Public Goods and the Paying Public

Edmund F. Byrne

ABSTRACT. This paper proposes a way to undercut anarchist objections to taxation without endorsing an authoritarian justification of government coercion. The argument involves public goods, as understood by economists and others. But I do not analyse options of autonomous prisoners and the like; for, however useful otherwise, these abstractions underestimate the real-world task of sorting out the prerogatives of and limits on ownership. Proceeding more contextually, I come to recommend a shareholder addendum to the doctrine of public goods. This recommendation involves modifying the public goods argument for government coercion to include a contributor-specific compensation proviso, thinking of contributors as investors, and including among the latter those whose investment is in the form not of a market transaction strictly speaking but of sacrifice. To reach this recommendation I constrain the market liberal's limited endorsement of taxation by drawing on the (idealized) postcommunist privatizer's continuing commitment to populism.

Any resident especially if a citizen should be entitled to share in the common wealth of a country to the extent of his or her contribution to that common wealth. So the populist ownership claim currently being honored in postcommunist privatization policies is theoretically defensible. It is defensible, however, not simply as a salvaged piece of otherwise discredited command socialism, but as a legitimate application of market liberalism.[1] Market liberals have not taken their theory of private property in this direction, but they could. I wish to argue that they should.

My argument involves public goods, as understood by economists and philosophers attuned to their ways. But I will not analyze options of autonomous prisoners and the like; for, however useful otherwise, these abstractions underestimate the real-world task of sorting out the prerogatives of and limits on ownership. Proceeding more contextually, I will come to recommend a shareholder addendum to the doctrine of public goods. This recommendation involves modifying the public goods argument for government coercion to include a contributor-specific compensation proviso, thinking of contributors as investors, and including among the latter those whose investment is in the form not of a market transaction strictly speaking but of sacrifice. To reach this recommendation I constrain the market liberal's limited endorsement of taxation by drawing on the postcommunist privatizer's continuing commitment to populism.[2]

In partial conformity with reformist social philosophers' recommendations (Gould, 1988; Held, 1989), both market liberals and postcommunist privatizers recognize the special contribution to society made by the producers of goods and services, including both managers and workers and investors of capital; but they differ in their assessments of the contribution of citizens in general. This difference can be traced to well known differences of opinion about government's relationship to property distribution in a society. Each sees the state in the role of a temporary guardian, and capitalist enterprise in that of a

Edmund F. Byrne is Professor of Philosophy at Indiana University in Indianapolis. His research interests center on policy and practices regarding technology, community, and social welfare. His most recent book is Work, Inc. *(Temple University Press, 1990); and he is now writing another tentatively subtitled* Democracy, Civil Society, and Benevolence.

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ward; but for the postcommunist privatizer the people as a whole are also a ward. Each accordingly considers state control of property at best an interim arrangement; but they diverge in regard to its ultimate disposition. Though both favor privatization, including degovernmentalization of social welfare, postcommunist privatizers seem more sensitive to the claims of those who are thereby disenfranchised. Market liberals could be no less so.

Market liberalism, first, divides society into a public sphere and a private sphere and justifies this division by the complementary ways in which each serves the interests of private property. In the public sphere, the market is the principal player, government has a supporting role, with philanthropy as its back-up. This prioritizing of the rights of private property puts those who would make owners in any way responsible for nonowners on the defensive, as in principle they should be. But nonowners on this view can be held responsible for owners: though readily applied to discredit mandatory social welfare programs, the rights of private property are less often invoked to protest the transfer of taxpayers' money to large corporate interests. This unequal treatment is explained in terms of public goods and free riders.

