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Fairness, Globalization, and Public Institutions

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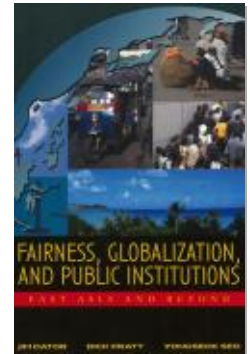
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What Are Public Institutions?

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Public institutions throughout the world are changing, often in dramatic ways. These changes are not only because of globalization, but globalization is an important factor. At the same time, public institutions are a response to globalization, reflecting efforts to cope with new economic, social, cultural, and political forces and events. Because of this dual role as object of change and agent of change, the relationship between public institutions and globalization inevitably is significant and complex.

This chapter defines what is meant by “public institutions” and then explores differing views of their purposes and effectiveness. It concludes with an analysis of the differences between public and private power, suggesting the desirability of a continued, and probably increased, role for public institutions in a globalizing world.

Globalization is not a new phenomenon, but we are witnessing a period of its more rapid development, what some have referred to as “turbo globalization.” Contemporary globalization’s reshaping of public institutions internationally is a distinctive feature of its current acceleration. This reshaping is occurring at the same time that these institutions also must play a meaningful role in determining the winners and losers from globalization and must directly address issues of fairness—that is, to see that globalization has broad public benefits.

What Are Public Institutions?

“Public institutions” refer first to government at all levels and in all dimensions. They therefore include local, regional (i.e., provinces and states), and national governments, as well as the compact conventions and other arrangements that are made between governments. Within governments, this includes the legislative, executive/administrative, and adjudicative components. The legislative and judicial branches have experienced some globalization-related reform, but the

most attention by far has been focused on the administrative apparatus. (This is examined through an analysis of the New Public Management and related issues in chap. 9.)

Nongovernmental organizations (NGOs and the not-for-profit sector within nations, and international organizations [IOs] internationally) are part of public institutions. The number of IOs and NGOs has increased enormously in recent years throughout much of the world. Joseph Stiglitz and others have underscored the enormous influence some of these organizations, such as the International Monetary Fund (IMF), have on behalf of certain conceptions of globalization.¹ There is also the civic sector of voluntary associations and citizens groups. The civic sector has come into prominence as an important form of public institution in the last decade. It has gained media visibility through protests against globalization but established a broader foundation in association with efforts to increase social capital and broaden democratic options. Globalization is helping to create a new phenomenon: a global civic sector whose members are linked by instantaneous communication and shared public concerns.

More ambiguous as public institutions are those parts of the private-for-profit sector that are involved in “the public’s business” through contractual agreements or as hybrid organizations. With the rise of privatization and sustained efforts internationally by the private sector for more of the work traditionally done by governments, there now are many more organizations that are ambiguously public. These for-profit businesses provide public services but are contractually overseen by one or more government agency. What Lester Salamon has labeled “indirect government” has raised a number of issues. The once “terrifying authority” of government is replaced by dispersed and ambiguous authority. With the separation of the authorization of action by government agencies from the undertaking of that action by other actors, accountability is complicated.²

Shifting National Orientations toward Public Institutions

In *The Commanding Heights: The Battle for the World Economy*, Daniel Yergin provides what can be thought of as an intellectual history of the shift from public institutions—meaning here primarily government—toward private institutions. Yergin describes the evaporation, in country after country, of an early twentieth-century consensus about the necessary role of government in monitoring economic activity and distributing its benefits. That consensus, referred to as statism, Keynesianism, or the mixed economy, was replaced in the 1970s and 1980s by another that favors market-based solutions.

The old consensus was attacked for its perceived inability to solve specific problems that arose in the post–World War II period. These problems included high inflation rates, national debt originating in expanding public-sector social

programs, and restrictions on the ability of individuals to select the products or services they preferred.

These dissatisfactions were both economic and political and focused on the opportunity costs of government activities as well as their threat to individual liberty. A new school of economic thinking, located at the University of Chicago in the United States and later referred to as the Chicago School, spearheaded the argument that government is an unacceptable drag on the efficient creation of wealth. Economists like Milton Friedman argued to policy makers everywhere that the resources allocated to public institutions should be used in places that would be societally more beneficial. Politically, public agencies were described as monopolies, but monopolies backed by terrifying state authority. The danger was seen to occur when this exclusiveness and authority was coupled with normal public agency characteristics of goal confusion, low public or business participation, and little internal criticism. These critics pointed out how this combination of factors led to highly undesirable interventions in social, political, and economic life. For these soon-to-be mainstream economists, the threat of private monopolies was much less serious than that posed by a public monopoly.

