Privatizing: A Social Milestone or Millstone?

by

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PRIVATIZING: A SOCIAL MILESTONE OR MILLSTONE?

A DISSERTATION

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IN

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BY

HERBERT B. SIEGEL

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Herbert B. Siegel, June 27, 1999

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ABSTRACT

When politicians redistribute public wealth by privatizing State-Owned Enterprises ("SOE"), they divest themselves of public accountability, and profoundly affect laws, economics, and social behavior. Data gathered from respondents in twenty-eight countries including lawyers, investment bankers, bureaucrats, and educators, identify beneficiaries and victims of privatizing processes. Results are then explained by statistical analysis, concluding with compensatory arrangements that can humanize privatizing.

INTRODUCTION

This dissertation will show that privatizing creates new social orders that eradicate some inequities of extant systems, but replace them with new and greater risks. Commerce generates and distributes wealth naturally with ethos and ethereal creativity. It is the only legal force equal to sovereignty that is capable of eradicating contemptible acts against society. Governments promise social reforms by delivering essential public services but commerce inspires rules-of-law, equity and leisure for society-at-large. Social homogeneity requires a confluence of governing and commercial processes that produce, and distribute goods and services for civililizations. Commerce as a social form, however, manipulates economic and scientific technologies to benefit special interests that are irreconcilable with social expectations, and cause governments to contain them.[1] Commerce is a phenomenon of organizing societies that derives energy from pecuniary investments in labor, machinery, and natural resources. Changing ownership exchanges capital but adds nothing of tangible value to society, but encourages imitation, a great force in human behavior but one fraught with political misconceptions, ideological conflicts, and contrasting goals. For example, commerce is constrained by central governing under Socialism, impeded by state-owned monopolies under Communism, and assuaged by accumulating economic power under Capitalism. All ideologies fail, however, when social inequities are pronounced.

Privatizing SOE without transparent paradigms that clarify beneficiaries and victims, risks political restiveness in the future. Using commerce to transfer wealth by meeting supply and demand is endemic to broadening social structures, and when

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[1] John Kenneth Galbraith, The New Industrial State 3, (Boston: Houghton Mifflin, 1971), p. 36-9.

properly functioning, is another durable provider of multiple services to society. Entrepreneurs are rewarded for providing alternatives to government monopolies in exchange for profits, and in the process acts to constrain sovereigns from possessing all properties then disproportionately taxing to maintain them. Commercial growth further diversifies society by devising contractual rules of behavior as voluntary mechanisms to protect against systemic flaws. Enthusiasm for privatizing is grounded in exchanging commercial franchises for government services, and political accountability. Promoting privatizations as economic paradigms of efficiency attracts private capital as surrogate taxes, and alters public perceptions of municipal financing.[2] By comparing collectivist governance with commercial individualism, politicians equate public services to commercial rewards to justify transferring ownership of SOE, in perpetuity. Privatizing redistributes public wealth by the opacity of implied consent to divest communal resources:

> Consent is the ethical foundation for efficiency but consent without [adequate] compensation is voidable.[3]

Consensually empowering political institutions to transfer ownership of public services without due process is the ultimate in transparency. Absent consent, society's best interests are served by judicial adjudications that avoid repetitive legislation.[4] Real property takings are an example of using due process to mix public and private assets to promote social efficiencies, and avoiding appearances of bias by specific performance provisions:

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[2] Hans Engelberts, ed., "The Conservative Ideology", A Public Sector Alternative Strategy, (Paris: Public Services International, 1997), pp. 8-15.
[3] Robert Posner, Economic Analysis of Law, 4th ed., (Boston: Little, Brown, 1992), p. 227.
[4] Jacobus Rawls, A Theory of Justice, (Cambridge, MA. Harvard University Press, 1981), p. 108.

