

## ETHICAL ISSUES OF ACCESS AND OWNERSHIP:

### Privatisation, nationalisation, private and public enterprise

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#### Abstract

*The economic system in South Africa is clearly in need of thorough reconstruction. Economists differ in their policies for such a process of economic reconstruction (usually emphasizing either private enterprise or public enterprise). This essay discusses a possible contribution from Christian ethics to these economic debates, with specific reference to the notions of stewardship and justice.*

#### 1. Introduction

There is probably no economist of standing in South Africa who would deny that the economic system we inherited from the *apartheid* era is in need of thorough reconstruction. The inequality and also social strife that has resulted from this economic system is just too obvious to allow any convincing defence of it.

Economists do, however, differ in their analyses of the causes of these disastrous results and in the prescription of economic remedies. Free market economists usually indicate the overextended intervention of the state in the South African economy as the main cause. The remedies they prescribe are the privatisation of public enterprises and the deregulation of economic activities. The resultant private and free enterprise would, in their opinion, in due course inevitably lead to the mitigation and even eradication of the economic ills inherited from the *apartheid* era (Louw 1986; Louw & Kendall 1986: Ch 8 and 17).

Socialist economists and economists who support the ANC or PAC, however, disagree with this blanket condemnation of state intervention in the economy. In their opinion it is not state intervention in the economy as such that should be blamed, but the specific way in which the government intervened in the economy to the benefit of whites. In fact, they are of the opinion that capita-

list enterprises themselves contributed substantially to the exploitation of Blacks, Coloureds and Indians. To rectify the injustice, state intervention in the economy of the right kind would be inevitable. One of the measures proposed is the nationalisation of certain private enterprises.

The proposal of the Freedom Charter of 1955, for example, reads as follows:

The mineral wealth beneath the soil, the banks and monopoly industry shall be transferred to the ownership of the people as a whole. All other industries shall be controlled to assist the well-being of the people ... Restrictions of landownership on a racial basis shall be ended, and all the land redivided among those who work it to banish famine and landhunger.

Before 1990 ANC spokesmen usually advocated nationalisation without compensation. Since 1990 they have softened their stance to make allowance for the possibility of compensation and more limited nationalisation. They have, however, strongly expressed their opposition to the privatisation programme of the government.

The question that I will try to answer in this paper is:

Does Christian ethics have any contribution to make to the present debate about the alternatives of privatisation and private enterprise on the one hand and nationalisation and public enterprise on the other hand?

In order to do this I will first of all discuss some background information that will help us to come to grips with the issues that are at stake. Thereafter I will discuss the alternatives of privatisation/private enterprise and nationalisation/public enterprise from the perspective of what Christian ethics has to say about stewardship and justice.

## **2. Background information**

### **2.1 What do we mean by the different terms?**

Nationalisation is a legislative act by a government which entails the transfer, wholly or partially, of the ownership and/or control of an enterprise or entire industry, currently in private hands, to the state (Bester 1990:2). The term has been used to describe situations in which the state takes only a minority shareholding in an enterprise to situations in which the state takes over, with or without compensation, both 100% ownership and management of an enterprise (Davies 1987:92).

The term privatisation is used to describe a range of different policy initiatives designed to alter the balance between the public and private sectors. Three main approaches to privatisation can be distinguished: (i) The first and most common use of the term refers to a change in the ownership of an enterprise (or part of an enterprise) from the public to the private sector. (ii) A second mode of privatisation involves the liberalisation, or deregulation, of

entry into activities previously restricted to public sector enterprises. The removal of restrictions on market entry is intended to increase the role of competition, and to the extent that private enterprises are successful in entering the hitherto protected markets, a variant of privatisation will have occurred, even though no transfer of ownership of assets has been involved. (iii) The third sense in which the word privatisation has been used, is where the provision of goods or services is transferred from public to private sector, while government retains ultimate responsibility for supplying the service (Cook and Kirkpatrick 1988:34; v Swann 1988:2-5).

## 2.2 Why are public enterprise and nationalisation advocated?

They are advocated for the following reasons (Cook and Kirkpatrick 1988:6-7; v Swann 1988:75-85):

(i) To counter some of the imperfections of the market. Various forms of market failure - indivisibilities, economics of scale, monopoly, externalities - prevent the economy from achieving an efficient resource allocation. The establishment of public enterprises - by the creation of new public enterprises or by nationalisation - is seen as one way of correcting these specific forms of market imperfections.

