Wild Capitalism, Privatisation and Employment Relations in Serbia

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Abstract

We examine the phenomenom of wild capitalism under Post Communist transformation. Many commentators on post Communist transformation focus their attention on dysfunctional corporate governance and the deleterious consequences of liberalisation on business ethics. Poor business ethics and bad corporate governance may be a consequence of labour exploitation for comparative advantage, and the abandonment of party authority. This allowed rapacious rent-seeking by a minority well placed to benefit from the newly de-regulated regime. A by-product is a burgeoning informal economy encouraged by insider dealing of privatised state assets. State regulation, where it exists, is often ignored. Employment relations are fragmented, with state-owned enterprises retaining some form of collective regulation, while newly privatised enterprises seek to marginalise union activity.

1. Introduction: Post Communism, VoC and Corporate Governance

Post Communist transformation has sometimes been framed within western concepts of varieties of capitalism (VoC), with reference *inter alia* to industrial relations regimes and dominant patterns of corporate governance. Commentators have drawn a distinction between those countries which have adapted to market capitalism by following a liberal marketisation model (LME) and those which have followed a more co-ordinated market model (CME). Feldman (2006), for example, isolates Estonia as an example of the LME approach and Slovenia as CME and proposes that such development mirrors the variation in advanced OECD countries and suggests that it may not be necessary to invent new models of capitalism to analyse all the new economic institutions in transition countries' (*ibid* : 850). Both Buchen (2007) and Bohle and Greskovits (2007a) isolate the former Yugoslavian state of Slovenia (exceptionally) as a case of CME. However, other commentators have noted specific spatial and socio-political variants within transformation states, including a cluster 'with high levels of state control, relatively little privatisation and an undeveloped market' (Lane, 2005: 227). This might suggest that marketisation has been stalled or delayed in some post Communist states, and the role of the state in maintaining control over production and distribution of goods and services remains strong. Other commentators focus their attention more precisely on dysfunctional corporate governance and point to the deleterious consequences of market liberalisation on business ethics and governance (see Kaufman and Siegelbaum, 1997 for a review of evidence). Following King (2007), studies may suggest that a more nuanced interpretation of developments is necessary, which takes special account of the nature of legacies from the past, as well as the dependent nature of many transformation states on western MNC investment.

In particular, poor business ethics and bad corporate governance may be a consequence of the combination of market liberalisation and the abandonment of one party authority over control of industrial production. This chemistry of events allowed rapacious rent-seeking by a minority of individuals well placed to benefit from the newly de-regulated regime (Filatov, 1994). The dominant doctrine of 'shock therapy' acted to de-regulate labour codes, privatise state assets, and attract MNC inward investment. The rush towards profit maximisation and capital formation 'by any means necessary' was fed by neoliberal prescription which suggested that the regulatory aspects of the Command Economy created rigidities and barriers to successful market-based relations. These rigidities had to be cleared. Central to this process was the power and influence of the international financial institutions (IFIs) such as the IMF and World Bank, whose conditionality clauses encouraged de-regulation and market liberalisation (Stiglitz, 2002; World Bank, 2004; Woods, 2006).

A common feature of unrestrained rent-seeking capitalism has been high incidence of gangsterism, corruption, mafia crime and a burgeoning informal economy. Such illegal or semi-legal business activity is characterised by insider dealing as privatised state assets are bought up by individuals who are well connected with (sometimes) competing elites within the political class. This form of 'state capture' by well-placed private individuals is particularly well documented in the case of Serbia, as well as other western Balkan states such as Albania, FYR Macedonia, and Bosnia-Herzegovina (Pesic, 2007). The clientelism and reliance on personal networks sits side-by-side and interplays with more conventional ownership patterns reflecting lingering state management, as well as transnational corporate activity and foreign direct investment. A fragmented business system results outside the varieties of capitalism (VoC) taxonomy. MNC behaviour may be exemplary but can be a 'cathedral in the desert' of non-regulated and unrestrained rent-seeking. Standards of corporate governance are weakened by the fragmentation, while state regulation, even where it exists, is sometimes ignored. Employment relations are similarly fragmented, with state-owned enterprises retaining union membership and some form of collective regulation, while newly privatised enterprises seek to marginalise union activity and former collective agreements are abandoned (Pollert, 2000; Martin and Cristecu-Martin, 2004). Evidence also suggests that many inward investing multi-nationals often prefer to construct or take advantage of non-union environments (Winterton, 2004). Commentators have referred to this darker side of post Communist capitalism as 'wild' capitalism (Lane Bruner, 2002; Harper, 2006), 'crony' capitalism (Gustafson, 1999; Peev, 2002), or 'patrimonial' capitalism (King, 2007). Both 'crony' and 'wild' capitalism, however, are phrases used most often to describe embedded 'cosy' relationships between big business and state elites. For our purposes we refer to 'wild' capitalism within a broader definition, which includes unregulated rent-seeking including aspects of both crony/patrimonial capitalism as well as informal and/or illegal business activity.

