

RECON Online Working Paper 2010/19

Social Welfare and Democracy in Europe

What Role for the Private
and Voluntary Sectors?

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RECON Online Working Paper 2010/19
October 2010

URL: www.reconproject.eu/projectweb/portalproject/RECONWorkingPapers.html

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RECON Online Working Paper Series | ISSN 1504-6907

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Issued by ARENA
Centre for European Studies
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P.O.Box 1143 Blindern | 0318 Oslo | Norway
Tel: +47 22 85 87 00 | Fax +47 22 85 87 10
www.arena.uio.no

Abstract

This paper explores the role of the private and voluntary sectors in helping to fill gaps in public sector social welfare provision and considers the extent to which this augments or weakens the democratic process. While the public sector has tended to be the major provider in European social welfare systems, since the late 1980s there has been a notable trend towards increasing use of privately provided support and grey services as people (and governments) have sought solutions outside of the state welfare system. This shift has been fuelled by an increasing emphasis on measures that encourage efficiency, productivity and competitiveness as well as pressures on the sustainability of welfare systems which have been exacerbated by the recent global financial crisis.

First, the authors discuss the emerging 'disorganised welfare mix' and the implications of restructuring welfare regimes according to quasi-market principles. It is asked whether these approaches resolve or exacerbate the 'dilemmas' of welfare provision, particularly in terms of wider democratic goals and social inclusion. Second, the authors examine empirical case studies from Britain, the US and New Zealand of the Private Finance Initiative, Asset-Based Community Development and the new contractualism to investigate how adoption of neoliberalising welfare strategies is reconstituting democracy in Europe and beyond. Third, the current state of welfare provision in Europe is mapped through a critical analysis of the European Social Model (EMS) and the Welfare Triangle. Finally, further examples from Europe are used to analyse the contradictions between the goals of social protection and regulation that underpin European social policy and the demands for increased flexibilisation and privatisation promoted by the European Single Market and the rulings of the European Court of Justice.

Keywords

Democracy – European Social Model – Governance – Social Policy – Welfare State

Introduction: democratic challenges for Europe

According to Eriksen and Fossum (2007: 17), the profound challenges that are haunting contemporary Europe range from 'overcoming nationalism without doing away with solidarity' and 'establishing a single market [...] without abolishing the welfare state', to 'achieving unity and collective action without glossing over difference and diversity' and 'achieving efficiency and productivity without compromising rights and democratic legitimacy'.¹

This paper takes up the last of these conundrums by exploring the democratic challenges for Europe. These include attempts to reconcile European welfare systems with the dictates of Economic and Monetary Union (EMU) and the European Single Market. It also examines the intractable and often contradictory goals of European welfare regimes themselves, particularly those of balancing adequate minimum incomes (employment protection legislation) with assistance for people without jobs (unemployment benefits). The primary objective of welfare has traditionally been to provide basic economic security for citizens by protecting them from market risks associated with unemployment, old age and sickness. However, norms about the need for protection have shifted significantly since the 1980s and new risks have emerged. 'Social inclusion' or the ability to participate and be fully included in society has also become an important objective for the European Union (EU) and many of its member states. Yet the extent to which these different goals are achievable, or indeed compatible, remain issues for debate.

This paper analyses some of the unanticipated consequences of the increased role of the private and voluntary sectors in the welfare regimes of the Organisation for Economic Co-operation and Development (OECD) countries, and links these issues to the wider tensions between increasing flexibilisation and privatisation of social welfare provision on the one hand and, on the other hand, the continued need for state regulation and social protection in Europe. As governments throughout Europe have embraced the principles of economy, efficiency, deregulation and flexibility typically associated with neoliberalisation, there has been a notable shift towards the marketisation of social welfare provision. According to critics of neoliberalism, the fundamental principles of the single market – which include the unfettered free movement of capital, goods, services and labour – are incompatible with the welfarist goals of comprehensive economic and social security (see Huffs Schmid 2005; Preece 2009; Sapir 2006). But is achieving efficiency with equity really a 'zero-sum game' as these authors suggest?

This paper sets out to address this and the following related questions:

- What are the costs and benefits of increasing private and voluntary sector involvement in welfare provision?
- Can the private and voluntary sectors contribute to the democratic goals of equal access, openness, transparency, and socially inclusive citizenship?
- What lessons do the case-studies of Anglo-Saxon or neoliberal-inspired reforms offer for social policy in the European Union?

¹ We would like to thank David Mayes, Anna Michalski, and Agustín José Menéndez for their helpful and incisive comments on earlier versions of this paper.

- How can the current 'welfare mix' regime ensure democratic accountability?

'Democracy', of course, is an immensely complicated concept and there is a vast literature that examines the different theories and models of democracy and their procedural as well as philosophical connotations (see Eriksen and Fossum 2007 for a useful discussion of these). In the context of European integration, a key issue has been the problem of democratic legitimacy across multiple levels (Scharpf 1997; 1999). In this paper we use the term democracy in its traditional sense as a system of 'government by the people as a whole (Greek: *demos*), rather than by any section, class or interests within it' (Scruton 1982: 116). What this means in practice is a system that promotes not only the principles of full social inclusion, but also the ability of the people to 'have their say' and hold their rulers to account (Giddens 1996).

Welfare regimes are complex and have always comprised many different actors, both statutory and non-statutory (Esping-Anderson 1990; Ascoli and Ranci 2002; Bode 2006: 348). Private and voluntary sector involvement in European welfare provision was overshadowed by the creation of the welfare state in the post war period (Poole 2007: 235). However, Bode (2006) has observed that welfare provision throughout the twentieth century was in fact an 'organised welfare mix' involving both public and private providers. Competitive structures and market relations played virtually no role within this organized public-private collaboration (Bode 2006: 349).² Yet a recent shift from 'organised' to 'disorganised capitalism' in the 1980s has heralded the rise of what have been termed 'disorganised welfare mixes' (Offe 1985; Lash and Urry 1987; Castells 1996; Boltanski and Chiapello 1999; Bode 2006).³ These new 'disorganised welfare mixes'⁴ reflect shifts in Europe from the Keynesian welfare state model towards increasing 'commoditised' and free-market approaches. They also reflect a broader movement from 'government to governance [...] on all scales' (Jessop in Bode 2006: 346). This entails a shift from traditional hierarchical systems of authority to more decentralised, multilevel and network-based forms of decision making.

The normative stance taken in the literature on governance is that policy networks have enriched democracy,⁵ yet some authors advocate a more cautious and empirical

² Under the 'organised welfare mix' model (Bode 2006: 255, 349): (1) civil society and the welfare state were in close collaboration through the planning, provision and supervision of social welfare, coordinated through negotiated public private partnerships; (2) Voluntary agencies sustained long term (though often loyalistic or uncritical) volunteering and organisational support, and coordination was dependent on trust rather than output accountability; (3) Voluntary agencies were treated as partners with their own ideas about and influence on social policy (as opposed to being 'mere transmission belts'); and (4) State representatives facilitated, rather than enforced, coordination between themselves and non-state organisations.

³ We recognise that the term 'disorganised' could be construed as pejorative (especially when its antonym 'organised', is taken to mean 'efficient') but this is not the sense in which Bode uses the term. Like Bode, we use 'disorganised' to characterise the complexity and diversity of contemporary welfare regimes, and to highlight their relationship to the conditions of post modernity that are typical of most advanced liberal economies.

⁴ This new West European 'disorganised welfare mix' shares characteristics with the Anglo-Saxon welfare regime that underwent neoliberal restructuring in the 1980s, referred to in Poole's (2007) study. Wolch (1990) termed the restructured UK voluntary sector 'the Shadow State'. A contract culture allowed the state to heavily influence the voluntary sector to the point where that sector emerged as 'a para-state apparatus', invisibly 'enabled, regulated and subsidised by the state' through funding and contracts (Wolch 1990: 4, 41).

⁵ Democracy is seen to be enriched through partnerships, two way as contrasted with one way traffic, plural access to influence, 'playing by the rules of the game', flows of information, flexibility, reciprocity,

investigation (Grimshaw et al. 2002; Greenaway et al. 2007: 719; Shore 2009: 19-21). New modes of governance can lead to greater innovation and dynamism, but can also be volatile, highly flexible, informal, easily manipulated by powerful actors, and hence exclusive (Hay and Richards 2000; Richards and Smith 2002 in Greenaway et al. 2007).⁶ They thus present both opportunities and challenges for the 'disorganised welfare mix'. Ascoli and Ranci (2002) have termed these inherent tensions 'the dilemmas of the welfare mix'. Our hypothesis is that the fundamental dilemma, which subsumes the others, is between efficiency and democratic accountability. On the one hand, a market oriented emphasis on innovation, efficiency and competition provides a solution to the inefficiencies and rigidities of state monopolies. On the other, the new welfare mix introduces its own inefficiencies based on increased volatility and variability which may undermine accountability and consistency. Can equitable and democratic social provision be sustained under such volatile conditions, or does such a climate create new social risks and vulnerabilities?

The new 'disorganised welfare mix' also raises larger political and philosophical questions: Are monopolies in health and social welfare provision necessarily a problem? Is competition the best way to improve public services and is the private sector necessarily more efficient? Even if competition helps to break up monopolies and encourage efficiency, can 'for-profit' organisations be trusted to serve the public interest? Does commodification⁷ of health and welfare provision undermine the ideals of democracy and partnership? And what role can the voluntary sector play in mitigating some of these problems?

We present three empirical case studies in order to analyse the impacts of increased voluntary and private sector involvement in social welfare provision. Our case studies exemplify the risks and problems with increased private and voluntary sector involvement. Of course, this is not always the case. Historically there have been some appalling public sector botch-ups in welfare provision. However, this point is largely irrelevant to the problems addressed here. Our aim is not to romanticise the traditional welfare state model but instead to question the *a priori* assumption that the private sector is necessarily a more responsive, cost-effective and efficient service provider. In doing so, we identify the risks for a European social policy arena based upon such assumptions.

We have specifically chosen countries that have progressed further down the Anglo-Saxon path towards 'modernisation' and efficiency to which the EU increasingly appears to aspire: the UK, the USA, and New Zealand. The UK case study concerns the Norfolk and Norwich University Hospital Private Finance Initiative (PFI), which during the 1990s became a flagship policy initiative for forging partnerships between public and private sector bodies. The USA study examines the Asset Based Community Development (ABCD) scheme, a community social welfare initiative

and diplomacy (Greenaway et al. 2007: 718-9). Policy networks also protect the polity from ideological and radical shifts of a centralised state and are better suited to the more complex nature of modern policy (Greenaway et al. 2007: 719).