Their new consensus emphasized a smaller scope of government activity, policies seeking low inflation over those seeking full employment, the promotion of savings for investment, low government deficits, education and training that supported entrepreneurial activity, and more international trade. The political figures that came to embody these views to varying degrees (Ronald Reagan in the United States, Margaret Thatcher in Great Britain, Carlos Menem in Argentina, Tadeusz Mazowiecki in Poland, Lee Kwan Yew in Singapore, and Kim Dae-jung in South Korea) favored policies to control inflation, spoke against the planning role of government, argued for the benefits of entrepreneurial activity as the best way to create a healthy society, and were more willing to open their borders to international trade. Their shared views reflected a swing away from belief in public-sector institutions as embodiments of shared values toward prioritizing consumer sovereignty and the publicly beneficial power of autonomous markets.

Globalization and the Roles of Public Institutions

If we raise our view beyond changes in domestic orientations to public institutions, we can see that the global movement for their transformation focuses on three things: size, form, and purpose.

Size refers to efforts in many places to reduce the resources put into public institutions, particularly the administrative agencies of government. *Size* also includes, in addition to the question of how big governments should be, whether, or when, it is more important to emphasize their improvement or their reduction.

As we will see later, despite calls to reduce government's role everywhere, whether reduction or improvement is appropriate depends upon specific circumstances.

Attention to the *form* of public institutions recognizes the contemporary movement away from seeing them exclusively or primarily as government and focuses instead on the types of integration that are occurring across different kinds of public institutions. One type of integration is horizontal. Here diverse parts of government, different governments, or government together with other sectors such as NGOs, businesses, and the civic sector look for informal and formal ways to focus on the same societal issue. For example, an environmental problem may be tackled jointly by the provincial Departments of Environment and of Health, a municipal Office of Community Relations, an NGO, a citizens group, and a collection of private service providers.

Another form of integration is vertical. Here the connection is up and down, institutionally speaking. It might begin with an international organization and run "down" through the national, regional, and local governments. To use the same example, an international body might adopt a standard, such as for trade, that changes national policy and is then communicated downward in terms of programs and budgetary shifts.

The third issue raised by the global transformation of public institutions is about *purpose*. The purposes of public institutions are critical because if we do not know what they are supposed to do, then we cannot answer the first two questions—that is, what size and what form they should take. At the same time, in the real world it is difficult to attain agreement on what those purposes are.

The purposes of public institutions are disputed and can be understood in a number of ways. As a broad overview, however, these purposes can be understood using three broad, and sometimes overlapping, categories: conserving, facilitating economic activities, and moral valuing.

Conserving refers to activities that emphasize the maintenance of order and security from internal and external threats. Police forces, private security companies, prisons, large parts of the legal system, border patrol, and the military are all performing functions primarily associated with conserving. Since September 11, 2001, much more has been invested in the conserving function of public institutions worldwide, but especially in the industrial societies. As is observed in chapter 10, some even see this event as marking a re-embrace of public institutions.

A second broad category of public institution purpose is the facilitating of economic activities. *Economic facilitation* focuses on the public institution's role in the generation of wealth. This role has taken a wide variety of forms historically, including state ownership of firms, management of economic relations, tariffs, tax policies, and regulatory interventions. In more recent times, with the collapse of the Soviet Union, the economic facilitation role in many more places

has come to emphasize activities that support a private market within a loose or dense regulatory framework.

The third category of institutional purpose is *moral valuing*, which refers to the values that public institutions attempt to incorporate, legitimate, and make authoritative. In a society that is dominated by business culture, the values will be primarily those that support the success of private-sector firms. In other societies they may reflect the values of particular groups or the consensus (i.e., public) values held by most people. The public education system, citizen education, social welfare policies, discretionary budget priorities, the inspirational rhetoric of leaders, and court decisions all reflect the moral valuing role of public institutions.