Adjudication is always better than implied consent, and legislation is always ineffective for re-distributing public wealth.[5]

Doctrines of consensual laws to protect society include a) Tort's that prevent negligence, b) Contract's to discourage excessive breaches, c) Nuisance to control social costs, and d) Due Process to compensate victims, and assure that rules-of-law prevail over laws-of-rule.[6] Exculpating SOE from the protective custody of public ownership is driven by political expediencies, and economic theories.[7] For example, privatizing is rationalized by unchallenged theories including private capital maximizes resource use, private managers are more efficient than public servants, public spending retards private investments, government's police social inequalities, but not their causes, and society always pays to fulfill it's needs, and doesn't need what it can't afford.[8] Political proponents, acting on these hypotheses, go to unnatural lengths to avoid public scrutiny including statutory amendments, redefining accountability, avoiding public referendums, and usurping rights to common ownership. Regardless of circuitous processes, divested assets are eventually concentrated with privileged investors who profit from bargain prices, and lack of competition. Replete with spurious justifications, and flawed theories, privatizing is expected to produce more efficiently, and to the extent that private comparators maximize profits by increasing prices and minimizing costs. SOE are regulated to charge consumers actual production costs. Other complexities

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[5] Robert Coarse, "The Problem of Social Costs", Law and Economics, March 1990, pp. 1-44.
[6] Thomas J. Micelli, Economics of the Law, (Oxford: Oxford University Press, 1997), p. 11.
[7] Douglas Wardle and Nick Towle, "Global Privatization", International Privatization, Dennis Campbell and Brian Hollywood, eds., (Salzburg: Kluwer Law International, 1996), pp. 2-18.
[8] Brendan Martin, The Roots of Privatisation, (Fernay-Voltaire Cedex, France: Public Services International, 1997), pp. 5,6.

include converting to commercial labor laws, developing new corporate cultures, and differing guidelines for investing capital:[9]

> Immediate gains from privatizing often begin with indiscriminately shedding labor for lower cost replacements, and investing in profit-consciousness, state-of-the-art technologies.[10]

Alternatives to privatizing include transforming SOE into innovative, flexible, and responsive organizations:

> There are 83,000 governmental units in the United States--one federal government, 50 state governments, and thousands of cities, counties, school districts, water districts, and transportation districts. The majority of our public services are delivered by local governments--cities, counties, towns, and districts. More than 12 million of our 15.1 million full-time civilian public employees work for state or local governments (less than ten percent of the labor force).[11]

Political reforms accommodate public perceptions of commercial realities. For example, sometimes big government is good, and other times, commercial gigantisms seem better. Perceptions of commerce change as social anomalies overwhelm traditional bureaucracies that are carefully regulated to deliver specific services to the public-at-large. They are difficult and slow to transform compared to private enterprises that are

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[9] Ahmed Galal, Leroy Jones, Pankaj Tandon, and Ingo Vogelsang, Welfare Consequences of Selling Public Enterprises, (Wash., DC: Oxford University Press, 1996), pp. 4-15.

[10] Ahmed Galal and Mary Shirley, eds., Does Privatization Deliver? (Wash. DC: The World Bank, 1995), p. 94.

[11] David Osborne and Ted Gaebler, Reinventing Government, (New York: Penguin Books, 1993), pp. xix-xxi.

free to adjust to changing conditions.[12] Both sectors, however, respond to differing stimulus, e.g., SOE are rated by political incumbencies, and commercial entities by innovations to improve their intrinsic values, each protected by separate laws that are rarely interchangeable.

(Intentionally left blank)

[12] Emile S. Savas, Privatization: The Key To Better Government, (Chatham, N.J., Chatham House Publishers, 1987), pp. 22-27

GOVERNANCE

Government effectiveness depends on economic barriers that prevent threatening concentrations of private wealth. For example, monarchies tax by decree, and seduce by covenants of Seisen, aristocracies function by consent of oligarchic classes, and democracies by participation of the governed.[13] Political ideologies, and prescribed laws for civil obedience are costly processes to manage when complex relationships among government, commerce, and society-at-large are basically adversarial.[14] Barrier regulations cause personal intrusions that complicate commerce, and affront cultures by conflicting with pluralistic ideologies, religions, and social expectations. By colluding with politics to protect dominant powers social problems are less likely solved than caused by laws. Political dominion and economic controls, whether geographical or functional, are forms of coercive monopolies on social behavior requiring resources to police contentious challenges, and insure incumbencies by deterrence. Economic reliance includes a) reliance on government procurements,[15] b) outsourcing to special interest groups,[16] c) controlling delivery modes,[17] and d) feigning competitive bidding for iterative goods[18] Regulating subsidies, tariffs, tax incentives, and grants perpetuates bureaucracies, and well funded political constituencies. For example, commercial airlines are continuously provided pilots, cost-free, that are trained at great public expense in exchange for limited tours of military duty. Government's benefit commercial interests