Goods are not worth owning, in market liberal terms, if an owner's costs would exceed benefits indefinitely. But if the potential benefits are sufficiently attractive, an alternative to purely private ownership may be arranged. This is especially true of goods from which nonpayers cannot be adequately excluded: public goods. A public good, according to economists, is by definition nonexcludable (available to payers and nonpayers alike) if available at all; so, they argue, it can ordinarily be distributed fairly only via government coercion in the form of taxation and law enforcement. Thus understood, the concept of a public good has a *negative* connotation: government by default. This negative connotation is, however, misleading. If only equal distribution is considered fair, then no public good exists: even the paradigmatic example of "national defense" benefits defense industry contractors, shareholders, and employees more, and both domestic and foreign bearers of its externalities less, than the average citizen. If equal distribution is not required, as some economists recommend, then any good the enjoyment of which cannot be restricted to a "rightful owner" is to that extent a public good. For just this reason, some government-like protection (private, if not public) is needed to secure the benefits of ownership; and market liberals in effect acknowledge this by the way they characterize the free rider.

The free rider is by definition anyone who enjoys a nonexcludable benefit without helping to pay for it. Developed as part of the theory of public goods, this concept of a free rider is intended to help justify government; but the problem with which it is associated is more extensive than any limited government is likely to address. For, no opportunity for gain is immune from a version of the free rider problem: a particular owner's gain may be diminished by losses to finders-keepers, stagecoach robbers, shoplifters, arsonists, looters, computer hackers, inside traders. So an owner needs to keep such losses from exhausting the potential for gain, by limiting them or distributing their impact. Limits may be achieved by enhancing human or technical security; distribution, by insurance among providers or increased charges to paying consumers. Through the instrumentality of government, the costs of enhancing exclusivity are distributed in various ways across the entire population: via taxes (e.g., in budgets for police and fire protection, criminological and penal institutions), restrictions on competitors (e.g., patents, copyrights, protectionist trade policies), and support of moral development programs conducive to respect for private property. Such public cost distribution typically presupposes equal access to benefits (public goods); but a more likely scenario is that people whose access is most limited will be cited to justify still more publicly funded loss containment. These marginalized citizens are not liabilities, however, but assets if government's function is, as market liberals see it, not only to secure but to enhance property rights.

Because of the free rider, in the lore of market liberalism, a more or less collective desire to produce an inherently nonexcludable good may be attained by default only through the instrumentality of government. As a justification of government, however, a public goods argument is circular, alternately exonerating and condemning the free rider's uncooperative stance. Absent the government intervention endorsed by others, a free rider's failure to consent is irreproachable, because the publicly provided benefit the free rider would receive without paying cannot belong exclusively to anyone. But because (presumably legitimate) government exists, the free rider can be obliged to help pay for the public good. On this view, then, government functions as a moral toggle switch the flipping of which transforms a morally neutral non-participant into a legally derelict and suitably punishable tax evader. If done to achieve a level playing field for all, of course, this transformation would be more easily defended; but market liberalism requires no such intention so long as the redistribution is officially endorsed.

Taxation, as Robert Nozick has argued, is a form of theft. It may be – not, however, because it transfers private wealth to a public owner, but insofar as it transfers common wealth to private owners without in any way compensating those who deserve to share in the common wealth. Broadly speaking, we all enjoy benefits – natural, artificial, and social – for which we do not pay; and we usually resent efforts to commercialize them. The powerful in particular enjoy exceptional benefits without necessarily having paid anything for them, whereas the powerless do pay at least indirectly by tolerating their exclusion from such benefits. This maldistribution of goods is, moreover, perpetuated and exacerbated by government transfer of wealth through taxation: through its taxing power government routinely enables a few to benefit at the expense of many. Recipients of government contracts, for example, enjoy continued employment and a decent standard of living usually without any direct obligation to those from whom funds for their work are collected. In other words, even if fair as input, a tax system may not be fair as output: those who benefit most from government redistribution are not necessarily those who pay most for it. Thus payment may also be made on the output side, insofar as what Paul receives is not available to Peter or actually harms him. A suitable corrective to this imbalance may be envisioned by comparing market liberal and socialist (including postcommunist privatizers') attitudes with regard to the welfare state and privatization.