This article considers these dilemmas as they have arisen in the former Yugoslavian state of Serbia, focusing especially on the post Communist regime after the fall of Milošević in 2000. Central to the paper is an analysis of the emergence of wild capitalism as a significant element within the new Serbia. We examine the course of developments which allowed space for such a fragmented 'model' to develop, and comment as to why Serbia has diverged so significantly from the Slovenian 'CME' case. We focus on the interplay between structure and agency factors in producing wild capitalism. Our chosen method of analysing the interplay between structure and agency is utilised to determine the degree to which new norms of behaviour have become embedded (or not) within new states. Giddens (1986), for example, emphasizes that actors have power to shape their own actions but that the consequences of actions are often unintended. While structure may be defined as the rules and resources that give similar social practices a systemic form, it is only through the activities of human actors that structure can exist. While Giddens acknowledges that structure can be constraining to actors, he postulates that structures can also enable actors to do things they would not otherwise be able to do. A social system is thus a set of reproduced social practices and relations between actors. We would suggest that in similar vein Bourdieu (1977) introduced his concept of *habitus* to describe the culturally and historically determined *mind set* which partly conditions all individuals' social, cultural and physical responses. The state of *Habitus* is a product of both structure and agency. Thus if we are to analyse the phenomenon of wild capitalism we must seek to determine the specific set of norms of behaviour as a product of both structural and agency dynamics. In particular we must attempt to determine how and why specific patterns of behaviour are reproduced (or not).

In examining structure we record from Serbian Government and World Bank documents the continuing difficulties facing the economy and the Government's strategies for confronting difficulties, including privatisation. We analyse and evaluate the Serbian Privatisation Agency's programme and review evidence on business transparency produced by the World Bank and the United Nations Development Programme as well as the NGO Transparency International. We adopt this approach because the lack of transparency within privatisation has proved to be a much contested terrain within post Communist states, most acutely because it has been central to the process of market liberalisation and has opened the door for processes of clientelism to develop. It is within the privatisation process that we can discern the ability of actors to shape and re-shape the environment to their own advantage, even if this creates negative outcomes for others. In the Serbian case, under Milošević, privatisation involved free distributions of shares to workers in companies, but after 5 October 2000 and the fall of Milošević policy changed to the wholesale selling of factories. Privatisation has since been the central government strategy to restructure the Serbian economy as well as the source of many problems of governance. In order to understand the impact of agency we record key labour and societal disputes around the programme. Evidence is gathered from documentary records such as trade union statements and appeals, Serbian and international press reports, semi-structured interviews with trade union leaders and activists conducted between 2004 and 2008. The researchers also held a Round Table Focus Group of trade union activists, employers and journalists funded by the British Academy in Belgrade in 2008. This Round Table was audio taped and much of the background information to the dilemmas of the privatisation process, social dialogue and corporate governance emerged from this process. We also assess the influence of external agents such as the IFIs and the European Union in attempting to re-shape Serbia's governance, and conclude with an assessment of prospects for change in corporate governance.

2. Wild Capitalism as a Variety of Capitalism?

We can define wild capitalism in a number of ways. First, we discern a weakening of the ideals of social solidarity and fair income distribution. Social safety nets are downscaled or withdrawn in an effort to 'roll back' the scope and content of responsibility of government. This decline of the salience of social solidarity may be accompanied with an ideological emphasis on individualism as the mantra of the free market pervades everyday discourse and practice. Such ideological re-structuring, at least in the immediate years following the upheavals of 1989, was aided and abetted by political elites, management consultants and some academics from western Business Schools (for a critique of this process in Serbia see Cicmil and Upchurch, 2006). Second, is a downgrading of the protective labour codes which were integral to the former system but then perceived to be a restraint on market forces. 'Protection' in this context entailed regulations on dismissals and redundancies as well as pension provision. Such downgrading is a focus of IFI conditionality (Forteza and Rama, 2001; Upchurch, 2009). Third, is a disregard for, or absence of, rules and regulations which govern the behaviour of corporations and corporate elites within wider society and the market (c/f Aglietta and Rebérioux, 2005). This is partly engendered by states wishing to attract FDI, partly by the collapse of party authority and command planning, and partly by delayed societal adjustment to new regimes of practice. There is also a preponderance of weak and under-developed agencies within 'civil society' (Howard, 2003), which might otherwise have been able to keep selfish corporate and individual interests in check. This 'weak' civil society in most cases sits side-by-side with a strong state, containing many authoritarian features of the past. However, such a 'strong' state may contain dominant traits of administrative corruption which, in the case of Serbia, is based on asymmetry of information between politicians and civil servants whereby 'benevolent politicians (if any) are just not informed about misdemeanour of their subordinates' (Begović, 2005: 3). Notable by absence may be, as Lane Bruner (2002: 180) suggests in the case of Russia, ' Public education, strong and independent judiciaries, a free press, federal oversight through security exchange commissions, the rule of law, enforceable private contracts, and numerous other institutions and the values that support them must be in place'. Political, economic and social space is thus created whereby norms of expected behaviour within society are formed which emphasise personal rent-seeking at the expense of 'ethical' business behaviour.