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[13] Myron Weiner and Seth P. Huntington, eds., Understanding Political Development (Boston: Little Brown, 1987), pp. 34-5.
[14] ibid, pp. 34-5.
[15] Ref: 1969 Goods Act.
[16] Ref: The Cargo Preference Act.
[17] Ref: U.S Defense Authorization Act of 1969.
[18] George A. Steiner and John F. Steiner, Business, Government, and Society, 5th ed. (New York: Random House, 1988), pp. 120-3.

more than living standards of society. Women are disadvantaged, and children suffer disproportionately from inadequate nutrition and health but governments grow larger despite their ineptitude at remedying causes of poverty, crime, and substandard education. Government programs that subsidize commerce are funded by taxpayers without any participation, and commercial employee benefits including health, retirement, holidays, and vacations are camouflaged by tax deductions, a form of public subsidy, and price increases that produce added profits:

> More than 1 billion people live in poverty worldwide, but commerce continues to accumulate capital.[19]

None of these faux schemes work because poverty grows, crime's increase, and collusive alliances continue to compromise ethics. Fringe benefit programs, and social entitlements are purported to reward labor, and prevent villainous acts against society but they are little more than insurance against anarchy:

- It took sixty years for the U.S. Supreme Court to decide that separation of races is an unreasonable use of sovereign power.[20]
- China codified the religious teachings of Confucius into oppressive rules of law to justify executing millions of citizens.[21]
- Japanese law sanctions degrading of the environment, and imposing psychological stress on workers and students to foster economic prosperity.[22]

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[19] Michael Bruno, The World Bank Atlas, (Washington, D.C.: The International Bank for Reconstruction and Development (The World Bank, 1995), pp.7,17.
[20] In Re: Plessy v. Ferguson, 163 US 537, 16 S.Ct. 1138, 41 L.Ed. 256(1896).
[21] Fung Yu-Lan, A History of Chinese Philosophy, (Princeton: Princeton University Press, 1981), Vol. II, p.17 describing Emperor Kuang-Hsu (Guangxu).

- U.S. taxpayers, in 1984, paid $150 billion to recover $80 billion in government insured savings from defunct banks.[23]

Governments expand regulatory activities in response to social complexities but effective governing depends on voluntary compliance, active participation of those governed, and domestic hegemony[24] Transparency encourages partnerships between the public and government bureaucracies to homogenize society. [25] Regulating then unifies all social institutions with a confluence of well considered laws.[26] When legislating is opaque, however, legal norms are confusing; create shadow societies, and pseudo laws-of-rule.[27] Governing by economic principles alone, subsumes legal biases, and fragments social progress. Governance unrelated to political ideologies is self-serving, and negates socio-political correlations essential to civilization.[28]

Constitutional democracies adopt rules-of-law from older philosophies. Authoritarian systems rely on elitist class domination and totalitarians by need for copious behavioral controls. Without political ideologies, governing competes with majority rule, and violates public trust. Economics influences governance into bifurcating politics strategies to protect commerce, and suppress social welfare. Adopting pluralistic political ideologies can reduce bureaucracies, disenfranchises ensconced interests, and can restore social safety nets to the poor. By connecting social ideologies to laws and

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[22] Michael Curtis, ed., Introduction to Comparative Governments, 2d ed. (New York: Harper-Collins, 1990), p.321.
[23] Richard M. Salsman, Breaking the Banks (Gt. Barrington, MA: The American Institute for Economic Research, 1990), p.62.
[24] Joel S. Migdal, Strong Societies and Weak States: State-Society Realatiuons and State Capabilities, (Princeton: Princeton University Press, 1988, p.22.
[25] Hans Engelberts, ed., "The Politics of Social Services", Social Services Policy, (Paris: Public Services International, 1995), pp.9-11.
[26] ibid, pp. 20-24.
[27] ibid, p. 39.
[28] Michael Curtis, ed., Introduction to Comparative Governments, Pp. 4-8.