Even if state control of wealth is needed for some purposes, the way this control should be exercised is not obvious. Outright ownership by the state has long been a focus of debate, both in legislative bodies and in learned books. Ownership is, however, separable from control, and power depends on control. What is ultimately at issue, then, are the purposes that require or at least support state control of wealth. Even the most guarded authorization for a minimal state includes, even mandates, a military defense against enemies without and police protection against enemies within; and both, as likely as not, would be especially at the beck and call of productive property owners. The list of suitable purposes becomes more controversial, though, when it reaches provision of goods or services that might be better provided by the market or that might undermine individual initiative or unnecessarily reward the noncontributing free rider. Philosophers, among others, have struggled with this problem, but mostly to justify assisting the demonstrably poor. Poverty amelioration is, however, only one of many welfare objectives to which states in developed countries are committed. The welfare state in particular is aimed at providing individuals with certain benefits not on the basis of a means-test or income-test but out of concern for the public interest.[3] Moreover, the largess of the state is expended not only, not even primarily, on individuals; for the state is also considered responsible for numerous orgainzations and associations, even to the point of nationalization. In short, a wide range of purposes can be asserted to justify state control of wealth; but few agree as to which of these is appropriate.

Some, of course, want government to be directly responsible for more, others for fewer, matters; and to express this difference of opinion, the public/private distinction is convenient. But its meaningful reach is exceeded when used to articulate views about social welfare. Well known objections to placing any aspect of social welfare under government control include fear of authoritarianism if not worse, concern about the opportunity costs to taxpayers and the inefficiencies of bureaucracy, and worry that the resulting "safety net" will destroy people's sense of responsibility for their own lives. These objections are encapsulated in the maxim: never let government do for you what you can do for yourselves. Defenders of the welfare state agree, but note that individuals cannot always maintain even a minimum standard of living without collective action, and this can best be implemented through responsive and effective government.

A welfare state constitutes an extensive, in some respects even communitarian, answer to the question as to who should benefit from state-controlled wealth. It consists of a complex of tax-funded, government-provided, "cradle to grave" benefits such as education, unemployment compensation, disability insurance, health care delivery, and retirement pensions. These programs took form in the countries of western Europe over a century, culminating in fairly definitive legislation after World War II. How they emerged out of previous arrangements is a matter of considerable controversy; but according to one account, "the welfare state was neither pushed nor pulled into existence by inexorable economic and social forces as much as it was the product of institutionalized searching, experimentation, and accumulation within the democratic framework of each country" (Ashford, 1986, pp. 27–28). The catalyst for these programs as we know them today, however, was the need for dramatic responses to the economic chaos in Europe after World War II. In that context, market socialism offered what at first seemed an ideologically acceptable way to use state power. But there has since arisen a Great Debate, so called, about whether to continue the programs that make up the welfare state.

The central issue driving this debate is whether these programs are effective and, if so, affordable over an extended period of time. Criticism from the left stresses their not being effective; from the right, their not being affordable. Each, for different reasons, contends that the welfare state is in a "crisis" situation. Others, however, believe that in spite of these problems the welfare state is both effective and affordable, probably inescapable, yet in need of fiscal responsibility in a finite world. But this qualified endorsement barely touches yet another debate about the identity of those who are to benefit from whatever goods the state is called upon to distribute. Statist theory, though useful as a legitimizing device, offers no definitive criteria for determining whom the state is to serve, or how.

Rhetorical support for public control of assets usually involves a simplistic claim that people are more important than profits; but as powerless people anywhere in the world can testify, increasing public control does not necessarily improve social welfare. This, of course, comes as no surprise to market liberals. For to them profit is the singular means to people's well-being and accordingly economic considerations are determinative when it comes to formulating public policy. In spite of warnings about the social consequences of basing public/private allocations solely on economic considerations, they are increasingly persuaded that anything whatsoever can be managed better in the private sector. Whence the current "privatization putsch" (Hardin, 1989).

