Market-Based Social Policies – Contributions by Udo Reifner

Traditionally, social policy concentrates on redistribution. Via taxation and social insurance social risks are mitigated so as to allow for maintaining a decent standard of living even in case of additional need of income (due to illness, e.g.) or in case of lack of labour income due to unemployment or because of being a pensioner in old-age, for example. However, with the demographic changes ahead, most EU social security systems underwent profound changes. Policy makers strengthened the importance of private provisions in case of social needs to balance the impact of an ageing society for the public budget in case of the mainly tax financed Beveridge social security type systems respectively, for the social insurance systems in case of Bismarckian type social security systems, which – as Pay as you go-systems – rely heavily on contributions paid by those employed. Such personal provisions use markets instead of public or collective insurance agreements for acquiring entitlements to benefits. Accordingly, outcomes are much more unevenly distributed, since results depend to a large degree on the primary income distribution. This holds even in case of tax incentives set by public policies to induce low-income earners to invest in market products for personal pensions, for example.

In addition to this trend, a-typical employment relations are now much more of a standard than the previous male breadwinner system with life-long employment contracts guaranteeing a permanent stream of income. This increases the need for consumer credits, for example, to cover expenses in case of a temporary loss of income due to unemployment. In addition, it impacts the financial capability for a growing share of the workforce to acquire private homeownership, since this usually requires to take out mortgages for investing in homeownership. This in turn is only possible in case of a sound financial record, including a constant stream of income, so as to be rated as a trustworthy debtor by mortgage banks and other financial institutions. Making access to private property even more difficult, following the Great Financial Crisis of 2008, banks have to be more restrictive regarding to whom they grant mortgages due to additional regulations.

Therefore it is no longer adequate to concentrate only on redistribution via taxation and social insurance to address the scope of social policy. In particular financial services become more and more important to guarantee an adequate standard of living. As a consequence, also low-income consumers who had formerly not been the main target segment of such services as consumer credit, mortgages or personal old-age provisions become more reliant on getting access and getting a "good deal" out of their investment in such products. This raises a number of issues, which go beyond the traditional reasoning on regulating such markets because of information asymmetries etc. Schelkle (2012, p.65f.) offers a broader perspective to tackle the additional policy issues raised by this development towards a partially *market-based social policy*. Both in regard to policy objectives as well as policy measures, she distinguishes between market-creating, market-correcting and market-compensating social policy, with only the last referring in some respect to the traditional social policy notion of income redistribution. *Market-creating social policy* entails measures to "distribute resources or shift risks such that a virtual market demand can meet a virtual market supply" (ibid), while *market-correcting social policy* assumes market partners to be unequal, thus applying measures to "shift risks to the side with presumably higher risk-bearing capacity" (ibid). In addition *market-compensating social policy* aims at correcting market results (ibid.).

As regards policy measures, market-creating social policies rely mainly on fiscal incentives (for the following see Schelkle 2012; Eckardt 2018). Tax policy provides a broad range of instruments which aim at increasing disposable income or at reducing costs, thus effectively shifting demand upwards for lower income groups, too. Market-correcting social policy can be seen as a specific kind of consumer protection policy. It uses regulatory instruments to account for information asymmetries and other market failures where consumers are seen as the “weaker” party in a contract that is, as less knowledgeable and prudent than the providers. Market-compensating social policy finally attempts to change market outcomes. In contrast to traditional social policies, it not only relies on redistribution via taxation or social insurance systems. For example, in the wake of the global financial crisis, in many countries a large share of homeowners encountered severe problems in meeting their obligations regarding interest and principal payments of their mortgages. Governments reformed eviction, exemption and/or repossession procedures to prevent an increase in homelessness and to attenuate the severity for housing markets and the people affected. With regard to private pensions, insolvency and bankruptcy rules play an important role in protecting entitlements. Special regulation to insure against the risk of insolvency or bankruptcy also might guarantee entitlements in case of single companies failing.

Following this classification, it becomes obvious that Udo Reifner is one of the very few scholars who has devoted the major part of his research agenda to questions that address market-based social policies. These lie outside of traditional social policies, but are at the heart of current social policy reforms.

One of the main subjects Udo Reifner is engaged in is a revision of European contract law to account for the social dimension by introducing what he and others term “life time contracts”. This notion refers to such contracts “that ensure a place to live (contract for rent/ leases), goods and services (contracts for supply) and income (labour contracts and credit agreements), the necessities for living” (Nogler/Reifner 2014, p.5f.). According to him “(w)hether consumption, labour or housing are concerned, contract law should regard the different impact the respective lifetime has for the individual” (Nogler/Reifner, 2009). Following classical liberalism or German *Ordnungstheorie*, property rights and contract law are one of the underlying foundations of markets. Thus, any endeavour to further develop the current state of contract law to include either a different notion or additional aspects of what are the rights to be respected by the party to a contract, affects the very basics of markets and thus of the working mechanisms of market competition. In this respect, it also influences the market results. It is still too early to say what will follow from this discussion of including the notion of life time into contract law. However, this research obviously falls within the realm of market creating-social policy, since it touches the very basic institution of markets that is, contract law.

Udo Reifner has also devoted a lot of research to topics that can be classified as being market-correcting social policies. With much more reliance on personal old-age provision, for example, financial literacy becomes much more important. This holds the more, the lower one’s income and the more dependent upon additional old-age income a person is to avoid old-age poverty. The same applies to consumer credit regulation, given that an ever larger share of low-income earners rely at least temporarily on credit to make their ends meet. Thus, financial consumer protection regulation together with policies to improve financial literacy come into the focus. Up to now these had played rather no role for social policies. Also in regard to these issues, Udo Reifner did not confine his research to national (German) regulatory topics, but included always also the latest EU regulations on such issues (see for example Reifner 2008; 2009; 2011). Also in the then rather new field of financial literacy he adopted a European perspective from early on (Reifner 2003; 2006).

As regards market-compensating social policy, Udo Reifner analysed the subject of consumer credits, which includes the possibility for consumers of getting insolvent or bankrupt due to overindebtedness. Again, he analysed this topic in a complex way taking into account both the underlying market mechanisms as well as the social aspects (see for example Reifner 2007; 2010; 2014).

Regarding his research on all these different subjects in this rather new field of market-based social policies, Udo Reifner proves to be an original scholar with a profound interdisciplinary knowledge and approach deeply rooted in sociology and the legal sciences.

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