
Report from the First National Conference of Sociology

Geiranger, May 1990

Volume I



NAVF

Council for
Social Science
Research

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Institute for
Social Research

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Dept. of Sociology,
Univ. of Oslo

Report from the First National Conference of Sociology

Geiranger, May 1990

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FOREWORD

Sociology in Norway faces great challenges in the years to come. The strong growth in contract research in the past two decades entails the danger of Norwegian sociology becoming provincial, and losing position internationally. Consequently, there is a great need to raise the level of scholarship among doctoral students, enhance the critical capacity within the discipline, and build out international contacts.

On this background, the group for sociology in the Norwegian Research Council for Science and the Humanities has taken the initiative to a four year program of national conferences. The aim of the conferences is to strengthen the integration of the discipline on the national level, as well as the contact between doctoral students and senior researchers. The first conference was held at Geiranger May 9-13, 1990.

The present volume contains the majority of papers from the Geiranger conference. To preserve a sense of unity in the conference report, papers and plenary lectures held in Norwegian are not included. The papers from the work groups have been arranged in six sections. To be sure, there is always some arbitrariness in such classifications. At the same time, it gives the reader a better chance to sort out papers of interest.

At the end of the volume, the program of the conference is printed, along with a complete list of papers presented.

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NORWEGIAN NATIONAL SOCIOLOGICAL CONFERENCE
GEIRANGER 9.-13. MAY 1990

ON THE REGULATION OF PROFESSIONS

by

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ON THE REGULATION OF PROFESSIONS

by
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Abstract

A profession is described as a property rights system designed to facilitate the utilization of a particular body of knowledge and skill. The employees of the welfare state belong to occupations which to varying degrees can be called professions.

Most of the welfare services are the joint product of several occupations. The so-called "fights of the professions" can be seen as a result of poorly defined property rights to the stream of benefits flowing from the production of these services. At the same time several of the services delivered by the welfare state contain aspects of what have been called club goods and positional goods. Club goods and positional goods are goods where the process of consumption affects the availability of, or the benefits received from, the good.

This sets the stage for several processes, of which two are discussed:

- 1) a dialectic between consumers and providers where consumption has to be managed to be high enough to keep the pressure on the state for expanding the service and low enough to keep the quality of the service interesting for the consumers;
- 2) a competition among the various occupations involved in the production of the service to gain as large a share as possible of the benefits flowing from the delivery of the services they contribute to;

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ON THE REGULATION OF PROFESSIONS¹

Introduction

Professional associations have been an integrated part of the development of the welfare state as well a problem for its management (Broady ed. 1985, Freidson 1985, Ramsøy and Kjølsvold 1985). At present there seems to be no widely accepted theory of how to regulate the activities of such actors, particularly not in relation to the delivery systems for welfare services.

A profession can be defined as a system where some particular, and publicly or professionally validated, education is necessary for entry into an occupation. The performance of the professional in the occupational position is regulated to ensure that the education is put to socially responsible uses (Parsons 1968).

A property rights system can, short and imprecise, be defined as an institution determining who shall get which benefits from which resources. According to Godelier (1984) "the concept of property may be applied to any tangible or intangible reality", and rules of property rights will "always assume the form of normative rules, prescribing certain forms of conduct and proscribing others under pain of repression and sanctions" (p. 76). But he also warns that "Property only really exists when it is rendered effective in and through a process of concrete appropriation." (p. 81).

Perkin (1981) has considered the rise of professionalism in the English society since 1880 as a kind of transformation of the concept of property. He thinks "we need to take a more operational view of the professions than is customary in either their history or their sociology, which usually takes them at their face value and lists the beneficial traits which define them and the useful functions which they perform for society in terms of expertise, theoretical knowledge, intellectual

¹ The first draft has benefited from the comments of Ulf Torgersen and Lise Kjølsvold. However, some of their more penetrating criticisms have to wait for a later revision of the paper.

training, the testing of competence, exclusive practice, a code of conduct, altruistic service in the affairs of others, and so on" (p. 7).

The beneficial traits of the professions include "the resources which the profession bring to the market of society, together with some of the devices, such as "strategies of closure" by restriction of entry, certification, exclusion of charlatans, etc., by which they exploit those resources" (pp. 7-8).