⁶ A further complicating factor is that the shift to governance is not as clear cut as many in the literature make out (Mörth 2008).

⁷ We define commodification as the process by which inalienable goods and services are transformed into marketable commodities.

aimed at mobilising citizens and the non-profit sector. Finally, the New Zealand study discusses the 'new contractualism', which claims to provide a new model for organising social policy, employment relations and labour markets.

Our aim in presenting these examples is to map some of the recent trends towards the increasing marketisation of social welfare. More specifically, we examine the implications of this for democracy in Europe and for the competing policy priorities that underlie attempts to define a more coherent European Social Model (ESM). We present examples of current developments in European social policy – including the European Employment Strategy (EES), 'flexicurity' and attempts to regulate European labour standards (the posted workers' Directive) – to assess the extent to which these initiatives promote or inhibit the democratic process and the goals of a more open and inclusive society.

'Organised' and 'disorganised' welfare mixes

Under the 'organised welfare mix' regime which was common in Europe for most of the twentieth century, the key actors involved in welfare provision were the public sector, the private sector, the voluntary sector, and the family. For clarity we provide some working definitions. Firstly, we define the public sector as the state and the private sector as the market.⁸ We view market actors as non-state organisations such as companies, firms, and for-profit organisations. The voluntary sector is harder to define.⁹ Most agree that a key characteristic of the voluntary sector, and volunteering itself, is its heterogeneity and diversity (Poole 2007; Musick and Wilson 2008: 11). It is commonly labelled a 'third sector' located somewhere between the state (first) and the market (second) (Anheier 2001: 1648).¹⁰ We include voluntary, civil society, non-profit, and community organisations in this definition, but distinguish between the voluntary sector and the family.

Similarly to the voluntary sector, the family has functioned to 'fill the gaps' in external welfare provision, especially regarding care for children, the sick and the elderly. The notions of familialisation/defamilialisation (Esping-Anderson 1999) have been used to gauge the extent of family provision in different member states. Some argue that a reliance on the family exacerbates traditional social and gender inequalities (Wall 2001) and is no longer viable (Bahle 2003), while others view family involvement as essential for building communities and social capital (Kretzmann and McKnight 1993; Putnam 2000). Although we recognise the importance of this debate, this study

⁸ The terms 'public' and 'private' have a long and varied history in Western thought (Mörth 2008) Four academic debates prevail (Mörth 2008: 11-12). The first classifies the political realm as public while the private realm is associated with private objectives and interests. The second debate interprets the public realm to stand for politics and democracy, and seeks to determine whether the public or private realm is more authentic. The third debate classifies the public realm as the state and the private realm as the market, and is central to political economy studies. The final debate discusses the emergence of a public realm where there is no clear distinction between public and private, and is linked to the growing literature on governance and network societies.

⁹ Indeed, Kendall and Knapp (1996), writing about the voluntary sector in the UK, have deemed it a 'loose and baggy monster'.

¹⁰ Anheier and Salamon (1998) claim that 'third sectors' vary cross-nationally, and have proposed four specific 'types': (1) statist, (2) liberal, (3) corporatist, and (4) social democratic.

focuses on the role of the private and voluntary sectors in welfare provision and questions the effects of marketisation.

The 1980s brought profound changes to the existing 'organised welfare mix' model as deregulation and privatisation programmes progressively sought to roll back an interventionist welfare state. One of the most crucial changes was declining public faith in the state's ability to act as the main provider of welfare (Deakin 2002; Bode 2006; Poole 2007). In addition, the breakdown of Fordism, ageing populations, and the growing instability of traditional family structures left large sections of the European population subject to 'new social risks' including homelessness, intolerance, and social isolation (Ascoli and Ranci 2002: 1). 'Disorganised capitalism' gave rise to 'a more flexible world economy and the end of direct state interventionism', not to mention 'the pluralisation of class structures and altered cultural representations' (Bode 2006: 350).

These combined changes contributed to the development of the new 'disorganised welfare mix' (Bode 2006: 349).¹¹ Under this new mix, the actors have remained the same, but their roles, objectives, and relationships have changed. The boundaries separating public, private and voluntary sectors have become increasingly porous.¹² The new mix has also been viewed as part of the New Public Management (NPM) reforms of the 1980s which signify a trend towards marketisation and commodification (Pollit et al. 2007).¹³

Such welfare restructuring has had varied and sometimes unforeseen consequences in different sectors. For example, the introduction of market principles into the voluntary sector in the UK has led to an increasing polarisation between larger, more formalised, and more professionalised voluntary organisations and those that are smaller, more informal, and more reliant on volunteers and community effort (Poole 2007: 234). It has been argued that tough competition for state funding and contracts may encourage the voluntary sector to become reactive as opposed to proactive, conservative and cautious instead of innovative, and exclusive rather than socially inclusive and empowering (Poole 2007: 237). Yet social needs still remain a key driver of provision in Europe. An equal emphasis on not only *efficient* but *effective* social provision has been enshrined in political rhetoric (Poole 2007: 239). For example, New Labour in the UK increasingly invokes a 'Third Way', drawing on the neocommunitarian discourse of 'active citizenship' and 'civil responsabilisation' as

¹¹ Ascoli and Ranci (2002: 5-13) classify the new 'disorganised welfare mix' as part of 'the passage to privatisation' (see also Gray 2004) which is both supply-driven and demand-driven and results in new hybrid forms of regulation.

¹² In the UK, this was supported by a concerted political push in the 1980s to create a more pluralist welfare regime (Poole 2007: 235).

¹³ NPM is a difficult concept to define as its implementation varies (Pollitt et al. 2007: 2-3), a common denominator being its contrast with the 'classic public administration' paradigm. Its main features are: decentralised structures; blurred boundaries between public, market, and voluntary sectors; an emphasis on contracts instead of hierarchical relationships; the deployment of market mechanisms for the delivery of public services; greater attention to management, service, and performance; a shift in focus from inputs to outputs; and a shift towards measurement and quantification (Pollitt et al. 2007: 5). NPM is located in the conceptual framework of agency theory, which sees relationships in terms of a principal who instigates a contract and an agent who performs for a reward; and public choice theory, which sees individual and corporate decision making as influenced by rationality and self-interest (Ramia 2002: 53).

means to counterbalance their neoliberal agenda (Poole 2007: 239).¹⁴ Restructuring invariably poses a series of choices and challenges for all actors involved. Ascoli and Ranci (2002) call these the ‘dilemmas of the welfare mix’:

- 1) Delegation or sharing of responsibility
- 2) Cooperation or competition
- 3) Organizational efficiency or quality of the service
- 4) Stability of cooperative relationships or the chance to innovate
- 5) Central or marginal role of the volunteering
- 6) Identity or service provision
- 7) ‘Customers’ or ‘citizens’ to be involved
- 8) Conservation or disappearance of a public sector role in the delivery of services
- 9) Uniform or diversified services

Following Mörth (2008: 2), we suggest a key dilemma that subsumes all of these is the tension between ‘efficiency’ and ‘democratic accountability’, although some may question whether this is necessarily a ‘zero-sum game’. Market led efficiency versus democratic accountability becomes a dilemma in public-private collaborations because the prerequisite for democratic accountability is transparent decision-making and clearly defined chains of responsibility. These are often lacking in the more complex and diffuse ‘disorganised welfare mix’ which blurs boundaries between public and private sectors. Hence private sector actors often remain outside the democratic chain, and ‘democratic accountability becomes a problem when public authority is shared with rather than delegated to private actors’ (Mörth 2008: 3).

Table 1: Characteristics of social welfare providers

Is it:	Efficient?	Cost Effective?	Competitive?	Monopolistic?
State (Public)	?	✓	x	✓
Market (Private)	✓	x	✓	x
Voluntary	?	✓	✓	x
Family	?	✓	x	x

Another tension arises from the fact that accountability is often conceptualised differently in the public and private sectors: for the former, it entails accountability to voters, while the latter are answerable not to the general public but to institutional stakeholders and investors (Mörth 2008: 4). This difference is sometimes expressed in terms of the rights of ‘citizens’ versus those of consumers.¹⁵

¹⁴ Though its benefits have been contested – see Rose 1999 and Cruikshank 1999.

¹⁵ Mörth (2008: 3) describes this as a case of government (hierarchical command and control) meeting governance (networks).

In the end, each sector has its strengths and weaknesses when it comes to welfare provision, as we attempt to illustrate these in Tables 1 and 2.

Table 2: Democratic tendencies of social welfare providers

Does it offer:	Equity	Accountability	Transparency	More Social Inclusion	More Choice
State (Public)	✓	✓	✓	✓	✗
Market (Private)	✗	?	✗	✗	✓
Voluntary	✓	?	✗	✓	✓
Family	?	✓	✗	✓	✗

Case studies from advanced liberal OECD countries

In what follows, we present a series of empirical case studies to observe how some of the 'dilemmas of the welfare mix' translate into action. Our first case concerns the UK Private Finance Initiative (PFI) and is paradigmatic of private sector involvement in social welfare provision. This case study illustrates how the attempt to break up monopolies advocated in a competitive market approach often recreates or amplifies them. Our second case study investigates the US Asset Based Community Development (ABCD) initiative as an example of voluntary sector and 'community involvement' in welfare provision. Through this example we illustrate how voluntary and community interests can indeed 'fill the gaps' in welfare provision. However, there is a fine line between the *aligning* of voluntary sector and community interests with those of state and market providers, and the *co-optation* of those interests by state and market agendas. Our final case examines the 'new contractualism' in New Zealand as an example of the commodification of employment relations and the ramifications of this for social relations and democratic participation. Taken as a set, these three case studies provide important lessons for Europe by offering a transversal analysis relevant to Eriksen and Fossum's (2007) models for reconstituting European democracy. They also challenge the assumption that private sector involvement necessarily provides the best solution to the challenges faced by advanced liberal societies.