One of the shared concerns mobilizing people against globalization is that the values that animate traditional, or at least evolving local, cultures will be lost to a much more homogeneous consumer culture, and public institutions, national and international, will reflect mostly the social priorities of large corporations. From this perspective, concerns about public institutions and fairness in a globalizing world (the question of who will benefit from globalization and what role public institutions play in determining that) is closely connected to their moral valuing role.

The important questions about public institutions do not invite either/or responses, but, instead, an understanding of what is being emphasized at a particular time and in particular circumstances. As noted above, after 9/11 there is more of an emphasis on the conserving purpose, but in many parts of the world, where religious traditions are strong or resurgent, moral valuing is heightened. It is also clear that countries feel pressure to emphasize the economic facilitation role because of globalization.

Public Institutions in a Globalizing World

This chapter began with reference to Yergin's *Commanding Heights* and its review of the shift from public institutions to private institutions. It is noteworthy that while the entire book appears to be sympathetic to the rise of the market and private decision making within nation-states, in the end even Yergin finds an important place for government when considering a globalizing world. In a chapter titled "The Age of Globalization: The Battle for the World Economy," he moves back toward an essential role for it. He argues that a world that contains both nation-states and intense global-level interrelations "leaves governments with a daunting challenge: to figure out ways to reduce their intervention in some cases, and to retool and refocus in others, while preserving the public trust. . . . What this means is that for all the erosion of boundaries and fundamental technological change governments still matter enormously, as does political leadership."³

In the book's final chapter, "The Balance of Confidence: The New Rules of the Game," Yergin asks whether the current shift from state toward market is likely to be permanent, a transformation rather than a phase in a cycle.⁴ His answer to that question is that it will depend on the results of five tests. One of these tests, which he terms "Delivering the Goods," refers to what is produced in "measurable economic goods: growth, higher standards of living, better-quality services and jobs."⁵ The other tests focus on fairness, the future of the environment, how demographic shifts are handled, and the ability of people to maintain meaningful cultural identities.⁶

While he embraces a role for government, Yergin's views on globalization and public institutions are unduly narrow. For him, public institutions are only the government, and NGOs, IOs, and civil society are ignored. Concerns about fairness are addressed secondarily in comparison to an overriding focus on economic performance and wealth making.

In *Globalization and Its Discontents*, Joseph Stiglitz, the winner of the 2001 Nobel Prize in economics and a former vice president of the World Bank, goes much further than Yergin in making the case for the essential role of public institutions in addressing fairness in a globalizing world.⁷ At one level Stiglitz's book is an expression of discontent with international financial organizations, particularly the policies of the International Monetary Fund. He argues that the IMF has been ineffective and often destructive in its responses to problems associated with economic globalization. It is has been ineffective, he believes, because its focus is narrow and its policies are rigidly focused on controlling inflation and stabilizing currency exchanges. He sees these policies as a reflection of a deeply held "market fundamentalism" or "Washington Consensus," an outlook the emergence of which is traced by Yergin in *Commanding Heights*.

For Stiglitz, the fundamentalism that has over taken the IMF is a reflection of the fact that the IMF serves the worldview and the interests of financial institutions, especially American. He argues that the IMF, formed by Keynes, has changed its purpose from fiscal policies that would create demand and support full employment to policies that protect lenders. At the time the IMF was formed, markets were not seen as self-correcting, a view that followed the worldwide depression of the 1930s. Now markets are seen as natural and, to a much greater extent, self-adjusting.

From this perspective, what is referred to in domestic politics as "agency takeover" has taken place in an IO. The current directors of the IMF have moved away from Keynesian assumptions about the limitations of markets (encapsulated in the concept of market failure) and adopted policies that assume the market is best left alone. For Stiglitz, "We have an obvious problem: a public institution created to address certain failures in the market, but currently run

by economists who have both a high level of confidence in markets and little confidence in public institutions.”⁸

Stiglitz’s concerns about globalization and public institutions go beyond his criticism of the IMF to broader issues. Globalization is here to stay, and the amount of good or harm it does can be positively affected by human actions, but not by the “economic fundamentalists,” who he argues are not even in touch with economic research. He refers to their policies as “trickle-down plus.”⁹

Stiglitz places much more emphasis than Yergin on alternatives that are appropriate to each country’s setting, not ideologically prescribed policies that emphasize low inflation, lower taxes, liberalization, and privatization for all circumstances. We are not, however, pursuing those alternatives because “[s]implistic free market ideology [has] provided the cover behind which the real business of the ‘new’ mandate could be transacted.”¹⁰