It is possible to locate 'wild' capitalism as an historically specific form of embryonic accumulation unfettered by the regulatory complexities of contemporary capitalism. In Adam Smith's (1776) *laissez-faire* approach to economics 'primitive-original' accumulation of capital is promulgated as a benign pre-requisite for the 'creation' of wealth. In this model the use by a new class of owners of financial capital and land as well as human labour was necessary to enable profitable activity and economic growth. This classical economic analysis of Smith and Ricardo was critiqued and refined by Marx (1867) years later in *Das Kapital*. For Marx, private ownership and control of capital was similarly a necessary pre-condition for capitalism. However, rather than being benign, such a pre-condition established the means of production and the social relations of production central to the *exploitative* dynamic of the system. The process has since been controversially reformulated by Harvey (2003) in his critique of neo-liberalism as accumulation by *dispossession*, whereby the contemporary interests of capital are satisfied by rapacious exploitation of resources within a globalised economy. However, given that the Communist states were all industrialised and highly regulated there appears to be no technical reason why wild capitalism should have triumphed over a more regulated form of capitalism under post Communism. So how might we explain the predominance of wild capitalism within the transformation process? We suggest that the process of labour exploitation may be central to this understanding. First, from a *structural* approach, we must understand that the transformation of post Communist economies cannot be separated from wider forces of globalisation. The entry of the post Communist economies into the world market was predicated on a state strategy of encouraging and promoting production regimes based on labour rather than capital intensity. As such extensive labour exploitation, achieved through lax working conditions and relatively low pay, was necessary for the construction of competitive advantage. Neoliberal marketisation fulfilled the objectives of western capital by opening up new production opportunities in geographical spaces unfettered by restraints on profit maximisation. Furthermore, there is little room for the institutions of social democratic models of corporatism and associated 'good' governance to develop within this model as they did in post War Western Europe, not least because the conditions of mass consumerism and Keynesian welfareism are absent (Bohle and Greskovits, 2004; Bohle, 2006). Second, utilising *agency* theory, we observe that the very nature of transformation, namely its speed of application and its deliberative mechanisms engendered by the state, militated against the immediate establishment of a newly formed layer of 'indigenous' entrepreneurs from within the mass of population. Instead, the existing minority ruling elite were in a position of power, they held the necessary networks and resources, and controlled production of goods and services as a distinct interest group or class. They seized the chance to become the new economic power elite under market capitalism. In effect, at least in the early stages of transformation, the old *nomenklatura* simply moved sideways from command to market economy in an orgy of personal asset accumulation and insider dealing as privatisation of state assets gathered pace (Hankiss, 1990; Haynes and Husan, 2002). Even if the dominant political aspiration under transformation may have been social democracy, there remained a persistence of practice characterised by authoritarianism and state patronage.

Organised labour is marginalised within this process as collective bargaining, rather than being seen as an adjustment mechanism for the price of labour, is perceived as a threat by employers and state alike. So we observe a more belligerent form of capitalism, with conflictual labour-capital relations and a state too weak or too unwilling to mediate or moderate between the two by 'fair' regulatory process. Even where such institutions of fair labour protection are in place, or where institutions of collective bargaining and minimum wages exist, the state is similarly often unwilling to enforce compliance by employers. The resultant weak structural position of unions has meant they have found it difficult to establish societal legitimacy and engage in pluralist processes of collective bargaining or social dialogue. While the unions may have some *associative power* (membership density is similar to and certainly no less than many western European countries), their position is severely constrained by low *structural power* as the deleterious effects of industrial restructuring and a burgeoning informal economy take their toll. This has serious consequences for organisational practice, whereby the behaviour of employers is left un-restrained by effective union presence. Moreover, this particular accumulation strategy does not sit comfortably with good corporate governance. It is an inefficient system, with low aggregate propensity for tax collection which in turn reduces aggregate state revenue and subsequent infrastructure development. The weak or non-existent business ethics, gangsterism, and corruption are a barrier to outsider and institutional investors seeking a safe home for their investment. Lastly, the high income inequality generated by wild capitalism militates against the creation of efficient distribution of disposable income necessary for effective consumer demand. Capital and financial markets remain under-developed or starved of sufficient funds, further exacerbating problems for potential new entrants into the business arena. For these reasons wild capitalism is absent from the standard models to be found in the 'Varieties of Capitalism' or corporate governance literature. However, similarities with other systems may exist outside the OECD arena. Wood and Frynas (2006) refer to selected states in East Africa, and have made observations of clientelism induced by privatisation. They identify such states as consisting of 'segmented' business systems with a fragile state, dependence on personal networks, and poorly organised 'indigenous' capital. While there are some similarities in this description with post Communist states there are also clear differences. Both systems are similarly identified by structural inefficiency and, not surprisingly, remain outside of business systems' models which seek to draw synergies between institutions and efficiency (Whitley, 1999). However, in contrast to East Africa clientelism and fragmentation under post Communism has developed within relatively highly industrialised and strong states, often comfortably equipped with natural energy resources and human capital.