The Private Finance Initiative in the UK

PFI is part of the realisation of successive British policies seeking to move activities and services from the public to the private sector (Spackman 2002). Some authors view the PFI as part of the government's 'modernisation' agenda and a form of NPM (Mayston 1999) and New Public Financial Management (Broadbent and Laughlin 2005). Others see PFIs as a way to overcome financing and other bottlenecks associated with traditional provision, to relieve financial risks and costs from the public sector, to engage private sector principles of efficiency and innovation whilst

ensuring accountability (Mayston 1999: 249), and to ensure Value for Money (VFM) (Shaoul et al. 2008: 101; Blanken et al. 2009: 123).¹⁶ PFI policy was formally launched by the British Government in 1992 (Spackman 2002: 285).¹⁷ The number of PFI projects increased substantially after the introduction of a 'universal testing rule' in 1994 which required that private financing should be an option for every public sector project (Spackman 2002: 285).¹⁸ In 1997, the New Labour government added further support to PFI schemes by instating legislation holding the public sector to PFI contracts. They also abolished the 'universal testing rule' in favour of a new 'Public Private Partnership' policy (PPP), under which PFIs became subsumed (Spackman 2002: 285; Broadbent and Laughlin 2005).¹⁹ As of March 2008, 627 PFI schemes had been signed in the UK, delivering private finance of £58.2 billion (HM Treasury 2008 cited in Hellowell and Pollock 2009: 13).

The National Health Service (NHS) is the biggest exponent of PFI contracts in the UK (Blanken et al. 2009: 125).²⁰ PFI projects in the NHS are funded through financial markets by groups of investment banks, builders, and service contractors who own, 'design, build, finance and operate' (DBFO) the new health facilities and manage them once they are completed (Broadbent and Laughlin 2005: 77; Hellowell and Pollock 2007: 8). This is in contrast to a 'conventional public procurement model', where the public sector finances the building through taxation and 'Treasury gilts' as well as owning and operating the finished product (Hellowell and Pollock 2007: 8). Between April 1997 and April 2007, 85 out of 110 (87.3 per cent) new hospital contracts were PFI schemes (Hellowell and Pollock 2007: 8).²¹

The Norfolk and Norwich University Hospital

Phase 1: Decision making through governance and networks

The Norfolk and Norwich University Hospital was one of the earliest and most important NHS PFI projects. The need for a new hospital arose because the existing N&N hospital near the city centre had not been well maintained (Greenaway et al.

¹⁶ The rationale for PFI schemes is both microeconomic and fiscal, though these rationales have been critiqued. The fiscal argument states that as PFI seems off-budget, a tight fiscal policy can be maintained. The microeconomic stance claims that PFI is better value for money and more cost efficient. However, a critique of these arguments states that off-budget costs do not merely cease to exist; rather, like borrowing, the cost is transferred to future generations (Hellowell and Pollock 2009: 13). Similarly, PFI schemes do not provide more Value for Money, as PFI contracts increase financial deficits and force higher risks on the public sector (Hellowell and Pollock 2009: 14; Shaoul et al. 2008).

¹⁷ The lead-up to the launch of the PFI in 1992 can be dated back to the election of the Thatcher government in 1979, the subsequent abolition of the 'Ryrie Rules' in 1989, and a new and increasing belief in the 1980s that private financing could increase efficiency (Spackman 2002: 285).

¹⁸ There were two PFI Projects in 1994, 11 in 1995 and 39 in 1996 (Spackman 2002: 285).

¹⁹ It should be noted that New Labour's commitment to its PPP policy was also a response to Chancellor Gordon Brown's desire to keep the UK within the public sector borrowing requirement set out as a condition for EMU membership.

²⁰ In 2005/6 there were 53 PFI projects in the NHS arena (Hellowell and Pollock 2007: 27). By April 2007, this figure had increased to 85 PFI contracts with the NHS, with plans for a further 41 schemes (Hellowell and Pollock 2007: 5). 21 PFIs with a total capital value of £3.14 billion were at the planning stage or in procurement in April 2008, in comparison with one publicly financed scheme, valued at £243 million (Hellowell and Pollock 2009: 13).

²¹ Usually, hospitals built under PFI contracts are leased to NHS Trusts by the private sector owners for periods ranging from 30 to 60 years. The NHS Trust pays for clinical services, staff, supplies, and also an annual fee to the contractor, from the Trust budget (Hellowell and Pollock 2007: 9).

2007: 721). In 1986, a formal review by the regional and district health authorities (RHA and DHA) concluded that a twin-site option should be put into practice, based round the existing site and another one at Hellesdon. These early proposals came from networks within the local health community, but were opposed by professional hospital consultants. These consultants saw an opportunity to share research expertise and gain prestige by building the new hospital at Colney, near the University of East Anglia. They expanded their own policy networks to include government and university 'movers and shakers'.²² After this, opposition to the Colney site began to fall away, and permission for the new hospital was granted in 1988. However, at this stage, the Colney site was still considered part of a twin-site project (Greenaway et al. 2007: 722).

The appointment of a new pro-Colney DHA chief executive from 1990 to 1992,²³ the national PFI policy of 1992,²⁴ and the arrival of a new Labour government in 1997 cemented the single site Colney hospital. There was national pressure to ensure the success of what had become a 'flagship' PFI hospital (Greenaway et al. 2007: 725). The DHA were told to facilitate the policy and the newly created Norfolk and Norwich University NHS Trust let a PFI contract to a private sector consortium, Octagon, in 1998 (House of Commons 2006: 1; Greenaway et al. 2007: 725). Under this contract, Octagon was to build, maintain, and provide facilities management for the hospital for 30 years (House of Commons 2006: 8). The new hospital was built swiftly and let to the NHS Trust in 2001 (Greenaway et al. 2007: 725). The negotiation of the new PFI had hence become confined to an exclusive 'policy implementation network' consisting of senior Trust managers, a Treasury civil servant, national civil servants from the Department of Health, and the private sector, largely leaving out the local health community.²⁵

Phase 2: The refinancing of the Norfolk and Norwich University Hospital

In 2003, only two years after the hospital opened, Octagon refinanced the project (House of Commons 2006: 1).²⁶ Octagon increased its borrowings by 53 per cent and used these funds to accelerate the financial benefits which their investors would receive from the project (House of Commons 2006). Of the £116 million refinancing gain, £82 million was kept by Octagon. This more than trebled its internal rate of

²² These included the University Vice Chancellor, the chairs of the RHA and DHA, and an influential local MP.

²³ Opposition from the local health community and local green campaigners was muted. This was largely because the former did not want to jeopardise the new investment and facilities, and the latter was preoccupied with other causes (Greenaway et al. 2007: 723).

²⁴ Under this model, a purchaser-provider split was introduced between the (purchaser) DHA and the newly created (provider) NHS Trusts (Greenaway et al. 2007: 723). Tensions existed between these two new groups because the DHA was concerned with health provision while the NHS Trust was preoccupied with getting the new investment off the ground as quickly as possible (Greenaway et al. 2007: 724).

²⁵ However, a planning application in 1996 to the South Norfolk District Council (SNDC) opened up an opportunity for an alternative policy network to form (Greenaway et al. 2007: 724). The network developed around a campaign group, Keep Our Hospital in Norwich (KOHIN). Issues raised by this oppositional group were the low number of beds proposed and the lack of public transport and access to the remote site, and a petition of 20,000 signatures was given to the SNDC planning authority (Greenaway et al. 2007).

²⁶ Octagon was in a strong position to do so because the construction phase had been successfully completed, the PFI market had stabilized, and commercial interest rates had fallen (Asenova 2007: 20).

return from 19 per cent (the original contract figure) to 60 per cent (House of Commons 2006). Octagon was able to reap such enormous benefits largely because the NHS Trust did not have any provision in place to ensure that they received their fair share of the refinancing gains except for a voluntary code (National Audit Office 2005). In accordance with the code, the Trust received 29 per cent of the refinancing gains (£34 million) (House of Commons 2006).

In accepting the terms of the refinancing deal, the Trust was exposed to new risks and costs, whilst Octagon managed to substantially lower its own risk. The length of the PFI contract was extended from 34 to 39 years, and the Trust agreed to receive its 29 per cent share of the refinancing gains over the life of the contract, rather than upfront as Octagon had done. Furthermore, the Trust accepted that the liabilities incurred for terminating the contract early could increase by up to £257 million (House of Commons 2006).

The House of Commons Public Accounts Committee issued a scathing report on the Norfolk and Norwich University PFI refinancing project in 2006. They stated that:

The opportunity for large refinancing gains on this early PFI deal does not seem to have been seriously considered as part of the original deal negotiations. Yet, through simply borrowing more, the benefits to Octagon's investors have soared on refinancing to levels which are unacceptable even for an early PFI deal. The Trust further contributed to the inappropriate outcome by accepting that, should it wish to end this contract early, its liabilities could now include all the additional borrowings Octagon used to boost its investors' returns. We would not expect to see another Accounting Officer appearing before this Committee defending what we believe to be the unacceptable face of capitalism in the consortium's dealings with the public sector.

(House of Commons 2006: 1)

In this statement, the purchaser NHS Trust is made solely responsible for the undesirable outcome. Yet other commentators note that the Department of Health forced the Trust into accepting the terms of the refinancing in order to retain private sector support and interest (ibid.). The 29 per cent the Trust did manage to negotiate was only obtained through exposure to potential liabilities (ibid.). In seeming defense of the NHS Trust's actions, the National Audit Office (2005) also put forward the view that the Trust could have brokered a better deal but were constrained by pressure 'to close a pathfinder deal which had already been assessed as value for money' (National Audit Office 2005: 4).²⁷

Private Finance Initiatives: implications for democracy

PFI projects in the UK have major implications for democratic and equitable social policy. A recent report by Hellowell and Pollock (2007) concluded that PFI contracts in the NHS are creating unmanageable public financial deficits. This situation has arisen because the cost of PFI contracts is greater than the funds they are provided with through the NHS resource allocation mechanism. The extent of under-funding

²⁷ However, the VFM assessment was strongly compromised by the refinancing (Blanken et al. 2009: 138).

increases with the size of the PFI (Hellowell and Pollock 2007: 6)²⁸ and the solution has usually been to cut crucial services. This however, is damaging to health provision in the UK.²⁹ This type of under-funding is far less likely to occur in a state funded health service because governments generally have access to the cheapest funds and are less likely to be hampered with exorbitant repayments to lenders.

The inflexibility of long term PFI contracts also impacts negatively on PFI hospitals (Hellowell and Pollock 2007). Inflexibility creates major constraints to design, service, and financial flexibility, limiting the ability of healthcare to adapt to changing conditions while exposing hospitals to huge potential risks (Blanken et al. 2009: 139). Paradoxically, the purportedly flexible and adaptable organisational character of the private sector appears to introduce 'new rigidities' not present in state provision (Grimshaw et al. 2002: 476).