Public institutions and international governments are, for Stiglitz, at the center of the potentially positive human actions, and their role in shaping globalization toward fairness will be crucial. He states, “Globalization can be reshaped, and when it is, when it is properly, fairly run, with all countries having a voice in policies affecting them, there is a possibility that it will help create a new global economy in which growth is not only more sustainable and less volatile, but the fruits of this growth are more equitably shared.”¹¹

Private versus Public Power

There is much to commend in Stiglitz’s thinking about the complexities of globalization and public institutions. His point that the economic fundamentalists put too much faith in the market and too little in public institutions is well taken. At the same time, there is another dimension to the role of public institutions that he skims over but is nonetheless essential in understanding their significance.

In “Private Order under Dysfunctional Public Order,” John McMillan and Christopher Woodruff describe how private institutions create the conditions for commercial transactions to occur in developing economies where the public systems are viewed as ineffective or unreliable.¹² In a response to their work, Ellen Katz, though agreeing with much of their analysis, argues that they have misunderstood and understated the importance of public institutions. Their exchange is used here to develop a framework for public institutions globally in the light of the analysis in the previous sections of their perceived shortcomings and shifting purposes in a globalizing world.

McMillan and Woodruff contend that in developing societies private institutions can be effective as substitutes for public order in establishing the rules and norms needed to facilitate efficient economic activity. They also note that

there are important downsides to this, what has been termed “darkside public ordering.” These darksides include practices of control, exclusion, collusion, and criminality that, among other things, inhibit vibrant private relations and generate significant negative externalities. McMillan and Woodruff and others observe that these darkside practices are to be expected. Without these state-imposed penalties, the short-term benefits outweigh, from the individual actor’s perspective, any societal or longer-term losses. For McMillan and Woodruff, the reality of darkside practices, which take hold when there are no public institutions capable of creating an environment in which darkside activities are no longer rational, are the justification for public institutions.

Katz expands this point and argues that the work of public institutions goes beyond creating the conditions that reduce the private-order inefficiencies that McMillan and Woodruff describe. One reason for this is that the promulgation of norms and rules by public institutions may, in concert with private institutions, create a more optimum environment for economic activities or, at a minimum, keep the private order from “becoming sluggish,” such as through the creation of monopolies or oligopolies. Of more significance, there are important justifications for public institutions not connected to economic efficiency. In Katz’s words, “[E]ven where private order may be efficient, and flexibly so, it may run counter to fundamental principles that a society, upon proper reflection, decides should not be subject to the calculus of efficiency.”¹³

What are those fundamental principles that public institutions must stand for and that mean private order cannot be substituted for public order? These are the rules and norms created and implemented by institutions that are truly “public.” They are public because they are developed and implemented through deliberation, inclusion, and transparency. Katz points out that in fact it is their freedom from the constraints of inclusion and transparency that “yields much of private order’s effectiveness and productivity.”¹⁴ Public rules by their very nature are, in economic terms, inefficient, forcing compliance with procedural norms, including public processes in which all affected parties are able to participate.

Katz also acknowledges, as any observer of “public” institutions must, that their reality falls short of our aspirations for their performance. Among other things, public agencies can be captured by factions to advance their private economic or other interests. She argues, however, that public-order decision making is worth its cost in inefficiency and that “that aspiration and a commitment to strive toward achieving it distinguish the public from the private realm and provide a basis to prefer the former over the latter.”¹⁵ This is because public institutions and the processes associated with them are able to do two things not possible by even effective private-regarding rule making. The first is to confer broad-based legitimacy upon both public and private policies. “Democratic public-order institutions are needed to confer public legitimacy on well-functioning private-order

norms. . . . [Their] deliberation certifies the fairness and public acceptance of the private system and thereby confers public legitimacy that the private-order system would otherwise lack.”¹⁶

The second thing public institutions do involves the act of participation itself. The value here is independent of specific outcomes and is found in the ways participation works to discover and act on what is held in common, build community, and create positive identities. The participation that must underlie truly public institutions embodies a conception of the common good, as opposed to purely private preference, and a conception of individuals as effective, independent, and interdependent actors. Katz underscores this point by observing that citizen participation “should not be understood as simply another sort of market.”¹⁷