Wild capitalism was real and concrete in the CEE and former Soviet Union in the 1990s but in later years we can see momentum gathering for change. Critics of the model's inefficiencies and lack of ethics came not only from within post Communist states but also from outsider liberals who were former operatives within the system (e.g. Stiglitz, 2002; Sachs, 2006). The international financial institutions (IFIs) also changed tack after 1999 Seattle demonstrations, by introducing the concept of a new financial architecture for lending and borrowing which would focus on institution building within civil society (Wolfensohn, 1999). These 'second generation reforms' were intended to encourage the development of social capital networks in transforming countries which would act to control and restrain corruption and cronyism by forms of social and moral regulation (Fukuyama, 1999). The World Bank even noted the positive effect that trade union lobbying had on limiting corporate corruption so that '…greater emphasis should be placed on building local constituencies – not merely entrepreneurs, but workers and reform-minded politicians as well – capable of demanding further policy reforms' (World Bank 2004: 20). In addition, within the CEE at least, the prospects and realities of conditions attached to EU Accession were hoped to serve as potential restraints on the worst excesses of a decade of neo-liberal damage to societal solidarity and market efficiency. However, the case for IFI change in the transformation states remains unproven (ICFTU, 2003; Upchurch, 2009), with many examples of continuation of old practice. The onset of world-wide system failure following the world financial crisis of 2008, associated as it was by western-based financial mismanagement and boardroom greed, also exacerbated the problem. The influence of the EU as a transformative agent is also doubtful, given the new emphasis on soft legislation and flexibility in the Lisbon Process. The accession of the CEE states has also been argued to encourage and embed neoliberalism (Bohle and Greskovits, 2007a). Commentators such as Winterton (2004) and Potůček (2008) suggest that rather than the EU acting as a moderating effect on the Wild East there may even be a domino effect whereby labour exploitation and regressive welfare practices are transferred from east to west.

3. Findings

a. Structural Constraints in Serbia

The prospects for good corporate governance may be prejudged by prevailing structural factors. By 1999 the economy had shrunk to half the size it had been a decade earlier. The economy was severely affected by the civil wars, the NATO bombings, the period of international economic sanctions lasting three years from 1992 to 1995, and the loss of markets during the Miloševič era. The break-up of the state had left Serbia with an accumulated public debt in 2000 of 14.17 billion Euro, equivalent to 169.3 per cent of GDP (Serbian Ministry of Finance)[i]. The strategy of successive Serbian Governments since 2000 has been threefold. First, was to seek new financial arrangements with international creditors in order to write off former loans and debts and to re-arrange new loan facilities. Second, was to create the economic environment deemed necessary for the attraction of foreign direct investment. Third, was to sell off assets to the private sector in order to service both private and public debt burdens. In terms of the attraction of FDI and favourable re-scheduling of loans the strategy has met with some success. There was a steady growth of GDP since the October 2000 Revolution, at least until the financial crash following 2008, stimulated by free trade agreements with both the European Union and Russia and increasing foreign direct investment in the country, which increased from a total of 0.01 US$bn in 2000 to a peak of US$4.29bn. in 2006.[ii] Major foreign-based investors include US Steel, Philip Morris, Microsoft, Coca Cola, Siemens and Carlsberg, while the Russian-based Lukoil and Gazprom have invested heavily in the energy sector. In the retail sector a number of multi-national stores have set up shop, including Mercator (Slovenia), Intermarche (France), Metro Cash and Carry (Germany) and Veropoulos (Greece). In the financial services sector major overseas banks with new establishments in Serbia include Banca Intese (Italy), Credit Agricole and Societé Generale (France), and Erste Bank (Austria). Serbia remains heavily dependent on imported oil and gas and in 2008, a deal was signed between the presidents of Serbia and Russia, whereby Gazprom's oil arm Gazprom Neft gained a majority stake in state-owned Petroleum Industry. As a part of the deal, a 400-km long section of the South Stream gas pipeline will be built through Serbia (*Rianovostni* 2008). Initially, 4500 enterprises were targeted for privatisation, which were expected to raise about US$150.3m. Between 2002 and 2004, over 1,100 enterprises, employing over 150,000 employees, were sold off (Ristić 2004: 126). However, growing national income has masked a problem of low internally-driven capital formation and growing public finance problems. The total monetary value of exports has continued since 2000 to be less than half that of imports and as a result this has exposed Serbia to an increasing balance of payments deficit. The precarious state of Serbia’s balance of payments has meant that the country has been faced with a continuing problem of debt servicing, a weak currency (dinar), and potential inflation. By 2008 accumulated private sector debt stood at US$ 19.5bn and public sector debt at US$8.49bn. Serbia has sought to accommodate this debt by building up its foreign reserves and by selling more state assets through privatisation.

Key early sales were those of steel works (to US Steel) and breweries, tobacco manufacturers and petrol stations. Full privatisation of the Serbian telecommunications network proved difficult because of problems of infrastructure. 49 per cent of shares were sold off to Italian and Greek telecom operators in 1998, but rather than improving the infrastructure and efficiency the motive appeared to be entirely to aid reduction of the budget deficit (Begović, 2000). Substantial new privatisation agreements were struck in 2006, including the sale of the mobile telephone operator Mobi063 to Telenor of Norway for €1.5bn., the purchase of the Vojvodjanska Banka by the National Bank of Greece for €360m, and the take-over of Hemofarm by the German company Stada for €475m. In 2009 the Serbian Privatisation Agency still had 2145 enterprises listed for privatisation on its website, and was engaged in a renewed programme of privatisation designed to raise a further US$45bn [iii]. The large but troubled Zastava arms and automobile combine has been linked with various European car manufacturers with a view to establishing either a full sale or a franchise/joint-venture arrangement. In July 2008 a memorandum of understanding was struck with Fiat who agreed to invest €700m. in return for a 70 per cent stake in the company. Interestingly, this deal marked a return to earlier agreements first begun between Fiat and Zastava in 1954 under the Titoist regime, when the popular Fiat 600 car was built in the factory.