PFI projects also provide a useful illustration of how the new 'governance' paradigm works in practice. Policy networks in this case study were utilised as a means of decision-making, and led to more interpersonal and less predictable outcomes, leaving room for more active and innovative forms of leadership (John 2001 cited in Greenaway et al. 2007: 735). However, the outcome was not so positive, and the characteristic volatile features of governance came into play. Decision-making processes and networks often centred on power figures, local and national elites, and experts. Additionally central government was able to manipulate the policy agenda and to dominate local networks through direct pressure, institutional restructuring and setting the policy framework (Greenaway 2007: 725). Private sector involvement only added to the lack of democratic openness through its veil of secrecy and commercial confidentiality (Mayston 1999: 251; Greenaway et al. 2007: 730). The terms of the PFI contract were set very much in favour of the private sector consortium, and this consortium was not held publicly accountable for its financial gains as these occurred 'off balance sheet'. As Greenaway et al. (2007: 736) conclude: '[j]ust as the PFI has been a convenient way for British governments to provide capital projects off balance sheet, so the networks of sub-central government allow decision making to take place "off the democratic balance sheet"'.

Asset-Based Community Development in the US

Our second case study looks at a recent development initiative which originated in the US in the 1990s, Asset-Based Community Development (ABCD). According to founders John Kretzmann and John McKnight from Northwestern University, major economic shifts in the 1970s and 1980s have caused American cities to become deeply troubled places with devastated communities and a shortage of employment opportunities (1993). There are two possible solutions to this problem. The traditional needs-based approach paints a negative picture of lower income areas as 'needy, problematic and deficient neighbourhoods populated by needy, problematic and

²⁸ According to estimates based on data from the Department of Health and a Freedom of Information survey, Hellowell and Pollock (2007, 2009) found that the 40 Trusts paying PFI unitary charges in 2005/06 were under funded by approximately 2.5 per cent of their income. Trusts with PFI schemes with values over 50 million had a shortfall in income averaging 4.4 per cent (Hellowell and Pollock 2007: 6).

²⁹ For example, the significantly underfunded PFI hospitals in Worcestershire and South-East London are currently being subject to reconfiguration, potentially including cutbacks and removal of acute and other healthcare services (Hellowell and Pollock 2009:18).

deficient people' (Kretzmann and McKnight 1993: 2, see Figure 1). Problems are addressed through 'deficiency-oriented policies and programs' which seek to inform people of their problems and of the value of services as the answer to these problems. Kretzmann and McKnight critique this approach, arguing that it fosters an 'environment of service', where people from poor urban areas increasingly see themselves as 'clients' whose wellbeing depends on outsiders. Such an atmosphere has a negative effect on community-building as it positions people as consumers rather than producers of services. This adds to a cycle of dependence, creates fragmentation, stunts leadership, and fosters a sense of hopelessness (Kretzmann and McKnight 1993: 4-5).

In place of a needs-based approach, seeing the glass as half-empty, Kretzmann and McKnight advocate a 'glass half-full' asset-based approach (see Figure 2). This approach focuses instead on the 'capacities, skills and assets of lower income people and their neighbourhoods' (Kretzmann and McKnight 1993: 4-5).³⁰ Two reasons are given for utilising this approach. Firstly, community development depends upon committed local participants and cannot merely be imposed in a top down manner. Secondly (and this also rings true in the current downturn), federal budget constraints and the inability of lower income areas to attract investment capital means that 'the prospect for outside help is bleak indeed....*there is no other choice*' (Kretzmann and McKnight 1993: 5; emphasis added). In these circumstances, communities need to look to themselves for solutions.

Popularising ABCD and community participation

The Obama Administration has institutionalised a greater role for the community in the *Serve America Act 2009*. The Act aims to create more opportunities for Americans to serve their country at every stage of their lives, through:³¹

- Asking Americans to volunteer a year to solving national challenges
- Increasing opportunities for service for students, working adults, and retirees
- Establishing a 'Volunteer Generation Fund' to help non-profit organizations recruit and manage more volunteers
- Supporting innovation in the non-profit sector through a) establishing a Commission to study how governments, the non-profit and the private sector can work together to meet national challenges, and b) applying effective business strategies to the non-profit sector.

Michelle Obama, who has worked with ABCD organisation *Public Allies*, has actively endorsed ABCD as part of the remedy to the financial crisis and said in a recent speech that she and President Obama look forward to working side by side with communities. Her vision sounds much like a 'partnership' type model: 'we hope to be

³⁰ The ABCD approach emphasises the assets present in a community, rather than dwelling on what is absent; it is internally focused, to encourage 'local definition, investment, creativity, hope and control'; and it is relationship driven, recognising the importance of relationship building (Kretzmann and McKnight 1993: 9-10).

³¹ Kennedy, E. M. and Hatch, O. (2009) '*The Serve America Act: A Legislative Initiative to Expand and Improve Domestic and International Service Opportunities for all.*' US Government. Available at: <http://s3.amazonaws.com/btcreal/855/Kennedy_Hatch_Serve_America_Act_Summary.pdf> (accessed 27 September 2010).

able to provide some of the resources that you need, but we also need you to prepare for the challenge'.³²

The *Serve America Act 2009* and Michelle and President Obama's support has helped to popularise the ABCD approach in the US, but the ABCD approach is also used globally in the field of community development. Organisations and consultancies that implement an ABCD approach are active all over the world, particularly in Australia and New Zealand,³³ Ireland and Kenya,³⁴ South Africa, Namibia, the UK,³⁵ Canada,³⁶ and all over the US.³⁷ The company *ABCD Global Consultancy* promotes the approach globally through keynote addresses, seminars, and technical assistance.³⁸

International organisations such as the United Nations (UN) (Tibaijuka 2003) have aligned themselves with the ABCD approach,³⁹ and there is potential complementarity between ABCD and the World Bank's 'Community Driven Development' (CDD) approach.⁴⁰ The World Bank is currently working towards an 'asset-based' social policy that takes into account multiple actors and interests in a 'polycentric' provision arena (Moser and Dani 2008).

ABCD: implications for democracy

Kretzmann and McKnight (1993) issue two caveats to the ABCD approach. A focus on assets is not meant to imply that communities do not need outside resources; rather outside resources will be more effectively used if communities are already mobilised. They also acknowledge a history of community organising which they seek to build on rather than to supplant. However, these caveats have not been adequately addressed according to critics, who have pointed out a number of issues with the approach. ABCD does not clearly delineate a role for external institutions and agencies (Mathie and Cunningham 2003), and in pursuing a bottom-up community level approach, it may rule out the value of external support. Peterman (2000: 174) notes that in order for neighbourhood development to be effective, contrary to the ABCD criteria it should not be inwardly focused and isolated but must always be

³² See ABCD Institute 2009 for Michelle Obama's speech. ABCD Institute (2009). Available at: <<http://www.abcdinstitute.org/faculty/obama/>> (accessed 27 September 2010). For Michelle Obama's speech.

³³ *Inspiring Communities; Bank of I.D.E.A.S.* Also in Australia an ABCD Resource Kit has been developed through LaTrobe and Monash Universities. ABCD Institute (2009b) 'Resources', Available at: <<http://www.abcdinstitute.org/resources/>> (accessed on 27 September 2010).

³⁴ Nurture Development

³⁵ 'Bank of I.D.E.A.S.'

³⁶ 'Bank of I.D.E.A.S.'; The COADY International Institute

³⁷ 'The ABCD Institute'; Partners for Livable Communities; Public Allies: New Leadership for New Times; The Greater Rochester Health Foundation; Grassroots Grantmakers: ABCD Institute (2009a) 'Partners', Available at:

<<http://www.abcdinstitute.org/partners/>> (accessed 27 September 2010).

³⁸ ABCD Global Consulting (2010) *Home*. Available at:

<<http://www.abcdglobal.org/index.html>> (accessed 27 September 2010).

³⁹ UN-HABITAT views the ABCD as complementary with 'the enabling approach' that they have pursued for over 15 years and advocates its use in developing countries (Tibaijuka 2003).

⁴⁰ However, a key difference is that the former is concerned with community mobilisation and the latter with institutional reform (Mathie and Cunningham 2003).

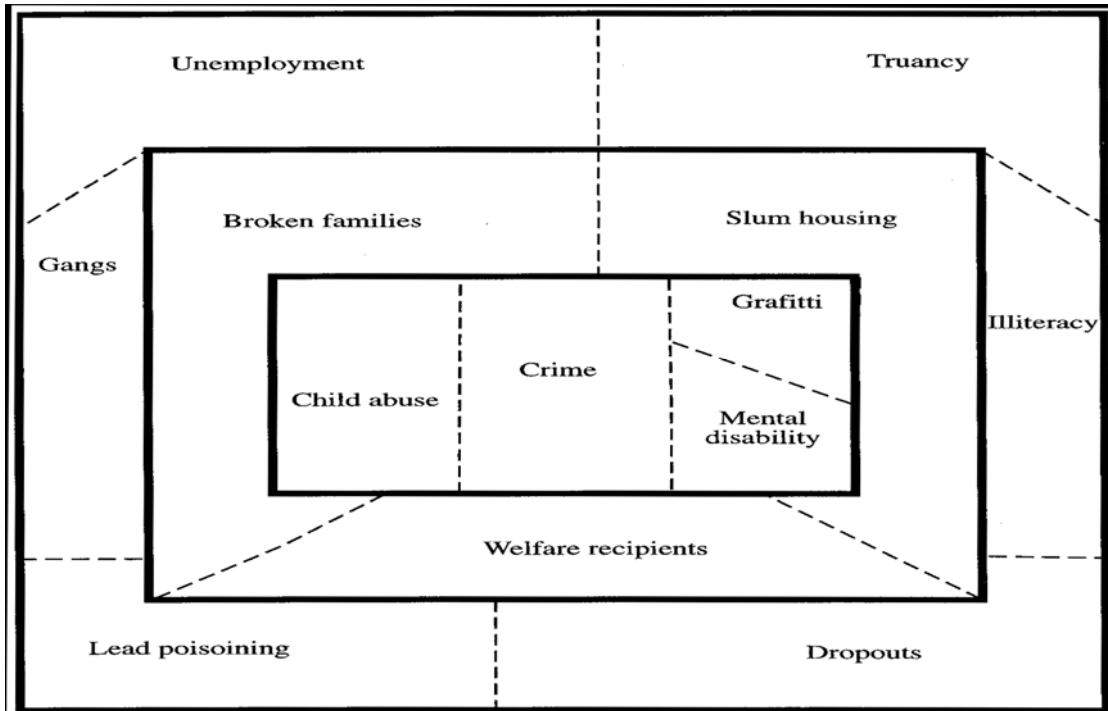


Figure 1: Neighbourhood needs map.
 Source: Kretzmann and McKnight 1993.