(ii) An important set of arguments, especially with regard to developing countries, relates to economic growth. Where private sector activity is constrained by high risk aversion, poorly developed financial markets or a paucity of information, 'entrepreneurial substitution' has been a motive for establishing public enterprises. In economies characterised by limited integration between different sectors, public investment can perform the role of ensuring that the conditions necessary for industrial growth are met. Where the growth of the economy is constrained by inadequate savings, the public enterprise may be seen as a potential source of investible surplus. The nationalisation of existing private enterprises and the channeling of their profits to establish new public enterprises are two of the measures governments may take in this regard.

(iii) Public enterprises are often seen as an instrument for the pursuit of distributional goals. They may be used to create or preserve employment, to raise the wages of workers, to narrow the income gap between managers and blue-collar workers and to offer goods at subsidised prices as a means of assisting low income consumers. Nationalisation is often seen as an important measure to assure the attainment of distributional goals. In South Africa, for example, spokesmen of the ANC and Cosatu have stressed that the 'nationalisation of privately-owned companies, like Anglo American or Barlow Rand, and whole industries such as banking could help to ... redistribute wealth from the rich few to the poor many' (LRS 1990:72).

- (iv) Various 'non-economic' considerations, for example the establishment of socialism, have also influenced the decision to establish public enterprises and nationalise private enterprises.

### 2.3 Why are private enterprise and privatisation advocated?

In the 1950s and 1960s the dominant view in development economics was that markets frequently failed to work efficiently in developing countries. The plea for active state intervention led to the expansion of the public enterprise sector and the widespread adoption of economic planning. The results of the expansion of the public sector and planning were, however, disappointing. Originally established to be leaders in the industrialisation of developing countries, to generate public savings for investment and growth, and to achieve social and redistributive goals, public enterprises are now perceived to have performed poorly in fulfilling these various objectives (Cook and Kirkpatrick 1988:8-11). In complete reversal of former policies the privatisation of government-controlled industries, services and agencies is now seen by international development agencies and governments to offer the prospect of both benefiting public finances and improving economic performance.

The following reasons for privatisation are given by its protagonists (Leach and Vorhies 1990:243-26):

(i) A state can increase revenue by privatisation in at least three ways: (a) it can collect proceeds from the sale of a state-owned firm; (b) by turning a losing government firm into a profiting private firm, it can eliminate subsidies; and (c) it can tax the privatised firm and any new entrants into a deregulated industry.

(ii) Privatisation, by bringing about a more efficient use of resources, promotes economic growth and development. A free economy allows for economic growth and development because it pressurises industry to be efficient. Privatised industries are no longer constrained by political objectives and, often, are no longer protected by state monopoly privilege. They must make profits to stay in business, and to make profits they must be efficient.

(iii) From Britain has emerged another motivation for privatisation: spreading share-ownership democracy. Since the start of Margaret Thatcher's privatisation programme ten years ago, the number of Britons owning shares has risen from 5% of the population to more than 20%.

(iv) Privatisation depoliticises managerial decision-making. In state monopolies, management gets its authority from the state - so it must do what the state wants, not what its customers want. Privatising allows managers to make decisions on hiring, capital outlays, and pricing in response to the demands of consumers, not politicians. Leon Louw makes a related point. The privatisation and deregulation of housing, education, transport and labour - four areas in South Africa ridden by conflict as a result of the interference of politicians

- would lead to the elimination of conflict as a result of the depoliticising of these areas (Louw 1986).

(v) A final reason given is that privatising lowers prices and improves service to consumers. A privatised firm can be more flexible in the production and distribution of its products. Also, as the firm becomes more efficient, it reduces the size and complexity of its bureaucracy.

### **3. Ethical evaluation**

What can be said about the alternatives of private enterprise/privatisation and public enterprise/nasionalisation from the perspective of what Christian ethics teaches about stewardship and justice?