The Future of Public Institutions

Where does this leave us? We have looked at three different interpretations of public institutions that are quite different in their orientations. Yergin thinks they will continue to play a role in relation to globalization, but his primary interest is the move away from government and toward autonomous markets. Stiglitz is interested in international organizations and government and is concerned that both are being taken over by an economic fundamentalism that is too private regarding. He advocates a set of policies in which public institutions more directly address fairness and the distribution of economic success. Both Yergin and Stiglitz concentrate heavily on government and public institutions in relation to economic globalization. Katz’s point of departure is the broader issue of private versus public rules, and she makes the case for public institutions using noneconomic criteria.

The boundaries between public and private are not fixed. They shift over time within societies, and in the future they very likely will shift for international institutions. In the United States these shifts have been cyclical, swinging from reliance on the virtues of the private sector and distaste for government to trust in government and skepticism about the private sector.¹⁸

We are undeniably in an era of boundary shift toward the private sector. As we will see in chapter 9, even historically more stable boundaries of “public” administration are being shifted through movements such as the New Public Management. Globalization presents new questions and raises new issues with respect to where the boundary should be drawn, now and in the future.

It is realistic to suggest that where these boundaries are drawn will differ from place to place and time to time and that there will be ongoing experimentation that takes into account institutional histories, resources, political culture, and current political-economic circumstances. This is reflected in Katz’s point

that “the design of public institutions in developing economies should be seen as a distinct project from the design (or redesign) of such institutions in developed ones.”¹⁹

Without ignoring these complexities, it is my contention that if globalization is to be public regarding, then public institutions, those that are truly public in the sense developed by Katz, must participate in determining how globalization’s diverse benefits and costs are distributed. This is even more the case if we are to incorporate into our ideas of fairness the concerns of not only the members of current societies, but also the impact on the environment and on the interests of future generations.

Whatever the experimentation, there must be a balance between the facilitation of economic activity and other social and political priorities that are not focused on the creation of wealth. As Katz points out, it is the private sector’s freedom from many of the rules that constrains public organizations and that “yields much of private order’s effectiveness and productivity.”²⁰ At the same time, the legitimacy of the market depends on publicly created rules that prohibit and encourage certain kinds of behavior. The argument, often heard in the current shift toward private institutions, that “the market” should be “left alone” ignores the complexities of each market’s creation, the ongoing dance of principles and interests that shape its rules, and the legitimacy of nonmarket-related public values.

Public institutions are far from perfect. They reflect the complexities of the societies of which they are a part while at the same time are expected to be “above” those complexities. Their reform internationally is often appropriate, sometimes absolutely necessary. Reform, however, must be grounded in a continuous process to make more public regarding the balance of conserving, economic facilitation, and moral-valuing functions. Our focus on fairness, globalization, and public institutions is intended to underscore that their moral-valuing purposes can be ignored only at great peril to both public *and* private institutions.

Notes

1. Joseph Stiglitz, *Globalization and Its Discontents* (New York: W. W. Norton, 2002).
2. See Lester Salamon, ed., *The Tools of Government: A Guide to the New Governance* (Oxford: Oxford University Press, 2002), for an analysis of the issues associated with the rise of “indirect government.”
3. Colin Camerer, “Strategizing in the Brain,” *Science* 300 (June 13, 2003): 396–397.
4. *Ibid.*, 408.
5. *Ibid.*
6. *Ibid.*, 410–415.
7. Stiglitz, *Globalization and Its Discontents*.

8. Ibid., 196.

9. Ibid., 80.

10. Ibid., 88.

11. Ibid., 22.

12. John McMillan and Christopher Woodruff, "Private Order under Dysfunctional Public Order," *Michigan Law Review* 96 (2000): 2421.

13. Ellen Katz, "Private Order and Public Institutions, Comments on McMillan and Woodruff's 'Private Order Under Dysfunctional Public Order,'" *Michigan Law Review* 98 (2002): 2488.

14. Ibid., 2491.

15. Ibid., 2493.

16. Ibid.

17. Ibid.

18. Theo A. J. Toonen et al., *Civil Service Systems in Comparative Perspectives* (Bloomington: Indiana University Press, 1996), 191.

19. Katz, "Private Order and Public Institutions," 2487.

20. Ibid., 2491.