The Government 'wish-list' for further privatisation includes the state airline, JAT, and the state-owned airports. 10 per cent of the assets of privatised companies were due to be distributed as shares (worth US$1500) for each member of the population. The timing of this distribution is significant, as it came at the height of tension over the future of Kosovo, and distribution of shares to Kosovo Albanians (still technically citizens of Serbia) may have fulfilled a useful political manoeuvre by the Belgrade Government. Many smaller and medium-sized enterprises in the 'socially-owned' sector have been sold to domestic investors. However, many of these 'domestic investors' have become the source of privatisation's problems, since they include criminal elements and unscrupulous rent-seekers.

b. Agency Factors: A State Born out of Conflict

We look now at the *agency* factors. It is important to record that the new state of Serbia was born out of conflict in which the workers' movement played a crucial role, more so than in most other transformation states. The centrality of workers' action has shaped societal expectations in the post Milošević period. Political events were dominated by a general strike of 7500 workers from the Kolubara mine complex, coal from which produced the majority of Serbia's energy needs. Their demands were both economic and political, with a call for full recognition of the general election results (Marinković 2003). The dramatic nature of the storming of Parliament together with the bulldozer charge marked a high point of workers' frustration. Popular protest against the Government had been transformed into a revolution with the aim of regime change and hope for a better future. The mass of working people in Serbia felt that the regime was at its end, and were prepared to take the risk of one great push against Milošević without fear of the consequences of failure (see Collins 2001: 222 for a graphic account). For workers there remained the question of economic justice, not just in terms of income distribution, but also in terms of workplace justice against their Serbian Socialist Party bosses. For the leadership of the newly independent unions the goal was full integration into the social democratic heartlands of western Europe, while for the rump of the old 'official' union the key aspiration appeared to be to hold on to some of the vestiges of past authority, sprinkled on occasion with cries of Serbian nationalism (Upchurch, 2006) . The three union federations have since each sought to ally themselves at various times with individual aspirant political parties, further reinforcing the framework and atmosphere of political clientelism. Despite these ideological and practical differences within the workers' movement the strikes continued alongside occupations and workplace sit-ins in a form of revengeful guerilla warfare against the state and employers. Many disputes arose, whose purpose was described by Marinković (2001) to allow 'freedom of organisation, elimination of harassment of trade union activists and fraud and robbery of the enterprise assets by management'. In many cases this meant the ejection of management cadre and the re-election of new ones (a semi-legitimate practice following the legacy of Yugoslav self-management). Other disputes focused on non-payment or freezing of wages, or job losses under privatisation. In essence regime change in Serbia was accompanied and framed by workplace and societal conflict.

This is in marked contrast to Slovenia, where favourable structural factors including higher GDP per head and good prospects for exported goods and services provided a different framework of transformation and the possibility of a 'gradualist' privatisation programme (Šušteršič, 2000; Rojec et al, 2004). Both countries have a common heritage of workers' self-management of the enterprise. Indeed, Crowley and Stanojević (2009) have argued that the legacy of self-management, and the subsequent confidence and authority it gave to organised labour, is a factor in determining the gradualist and neo-corporatist path in Slovenia. However, despite labour insurgency such a path failed to transpire in Serbia. We suggest that this conundrum is explained by the fact that in Slovenia more favourable economic factors created political space to allow for the consolidation and further development of social democratic values of workplace consensus, social dialogue and partnership. These values, a 'conscious choice' of the dominant political party leadership (Bohle and Greskovits, 2007b: 109), were utilised by the state to neutralise any conflict through the institutional channels of Works Councils, a tri-partite Economic and Social Council, and centralised wage bargaining (Feldmann, 2006: 849).

However, it is within the privatisation process in Serbia that we can discern the negative influence of agency in encouraging wild capitalism. Laws to allow privatisation were passed in 1989, 1990 and 1994, and strongly favoured domestic investors and employees through a system of preferential discounts on shares. An estimated 50 per cent of socially owned capital had been privatised under this process by 1994 (Bukvič, 1994). Enterprises not 'fit' for privatisation were liquidated, adding to the general problem of capital reduction in Serbia. Not until 1997 did a law come into force that opened the path for foreign investors to purchase enterprises. The later legislation also restricted insider ownership to existing employees and pensioners of enterprises, and this, Ristić (2004: 123) argues, created some hostility to privatisation from the excluded sections of the population. Concern was expressed that managers of previously 'failing' enterprises could remain in charge through shareholding options, with potential attendant problems of transparency. The 1997 law allocated 60 per cent of the shares to workers in state-owned enterprises as was part of the process of down-scaling the system of self-management. In effect a *nomenklatura* form of capitalism was consolidated under Miloševič as the privatisation process gathered pace. This was partly a result of managers of enterprises deliberately running down enterprises and creating losses in order to buy them up cheaply. As Obradovič (2007: 50) has graphically recorded:

> With the withering away of the formal economy rose the speculative economy, financed through the transfer of social capital in a visible or less visible manner to the pockets of the 'nomenclature elite' and through the indirect state-sponsored robbing of the population. The basis of the speculative economy was 'trade' (smuggling) of oil, cigarettes, foreign currency, drugs and arms. By abusing its position, the 'power elite' in Serbia (bureaucratic, military and economic-technocratic) was the main organiser of the criminalised economy, from which it derived, for Serbian circumstances, huge profits and accumulated capital. The owner class, the 'nomenclature elite', which started to get rich during self-management socialism through so-called 'useful malfeasance', continuing through the criminalised economy in conditions of the systemic crisis of society............had already become the dominant social actor in Serbia at the beginning of the 1990s.