#### **3.1 Stewardship**

Supporters of the view that individuals have an inalienable and absolute right to private property are often quick to point out that the Ten Commandments sanction private property implicitly and explicitly. God forbids stealing, indeed even coveting, the house, land or animals of one's neighbours (Ex 20:15; Dt 5:19,21). Some even go so far as to assert that the abolition of private property would be contrary to God's creation order (Heyns 1986:270). If that were the case the Christian understanding of property would not differ much from the Roman understanding.

The Roman or Justinian view derives ownership from natural right; it defines ownership as the individual's unconditional and exclusive power over property. It implies an owner's right to use property as he pleases ... irrespective of the will of others (Henry 1975:97).

If the Christian view on property were indeed that individuals have an absolute right to private property, it would have been easy to choose between the alternatives of private enterprise/privatisation and public enterprise/nasionalisation. Christians would then have no choice but to denounce nationalisation and also public enterprise in so far as it is the result of nationalisation. Nationalisation is an act which deprives people of their property - with or without compensation - mostly against their will. If the right to private property were absolute, nationalisation would amount to nothing less than theft, even if compensation were considered. It would illegitimately take away from an individual something that no one else had the right to make use of without consent.

The whole picture changes if we take into account what the Bible teaches about the stewardship of God's people. To recognise that we are only stewards, is to recognise that everything belongs to God:

The earth is the Lord's and the fullness thereof, the world and those who dwell therein (Psalm 24).

All other property claims are relativised by that basic one. An orderly society will, of course, define and protect the property rights of individuals and groups. But the theological perspective of stewardship does not permit us to treat those socially defined rights as absolute or as derived from some natural order. Property rights are morally, if not legally, subordinated to the purpose of the Creator. Property is to be enjoyed; but when it is understood in the light of stewardship, it is to be used for loving and not selfish purposes (Wogaman 1986:37).

I want to stress two points with regard to the doctrine of stewardship that is of particular relevance to our subject:

(i) In the light of the doctrine of stewardship not only the Roman view of the absolute right to private property should be criticised, but also John Locke's view of this right. John Locke's view has been very influential in shaping the *laissez-faire* tradition of property rights. According to Locke, property does not exist in the original 'state of nature'. Everything is from God and is equally available to everybody. But property is created when people withdraw things from the state of nature through their own labour. Wilderness belongs to no one in particular. But if I clear the land of trees, and plow and plant and cultivate it, I have created a farm. By 'mixing' my labour with the resources of nature, I will have created property. My property. Nobody has a right to take this property from me or to interfere with my right freely to buy and sell in the market-place (Wogaman 1986:18).

Locke's view of the absolute property rights of the individual is problematic in at least three ways: firstly, it does not take into account that not only the resources of nature with which we mix our labour, but also we ourselves and our labour belong to God. He therefore also has the first claim to the fruits of our labour, amongst others, our so-called property. Second, it does not adequately take into account that we live in a limited world. If I own and consume so much of the resources of nature that others cannot get hold of enough of these resources to make a decent living, my private ownership becomes a threat to them. Third, Locke's individualism obscures the extent to which property is created socially (Wogaman 1986:21-22).

Christians should be aware that Locke's view on property has helped to shape the present concept of private enterprise. That does not mean that they should not endorse the concept of private enterprise. They should not, however, join in the almost religious glorification of the virtues of private enterprise that one sometimes comes across. And they should always be on the look-out for anti-social and selfish tendencies that often accompany the private enterprise endeavour.

(ii) The biblical doctrine of stewardship seems, at least in principle, to make allowance for nationalisation in certain circumstances. If socially defined rights, such as property rights, should not be regarded as absolute, but should be morally subordinated to the purpose of the Creator, nationalisation seems to be justified if there are urgent and convincing moral reasons for a govern-

ment to do just that in the particular circumstances. Whether convincing moral reasons for nationalisation in certain circumstances can be provided, is something I will examine in the next section on justice.

### 3. Justice

The theme of justice is, without any doubt, central to the message of the Bible. It is especially obvious with regard to the Old Testament.

There is absolutely no concept in the Old Testament with so central a significance for all relationships of human life as that of *sedaqah* (justice/righteousness) (Von Rad 1962:370).

Not only the centrality, but also the richness in meaning of the biblical concept of justice should, however, be acknowledged (Donahue 1977:68). Its meaning is more comprehensive than, for example, the definitions given of justice by modern philosophers. It is not concerned with a strict definition of rights and duties, but with the rightness of the human condition before God and within society.