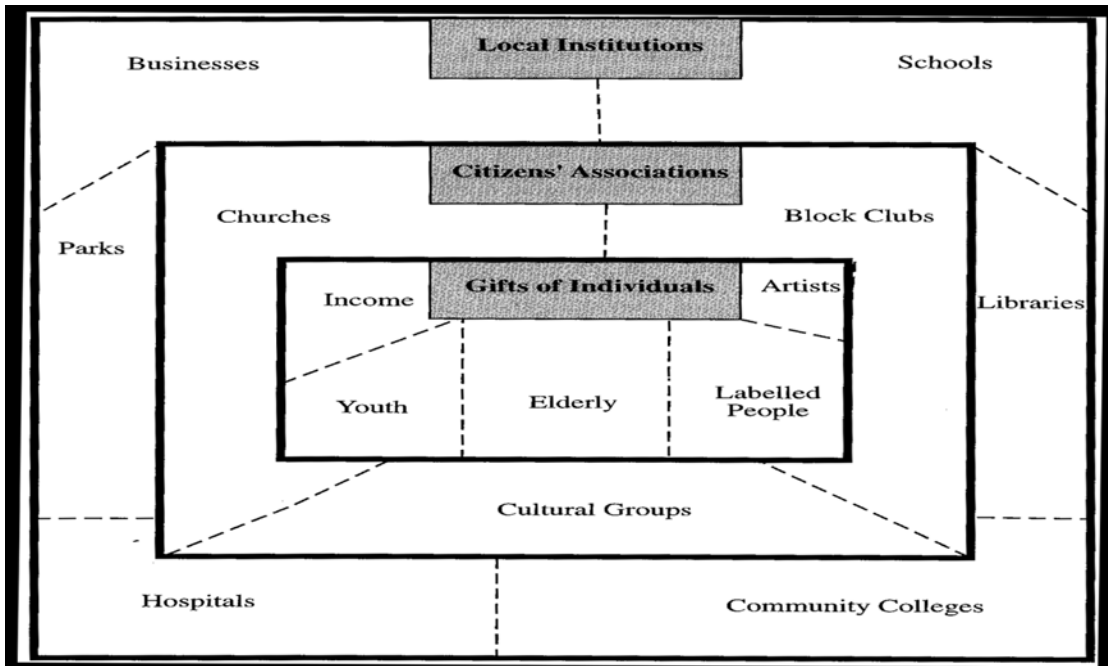


Figure 2: Community assets map.
 Source: Kretzmann and McKnight 1993.

thought of in terms of the larger community and society - in other words, links between levels need to be made. In addition, ABCD's 'one size fits all' methodology is seen to ignore community and neighbourhood divisions, specificities, and power

imbalances, especially related to class and race (Peterman 2000; Mathie and Cunningham 2003; Mansuri and Rao 2004; Hyatt 2008).⁴¹ The ABCD approach may also serve to bolster governmental discourses that are utilised to force citizens into accepting responsibility for themselves, their communities, and their families in an undemocratic fashion (Rose 1996; Cruikshank 2001). In this sense, ABCD easily lends itself to becoming a 'political technology', and an instrument of advanced liberal governmentality (Rose 1996).

The institutionalisation of ABCD principles through legislation makes this possibility even more likely. Critics like Hyatt (2008) argue that ABCD, just like US volunteerism (Hyatt 2003), embodies much of the neoliberal environment in which it was conceived. External factors such as privatisation, the deregulation of banks, and decline in union membership have undermined the authority of citizens (Goode and Maskovsky 2001; Lyon-Callo and Hyatt 2003;), and in this context ABCD 'acts as a palliative, serving as a rationale for maintaining the status quo, rather than as a genuine catalyst intended to spur social change' (Hyatt 2008: 19). Instead of challenging gross public under-funding of social welfare, ABCD exhibits 'a disdain for public sector entities and a wholesale rejection of the potential of government as a possible agent for redressing the injuries created by structural inequality' (Hyatt 2008: 19). In doing so, ABCD represents a distinct softening of the more confrontational aspects of the traditional 'Alinsky' model of community-organising in the US such as encouraging citizens to demand external resources (Hyatt 2008). Instead, it allows people to passively accept their external circumstances rather than actively confronting them. By removing government from the equation, this approach fosters an attitude of disengagement from politics and the state - which is both depoliticising and anti-democratic (Hyatt 2008: 25). ABCD thus exemplifies what James Ferguson (1985) has termed an 'anti-politics machine'.

Advocates of ABCD do not see these issues as undermining the approach but as a series of challenges to be met (Mathie and Cunningham 2003). Some practitioners of ABCD do, however, approach its implementation with a critical eye. Recent ABCD initiatives that utilise national campaigning such as the 2010 KaBoom! Playground project have also illustrated a commitment to engage more directly with politics, which does indicate the potential of the approach if it is applied in a less inwardly focused manner.

The 'new contractualism' in New Zealand

Our last case study considers the rise of the 'new contractualism' in New Zealand (Yeatman 1995; Davis et al. 1997). The new contractualism poses a solution to labour market rigidities through fostering the development of more flexibilised employment relations. It is relevant to our topic of inquiry as it diminishes state and union involvement in employment agreements, leaving greater room for non-state actors. The new contractualism is an adaptation of the 'old contractualisms' - the 'social contract' of the 17th and 18th and the 'classical legal contract' of the 19th century - and

⁴¹ Similar issues are noted with the widespread and uncritical application of notions such as 'social capital' (Mansuri and Rao 2004).

[N]ow increasingly underpins the employee-employer relation, some aspects of race relations, and relations between politicians and bureaucrats, spouses, children, and parents, educational institutions and students, as well as between the state and a host of public services. Contractual relations in the world of commerce, which previously were the main realm of contractualism, have spilled over into other domains, constituting an important – though as yet underappreciated – dimension of the neo-liberal phase of societal development. (Ramia 2002: 50)

The new contractualism is one manifestation of the broader New Public Management (NPM) reforms which seek to overcome issues of ‘government failure’ – such as allocative inefficiency, bureaucratic failure, and patterns of wealth transfer that encourage ‘rent-seeking’ activities – by advocating less state and more market (Wallis and Dollery 2001: 248). This is achieved by incorporating market mechanisms into the public sector or by exposing the public sector to competition (Bredgaard and Larsen 2007: 291; Ramia and Wailes 2006: 56).

In New Zealand, contractualism became institutionalised in the 1980s as part of a cluster of radical NPM reforms which came to be known as ‘Rogernomics’ or ‘the New Zealand Experiment’ (Kelsey 1995). Schick (1998: 124) classifies the New Zealand reforms as part of a greater conceptual shift to ‘government by contract’. The reforms placed great emphasis on creating formal contract-type relationships specifically focused upon performance and output accountability which were institutionalised through various legislation including the *State Sector Act 1988* and the *Public Finance Act 1989* (Wallis and Dollery 2001: 254). More broadly, reforms advocated privatisation, marketisation and deregulation in social welfare, health, and employment arenas (Rasmussen and Lamm 2005: 480).

The New Zealand Employment Contracts Act 1991

One of the most radical examples of the new contractualism is the *Employment Contracts Act 1991* (ECA). The ECA advocated direct employee-employer relationships at the workplace level with the aim of encouraging more productive and flexible outcomes (Rasmussen and Lamm 2005: 480). By promoting individual employment agreements over collective agreements, coupled with other legislation such as the *Human Rights Act 1993* and the *Privacy Act 1993*, the ECA accelerated a climate of individualisation in New Zealand. Under the ECA, the abolition of the award system and union membership coverage rights was actively endorsed (Rasmussen and Lamm 2005: 480). Unionisation declined from 41.5 per cent of the employed workforce in 1991 to 21.7 per cent in 1995 (Morrison 1996: 7). Barry and Reveley (2002: 511) note that a decade after the ECA was implemented, 75 per cent of New Zealanders were on individual employment contracts.⁴²

Critics of the ECA argued that its individualised nature encouraged ‘take it or leave it’ contracts and hard or unfair bargaining by employers (Barry and Reveley 2002: 510).

⁴² This was partly due to a ‘rollover’ effect caused by Section 19(4) of the ERA, which stated that if parties failed to renegotiate a collective contract, all workers would be deemed to be employed on individual contracts with identical terms and conditions as the expired collective agreement (Barry and Reveley 2002: 511). This meant that awards expiring after 1991 were automatically converted to an individual agreement unless negotiated.

A report on the impacts of the ECA concluded that while it appeared to have a positive effect on economic productivity and growth, employment conditions had worsened (Morrison 1996: 14).

The New Zealand Employment Relations Act 2000

The *Employment Relations Act 2000* (ERA) sought to water down the more radical elements of the ECA and redress the balance of employment relations in favour of collectivism (Ramia and Wailes 2006: 57). The ERA explicitly supports unionism and collective bargaining through enabling unions to have direct access to workplaces; requiring employers to offer the terms and conditions of an applicable collective agreement to new employees in the first 30 days of employment; and formally requiring employees who are part of a collective agreement to be union members (Barry and Reveley 2002: 513; Rasmussen and Lamm 2005: 482). The ERA also promotes good faith in employment relations and acknowledges the inherent inequality of bargaining power in employment relationships (Waldegrave et al. 2003: 14).

However, the impact of the ERA on employers has been limited, as a 2003 Department of Labour Report notes (Waldegrave et al. 2003: 12). Unionism in New Zealand faces a number of challenges: the indifference of the majority of workers in nonunionised firms; the lack of union reach, particularly in the private sector; and free-riding, or employees enjoying the benefits of collective agreements without belonging to a union (Haynes and Boxall et al. 2006: 193). The *Employment Relations Law Reform Bill 2004* has attempted to grapple with some of these issues but its effectiveness is as yet unclear.

The 'new contractualism': implications for democracy

As part of a broader economic restructuring in New Zealand, reforms were undertaken in order to foster a higher growth and employment rate. However, these swift and radical NPM reforms had a number of detrimental and dislocating social effects (Kelsey 1995; Dannin 1997; Dalziel 2002). The cuts in social services implemented under the ECA have been described as nothing short of 'overtly socially regressive', particularly unemployment benefits which were cut by up to 30 per cent (Ramia and Wailes 2006: 57). Dalziel (2002) also argues that the supposed positive impact on growth and employment was, in fact, minimal.