economics, restrictions, privileges and risks to societies are reduced, efficiencies of public service can be rewarded, and competition encouraged. Deregulating that is valued more than balancing social interests, however, results in chaos until absolute equilibrium is restored, and as the cycle of regulating/deregulating continues, fewer benefits are realized from deregulating:

> The classic example is the Savings & Loan industry. For decades, the S&L industry suffered from harsh regulations but enjoyed offsetting privileges of [government-backed] deposit insurance, and legal protection from competition but the system was roughly balanced since the 1930s. The Depository Institutions Deregulation and Monetary Control Act of 1980 removed most regulations, and competitive privileges, but increased depositor insurance coverage to $100,000 per savings account from $40,000. Regulation and privileges became unbalanced until fierce market competition lowered lending standards, and taxpayers got stuck for an industry bailout costing $150 billion.[29]

When markets are corrupted with subsidies, taxes, and regulations, society perceives government as the final arbiter of wealth distribution, commercial practices and living standards. When governments attach social amenities to economic advantages, the infrastructure of society benefits, but privatizing provides panoply for perpetuating all forms of governing ideologies without social considerations. Imbalances that divide societies are caused by processes that subject underclasses to economic deprivations without their consent. Political practices that reinforce indigenous hierarchies, and

[29] Eric-Charles Banfield, "Deposit Insurance Is a Dead End", American Banker, September 16, 1992, pp. 4,7. also see note [23], *supra.*

establish legal barriers, protect advantaged groups, and alter social balances. They are a prime cause of conflicts between disadvantaged groups seeking to improve their lots, and privileged classes consolidating their gains[30] Concentrating property ownership of iterative public needs creates income disparities, barriers to career advancements, and fewer educational opportunities. Economic disparities adversely affect voting rights, political access, legislative practices, and legal protections. Economic policies that advocate social goals, and are well funded, advance behavior beneficial to commerce, profits, and living standards. Mixing economic and social doctrines provides more opportunities for universal access to parliamentary democracy, and pluralistic societies.

Where monopolies thrive, exogenous demands drive exorbitant profits except when part of a public infrastructure. Monopolistic SOE expand for two reasons: a) to satisfy increasing public demands, and b) to protect inflated bureaucracies. Privatizing them equates unseemly profits with reducing costly bureaucracies, both consequences of dysfunctional economics because each exploits employment policies with disparate missions. Collective bargaining is weakened by privatized monopolies, and individual negotiations are all that remain to oppose industrial anarchy. Free market theories emphasize benign aspects of competition, but privatizing subrogates essential services to profits and risks including total collapse, investor speculation, and insider frauds. Free markets are ruthless exploiters of society as evidenced by extreme poverty, and human degradation of many co-existing with conspicuous consumption, economic power, and privileges of few. Government interference enhances probity, equity, and impartiality by redistributing wealth to sustain political and social cohesion of mixed markets:

[30] Ted Robert Gurr, Minorities At Risk, A Golbal View of Ethnopolitical Conflicts, (Washington, DC: United States Institute of Peace Press, 1995), pp. 34-40.

> Democratic structures of society, with their stress on human rights and social justice, are necessary checks on dog-eat-dog commercial markets.[31]

Successful governing includes equal ranking for human rights, economic productivity, and competition--all linchpins of society. Quad partite forums of society include government, industry, labor, and law as primary socio-economic groups needed to coalesce with one another to equitably distribute social rents. Alone, governments can change ideologies, commerce gouges for profits, labor abuses collective bargaining, and constitutional laws transform political processes.[32] Artificially regulating can maintain equilibrium among groups to adjust for changing political needs, naturally occurring economic imbalances, and weakened constituencies. Awareness of these contravening measures and redressing them requires government intervention:

> For the ten years beginning in 1992, the California State Department of Finance tracked $59.5 billion of projected capital outlays by local governments including cities, counties, school districts, and over 5,300 special purpose districts. Twenty-nine percent of this amount ($17 billion) represents labor costs paid at likely prevailing wage rates. If those rates were set by a method using the weighted average of wages paid statewide instead of locally, California would save as much as $340 million annually on public works projects. Regulations are being drafted to eliminate local systems of setting wages for similar work.[33]