Both as a result of its richness in meaning, and the completely different historical context in which it functioned, it is no easy task to relate biblical justice to modern social, political and economic problems. Over the last decade, however, there has been a growing consensus among biblical scholars that what has come to be called the 'preferential option for the poor' is central to the biblical message on justice, at least in so far as it relates to society (compare Bedford-Strohm 1991:158; Tambasco 1986:42). That special concern for the poor in society is the trade mark of biblical justice, is today acknowledged in most Church circles. N Botha and A van Niekerk have convincingly shown that even in South Africa there is a remarkable convergence between Church documents as divergent as the 'Kairos Document', the 'Confession of Belhar', 'Church and Society' and the 'Rustenburg Declaration' on the issue of a preferential option for the poor (Botha and Van Niekerk 1992:36-37).

If the preferential option for the poor is central to and typical of biblical justice, the obvious task of Christian ethics would seem to be to relate this principle to contemporary discussions on social, political and economic justice and to explicate its relevant implications for these discussions.

Although much remains to be done in this regard, I want to make use, for the purposes of this study, of the results of an influential and convincing effort to draw out the implications of the preferential option for the poor for the contemporary discussion on economic justice. I refer to the pastoral letter of the U.S. Catholic bishops on Economic justice for all, - published in 1986. In the pastoral letter the following formulation of the preferential option for the poor is given:

Central to the biblical presentation of justice is that the justice of a community is measured by its treatment of the powerless in society (p 21). It imposes (on the contemporary Church, D E de V) a prophetic mandate to speak for those who have no one to speak for them, to be a defender of the defenseless, who in biblical terms are the poor. It also demands a compassionate vision that enables the Church to see things from the side of the poor and powerless and to assess life-style, policies, and social institutions in terms of their impact on the poor (pp 28-29).

In a discussion on the norms of basic or minimal justice in the pastoral letter this understanding of the preferential option for the poor is related to the traditional Catholic distinction of three dimensions of justice: commutative justice (obligations of persons to respect the rights of others), distributive justice (obligations of society to respect the right of people to share in community) and legal justice (obligations of people to respect the societal structures which facilitate distributive justice). The result is not only that the term 'legal justice' is replaced by the term 'contributive justice', but also that completely new definitions of these norms of basic justice is given in which the preferential option for the poor are reflected:

(i) Commutative justice according to economic justice for all calls for fundamental fairness in all agreements and exchanges between individuals or private social groups. For example, workers owe their employers diligent work in exchange for their wages. Employers are obligated to treat their employees as persons, paying them fair wages in exchange for the work done and establishing conditions and patterns of work that are truly human.

(ii) Distributive justice requires that the allocation of income, wealth and power in society be evaluated in the light of its effects on people whose basic needs are unmet. Minimum material resources are an absolute necessity for human life. If people are to be recognised as members of the human community, then the community has the obligation to help fulfill these basic needs unless an absolute scarcity of resources makes this strictly impossible.

(iii) Contributive or social justice implies that people have an obligation to be active and productive participants in the life of society and that society has a duty to enable them to participate in this way. All who are able have the duty to help create the goods, services, and other non-material or spiritual values necessary for the welfare of the whole of society. Such a productive contribution to community life is, however, only possible if the basic needs of people are fulfilled, if they have employment, if they are not discriminated against, if they live in a decent environment and have a sense of community (Nat Conf Cath Bishops 1986:35-37).

For the purposes of this study, I will assume that the distinction of these three norms of basic justice by the U.S. Catholic bishops provide adequate enough expression of the biblical concept of justice. No further attention will be

given to criticism of these norms (compare for a discussion of criticism Bedford-Strohm 1991:80-84; Hollenbach 1988:71-83).

What are the implications of these three minimum criteria for justice for the matter we are discussing?

(i) With regard to commutative justice I want to point to three implications:

(a) In my opinion commutative justice rules out the possibility of nationalisation without compensation. It would just not be fair to take away without any compensation the enterprises or farms people own and in which they or their ancestors have invested a substantial amount of money. If nationalisation can be justified on other grounds, the criterion of commutative justice demands that full compensation, based on the market value of the assets, should be paid out.

