, decentralisation and fair distribution of income. Participation rights of economic democracy should form an indispensable component of the principle of justice (or the welfare state).⁷
3. Liberalisation reforms should introduce new possibilities for higher quality and better access to social services.
4. Privatisation reforms should reduce costs of government and public debt.
5. From the human rights point of view, it should be summarised that liberalisation reform is acceptable if it leads to the better realisation of economic, social and cultural rights (at least) for those who are least advantaged. Therefore, universality of human rights in addition to the principle of equal opportunities should be challenged.

6. The previous challenge can only be met if the state authorities retain control and power to exercise the basic principles of justice, freedom and equality in the field of the social services sector.

Control vs./and ownership

Charles Horton Cooley (1864-1929), one of the fathers of American sociology, suggested in his doctoral thesis in economics (1894) that the problem of the railroad industry, which was troubled either by the monopolies or by the opposite problem of cut-throat competition, should be offset by a flexible system of public control, but not ownership. For Cooley, public control is a normal and inseparable part of the economic process - always growing with it (Yonay 1994).

Throughout this paper, the right (and obligation) of state authorities to have control over activities which are related to the realisation of social, economic and cultural rights has been the main constant. Therefore, there is no need for the state to own social services as long as state officials permanently exercise control over these activities. Consequently, the right to private ownership should be reformulated since there will be cases when liberalisation of social services will result in the transfer of ownership rights from the state to private entities and the state will be authorised - in spite of private ownership - to intervene.

However, the state's right to control is not a synonym for public control. Theoretically, and even in legislature, it is usually stated that the government has (only) a mandate to manage politics in the best interest and for the general good of the people, but that is not a reason to consider state ownership (or control) as the same phenomenon as public ownership (or control).

Public control over a hospital, for example, would be established if the supervisory board worked together with the representatives of all legitimate interests involved in the hospital activities, for example doctors and other employees, users of health services, financial asset investors, insurance companies and state officials.

Unfortunately, there is a very important obstacle in the way of the implementation of such a public control model, especially in the Eastern and Central European countries. Institutions of civil society are not yet strong enough due to the pressures during the previous political system. Today, after the democratic reform, the luxuriant growth of the state - especially the overextended spread of political parties within society - again undermines the autonomy and self-regulation of civil society institutions. In the West there are some obstacles, too. It is reasonable to expect that the concept of public control will have a better chance to succeed in countries with corporatist structure, and it is probably less feasible under the liberal individualist conception of citizenship. In this conception of citizenship, citizens have no obligations to the wider society other than those they freely enter into on the basis of contract, and apart from duties such as paying taxes or respecting similar rights. The social bonds between individuals are thus contractual. In contrast to such a passive and private conception of citizenship, there

are discussions which advocate a more active and public conception of citizenship. In the so-called “civic republican” conception of citizenship, a discharge of duties is necessary in order to establish individuals as citizens. Citizens retain autonomy, but only if it is exercised not only with respect to the autonomy of others, but also in accordance with a practice being socially defined, and which they have a duty to engage in. The social bonds between individuals are not only contractual, but are based upon sharing and determining a way of life. By practicing citizenship through public service, individuals demonstrate they are citizens and create the social solidarity and cohesion of the community. Still, in order to practice citizenship, individuals need empowerment. This empowerment must be given partly by securing opportunities to fully realise human rights, which are necessary for agency, and partly by opening the “arenas where potentially everyone can take part, where everyone can do something. In modern states this requires the decentralisation of political tasks and functions /.../ to create a widening of opportunities for responsible self-government of citizens” (Oldfield 1990: 178-179, 183).⁸

Favoring the right to (public) control over (private or state) ownership in the case of social services is perhaps a theoretical example of Cohen’s political philosophy which is considered by some commentators to be an alternative to the classic liberal concept and Rawlsian political liberalism (Moulin, Roemer 1989). G. A. Cohen opposes the idea that things in their native state are unowned and suggests that we regard the external world as jointly or collectively owned by all persons (Cohen 1986).

The future paradigm would therefore be: “Private Ownership of Self and Public Control of the External World”, or, in other words: “Privatisation of Self and Liberalisation of the External World”.

Conclusion: towards the new development paradigm

Until recently, the subject of this paper was focused only on the second part of the above proposed paradigm, while the first part - “private ownership of self” - remained unexplored. But, it cannot be neglected, since it is encountered at the very foundation of the liberal system. According to the founders of liberal doctrine, “self ownership” is a synonym for the right of each to his/her faculties - to what each of us can privatise in the open market (Locke (1690) 1992; Mill (1848) 1995).