Both the ECA and the ERA had paradoxical effects (Rasmussen and Lamm 2005). The ECA, which was introduced in a climate of deregulation, in fact enabled increased regulation in the 1990s. The ERA, which was supposed to strengthen collective bargaining, paradoxically strengthened individual employment relations. This is partly because the move to make collective agreements 'the exclusive domain of unions' has led many employees to opt for individual contracts rather than have third party involvement, as the ERA does not present the option of 'collective contracting' (Rasmussen and Lamm 2005: 482). Rasmussen and Lamm (2005: 482) conclude that 'the continuous strong emphasis of individual employee rights [through measures such as personal grievance claims and statutory individual entitlements] cuts across the support for collectivism and, to some degree, it undermines the unions' attempts to create union density'.

The biggest shift wrought by the 'new contractualism' is hence the increased emphasis on individualism. To avoid the potentially negative consequences for democracy, Ramia (2002) argues that the new contractualism must be implemented in conjunction with social protection to ensure that social gains such as equal pay, maternity leave, and safe working conditions, are not compromised. By contrast, Yeatman (2002) asserts that individualization creates new possibilities for sociality through the development of 'social contractualism'. However, as noted earlier, the top-down implementation of the new contractualism, the atomistic relations it fosters, and the sometimes opaque nature of governance networks all work to undermine the capacity for solidarity and collective action.

The state of welfare in Europe

The European Social Model and the Welfare Triangle

What lessons can be drawn from these three paradigmatic case studies for European social policy? Firstly, we need to examine the wider context in which member states formulate their welfare regimes. In Europe, the notion of a 'European Social Model' (ESM) is central to current debates about welfare regimes. While the concept of 'Social Europe' has its roots in the post war welfare tradition based on Keynesian and Beveridge-style economics (Preece 2009: 2), it was Jacques Delors who first popularised the term in the mid-1980s. Delors' prime aim was to contrast Europe with the solely market-driven US model of capitalism (Jepsen and Serrano Pascual 2005). Indeed, the distinguishing feature of the otherwise ill-defined ESM is that it presents an alternative to the social model of the USA. In this respect, the ESM is essentially a normative concept used to describe the EU's twin goals of combining sustainable economic growth with social cohesion (Jepsen and Serrano Pascual 2005: 231). It thus represents a kind of 'third way' between US-style neoliberal deregulation and Keynesian social regulation (Giddens 1998).

Three conceptualisations of the ESM prevail in mainstream academic and political circles (Jepsen and Serrano Pascual 2005). First, the ESM is presented as an entity with common features (institutions, values, forms of regulation).⁴³ Second, the ESM is an ideal-typical model, where specific national social models are held up as exemplars for other member states to follow.⁴⁴ Finally, for many writers,⁴⁵ the idea of a European Social Model is – like that of European citizenship – part of a wider project for 'building Europe' (Shore 2000). Instead of emphasising differences between national models these authors have sought to cultivate a distinctive transnational model and see the social, economic and technological changes wrought by globalisation as demanding an EU-level response that will push Europe towards 'modernisation' and reshape future definitions of the ESM (Jepsen and Serrano Pascual 2005: 235-236).

⁴³ I.e. it embodies 'a specific common European aim geared to the achievement of full employment, adequate social protection, and equality' (Jepsen and Serrano Pascual 2005: 235). Examples of this approach include Hay et al. (1999), Scharpf (2002), and Vaughan-Whitehead (2003).

⁴⁴ Key exponents include Esping-Anderson (1990, 1999), Ferrera et al. (2001), Ebbinghaus (1999), and Sapir (2006). Sapir (2006) builds on the four ESMs (Continental, Mediterranean, Nordic, and Anglo-Saxon) and holds up the Nordic and Anglo-Saxon models as exemplars.

⁴⁵ For example, Vaughan-Whitehead 2003; Wilding 1997; Lönnroth 2002; Amitsis et al. 2003.

Academic and political debate on the European Social Model shares two interconnected features: firstly, the 'reality status' of the concept is taken for granted; and secondly, the very concept of a European Social Model is ambiguous and polysemic in nature. As Jepsen and Serrano Pascual (2005: 234) note, this imprecision means the ESM can be used to justify a wide range of different policy positions, not all of them in the interests of the public. For these authors, the ESM is thus a *political* project aimed at legitimising the EU as a supranational entity and creating a common European identity (2005: 239).

Another useful way to categorise European welfare regimes is the Welfare Triangle model (Muffels et al. 2002). This provides a straightforward conceptualisation of the key aims of welfare regimes – income, employment, and participation or social integration (See Figure 3). Boeri et al. (2002) similarly see the three objectives of social policies as 1) the reduction of income inequality 2) protection against insurable labour market risk and 3) reward to labour market participation. The Welfare Triangle, however, becomes more complex when we add two further axes (Figure 3): the *horizontal* axis illustrates a continuum of key actors (the state, family, market), and the *vertical* axis indicates a continuum of responsibility from social partners/community to individual citizen. Sapir's (2006) four European Social Models (Nordic, Anglo-Saxon, Mediterranean and Continental) are also located in different parts of the triangle, according to how much emphasis they place on a) the three objectives (income, employment, and social integration) and b) the actors who implement the objectives. Generally, more emphasis is placed on one particular objective over another or one actor over another – often, especially in the case of objectives such as minimum income versus adequate employment, this is construed as a trade-off.

Barriers to social Europe

The diversity and complexity that exists both within and between the welfare regimes of the EU member states makes the notion of a singular or common ESM analytically problematic (Scharpf 2002; Scheckle 2008; Mayes and Mustaffa 2009).⁴⁶ There are also practical as well as epistemological obstacles to promoting a Social Europe. Not least is the weakness of the Open Method of Coordination (OMC)⁴⁷ as an instrument for institutionalising convergence towards a more coherent social model (Scharpf 2002).

⁴⁶ As Mayes and Mustaffa (2009: 1) note, several other factors disrupt the apparent neatness of the European Social Model and the Welfare Triangle: EU enlargement, the Open Method of Coordination, and the variations that exist within and between national welfare systems. Inequalities between actors in the Welfare Triangle (state, market, family, citizens) are also under-theorised i.e. influence and power may play a part in responsibility for welfare provision; and the Welfare Triangle does not adequately account for changes or shifts in welfare regimes over time.

⁴⁷ As a form of 'soft law', the OMC encourages convergence in policy at the European level, while leaving responsibility for policy with the member states. Heidenreich and Bischoff (2008: 499) describe it as 'the methodical backbone of the Lisbon strategy with which the EU tries to modernise the European employment, economic, educational and social policies'. Member states present annual 'national action plans' which are evaluated by the European Commission against comparative benchmarks and are used to write up annual reports, guidelines, and in some cases recommendations to specific states (Scharpf 2002: 653; Raveaud 2007: 412). Much literature focuses on the beneficial aspects of the OMC such as information exchange, benchmarking, peer review, deliberation, as well as naming and shaming (see Scharpf 2002: 653 for examples). However, success depends both on the willingness of member states and on the willingness of partisan political actors to embrace and utilise the EES (Scharpf 2002: 654; Weishaupt 2009; Kröger 2009; Lopez-Santana 2009).

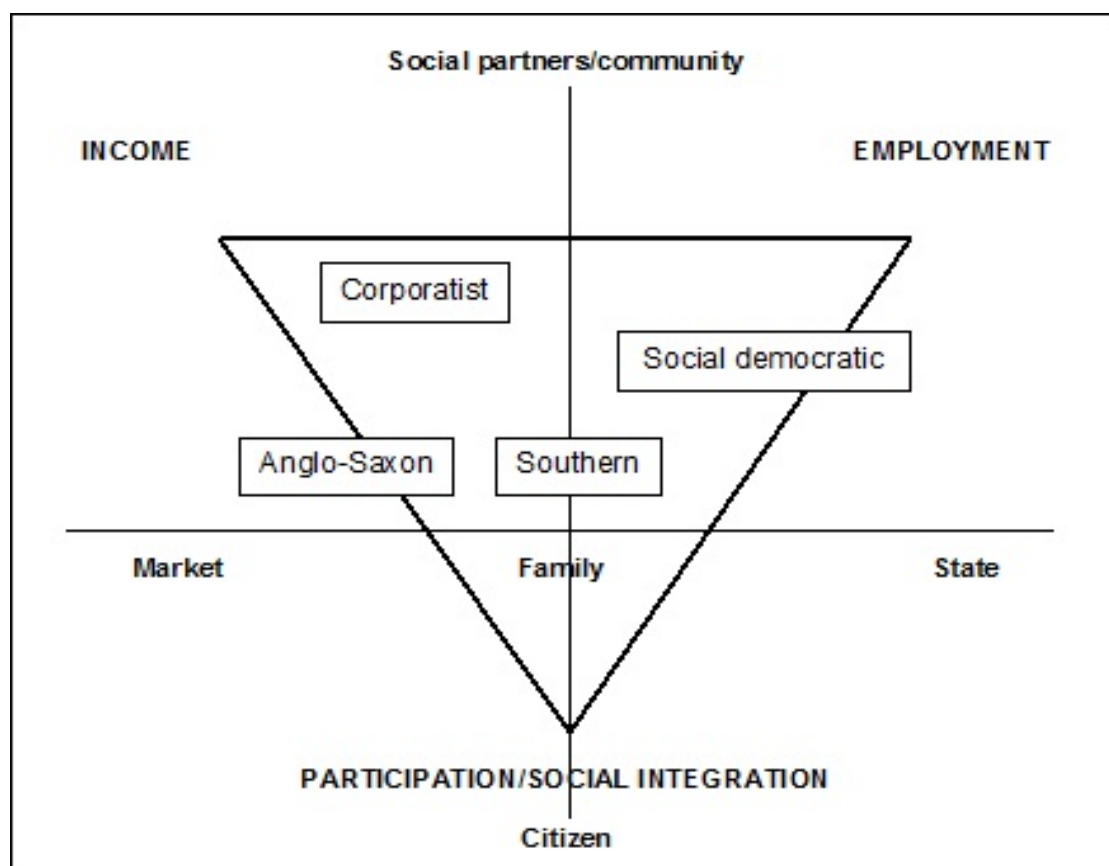


Figure 3: Welfare regimes and the Welfare Triangle.

Source: Muffels et al. 2002.

Progress towards a more coherent ESM is also complicated by the way member states have pursued their agendas for neoliberalisation. Typically, the principle of 'efficiency' has been emphasised over and above that of equity. For example, Sapir (2006: 380) concludes that only the Nordic and Anglo-Saxon social models are sustainable as they exhibit 'high efficiency' whereas the Continental and Mediterranean models are dismissed as unsustainable.