(b) Commutative justice demands that some sort of compensation should be paid out to those tens of thousands of people who were forcibly resettled in the *apartheid* era. This is a complicated matter which I cannot discuss in any detail here. I just want to touch on the question whether nationalisation could be - seen from an ethical perspective - an appropriate way to address the matter of compensation to resettled people. Fairness seems to demand that people should be given back the land or houses they once owned and that were taken from them without due compensation. The problem is that in many cases the houses do not exist any more. A further problem is that in most cases the land and the houses that still exist, are now occupied and owned by other people. Whether nationalisation of these assets in order to return them to their previous owners, would be ethically appropriate would depend on the social costs involved for the present owners, the previous owners and the particular community. It would also depend on the economic results that can be foreseen. If the expected results - seen from the viewpoint of economic development - would be disastrous, it would be better to look for another more efficient way to compensate.

(c) Deregulation, one of the aspects of privatisation, has been especially propagated by free market economists in South Africa. As far as the abolition of discriminatory legislation and regulation is concerned, one cannot but endorse the plea for deregulation. Discriminatory racist regulations have for decades severely hampered the participation of blacks, Coloureds and Indians in the South African economy and have contributed to the unequal distribution of income and wealth in South Africa. It is only fair that these regulations should be abolished.

Not all economic regulations, however, are unfair - as some free market economists would like us to believe. Seen from the perspective of commutative justice, regulations that, for example, guarantee safe working conditions, stipulate working hours and prevent pollution are absolutely necessary.

(ii) With regard to distributive justice I want to make the following remarks:

(a) The norm of distributive justice seems to imply that the right of the poor and disadvantaged to possess the means to earn a decent living has preference over the right of the prosperous to make a profit and to own abundant property (Sider 1978:104). That this is precisely one of the implications of the biblical preferential option for the poor can be illustrated from the Old Testament.

In Israel, for example, property owners did not have the right to harvest everything in their fields. They were to leave some for the poor. When an Israelite farmer purchased land, he really only bought the use of the land until the year of Jubilee (Lv 25:15-17). Indeed, even the right to use the land for the intervening years was not absolute. If a relative of the seller appeared, the purchaser had to sell the land back promptly. Or if the seller recovered financial solvency, he had the right to buy back his land immediately (Lv 25:25-28). The purchaser's right of ownership was subordinate to the original owner's right to earn a living (Sider 1978:103-104).

Interpreted as such, the norm of distributive justice can in certain circumstances provide convincing moral reasons for nationalisation with full compensation. If a government has carefully scrutinised all the available means to help a group of poor and unemployed people to earn a decent living and comes to the conclusion that the most effective means would be to nationalise certain industries or farmland, they would ethically be entitled to do so. The crucial question is, however, whether the present circumstances in South Africa are such that nationalisation with full compensation can be morally justified.

(b) Most economists in South Africa would agree that we need an annual growth rate in the economy of at least 5% if we hope to alleviate the desperate situation of almost 50% of the South African population that live below the minimum subsistence level (Van der Berg 1990:5). One of the reasons is that the expected South African population growth rate over the next years will be about 2,5% per annum. The GDP growth rate will have to be the same just to absorb new job seekers and to maintain the present economic standards. To create employment for the more than 2 million people that are already unemployed and to uplift the poor economically, a much higher economic growth rate will have to be attained (P Moll 1990:105).

I think that one may say that adequate production in order to reach the economic growth rate that is needed to meet the basic material needs of people, is an ethical priority (Wogaman 1986:59-61). This ethical priority should also be taken into account in our ethical evaluation of the alternatives under discussion.

Although some economists would like to differ, the overwhelming evidence is that public enterprises, especially in developing countries, performed rather poorly if compared with private enterprises (Cook and Kirkpatrick 1988:10-11; T Moll 1991:6-8). In the light of this evidence it does not seem ethically justified to propagate a predominant public enterprise economy in South

Africa. To propagate large-scale nationalisation as a means to establish public enterprises, seems ethically even less justified. With the exception of some responsible land reform, nationalisation in developing countries has for the most part led to serious micro- and macro-economic problems and the eventual decline in economic growth. Why has that been the case? One of the reasons is that many firms, when faced with the threat of expropriation, resort to capital flight and disinvestment, while foreign firms are unwilling to invest or provide loans (T Moll 1991:4-5; P Moll 1990:103-104).