I find this conception of “self-ownership” very much oversimplified and misleading. In fact, it is the major obstacle to the real (above-mentioned) liberalisation of the external world.

I divide the concept of “self-ownership” that the post-modern institutional system should be based upon into two components. The first component is highly relevant to the state. It can be defined as a particular scheme of human rights that the state must ensure for all citizens (in some cases also for residents) in order to constantly improve conditions for their autonomous agency and to protect their dignity. Apart from certain civil and political rights, which are already sufficiently protected, there should also be

various other rights incorporated into the conception of self-ownership. The right to a fair remuneration (ICESCR 1988: Art. 7; The European Social Charter 1992: Art. 4) or the so-called participation rights of economic democracy are only parts of them, and I would like to emphasise a few others, which are not yet sufficiently ensured:

- every person's right to education (ICESCR 1988: Art. 13);
- every person's right to an adequate standard of living, including sufficient food, clothing, housing, medical care and necessary social services; also, the right to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his/her control (Universal Declaration of Human Rights 1988: Art. 25);
- every person's right to take part in cultural activities and to enjoy the benefits of scientific progress and its applications (ICESCR 1988: Art. 15 (a)(b));
- the right of physically or mentally disabled people to vocational training, rehabilitation and social resettlement (The European Social Charter 1988: Art. 15).

The second component of the "self-ownership" concept represents no challenge to the state whatsoever. It should be questioned, established and practised by each individual, because this component of "self-ownership" entails his/her ability to pursue happiness and to enjoy the true joy of life.⁹ Whether someone chooses affirmation or renunciation or dialectics of both as a way to self-fulfillment is entirely a matter to be privatised by him/herself.

NOTES

1. We cannot speak about the individual's social, economic and cultural freedom, as long as these human rights have only a positive status in the sense that they are not accepted as fundamental human freedoms, effectively protected by the state legislature and judicial system (See: International Covenant on Economic, Social and Cultural Rights 1988: Art. 2).
2. In 1926 the American Eugenics Society revealed that every 48 seconds a mentally deficient person was born in the USA and that only every 7.5 minutes did the USA enjoy the birth of a high-grade person who would have the ability to do creative work and be fit for leadership (Kevles 1995).
3. Agich (1986) and DeNicola (1976) argue that the Rawlsian conception of justice is the only conception of justice, which gives a handle for determining what might count as a just distribution of genetic resources. Therefore, in genetic engineering a concept of eliminating deleterious genes and replacing them with their properly functioning version would have priority. Thus an individual with serious genetic disorders which cannot be effectively corrected by any social practices (for example, very premature death or profound disabilities which virtually exclude him/her from effective participation in any part of our society) have a legitimate claim to be considered among those who are least well off and are, therefore, entitled to appropriate genetic intervention (Fleck 1995).
4. Modern commentators usually point out Luhmann's argument that the basic problem of modern society is to secure the necessary measure of social integration, which actually ensures the continuity of Durkheim's basic sociological thesis. For this issue it means that educational organizations should openly accept challenges in the field of social (dis)integration problems

- such as: unemployment, social security of youth and democratization of the political system (Medveš 1995).
5. One such extreme example was expressed on a television programme in November 1987 by Baroness Hoger, one of the Ministers of Education, when she said that “if we are offering freedom of choice to parents we must allow the choice to operate. If it ends up with a segregated system - then so be it.” (Walford 1990: 111)
 6. Liberalisation broadly includes all kinds of institutional changes that are aimed at the reduction of governmental involvement, for example: entry deregulation policy, de-monopolization, more competitive pressures, commercialisation, paid transfer of state ownership to private entities.
 7. For the discussion on the the status of the participation rights of economic and industrial democracy, see: Zalar, B. 1998. “The Transformation of Companies from the Standpoint of Participation Rights: The Case of Slovenia”. *Journal for East European Management Studies* 3, (1): 26-45.
 8. The new conception of citizenship is already on the agenda for some policy makers. In 1992 the Netherlands Scientific Council for Government Policy (WRR) published a “Contemporary Citizenship”. The study, which was produced under the direction of H. R. van Gunsteren, developed the theory of neo-republican citizenship. In the later publication “Citizenship in Practice”, experts examine the scope of neo-republican citizenship in various practical situations (Netherlands Scientific Council for Government Policy 1993).
 9. In contrast to this, “the pursuit of happiness” was incorporated into human rights charters at the very beginning of universal human rights law. See: Virginia Declaration of Rights (1776), Declaration of Independence (1776) or “Déclaration de droit de l’homme et du citoyen” (1789).

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