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[31] Manfred Timpe, translator, "The Public Sector in the 1990s: Challenges and Defenses", <u>Policy and Strategy on the Role of the Public Sector</u>, (Cedex, France, Public Services International, 1997), pp. 7-11.
[32] ibid, pp. 19-22.
[33] Robert C. Cline, "Redrafting Regulations for Prevailing Wage Rates for Public Works Projects", <u>Cutting Back</u>, (San Francisco: Pacific Research Institutue for Public Policy, 1993), pp. 21-33.

Unifying municipal expenditures for economic efficiency essentially nationalizes local governments into a hierarchy of political power that can provide society with affordable services and abundant employment in exchange for loyal constituencies. Politicians favor privatizing public monopolies because they replace individual accountability with profit managers responsible to private investors. Public relations campaigns supporting privatizations emphasize efficiencies, debt reductions, and cost savings result from divesting, but leave unsaid the increasing dependency on commercial monopolies:

> By 1988, 16 large [British] SOE and a number of smaller ones had been sold [by the government]. The state sector was cut by over one-third, and public employment was reduced by 700,000.[34]

Advocates of privatizing focus on cost efficiencies whereas opponents consider social equity. Living standards interface with economic systems and political institutions, but do not correlate with privatizing essential public services:

> By supplementing traditional economic indicators with statistics that relate more directly to well-being, the benefits and deficiencies of alternative economic approaches can be fruitfully assessed. For example, one country can have a much higher gross national product per capita than another; at the same time, it can have a much lower life expectancy than its less wealthy counterpart because its citizens have poor access to health care and basic education...Economics is not solely concerned with income and wealth but also with using these resources as means

[34] Michael Curtis, ed., Introduction to Comparative Governments, pp. 90-92.

> to significant ends, including the promotion and enjoyment of long and worthwhile lives.[35]

No longer limited to maintaining civil order and national defense, governments are expected to provide social services and economic safety nets to expanding populations to improve living standards. Divesting public services to private industry trivializes core functions of governing, and transfers national wealth from public entitlements to quasi-public intermediaries.[36] Private investors are drawn to monopolies with predictable usage because profits are easily obtained by masquerading cost cutting, and price increases for efficiencies. Changing owners does not assure a continuity of affordable services when crises develop, as often happens in private management. Abdicating political responsibilities by privatizing without public consent implies a contingent, and legal, obligation to act in the public interest if services are not be delivered as agreed, or amended laws conflict with public welfare:

> Providers are obliged to supply service to every applicant, and permanently maintain the quality of service provided and to guarantee the continuity and quality of service. Private concessions, however, may be forfeited if the development program is not executed [satisfactorily].[37]

A presumption exists that politician's guard the public trust, and answer to the judiciary by their oaths of office in mutually dependent systems of governing that require public transparency.[38] Political legitimacy is closely tied to meeting civil needs,

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[35] Amartya Sen, "The Economics of Life and Death", Scientific-American, May 1993, pp. 40-47.
[36] Brendon Martin, The Roots of Privatisation, p.7.
[37] Juan Pablo Borquez and Marc S. Cornblatt, "Chile's Privatization of Sanitation Could Be Model ", The National Law Journal, April 6, 1998, p. B14.
[38] Gerald E. Frug, " The City as a Legal Entity", Harvard Law Review , April 1988, p. 1149.

and conferring broad powers to any specific group without checks and balances obfuscates constitutional responsibilities[39] Exchanging morality for political gains undermines public confidence in officials who shirk their appointment for providing essential public services. Credibility with the public is an important consideration in privatizing without specific consent. Survey respondents, however, do not hold public officials to high standards of esteem and morality.[40]

> [The Japanese] government disclosed plans today to change financial terms of the decade-old privatization of national railways...The cabinet is expected to approve legislation that would shift more public debts and costs to the private companies that were formed when the government privatized the railway system in 1987.[41]