(c) Should one not at least admit that nationalisation can be an effective distributive tool that should be endorsed from the perspective of distributive justice, because it can help to eliminate the inequality in income and wealth in South Africa? It is possible that nationalisation would reduce income inequality within enterprises in South Africa. However, as Peter Moll has pointed out, the great need in South Africa is not to distribute income from the rich to the workers that are already reasonably well-off. Seen from the perspective of distributive justice the great need is to distribute income and wealth to the 50% people below the minimum subsistence level, of which many are without any work and are desperately poor. To meet their basic material needs should be the main distributive priority in South Africa.

Nationalisation does not seem to be an effective instrument to bring about redistribution of that nature. The available evidence shows that the nationalisation of firms only lead to the distribution of income from the rich to the already well-off workers of these firms and is rarely to the benefit of workers in the agricultural and informal sector and to the unemployed. The reason for this is that workers in industrial and other firms are usually far better organised and capable of manipulating governments to serve their own interests.

(d) How should private enterprise and privatisation be evaluated from the perspective of distributive justice? As we have seen, economists agree that we will have to rely on private enterprise, at least to a certain extent, to achieve the economic growth necessary to ameliorate poverty in South Africa. In so far as private enterprise brings about the much needed economic growth, it must be evaluated positively in the light of the ethical priority of adequate production.

We should, however, take into account that it may take quite a long time before even high economic growth will benefit also the poorest section of the population. In the meantime we may not ignore the plight of the poorest people. The strategy to foster high economic growth must therefore be supplemented by other distributive measures, for example, state spending targeted at the poor that will bring about more distributive justice in the short term (v Van der Berg, 1990:11-24; P Moll, 1991:1234-130).

The endorsement of private enterprise - in the way we have just described - does not necessarily imply the endorsement of privatisation. From an ethical point of view privatisation in the South African context is more problematic. First of all, it just does not seem - as free marketeers sometimes claim - that

the privatisation of state corporations like Iscor and Eskom will lead to effective redistribution. It seems more probable that the shares of privatised state corporations will end up in the hands of the rich and will lead to even greater inequality. The poor just do not have the money to buy shares (Reekie 1990:13-14). Second, there is the very real danger that the privatisation of social services like education and health will lead to higher costs to the public. I think that we have already seen something like that happening over the last few years. As a result of the fact that not all would be able to pay the same for education and health care, it will probably happen that expensive and good education and health care will be available for rich people, while cheap and poor education will be available for poor people. If that is the case, discrimination on the ground of skin colour, will only be substituted by discrimination on the ground of income (Innes 1987:557-560).

(iii) With regard to contributive justice I want to make just one remark. One of the reasons sometimes given for nationalisation, is that it would lead to greater worker participation. In his discussion of this claim Peter Moll remarks rather sharply:

In fact nationalization has frequently been the scene of disgusting betrayal of the workers ... by the party in control (P Moll 1990:102).

His conclusion is that nationalisation has rarely led to greater worker participation. There is no reason to believe that nationalisation as such will lead to greater worker participation or industrial democracy either. Greater worker participation rather depends on the common will of the management and workers of a particular public or private enterprise to achieve just that.

#### **4. Conclusion**

From the perspective of Christian ethics private enterprise can be endorsed in so far as it proves to be the best instrument to achieve the economic growth that is a prerequisite for effective redistribution in South Africa. This endorsement is, however, a qualified one, as Christians should always be critical of selfish and anti-social tendencies in private enterprise. As a result of the adverse effect it would have on economic growth and the insignificant contribution it would make to redistribution, the establishment of a comprehensive public enterprise sector, especially through large-scale nationalisation, seems to be ethically less appropriate. That does not mean that limited and responsible nationalisation with full compensation must be excluded from an ethical point of view. Responsible land reform, for example, may prove to be an efficient way, both to stimulate economic growth, and redistribute income and wealth. Neither does it mean that the privatisation of existing public enterprises would be ethically justifiable. Seen from an ethical viewpoint the present drive for the privatisation of these enterprises is not without problems and should better not proceed until a government chosen by all the people of South Africa can decide on it.

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