Privatisation and the Constitution*

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In a recent report the People's Commission on the Public Sector and Public Services has rightly drawn attention to the sheer un-constitutionality of the Modi government's plan to privatise en masse the assets of the public sector. The constitution of the country is not just a set of procedures and rules for the governance of the polity. It expresses above all a certain social philosophy which is supposed to inform the behaviour of the various organs of the State and which constitutes the foundational beliefs around which the nation has come into being. This is particularly true of ex-colonial countries where the formation of the nation has been the outcome of an anti-colonial struggle that brought people together in an historically unprecedented show of unity; the social philosophy underlying the constitution of the newly formed nation-State provides the conceptual basis for this coming together.

The Supreme Court of India has enunciated the doctrine of the "basic structure" of the constitution; the most basic of this "basic structure" however is the social philosophy underlying the constitution. Altering this social philosophy requires nothing short of an alteration of the constitution itself which in turn requires not only following the stringent procedures laid down in the constitution for doing so, but also the most widespread discussion in society at large, so that the very conceptual basis of the unity of the people that created the nation-State does not get undermined. It certainly cannot be affected by a government which happens to have a majority in parliament, by simply using this majority to push the alteration through. And yet this is exactly what the Modi government has been trying to do with its agenda of privatisation and "monetisation" of public sector assets: in the non-strategic sectors the public sector will be more or less wound up while in the strategic sectors it will continue to have a presence but only a token one.

The public sector in India was created for a multiplicity of reasons: for wresting control over the country's raw material resources from the clutches of foreign capital (eg, the oil sector); for promoting self-reliance in technology, in order to avoid being dependent upon, and hence dominated by, foreign capital (eg, heavy electricals); for making essential services available to the public at low or zero prices (eg, healthcare, education, electricity); for providing the means through which public resources were expended in particular sectors where private resources would not have materialised either at all or in adequate quantities (eg, infrastructure); for providing support to peasant agriculture through procuring the produce at reasonable prices (eg, FCI); for disbursing credit to the petty production sector which would otherwise have been starved of it (eg, the public sector banks). All these reasons for the public sector's emergence were a part of the process of economic decolonisation, and were in conformity with the vision articulated in the directive principles of state policy laid down in the constitution. In fact, as the report by the People's Commission on the Public Sector and Public Services emphasizes, the public sector was created as an essential instrument for achieving a welfare State in India in consonance with this vision.

Privatisation of the public sector necessarily means selling assets to a few large monopoly houses or to international big business, since nobody else is large enough to mobilise, the resources required for their purchase. It entails therefore a shedding of the responsibility of the State, and the unleashing of a process that combines a recolonisation of the economy (as the "commanding heights" of the economy are handed back to metropolitan capital three quarters of a century after independence), and a reneging on the directive principles of state policy as laid down in the constitution. It entails in short, an espousal of a social philosophy (if one may call it that) which is the diametrical opposite of that of the constitution, a philosophy that combines subservience to metropolitan interests together with an abandonment of the commitment to a welfare State.

Since the assets moreover are invariably sold below their true values, they involve a process of primitive accumulation of capital: they add, say, Rs 100 to the assets of the metropolitan capital or the big Indian house buying them, while getting a much smaller amount, may be Rs 50 in return. This worsens wealth inequality in the country; and since income inequality is bred by wealth inequality, it also worsens income inequality. All this goes explicitly against the directive principles of the constitution that puts a reduction in economic inequality as an explicit goal of governance in the country. The sin of the Modi government vis-à-vis the constitution therefore is not just one of omission, but of commission as well in the most brazen form.

Ironically, let alone there being any public discussion on this abandonment of the social philosophy of the constitution, even the reasons for this abandonment have never been explained by the government. Why the public sector as it exists needs at all to be privatised has never been made clear; and the only defence provided for privatisation has been the assertion by Modi that the public sector should only have a marginal presence in the economy. Like in Lewis Carroll's nonsense verse "The Hunting of the Snark" where a character says "What I tell You Three Times is True", what Modi says three times is supposed to be true, with no need apparently for any argument and discussion. This is an exhibition of contempt for the constitution which is unacceptable and has to be resisted at all cost.

Lower-level officials, when pressed, provide no argument in support of the massive privatisation plans of the Modi government, but refer to the benefits of privatisation in general terms as a means of raising resources for the government budget. But this is an argument which is logically completely flawed. Privatisation as a means of resource mobilisation is absolutely no different in its macroeconomic consequences from a fiscal deficit, while its other effects are lethal.

Here we must distinguish between "stocks" and "flows". A fiscal deficit refers to the excess of government expenditure over government income; it is a flow concept since both expenditure and income are flows. It adds to the level of aggregate demand in the economy; and since such an addition causes either the level of output and employment to increase, or the level of prices to increase relative to the money incomes of the working people (if output increase is not possible), it raises private savings either way, and therefore enables the government to borrow this increase in savings. The savings the government borrows are exactly equal to what it has put into private hands (assuming for simplicity a closed economy). Thus, private savings go up without the private savers having made any sacrifice in consumption; and since all savings represent additions to wealth, a fiscal deficit gratuitously increases wealth inequality.

This entire process is not altered an iota, if instead of a fiscal deficit, the government sells public sector assets to raise money. The only difference is that instead of the government borrowing from the banks, say, to finance the fiscal deficit (which subsequently causes an equivalent amount to flow into banks as deposits), the capitalists borrow from the banks to buy public sector assets, and hand over the money to the government to spend. In its macroeconomic consequences, this latter, indirect, way of getting bank finance for government spending is no different from getting bank finance directly for government spending: it adds the same amount to aggregate demand and causes the same increase in wealth inequality. The private sector in the case of a fiscal deficit holds, directly or indirectly (via banks), paper claims on the government (in the form of government bonds); in the case of privatisation it holds equity in public sector companies (and thereby controls them). Thus while the macroeconomic effects are the same, privatisation allows the private sector to take over the running of the companies for the aim of making profits and not to benefit the people.

Sometimes it is argued that while a fiscal deficit is debt-creating for the government, privatisation is not debt-creating and therefore the government has no subsequent interest payment obligations. What this argument misses is that privatisation puts a flow of returns into private hands, which would otherwise have accrued to the government. Returns foregone are akin to interest payments, so that in either case there is a stream of income loss for the government; this stream will be absent only if the government raises resources through income or wealth taxation, but not if it raises resources through privatisation.

Thus, on the basis of flawed economic reasoning, the Modi government is abandoning the basic social philosophy underlying the constitution and handing over the public sector to a few favoured cronies. Modi often brags that his government is free of corruption. The proposed privatisation of public enterprises is the most scandalous instance of corruption in post-independence India.

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