



A public service for all seasons?

Martin Lodge and **Andrea Mennicken** highlight the continuing tensions in regulating public services

During and following the UK general 2017 election, the Labour Party called for the nationalization of mail, energy and water companies. It similarly was very critical of the performance of the economic regulators. Whatever the basis of these claims and the likelihood of them coming to fruition, public services have clearly returned to contemporary debates about the role and relevance of the state, the private sector, and of citizens and consumers.

What public services entail is contested. They include critical infrastructures that enable social and economic life, such as water, electricity and communications and finance, as well as welfare state institutions, such as education and health. However, the exact contours of what constitutes a public service, of what should be publicly provided and/or funded and at what level, remains a matter of political preference and debate.

The organization, regulation and financing of public services is critically related to wider understandings of the state. Focusing on how public services are defined and 'delivered' during periods of state transformation provides, therefore, valuable insights into what exactly is being 'transformed' in terms of statehood. Accounts of state transformation would point to key themes that have emerged since the 1980s: the rise of managerialism, marketization, regulation, privatization and state fragmentation are said to have fundamentally changed the nature of public services – including the people working in these services and those making use of them. These changes are supposed to have signalled a move from citizen to customer in terms of 'user'. The state has changed from owner and provider to regulator, 'enabler' and 'investor' (see also the article by Mennicken and Muniesa in this issue).

More generally the very distinction between public and private has become blurred and its analytical usefulness can be questioned. Considerable ambiguity and hybridity has emerged in the practice of public services. For example, blurring occurs in the area of failure (Kurunmäki and Miller, 2011). Failure regimes that one would expect to see in 'private markets' in the case of financial insolvency have been considered for implementation in the area of health (at least in England), whereas they might be said to be still glaringly absent in the private setting of banking where institutions not seldom are considered as 'too big to fail' and the state is seen as lender of last resort. The same may be said about the utilities companies in the UK, none of them having lost their licence on the basis of financial or operational failure.

Questions of ownership have become increasingly complex and moved beyond the simple distinction between 'public' (state-owned) and 'private' (private shareholder-owned). Ambiguity over ownership not just results from the widespread use of so-called 'public private partnerships' in all their

different shades (and near inevitable state-backed cost over-run and risk non-transfer), but also because the nature of the 'investor' has changed. We know very little about the long and short term incentives of investors that include sovereign wealth funds of different countries, pension funds and state-owned development banks. In the UK, regulatory regimes have been accused of encouraging (offshore) shareholder-oriented debt restructuring by private equity investors at the expense of customers who are footing the debt interest bills for capital expenditures (Ford, 2017).

In the past, observers noted the problems of national regulators seeking to deal with international public service providers, especially in terms of expertise and financial resources. Such problems have come to fruition in terms of, for example, problems in procuring information technology. These changes in ownership structure however raise also more fundamental questions about 'control'. In lesser developed countries, for example, the availability of new sources of funding provided by sovereign wealth funds and the like might coincide with fewer or different demands regarding good governance. More generally, the rise of such kinds of 'new' state-backed institutional investors has triggered a return to debates about strategic industries and golden shares to prevent the abuse of public services in the pursuit of 'foreign' interests.

Increasing hybridity and ambiguity affect furthermore the role of the 'user' of public services. Public services are intended to enhance the capacity of individuals to participate fully in public life as citizens. Much has been said about the shift from citizen to consumer in an age of privatized and marketized public services. This includes a greater emphasis on choice, on voice (in terms of complaint handling and such like) and less attention on questions of representation. There has also been an increased significance on regarding the user as a competent (i.e. well informed) customer, although it is questionable whether this has led to more effective and efficient choices. Similarly, considerable interest has been paid to those supplying public services under managerial conditions. It is not just in higher education where demands for greater marketization have led to a growth in managerial positions to manage blame and liability at the expense of discretion at the frontline. This 'audit explosion' (Power, 1997) might be said to have increased juridification and gridlock rather than encouraged entrepreneurial-discretionary behaviours.

Another dimension of hybridity and ambiguity concerns the publicness of different public services. Publicness refers to questions that go beyond ownership, namely the ways in which services are funded and controlled, how explicit such regimes for the steering of services are, and how accountable and responsible they are to citizens and political life. The rise of regulatory agencies as watchdogs for public services has highlighted the challenge of combining questions about



accountability and responsiveness on the one hand and statutory 'independence' and autonomy on the other. Beyond these questions, there is also the question of value. The past few decades of supposed marketization, privatization and managerialism were supposed to be all about efficiency. However, public services are also about fairness and resilience. Whether systems of regulation of public service have succeeded in addressing these values remains debatable and might be said to have contributed to the wider calls for extensive reform in recent years.

None of these debates about the blurring of state and non-state, about the role of citizen-consumers, or about the publicness of public services reflects on particularly novel debates. As public services are inherently political, it is inevitable that each generation will return to debates about trade-offs and values. The blurring and hybridizing of public-private boundaries similarly highlights the inherent instability and contestability in existing regimes.

Nevertheless, the contemporary age is also shaped by distinct dynamics. The first novel dynamic relates to the rise of digital technologies ('big data') that can be used as both source of and for regulation. Using social media, data sourced from different channels and algorithms as tools of regulation call for a new set of regulatory skills and competencies that complement those of the economist and lawyer (see also the article on 'algorithmic regulation' in this issue). In addition, in times of growing demand for 'engagement', regulation requires more focus on coordinating fragmented market participants.

The second dynamic to consider relates to the effects of austerity. How different public services are financed and regulated is under challenge in an age when regulators have to reduce their headcount and where public services are lurching from one funding crisis to another (such as the NHS in the UK). Privatization was once seen as the tool to release particular sectors from the shackles of depleted public funding. However, the past decades have highlighted the continued role of the state whether as regulator or as funder of public services, even in areas characterized by private ownership, whether this relates to questions about future energy generation sources, the provision of broadband in remote regions, or the need to support loss-making transport services. How public service can be controlled and financed in an age of continued austerity, especially as systems degrade over time, remains a central question for the future.

Finally, the third component concerns demography. Regardless of potential technical breakthrough technologies, the costliness of public services is likely to surge given increasingly heterogeneous and ageing societies. What the implications of such demographic change will be on the demand for public services, and how public services will be able to adapt in view of digitalization and austerity, remains a challenge, especially as politics requires thinking in electoral cycles rather than the long-term.

Public services – their definition, organization, regulation and funding – have always been central to debates in public policy. Contemporary dynamics, combining both the accumulative effects of previous reforms and the pressures of contemporary dynamics, mean that public services require heightened attention in the study and practice of risk and regulation, especially in view of the challenges posed by digitalisation, austerity and changing demography.

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