Huffschnid (2005: 4) notes that the ESM is inevitably 'embedded into the framework of global competition' as opposed to one of social welfare objectives.⁴⁸ The European emphasis on competition is mirrored in the move away from the 'Keynesian National Welfare State' model to the 'Schumpeterian Competition State' (Jessop 2002). The implications of this are twofold: first, the minimisation of the public sector in economic and social re/production through the prioritisation of open markets as the only means (or reason) for economic regulation (Huffschnid 2005: 4-5); and secondly, the inevitable break-up of social structures based on workers movements and trade unions, which are seen as barriers to economic growth and competitiveness.

⁴⁸ Competitiveness is a defining feature of the EU agenda. According to Preece (2009: 11-12) the EES is an example of a 'neo-socialist' project which became directed towards neo-liberal goals of competitiveness and modernisation due to compromises it was forced to make in the implementation process. See also Van Apeldoorn's (2003) study of the 2001 European Round Table of Industrialists, and Hay's (2007) analysis of the EU's prioritisation of competitiveness in the Doha round.

This complexity raises the question of whether a singular ESM is feasible and, if so, what kind of model it should be. Here opinion is divided. For some the ESM represents an attempt to reintroduce the failed policies of Keynesian and socialism on a European scale (Cash 2000). Others take the opposite view, arguing that the ESM could be viable if removed from its neoliberal context and placed in a more democratic framework. This would entail 'strong conceptual changes between means and ends in economic and social policies' (Huffschnid 2005:181-2). The issue here is whether the ESM should be a *means* to economic strength and competitiveness or the *end* to which economic and social policy is directed. Proponents of the latter argue that the goals of a renewed ESM should be: full employment, social welfare and security, social equity, ecological sustainability and balanced and cooperative international relations (Huffschnid 2005:183; Preece 2009).

The emphasis on introducing market principles into welfare provision at the national as well as the European level indicates some degree of policy convergence towards marketisation or privatisation. However, as our previous case studies highlighted, adopting such neoliberal welfare reforms has consequences for the European Social Model – and for democracy.

This section examines how these same tensions between economic and social objectives play out in practice by focusing on the internal contradictions inherent within the European Employment Strategy, the notion of 'flexicurity', and the regulation of increasingly flexible European labour markets.

The European Employment Strategy and flexicurity

The European Employment Strategy (EES) is the most comprehensive attempt to instate a European level social policy, and exemplifies the new OMC. The first guidelines of the EES were approved in December 1997 and formally structured around four pillars: employability, entrepreneurship, adaptability and equal opportunities (Biffel 2007: 4). These ideas were subsequently taken up by the European Council in 2000 which set out the goals of the Lisbon strategy 'to become the most competitive knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion'. In 2005, the Lisbon Action Plan listed its three main aims as: 1) making Europe a more attractive place to invest and work; 2) knowledge and innovation for growth; and 3) creating more and better jobs (Schafer and Leiber 2009: 6-7). However, recent developments such as the Kok Reports of 2003/4, the integration in 2005 of the EES into the Broad Economic Policy Guidelines, and the renewal of the Lisbon Strategy by the Barroso Commission in 2006 have led to a greater emphasis on flexibility, competitiveness, growth and employment and the 'dropping out' of social and environmental goals (Raveaud 2007: 428-9).

Taking all this into account, it appears that the EU's response to the challenges of globalisation and the financial crisis is to promote growth, efficiency and competition as the means to ensure social protection. These market mechanisms are seen to create a flexible yet stable environment, where competition for funding and contracts ensures the quality of service provision.

Flexicurity is heralded as a possible solution to the detrimental social impacts of flexible labour markets in Europe, and has become central to the 'third way'

implementation of the European Employment Strategy. Indeed, Commission President Barroso has described flexicurity as 'essential' for Europe to maintain its competitive edge and its distinctive social model in an age of globalisation (Boeri et al. 2006: 2).

For Boeri et al. (2006: 2), flexicurity is defined as 'flexible contracts' and 'adequate unemployment benefits', that is, less rigid employment protection legislation and greater prioritisation of unemployment benefits. Wilthagen and Tros (2004: 169) define it more precisely as:

A policy strategy that attempts, synchronically and in a deliberate way, to enhance the flexibility of labour markets, work organization and labour relations on the one hand, and to enhance security – employment security and social security – notably for weaker groups in and outside the labour market, on the other hand.

Flexicurity thus has two components: social inclusion on the one hand, and competitiveness and productivity on the other (Wilthagen and Tros 2004: 170). In practice, this means creating a flexible environment where activation policies assist jobseekers to find work easily, but which is at the same time highly competitive. Such an environment may lead to high turnover, but also guarantees the assurance of constant (if only short term) employment for workers.

However, this emphasis on creating flexible labour markets tends to impact most negatively on workers with little social capital or bargaining power, which results in a two-tier workforce. This has led Joseph Stiglitz (2002) and other critics of flexicurity to call it 'flexploitation' (Gray 2004): a thinly disguised attempt to deregulate labour markets and undermine years of trade union bargaining and political activity. The social compensation component of flexicurity is often insufficient to balance the insecurity caused by the flexibilisation of labour markets (Seifert and Tangian 2006). Moreover, an emphasis on part time and temporary jobs shows that job quantity over quality – the *more* without the *better* in the rhetoric of 'more and better jobs' – is being prioritised (Raveaud 2007).

The success of flexicurity in practice can only be gauged through empirical research, of which there has historically been little (Wilthagen and Tros 2004). However, recent research has aimed to maximise the positive aspects of flexicurity by moving away from a 'trade-off' mentality (e.g. Schmid 2009). It would be premature, therefore, to condemn flexicurity as a mere vehicle for flexibilised exploitation. In Denmark and the Netherlands, the model of flexicurity has worked quite well to ensure a low unemployment rate and the protection of unskilled workers, as exemplified in the Danish 'golden triangle' (Madsen 2002, 2007).⁴⁹ However, Gray (2004: 4) counters that the 'golden triangle' only works because it occurs in a climate with a strong degree of unionisation. This brings the Nordic welfare systems closest to the goals of a well-

⁴⁹ The triangle consists of three components – flexible labour markets, generous welfare systems and active labour market programs – which work together to ensure that workers either return to employment after only a short spell of unemployment, or they assisted by active labour market programs to find employment (Madsen 2002: 2).

rounded ESM with a balance of efficiency and equity.⁵⁰ Such strong unionisation and public services (provided through taxation) also provide much needed support to the family in caring for children and the elderly. Yet Raveaud (2007: 430) claims that the Commission and the EES guidelines are critical of the Swedish and Danish systems, deeming their tax levels too high and their unemployment benefits too generous. Therefore this model of flexicurity may not be exportable elsewhere as it does not fit with the recommendations of the EES. Furthermore, the success of flexicurity depends on the specificities of national welfare regimes.

Labour disputes and the posted workers directive

One consequence of increased labour market flexibilisation in the EU has been the movement of workers from poorer and less stable economies of the New Member States (NMSs) to the wealthier, most robust economies of the older member states. Though the European Commission states that the free movement of labour from NMSs to other member states should not pose a threat to their labour markets, such labour mobility has led to the destabilisation of industrial relations networks and has undermined labour standards in some member states (Woolfson 2007: 209). Problems have a 'Baltic dimension', with several of the more high profile labour disputes featuring Baltic workers.⁵¹

The Irish Ferries Dispute of 2005 was one of the most prominent cases taken up by the European Court of Justice (ECJ). In this case, Irish Ferries announced they would be replacing over 500 unionised Irish staff on their key Britain-Ireland routes with agency workers from Eastern Europe. These workers would receive half the Irish minimum wage, €7.65 per hour (Woolfson 2007: 210; Krings 2009: 49). The company claimed that this, and other major cost-savings such as reflagging the vessels to Cyprus, was a necessary move in order to compete with lower-cost airline traffic (Woolfson 2007: 210). However, some of the current staff was not willing to accept the voluntary redundancy package, and the trade unions and the Irish Labour Court ruled that they were in breach of their employment agreement. Nevertheless, the company flouted these rulings, and instead sent security guards to accompany its 70 East European workers aboard the *Isle of Inishmore*.

This incident saw original crew members barricade themselves on board for up to nine days, and sparked huge public protests. The biggest of these was a national day of protest organised by the Irish Congress of Trade Unions (ICTU) entitled 'A Threshold of Decency' (Woolfson 2007: 211). An estimated 100,000 people took to the streets to protest against exploitation of migrants, displacement of Irish workers, the threat to labour standards,⁵² and a 'race to the bottom'.

⁵⁰ Indeed, Goodin et al. (1999) argue that the social democratic welfare regime is uniquely suited to realising both social and economic objectives.

⁵¹ These include the *Laval* (or *Vaxholm*) case involving Latvian construction workers in Sweden, the *Viking Rosella* dispute involving Estonian workers on Finnish Ferries, and the *Irish Ferries Dispute* involving Latvian and Lithuanian workers on Irish Ferries (Woolfson 2007: 200).

⁵² For example, work related deaths went up in Ireland from 50 in 2004 to 73 in 2005 (Woolfson 2007: 209).

This case demonstrates ‘the potential social consequences of the free movement of labour in an enlarged EU’ (Krings 2009: 49). The flexibilisation of labour erodes hard-won trade union rights and labour standards as well as undermining trade union solidarity between different member states (Krings 2009). Against such threats, some have turned to the 1996 posted workers Directive as a potential safeguard. The Directive, in force since 1999, requires that a member states’ minimum employment conditions ‘must also apply to workers posted temporarily by their employer to work in that member state’ with the aim of balancing flexibility and workers’ rights.⁵³ Though the Directive attempts to regulate labour standards, it has so far proved largely ineffective due to lack of cooperation between member states (Scharpf 2002; Cremers et al 2007). In response to this, the EC has proposed an official Recommendation for better implementing the Directive which focuses on improved administrative cooperation between member states, and better access and exchange of information through an Internal Market Information System and a High-level Committee.⁵⁴ However, although the Directive provides a useful legal framework, it is subordinated by the European Commission’s emphasis on the free movement of services as enshrined in the EU Treaty and again, its implementation is dependent on cooperation from the member states (Woolfson and Sommers 2006: 59; Krings 2009: 65).

Implications for democracy in Europe

Some scholars contend that the European Employment Strategy and the European Social Model are incompatible. Raveaud (2007: 430) argues that the EES actually undermines the ESM, its emphasis on flexibility jeopardising other goals such as gender equality and social inclusion. Wilthagen and Tros (2004: 167) also criticise ‘the flexibility-security nexus’ at the heart of the EES which, they say, has become a major challenge to the ESM.