Given the diversity of circumstances involved in modern day privatization, the term itself has no univocal meaning. Theoretical and political usages vary considerably; and analyses based on arrangements in advanced economies apply only by analogy under less capitalist circumstances. In an advanced economy such as Britain, for example, privatization of government-controlled industries in the 1980s included limited opportunities for people to buy shares in companies put up for sale. The underlying reasons for this policy, however, were more political than economic. In particular, the ruling Conservative Party believed that by putting everything from water to telephones in private hands, they would depoliticize concern about these basic necessities. Their expectation was, however, unrealistic. To the extent that basic needs remain basic needs, political debate about how well or poorly they are being provided does not go away but merely shifts "from the politics of ownership to the politics of regulation" (Plant, 1986).

In developing countries, privatization is also on the agenda, but with even less commitment to making the people shareholders. In the People's Republic of China, where everything legally belongs to "all of the people," a right to use land – for decades or forever – is being sold, not on any open market but to people with connections (*guanxi*). In other countries with private property traditions, governments are doing legally recognizable privatizations, mainly, however, in response to pressures put on them by the sources of international capital. Foreign domination of domestic financial, extractive and manufacturing industries will thereby be enhanced with few if any commitments to the needs of workers or to the people as a whole. So the poor will continue to pay by their poverty for ever more efficient exploitation of their country's resources (Rothstein, 1993; *Multinational Monitor passim*).

In Eastern Europe, pressure exerted by global financiers has not displaced opposition to privatization on the part of entrenched managers of obsolete production facilities, their counterparts in the government bureaucracy, and workers who believe with good reason that their jobs depend on continued industry ties to government subsidies. As these government subsidies continue to mount, neither inflationary increase in the money supply nor increased taxation of newly privatized companies is a feasible solution in the long run. Postcommunism, as one observer has noted, simply uncovers old problems long buried. The now abolished barter system of trade with the Soviet Union (Comecon) covered a multitude of inefficiencies that the introduction of hard currencies does not tolerate. Western companies are understandably cautious about investing in the absence of reliable market institutions. Doctrinaire economists consider rapid privatization essential if these problems are to be overcome; but government officials have grown ever more cautious in the face of people's worry and disillusionment.

These East European countries seeking to privatize face different problems depending in part on how completely their economies have been tied into the Soviet empire or, inversely, managed to develop institutions like those in the West. The more absolutely a country's assets have been considered common property, after the Leninist model, the more difficulties, both theoretical and practical, its leaders face in trying to diversify ownership. Discounting privileges enjoyed by party members, egalitarianism was the proclaimed ideal, and evidence of its implementation was provided by prohibiting private ownership. If private ownership is now to be encouraged, then, how should owners be selected from among the masses who in theory once owned everything in common? Before procedures for selling state property were in place, advantageously situated bureaucrats answered this question unilaterally by effecting "spontaneous" privatizations, now discouraged except for small-scale arrangements locally approved. Managers and workers of a company are being given some special consideration, as Trotsky once recommended, to give them an incentive to produce efficiently. But the general populace, most policy makers agree, should also have some private property to replace their no longer operative claim on commonly owned goods. Also meriting consideration are people with special claims: the former owners of property confiscated by the old socialist government. Finally, there are foreigners who cannot claim past injury as a basis for present consideration, but happen to have much-needed capital to invest. These are the principal targets of privatization plans in Eastern European countries.