However, Perkin's concept of property seems to be at odds with what here is meant by a property rights system. He seems to think that the professionals may have "both the material self-interest and the moral conviction to be the harbingers of the new functional society and the vivisectionists of capitalism" (p. 23). To see a profession as a particular kind of property is not the same as thinking other kinds of property less real or of less importance.

In the present paper a property rights perspective will be applied to professions and professional associations to investigate if this may be a possible basis for identifying dilemmas of regulation which have to be faced. Particular attention will be paid to the professions involved in the delivery of welfare goods.

A property right is a relation

To say that property rights define who is going to get which benefits from which resources does not say very much.

The nature of property rights have been spelled out by Hohfeld (1913, 1917). A property right does not in itself so much concern the "something" giving benefit as it concerns the "who". A property right can be said to define a relation between an owner and all non-owners in regard of "something".

Relations are dual in nature since they can be experienced from two perspectives. By the nature of the problem, to regulate the streams of benefits from human activities, a property relation has to be an asymmetrical relation. This was noted

by Hohfeld who found that property rights recognized by law had a dual nature. He classified the various legally recognized property relations to fall into four pairs:

TABLE 1 Aspects of a property relation

	<u>IF OWNERS HAVE</u>	<u>NON-OWNERS HAVE</u>
Use aspects	1. rights 2. privileges	duties no rights
Exchange aspects	3. powers 4. immunities	liabilities no powers

A right is an expectation about the behaviour of the non-owners, this expectation appears to the non-owners as duties towards the owner. The privileges of the owner concern which behaviour the owner is allowed without having to consider the reactions of the non-owners. Correspondingly the non-owners have no rights (expectations about the behaviour of the owner) which can interfere with the behaviour of the owner.

The powers of the owner are the abilities to voluntarily create new legal relations with a non-owner. If an owner exercises his power to create a new legal relation with a non-owner, this new relation creates a liability for the non-owner. On the other hand, an owner has immunities against attempts from non-owners to create new legal relations or interfere with established relations. The non-owners have no powers to create new legal relations.

To this must be added that the focus of the property relation in any case is some particular benefit from some source. The expected and allowed behaviours concern this "something". The same does the possible new legal relations.

It is important to note that for a relation to be a property relation, it must be enforceable. The rights, privileges, powers and immunities of the owners are one way or another protected. Those violating them do so at a real risk of suffering sanctions.

If this kind of klassification is applied to the medical profession and the relations between those being members of the profession and those not being members we see that the customary description of the relationship contains all the elements of such a definition of a property relation (Gerhardt 1989, Levine and Kozloff 1978).

Types of owners

For a particular stream of "benefits" from a "something", four types of ownership have been identified (adapted from Bromley 1989, p. 205):

1. Private ownership.

One particular individual is vested with the rights, privileges, powers and immunities pertaining to the possible "benefits" from a "something". These rights, privileges, powers and immunities of the owner have corresponding duties, no rights, liabilities and no powers for all others with regard to the "benefits" of this "something".

2. State ownership.

One particular agency empowered to act on behalf of the state is vested with the same rights, privileges, powers and immunities as if it were a private owner. But being a "system responsible actor" a state will have to justify its property by particular rules applied in addition to the ordinary rules to justify and legitimize its property. One particular important modification involves rules of access: who can be excluded from enjoying at least some benefit from the state property².

3. Common ownership.

One particular group of individuals are co-owners. The rights privileges, powers and immunities pertaining to the benefits belong to the group collectively. Those not member of the group is excluded from the benefit, those who are members

² In concepts introduced earlier one might compare state property to impure private goods or positional goods.

of the group can not be excluded³.

4. No ownership⁴.

Nobody is vested with the rights, privileges, powers and immunities of an owner. This means that any benefits of the "something" is open for appropriation for anyone willing and able.

Perspectives on property rights in institutional change

The works of particularly Coase (1937, 1960), Demsetz (1967), Posner (1972), and North (North and Thomas 1973, 1977) have been associated with the emergence of a property rights perspective on institutional development (Bromley 1989, p. 12). It should be added that Bromley himself adds significantly to this tradition.

Property rights concerns the practices, rules and beliefs which determine who will get which benefits from which resources. Property rights "help man form those expectations which he can reasonably hold in his dealings with others" (Demsetz 1967, p.347). This means that property rights are a central part of human interaction. Even in situations where the actual on-going interactions have nothing to do with the distribution of benefits, one can see that the prevailing property rights affect the framework of interaction at least by defining and infusing the space-time setting of the interaction with particular meanings.