After the fall of Miloševič the new Serbian Government began a more thorough process of privatisation with a twofold aim. First, was the integration of Serbia into the world economy on a competitive basis by restructuring of enterprises deemed to be unproductive. Second, the new Government wished to pay off accumulated public debts, and the sale of state-owned enterprises to foreign buyers would go some way to satisfy this objective. The first privatisation law after the October 2000 revolution was enacted in 2001, and enabled the privatisation of all 'socially owned capital', as opposed to the existing state-controlled public services and enterprises. A stipulation that social welfare programmes should be attached to the privatisation was included in the legislation. Privatisation, in this instance, followed the model of tender in order to gain new majority owners, who might be domestic or foreign individuals. With both forms of privatisation— insider share-ownership and open-tender— concerns were once again raised about the ability of individuals to obtain property at bargain prices through a combination of legal and illegal means. In many cases privatised concerns passed directly to the ownership of political parties. As Pesic (2007: 16) records, 'The 17 biggest companies founded by the government of Serbia are managed by the parties that comprise the ruling coalition at the national level – the managing boards, presidents and directors – are compiled and by a quota-system are divided up among each of the parties of the ruling coalition which appoint the management positions as if the companies were their own property. All other public companies – about 500 – are in the hands of the ruling coalitions at the local levels'. Rancour also exists with those employers who are alleged to have abused the privatisation process for personal gain. In some cases privatisation, and the problems of insider dealing and corruption surrounding the process, have led to rank-and-file direct action against the 'owners'. One example comes from the pharmaceutical factory Jugoremedija, which in March 2007 became the first enterprise to be controlled by its worker-shareholders following three years of disputes and occupation of the factory. The dispute between the workers and management first began after the state sold its 42 per cent shareholding in the firm to an indicted criminal. Complaints of contract violation and concerns over financial processes soon followed. Below are extracts of an open letter produced by workers at the factory and published by LabourNet.De in January 2008. The content of the letter (abridged) gives further insight into the workers' perceptions of privatisation.

> **Workers-shareholders of Zrenjanin factories Bek and Shinvoz**
>
> ***Dear friends,***
>
> A year and a half ago, more than 60 prominent intellectuals and activists of the world supported the struggle of the workers-shareholders of Zrenjanin pharmaceutical factory Jugoremedija. That support was key to the most important victory of Serbia's workers over the past eight years: on March 1st 2007, Jugoremedija became the first factory in Serbia controlled by its worker-shareholders........Most of the factories that Zrenjaninian workers built during socialism and lived off for decades are closed today. Seven years ago, during the beginning of the transition in Serbia, neo-liberal experts warned us that the entire Serbian economy would be forced into bankruptcy unless it was privatised as soon as possible. This is how Shinvoz, a company producing and repairing trains and locomotives, was privatised in 2004. The meat processing plant Bek was privatised one year later. Despite privatisation the neoliberal threats came true: both companies went bankrupt....There are very simple reasons for this. Privatisation in Serbia decreed that a minority of shares should be distributed to

the workers of the company (in Shinvoz they have 44% of ownership, in Bek 30%). Although the majority shareholders can control the company, it remains impossible to control it absolutely as long as the workers are co-owners. Serbian bosses therefore use a simple tactic: they appoint management with no worker-shareholder representatives and use this absence of control to make bad business deals through which the company becomes indebted. Yet the trick is that the debts are to shell companies owned by the same person. When the factories go bankrupt, they can, as owner of the shell companies, rebuy them on the grounds of debts, this time with 100% of the shares.....All workers are laid off and the union ceases to exist. When a former major owner regains the factory after bankruptcy there is no more collective contract and the owner chooses whom to re-employ. Any union that is reinstated will be under full control of the boss and his/her new management. . ...The occupation of Bek began on the October 8th and that of Shinvoz on December 28th 2007. Through pressures on the Privatisation Agency to stop breaches of contracts and illegal activities in our factories, the privatisation contract was cancelled at Bek, thus returning 70% of capital back to the state. Although the government admitted that their tolerating of illegal activities contributed to Bek's bankruptcy, it still refuses to take responsibility for it.......In Shinvoz, the Privatisation Agency established that the majority owner breached both the privatisation contract and the law. Yet it didn't cancel the contract with him.......We ask for you support in our struggle by appealing to the president of Serbia, Boris Tadic, as well as to the relevant government institutions. They must accept our demands and participate in the recovery of companies that are out of business today due to the illegal activities of their major owners and to the inefficiency of government institutions supposed to control the respect of the law and the privatisation contract.

Yours truly, Protest Board of worker-shareholders of Bek and Shinvoz Milena Prstojevi

Mita Lisica

The celebrated dispute clearly highlights both the range of concern at workers over privatisation scandals as well as the depth of bitterness with the state-run privatisation programme. In the last year such frustration with institutional weaknesses led the workers of Jugoremedija to take the step of forming their own political party.