Privatizing exchanges social priorities, for short-term political gains by vesting monopoly powers and enrichments in private managers to perform civil services [42] Long-term significance to host countries includes enterprises more powerful than the nation-states and municipalities they serve, outsourcing services to low-cost producers with minimal oversight to enhance profits, de-industrialization, and erratic employment opportunities:

> In Mexico, the 37 businesses that already owned among them about a quarter of the country's gross national product were the main buyers of all but one of nearly 1,000 [state-owned] enterprises. Foreign stakeholders profited by $12 billion by

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[39] Werner Z. Hirsch, Privatizing Government Services (Los Angeles: Institute of Industrial Relations, 1991), pp. 17-21.
[40] Ref: "Treating The Data."
[41] Stephanie Strom, "Japan Plans New Financial Terms for Old Privatization", The New York Times, January 15, 1998, p. D26.
[42] Pierre Guislain, The Privatization Challenge (Washington, DC: The World Bank, 1997), pp. 18,19.

reselling TELMEX, Mexico's [privatized] telecommunications utility, after raising local rates so consumers were worse off by $33 billion.[43]

Survey respondents favor privatizing for advancing societies but can not identify beneficiaries or victims.[44]

Shifting costs of privatizing to society effectively subsidizes investors by absorbing increased unemployment, displacing workers, lowering wages, and incurring higher consumer prices. As originally conceived, SOE were funded by public revenues to deliver essential services to society's poorest.[45] Private capital avoids inordinate risks, and long-term returns associated with starting public services.[46] Whatever profits from cost cutting, or utility price increases, accrues to shareholders of privatized SOE therefore conflict with the public interest.

Respondents opine that privatizing benefits society by providing fair competition for worker's to market their skills.[47] In fact, employment reductions finance wage increases for publicly trained managers, retained to administer newly created profit centers. This significant factor creates unemployment by forcing across-the-board wage reductions.[48] These hidden costs are entirely borne by taxpayers. Only by enforcing collective bargaining agreements prior to divesting, can worker's rights be assured, wages improved, minorities protected, and generous severance and unemployment benefits negotiated for privatizing victims, and political activism against privatizations

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[43] Brendon Martin, <u>The Roots of Privatisation</u>, p.11.
[44] Ref: "Treating The Data."
[45] Gerald W. McEntree, "Privatization Isn't a Panacea" <u>Wall Street Journal</u>, October 22, 1987, p. 35.
[46] Ronald Coarse, "The Problem of Social Costs", <u>Journal of Law and Economics</u>, October 1990, pp.1-40.
[47] Ref: "Treating The Data."
[48] Brendon Martin, <u>The Roots of Privatization</u>, p. 9.

be removed.[49] Other forms of compensating employee-victims include cashless awards of shares in the privatized entity for sale on the open market, and tax abatements on sale profits. These individual bonuses stabilize post-divestiture labor relations, and collaterally increase productivity. Prospective layoffs caused by divesting create opposition from organized labor, but token employee ownership has the opposite effect:

> The promise of participation in privatized firms reduces the incentives for workers to carry out excessive wage claims. Employee participation leads not only to support for the privatization program but also to more reasonable wage demands and less social tensions.[50]

Cashless schemes that soothe public opposition to privatizing also concentrate re-sales to select buyers usually at bargain prices, and retain funds otherwise earmarked for severance. Public opinion, when finally informed about privatizing, can be vehement because social orders are likely changed without prior consent. Divesting is symbolic of anti-unionism to some, and to others, another means of wasting taxes.[51] In transitional economies, incentives for public support include granting negotiable vouchers to all employees evidencing ownership usable for any consumer purpose. Informed opinions infer spurious intentions of diluting labor gains, hard won from collective bargaining, to abandoning public accountabilities by reducing the high purposes of government to restore gigantisms to business. Costly public relations campaigns are attempted by governing administrations to assuage public opinion.