Privatization is even more challenging in countries formed out of the old Soviet Union. In these countries, unlike those in Eastern Europe, there is no tradition and, until recently, neither background institutions nor even a concept, of private property; yet the scope of the project dwarfs effects anywhere else in the world. In 1990 the central government still ran eighty percent of all companies; and it was still buying ninety percent of goods produced at ever higher prices.[4] Groups of people doing business as cooperatives accounted for under seven percent of GNP; and most of these were controlled by state enterprises. In other words, the only groups at all prepared to function as non-state owners are groups of government managers or, once legal and economic assurances are in place, foreign investors. The new Russian government, in contrast to the position taken in Eastern European countries, says managers and workers in state-owned companies may become owners of newly privatized companies. How, then, should ownership be transferred from the once all-encompassing public to a newly established private sector? Some government ministers decided, for the most part in secret, that the way to do this is by means of self-serving "insider privatization." In the defense industries, ministers became so opportunistic that the government had to charge some of them with crimes to blunt the people's cynicism. In the face of accelerating inflation and complaints that denationalization would in the end be renationalization, the Russian government began auctioning off small shops in 1992 and proposed several different ways, depending on the risks involved, to "corporatize" medium-sized and large-scale industry. Unless blocked by centralist holdovers, management and to a lesser extent workers would be eligible to own a large percentage of shares. In recognition of the populist view of property, however, ten percent of shares in the form of vouchers were distributed among all Russian citizens; and, though subject to inflation, these vouchers have become marketable even to foreign speculators.

A market liberal approach to common wealth, then, is increasingly found wherever business interests are assumed to be controlling; and that is coming to mean just about everywhere. It has long been a basic tenet of the American brand of Western democracy, which has from its origins held suspect any and all government ownership of property. But for about a century in the United States regulation has been supported as a means of preventing the worst abuses of economic power. So proponents of deregulation have attempted to neutralize the import of this history by falsifying the original contention that regulation is in the public interest, especially by arguing that private interests have in fact been the principal beneficiaries. This concern deserves to be taken seriously; but recourse to unmodified privatization actually overlooks one of the best features of the private sector, namely, reciprocity.

No matter how many billions of dollars taxpayers contribute to protect the business elite against the risks of market failure, the public goods argument provides an excuse for viewing these capitalizations as legitimate transfers (however undemocratically arranged). But taxation without representation is still tyranny; and unmonitored public funding is not representation. Politicians who oppose minuscule public funding of the arts would accordingly be better advised to focus their attention on truly large allocations of public funds to private beneficiaries, such as unsuccessful S&L investors or people who live underinsured on flood plains that do in fact flood. Such redistributions tend to be portrayed, however, as government philanthropy, even though done with expropriated funds. By contrast, private investors in a business expect to be given stocks or bonds as security. So why should not recipients of government largess also issue securities for value received, as some companies now do for employees who agree to salary reductions? Why not limit the applicability of the public goods argument and treat these transfers as investments by institutional acknowledgement of their source: the taxpaying public? In other words, why not recognize that government is, among other things, the people's investment broker? The market liberal might view this as a concession to socialism, but it is in fact a perfectly straightforward application of the Lockean proviso on appropriation.[4] And this, I believe, is the crux of what postcommunist privatizers are trying to accomplish. They have not found a facile way to make it happen, and neither will we. But there is no better time in human history to rethink the meaning and purposes of ownership. In the process we may at last come to take seriously what has heretofore been argued into oblivion, namely, that public goods do belong to the paying public.

Notes

[1] By market liberalism I mean that version of liberalism, most readily associated with neo-classical

economics, in which the concept of a market order is central. See Charles K. Rowley: 1983, 'The Political Economy of the Public Sector', in Jones, esp. pp. 23–24: Andrew Gamble: 1983, 'Critical Political Economy', in Jones, pp. 65–68.

[2] The postcommunist privatizer is an ideal type, representing a *Zeitgeist* based on a combination of desire for market reform, acknowledgement of vested interests, and policy-impacting concern for the endangered welfare of ordinary people. For a critique of the public goods argument similar to mine, but without reformist aspirations, see Lomasky: 1987, esp. pp. 146–151.

[3] See articles by Robert E. Goodin and Albert Weal: 1990, in *Social Welfare* and especially Brian Barry: 1990, 'The Welfare State versus the Relief of Poverty', *ibid*, pp. 504, 526, 527.

[4] Contemporary analysts of the Lockean proviso seem wont to dismiss it as impracticable (Schmidtz, 1991: pp. 17–20); but this acquiescence, especially to big business, needs a dose of creative populism.

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Dept of Philosophy,
Indiana University,
Indianapolis, IN 46202-5140
U.S.A.