The difficulties inherent in the privatisation process were compounded by the financial crash of 2008. The likelihood of further sales of state-owned enterprises have been diminished by the crisis, even if shares were to be sold at under-valued asset prices. The seriousness of the effects of the global financial turmoil were shown in January 2009 when the Economy Minister Mlađan Dinkić announced that the Fiat-Zastava deal would be put on hold as a result of the financial crisis, with a ten-month postponement of the contract[iv]. The Serbian Privatisation Agency also reported in August 2009 that a quarter of privatisation contracts had fallen through as new owners failed to honour the deals. In the summer of 2009 workers' general discontent over the emerging privatisation fiasco gave birth to a wave of strikes, many of which were characterised by a continuation of earlier 'unorthodox' labour action identified by Grdesic and Meszmann (2007). Local press agencies reported that most of the strikes, involving over 30000 workers in 40 to 45 enterprises, were directed at privatised concerns where employers had not paid salaries or health and pension benefits for some months[v]. The workers involved, led by hundreds of factory staff from auto parts producer

Zastava Elektro complaining they had gone unpaid since the start of the year, also took their protests to the streets by blocking traffic around the office of the Serbian Privatisation Agency and other key buildings in Belgrade. More macabre protest also hit the headlines when Zoran Bulatović, a worker at the Raska textile mill in Novi Pazar, on hunger strike in protest against non-payment of wages, cut off two of his own fingers and (he claims) ate one of them[vi]. The mill used to employee 4000 workers but has reduced its labour force to about 100, with claims of unpaid salaries going back as far as 1993. Following the protest the national Government began clearing the path to allow the local Novi Pazar council to take over ownership of the plant and pay the workers.

4. Discussion: Prospects for Institution Building and Corporate Governance?

Privatisation has proved to be a painful process for many employees. While privatisation was perceived as central to Serbia's attempts to confront its structural problems, the reality for many workers was to reinforce perceptions of 'them and us' within society. The problems of non-payment of wages, asset stripping and insider dealing we identified as key areas of dispute in the October 2000 Revolution are still apparent a decade later. Indeed, at a social level privatisation remains at the heart of Serbia's internal problems, associated as it is not only with unemployment but also with insider dealing and corruption. This does not bode well for the establishment of institutions that can guarantee good corporate governance. Indeed, this problem has already been recognised by the World Bank, through its country strategy reports, and the European Union, via its discussions framing Serbia's Stabilisation and Association Agreement signed in May 2008. However, there are enormous contradictory outcomes present in the policies influence of these institutions. The World Bank continues to exert pressure for more privatisation and employee flexibility through its Country Partnership Strategy for 2008-2011 (World Bank, 2008). Indeed, Serbia is praised by the Bank in its 2006 *Doing Business* report for being a 'top performer' in enacting liberalising reforms. However, in the Bank's own survey of opinion makers and business leaders in Serbia the Bank reports that 'A sizable portion of respondents thought that the World Bank has not been efficient enough in increasing transparency in governance and in reinforcing the education sector' (World Bank, 2008: 23). In addition, the evidence suggests that the liberalisation agenda of the IFIs conflicts with efforts to create social dialogue between employers and employees that might be able to constrain wild capitalism. For example, a key focus of dispute between the unions and the state in Serbia has been the implementation of a new Labour Law introduced in 2001, and the associated rights to representation and to strike. The law was constructed within a framework of social dialogue in so far that the trade union federations were informed of the nature of the new legislation in draft form. However, both the main union federations, *Nezavisnost* and SSSS (Confederation of Trade Unions of Serbia), complained of ineffective consultation mechanisms and felt the need to resort to open protests and strikes against the law. The World Bank and IMF had been active in drafting changes to the proposed legislation before it was issued to the unions. Despite the process of social dialogue Slavko Lukovic, the General Secretary of *Nezavisnost,* only learnt of the changes to the draft by 'visiting the Bank's website'[vii]. Commenting favourably on the process the European Bank for Reconstruction and Development stated 'The new labour law that came into force in December 2001 is very free-market oriented…….The most important feature is that, in comparison with the previous labour legislation, the new law is more liberal regarding employment procedures and termination of employment, thus giving more flexibility to employers. It eliminated those features that were viewed as overly protective for workers and highly restrictive for managerial functions' (EBRD 2004: 15). The International Labour Organisation (ILO) had also made 170 observations on the law of which less than ten per cent were accepted by the Government, further fuelling the suspicions and anxieties of the unions. In May 2004, however, after federal elections the new Government made a move to strengthen the formal structures of social dialogue by introducing a draft law for a revamped Social and Economic Council to include representatives from the Government, employers' organisations and the three union federations. Key union demands were the removal of a clause in the existing law stipulating the need to gain the enterprise director's written approval before any claim for representativeness can be lodged.