However, other analysts do not pose this nexus as a trade-off and see the EES as a necessary complement to EMU (see Scharpf 2002; Jepsen and Pascual 2005; Biffl 2007; Schmid 2009). Like the European Social Model, the EES acts as a ‘third way’, promoting flexibility and risk-taking for the purposes of innovation and employment whilst simultaneously ‘diversifying’ social protection to act as a safety net for the individual (Biffl 2007). Seen in this light, the EES could well be a positive step towards democratic and equitable European social policy. However, in its current form it may be too weak to be effective as there are no formal sanctions if EES aims are not achieved (Heidenreich and Bischoff 2008: 500).

⁵³ European Commission (2007) ‘Communication on the Posting of Workers in the Framework of the Provision of Services - Maximising its Benefits and Potential While Guaranteeing the Protection of Workers’, Europa Press Release. Available at: <<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/239&format=HTML&aged=0&language=EN&guiLanguage=en>> (accessed 27 September 2010).

⁵⁴ European Commission (2008) ‘EU Calls for Urgent Action to Improve Working Conditions for 1 Million Posted Workers’, Europa Press Release. Available at: <<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/514&format=HTML&aged=0&language=EN&guiLanguage=en>> (accessed 27 September 2010).

Conclusion: reconstituting democracy?

The purpose of this paper was to examine recent changes in social welfare provision in Europe and to consider their implications for the democratic process. Within that broader context, our study focused on the role of the voluntary and private sectors in helping to fill gaps in social welfare. Welfare regimes have always relied on the support of non-state actors; yet since the late 1980s a new 'disorganised welfare mix' has emerged, in which reliance on private sector and for-profit providers has deepened and become more visible as governments have withdrawn from direct intervention, or sought to 'roll back' the frontiers of the state. The need to rethink social welfare provision has been driven both by political considerations and by pressures on the financial sustainability of welfare systems. Hence, the emphasis on efficiency, productivity and competitiveness is not purely an ideological agenda of neoliberalisation but is also fuelled by very real and pressing questions of affordability which have been magnified by the recent global financial crisis.

How far responsibility for welfare provision lies with the state or non-state sectors is an on-going debate that reflects fundamental differences between political parties in Europe. Part of the problem for Europe is that no consensus exists within the EU or its member states over what welfare rights and entitlements citizens should be granted in an age of advanced liberalism and globalisation. As Eriksen and Fossum (2007) note, it is difficult to have democracy in Europe if there is no agreement on fundamental issues such as the form that democracy – and citizenship – should take.

Following Eriksen and Fossum, we take the goals of a democratic society to be full, meaningful and effective participation of people in the decision-making processes of those organisations that make decisions or take actions that affect their lives. Achieving these goals means having robust systems that enable equality of access and transparency. Only then can the organisations be held responsible and accountable for their decisions. This concept of democratic society entails a model of social citizenship that is arguably more congruent with the vision of T. H. Marshall and the 'Keynesian post-war welfare state' than with the current 'Schumpeterian competition state' (Jessop 2002). However, we do not wish to romanticise the Keynesian welfare state model, which surely had its own issues to do with accountability and efficiency. Rather, we are suggesting that it may be time to rethink some of the *a priori* assumptions regarding the supposed benefits of opening up welfare provision to increased competition from the private sector – particularly if our goal is a more democratic and socially inclusive society.

Our case studies show that many of the arguments for increased privatisation of health and welfare are based on questionable premises. These include the argument that during periods of economic downturn, the best way to save money is to privatise public services;⁵⁵ the claim that the private sector costs less than the public sector and is more efficient in delivering health services;⁵⁶ or, indeed, the assumption that

⁵⁵ Zurich Municipal (2009) *Public Sector Supply Chain: Risks, Myths and Opportunities*. Available at: <<http://www.zurich.co.uk/NR/rdonlyres/82A58CDF-D38F-414F-AC43CB0C4CBB7CBF/0/thebriefingpaperfullversion.pdf> [accessed 9/10/2010]>

⁵⁶ Trade Unions Congress (TUC) 2009 *Exploding privatisation myths*. Available at: <www.tuc.org.uk/extras/speakupprivatisation.pdf > (accessed 27 September 2010).

competition is necessarily the best way to improve public services. As a recent report by the UK's Trade Union Congress notes (2009: 6):

The imposition of competition and markets in the public sector means driving a wedge between client and contractor roles and usually results in the restriction of in-house delivery. Local authorities, NHS Trusts and other public sector bodies are required to become 'commissioning' organisations, in effect to be a client and to contract the provision of services to outside organisations. Competition is therefore limited between private firms and consultants and cannot be said to be true competition.

Our criticisms of privatisation lie not with the principle of competition *per se* – which we recognise can be a powerful lever of economic innovation and antidote to bureaucratic inertia – but with the commodification that seems to be transforming health and welfare provision into lucrative businesses that benefit in particular large private companies. In this respect, we welcome more debate on the logic of 'for-profit' organisations and the limits of privatisation as far as health and welfare provision are concerned.

Moreover, the public sector has a well-established history of service provision and retains some distinctively democratic qualities that are absent in private sector provision. These qualities include an ethos of fairness, antipathy to corruption, and reliability; a producer market oriented to non-paying customers such as pupils and patients and an ethical sense of duty towards the public (Grimshaw et al. 2002: 480). While it is far from perfect, the public sector may thus offer some measure of best practice to the private sector, particularly in areas dealing with democratic accountability and equitable provision (Grimshaw et al. 2002: 499).

The lessons from the case studies of what might be termed the Anglo-Saxon and neoliberal approach to welfare reform challenge the dominant view that the private sector necessarily provides a model of best practice to the cumbersome and excessively bureaucratic public sector. Privatisation is typically assumed to increase efficiency through alleviating financial pressure from governments, decreasing the need for regulation, and introducing competition with a focus on performance outputs.⁵⁷ These principles drive the European Single Market and are continually being enshrined through the rulings of the European Court of Justice. They are also echoed in calls within the European Employment Strategy for greater labour-market flexibilisation and competitiveness in the new global knowledge economy. However, considering welfare provision from a democratic standpoint alters these objectives. The key issue here, is not simply whether welfare 'works well' (i.e. delivering efficiency), but whether it works to deliver the goals of a democratic society. This latter discourse positions the recipient of welfare as a citizen with rights, rather than a consumer with entitlements.

All of the case studies that we have presented concerning increased private-sector involvement in welfare provision highlight the potential for significant social and

⁵⁷ According to Stein (2002) post-industrial societies are being fundamentally reshaped by a 'cult of efficiency'.

democratic costs. For example, the New Zealand case study of 'new contractualism' promoted a top-down implementation of the Employment Contracts Act which discouraged more democratic local and bottom-up initiatives (Wallis and Dollery 2001: 248). New contractualism was also found to undermine transparency, encouraging softer, more indirect (but correspondingly opaque) governance and regulation (Bredgaard and Larsen 2001: 291). The New Public Management reforms that introduce private sector principles into the public sector can thus lead, paradoxically, to new forms of regulation. They also do not necessarily imply reduced public expenditure (Ascoli and Ranci 2002: 5; Dalziel 2002, Rasmussen and Lamm 2005). Public-spending reductions can also disguise off-balance sheet costs. The UK PFI case study illustrates how little of the efficiency gain from the refinancing went to the public sector hospital and local health authority that it was supposed to benefit.

With their characteristic focus on social participation through charitable work and bottom-up community initiatives, voluntary sector organisations provide an alternative to both state and private sector provision. Greater voluntary sector involvement thus addresses the concern voiced by many that welfare provision should be 'not-for-profit'. The more fluid and participatory structures of accountability that apply to voluntary sector organisations enable them to be more creative, dynamic and less constrained by the dictates of profit margins or government bureaucracy. However, the down side of that dynamism and fluidity is increased volatility and variability in the quality of service provision, not to mention lack of organisational transparency.

Furthermore, the voluntary sector is increasingly subject to the same constraints as government and private sector providers. The introduction of more formalised partnerships with state and market bodies and New Public Management has led to greater stakeholder demands for increased performance and 'value for money'. Finally, there is also the danger of voluntary sector cooptation by government. This has two negative aspects: first, the blurring of the boundaries between government and the voluntary sector as the former increasingly steers and appropriates the latter for delivery of its services (what Wolch (1990) termed the 'Shadow State'); and second, as noted in the US ABCD case study, an increasing tendency to delegate the costs as well as the responsibilities of welfare provision onto those communities, neighbourhoods and families that are least able to bear them. The blurring of boundaries between different actors is a result of the new 'disorganised welfare mix' and can be a cause for concern when the interests of vulnerable actors are co-opted by more powerful sectors.

This brings us back to the fundamental dilemma of the welfare mix: the tension between efficiency and democratic accountability. Who can be held accountable in a diffuse, multi actor social welfare arena? Private providers, while deemed efficient, are not accountable to the *demos*, but to their shareholders and investors, and as Mörth (2008) observes, this has significant implications for public involvement and democracy. In the case studies cited above, this raises the question of private sector motivation for engaging in welfare provision. Do private providers 'fill the gaps' in welfare provision or do they maintain and *exacerbate* those gaps? Given that private providers owe their existence to gaps in state-funded provision, and given their

mandate to return profits to their shareholders and investors, some conflicts of interest between the goals of welfare and commerce appear almost inevitable.⁵⁸

We are left with the unresolved question of how far the state or government should assume responsibility for the health, welfare and well-being of its citizens in an advanced liberal democracy. Our findings also highlight the contradictions between the European Employment Strategy and European Social Model and the goals of the EMU and the Single Market. While some argue that the primary aim of the European Employment Strategy should be to provide a social safety net, others see it as a vehicle for driving economic growth and achieving the goals set out in the Lisbon agenda. Within this Janus-faced policy, environment narratives of 'growth, competitiveness, innovation and flexibilisation' compete with discourses of 'social inclusion', 'equal opportunities' and 'social security'. The corollary of this is a bipolar EU agenda. Yet despite attempts to resolve the tensions within this schizophrenic policy environment, discourses of economy and efficiency invariably trump competing discourses of social welfare and democracy.

⁵⁸ There is also the question of who should shoulder the risk. In a market-based welfare regime, consumers take on the risk. They are expected to be informed and rational beings who make educated decisions with regard to their investments and purchases. If these purchases or investments turn out to be undesirable or harmful, they bear the brunt of the cost for this.

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RECON is an Integrated Project financed by the European Commission's Sixth Framework Programme for Research, Priority 7 – Citizens and Governance in a Knowledge-based Society. Project No.: CIT4-CT-2006-028698.

Coordinator: ARENA – Centre for European Studies, University of Oslo.

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