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[49] Norbert Horn, "The German Experience in Privatizing by Comparative Prospective", A Cross Country Survey, The World Bank, 1992.
[50] Barthold Albrecht and Marcel Thum, " Privatization, Labor Participation, and the Threat of Bankruptcy: The Case of Poland", Journal of Institutional and Theoretical Economics 150(4), 1994, pp. 710-725.
[51] Juan Pablo Borquez and Marc S. Cornblatt, "Chile's Privatization of Sanitation Could Be Model" The National Law Review, April 6, 1998, p. B14-

Local jurisdictions often adopt privatization to reduce bureaucracies, and improve community services. Municipalities, however, are not sovereign jurisdictions because they derive their legislative powers from host states. They are powerless to amend rules of supreme jurisdictions, and avoid conflicts by licensing private industry to provide community services under renewable franchises. Due to high visibility, local electorates are more likely to hold politicians accountable for their actions, prompting quick forfeiture for violating specific performance provisions.[52]

Deciding if privatizing is preferred by society-at-large, or just another political expediency depends on an informed constituency. Respondents, however, conclude that public referendums are futile, developing competition is impractical, risking private capital without indemnity is unreasonable, and re-nationalizing bankrupt SOE is inappropriate unless investors are assured priority over public claims.[53].

> In general, privatization benefits buyers at the expense of consumers, workers, suppliers, and bureaucrats.[54]

[52] ----, Los Angeles times, June 10, 1987, pt. 1, p.15.
[53] Ref: "Treating The Data."
[54] Rolph Van der Hoeven and Gyorgy Sziraczki, eds., Lessons From Privatization, (Geneva: International Labour Organization, 1997), p. 16.

COMMERCE

Merchants, small businesses, and large corporations are claimants of other people's labor, for profit:

> Members of society who work their way up from poverty to wealth are soon regarded with suspicion.[55]

Except for matters of health, no other compact is as interesting to society as commerce, or requires more governance. Commerce depends on civilization for existence but its social obligations are derived from overt calculations, and not morality. Success rewards economic efficiencies but retreats when investment returns are deficient, and risks defective. Commercial enterprises invest to refine technologies, furnish commodities, pay wages, and dilute social barriers--all to earn profits.[56] Based on rational agreements and less on cultural status, commercial contracts endure only as long as reasons exist. For example, contracts create exchangeable values by mechanical offers and acceptances that are unlike social relations that rely on repetition of human nature. For example, exchanging one's goods and services for gold is more dispositive than sunning and surfing that is naturally enjoyable but worthless to commerce. Transferring wealth by exchanging values is endemic to the survival of citified societies.

Contracting for labor, however, differs because providers are more hopeful then buyers, and the resulting imbalance requires formalities of law to restore equilibrium. For example, collective bargaining is a principal paradigm for equalizing

[55] ----, " What social Classes Owe to Each Other", American Institutute of Economic Research (Great Barrington, MA., 1994), quoting William Graham Sumner.
[56] Bernard Avishai, "What is Business's Social Compact", Harvard Business Review, January-February 1994, pp. 38-48.

divisions of labor. It is also a coveted legal doctrine.[57] Employers require compliant workers to maximize profits, and worker's suspect that efficiencies suppress their earnings and advancements. New technologies redefine collective bargaining processes to include value enhancing programs as continuing education, for more productive and profitable labor. Options narrow, however, when employee benefits reduce investment returns, and require price increases to restore profits. Collective bargaining that produces inflation to benefit the parties at interest are perceived by the public as collusive price-gouging blamed on pandering to unions:

> Business extracts more money from society when labor laws encourage workers to want more money from business[es].[58]

Negotiating becomes conflicting, and resolutions more difficult, when foreign competition prevents price increases to absorb higher wages and benefits except with monopolies where market dominance mitigates all cost changes.[59] Public images of these commercial dynamics ebb and flow with society's affluence:

> During economic booms, only ten percent of the population believed that bad commercial practices outweighed good ones. During economic hardships, that figure increases to 85 percent[60]

When commercial rents sponsor social services, as matters of law, they minimally comply with little public awareness until colliding with the courts that can be

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[57] Dennis D.J. Sandole and Ingrid Sandole-Staroste, eds., Conflict Management and Problem Solving (New York: New York University Press, 1987), pp.289-93.
[58] John Kenneth Galbraith, The New Industrial State 3d, ed. (Boston: Houghton Mifflin, 1979), p.137.
[59] George A. and John F. Steiner, Business, Government, and Society, 5th ed. (New York: Random House, 1988), p.249.
[60] ibid, p. 249.