The signing by the Serbian Government of the SAA with the European Union in May 2008 brings Serbia closer to EU membership. But again, we see contradictory pressures. The type of reform encouraged by this process has focused on customs and taxation policy, agriculture and visa conditions. Barriers remain to more speedy progress. Most important are EU concerns with levels of corruption, the perceived need for judicial reform, minority and human rights, and the ongoing issue of alleged war crimes, including requests for extradition of Ratko Mladić and Goran Hadzic to the International Criminal Tribunal for the former Yugoslavia. Despite these reservations financial support to Serbia from the EU has been considerable, amounting to €1.3bn. between 1998 and 2006, with a further commitment of €195m. each year from 2007 to 2011. The European Investment Bank (EIB) has been a key player in channelling loans to Serbia for infrastructure projects that include road and rail improvement, school building and clinical centres. The arguments among Serbia's political elite for joining the EU remain the same as for other post Communist states in transformation within the periphery of the EU. Vachodova (2001: 8) argues that for such states the EU is perceived as a 'security enhancing political community' and a 'welfare-enhancing common market'. For conservative politicians the EU thus offers business opportunities within a protected EU common market and for social democrats membership is seen as a positive step not only because it reduces uncertainty over borders and threats from neighbours but also because it creates a political atmosphere conducive to the European 'Social Model'(ESM). In order to join the club you must play by its rules, and so post Communist states are inclined to reshape their legislative, judicial, economic and social systems to fit the EU's model. For workers and their unions the prospects of EU accession create more dilemmas. On the one hand, the process of institution building required by the EU includes social dialogue mechanisms as part of the *acquis communitaire* may give legitimacy to trade unions as one of the 'social partners' and encourage good corporate governance. On the other hand the drift of EU policy making towards a deliberative approach based on benchmarking and away from a legislative approach based on substantive legal requirement has diluted the institutional framework which allow for some advance in workers' rights. In addition, the flexibility and employability agendas now dominant in the EU under the Lisbon process would seem to confirm a shift in the *body politik* of the EU towards neo-liberal prescription and away from the solidarities of the ESM (Taylor 2009).

However, what is more important than any institution building 'from without' is the prospect of actors creating institutions favourable for corporate governance 'from within'. In this respect the prospects again do not look favourable. The Serbian Government has created a range of anti-corruption measures and institutions under encouragement and guidance from the United Nations Development Programme (UNDP), including an internal anti-Corruption Task Force, and measures to de-politicise the civil service. But action on the ground appears slow and constrained by lack of resources. An independent report on progress commissioned by the UNDP in 2007 concluded that 'Although there have been major improvements in a range of development areas in recent years, progress in respect to mitigating corruption has been partial and slow' (UNDP, 2007: 5). In addition the resources, both technical and in terms of manpower, available to the police force to investigate corruption were found by the report to be 'not sufficient' (*ibid*: 23). Indeed, Serbia was still ranked 97th out of 169 countries in the Transparency International Corruption Perception Index in 2007.

5. Conclusion

We have attempted to develop an understanding of the development and expression of wild capitalism within Serbia within the context of corporate governance and varieties of capitalism. We examine both structure and agency to help us understand the development of particularised norms of business behaviour. We locate wild capitalism as an integral part of a model of transformation capitalism characterised by fragmentation of business and employment systems. We can discern a type of capital accumulation regime that falls outside of traditional VoC taxonomy, with elements of both lingering state management and emergent LME contained within. Wild capitalism, characterised by informality, clientelism, corruption, personal political networking and gangsterism sits side-by-side with more 'normal' capitalism characterised by legality, and 'western' codes and norms of behaviour. Post Communist transformation allowed space for personal rent seeking as the old *nomenklatura* took advantage of the sale of state and social assets. What we find is a parallel world of business norms and ethics whereby the conventional practices of western-based MNCs become integrated with clientelist practices of 'indigenous' owners of capital (c/f Peev, 2002: 85). In the Serbian case such integration creates particularised norms of business behaviour. Conventional business practice exists by subsuming norms of behaviour associated with clientelism. In the process the interests of organised labour are marginalised, putative processes of social dialogue fall flat, and attempts to introduce transparency stagnate. Within weak civil societies the low structural power of unions makes it difficult for them to become agents of change or to curb the excesses of owners of capital. This, of course, presents a problem for such transformation states. In order to challenge bad practice factional battles will need to be fought within the political elites. An internal ground-clearing operation is necessary to establish favourable conditions for good corporate governance or pluralist industrial relations practices. However, in Serbia such ground-clearing threatens the direct interests of sections of the elite (including those who look for patronage towards Russia rather than the West), and so the cleansing process is subject to resistance and blockage. Thus, even despite reform from within and from external agencies such as the World Bank, EU or UNDP attempts to create 'good' corporate governance and transparent business behaviour prove difficult. In conclusion, the search for an institutional mix that can generate transactional and structural 'efficiencies' in the VoC framework will continue to prove elusive.

Notes

i http://www.mfin.sr.gov.yu/eng/2724/ accessed 30 July 2009
ii National Bank of Serbia Balance of Payments Statistics Division
iii http://www.priv.yu/pregled_preduzeca/pregled_preduzeca.php?jezik=english
iv http://www.b92.net/eng/news/business-article.php?yyyy=2009&mm=01&dd=20&nav_id=56553 accessed 6 August 2009
v http://www.ipsnews.net/news.asp?idnews=48254 accessed 3rd September 2009
vi http://www.balkaninsight.com/en/main/news/18545/ accessed 3rd September 2009
vii Author's interview notes, June 2004

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