This view of property rights means that they are a central part of all social institutions and that institutional change means changes in property rights⁵.

³ Again one may compare this to the concept of an impure public good or a club good.

⁴ The distinction between no ownership and common ownership is important. The logic of the utilization of a "common property resource" (Gordon 1954) applies in reality to the resource with no ownership, the open access resource. For a true common property resource the logic will apply only under particularly specified circumstances. Needless to say, the open access resource is a vanishing specie.

⁵ Eisenstadt (1968) defines social institutions as "regulative principles which organize most of the activities of individuals in a society into definitive organizational patterns from the point of view of some of the perennial, basic problems of any society or ordered social life" (p.410). Bromley, thinking of economic institutions, finds that they may be defined as the sum of "consensual arrangements or agreed upon patterns of behavior that comprise conventions", and the "rules and entitlements that define - with both clarity and obvious sanction - individual and group choice sets" (Bromley 1989, pp. 77-78).

According to Lewis (1986, p.58): "A regularity R in the behaviour of a population P when they are agents in a recurrent situation S

The perspectives on property rights presented here have been developed to assess the utility of any particular property rights system in a more comprehensive societal perspective.

In economics evaluations of institutional change has focused on property rights by two approaches:

- 1) The transaction cost perspective on property rights points out that property rights are not costless to define, agree upon, enact, and enforce, and
- 2) The externalities perspective on property rights points out that social change, e.g. technological change or changes in availability of resources, will initiate activities entailing changes in property rights.

1) The transaction cost perspective.

Since property rights are about the distribution of benefits, the potential for conflict is great and the energy available for fighting over the distribution of the benefits is correspondingly large. The effort going into the definition and enforcing of any particular system of property rights can be seen as a cost to the society. The effort might have gone into producing and enjoying more benefits. In general it seems obvious that the less resources spent on the definition and enforcement of property rights the more goods the members of the society enjoy.

One implication of this is that more effort will be spent on defining the property rights of those resources found most scarce and/or most valuable. Resources where there is enough for everyone will be open to everyone.

One should, however, temper this transaction cost perspective on the distributional struggle by noting that any institutionalized activity generates some benefits - even the losers of fights over distributions generate some benefits for themselves. In

is a convention if and only if it is true that, and it is common knowledge in P that, in any instance of S among members of P : (1) everyone conforms to R ; (2) everyone expects everyone else to conform to R ; (3) everyone prefers to conform to R on condition that others do, since S is a coordination problem and uniform conformity to R is a coordination equilibrium in S ."

some cultures fights or feuds over resources can approach a way of life.

2) The externalities perspective.

Social change implies among other things new behaviour. New ways of doing old tasks as well as new tasks emerge with new knowledge and changing needs and tastes. New behaviour also means changes in the nature and distribution of the unintended consequences flowing from the activities. These unintended consequences represent costs and benefits to actors not part (either directly or tacitly) of the activities. If the costs or benefits become large enough, questions of property rights to them arise. Demsetz maintains that "the emergence of new property rights takes place in response to desires of the interacting persons for adjustment to new benefit-cost possibilities." (Demsetz 1967, p. 350).

The changes in property rights is supposed to be in the direction of internalization of the external (dis)economies. Demsetz suppose that this happens "when the gains of internalization become larger than the cost of internalization" (Demsetz 1980, p.350).

This may well be true as a general tendency. But in any specific circumstance it may not be equally true for both the external benefits and the external costs. This follows from two additional points one have to include in the perspective: 3) The distributional justice perspective on property rights which asserts that the members of a society have preferences concerning the shape of the distribution of goods and bads as well as for the goods and bads themselves, and 4) The social power perspective on property rights which reminds us that in so far we are looking for outcomes, interests in redefining property rights are always weighted by the power of the antagonists.

These two perspectives on property rights have not been systematically included

by economists so far⁴. To bring this into the debate we have to go to philosophy, sociology and political science.

3) The distributional justice perspective.

The distributional justice perspective on property rights reminds us that value judgements are intrinsically a part of the process of changing institutions. People do care about the distributions of goods and bads and they elaborate justifications for the way things are or for the way things ought to become. The cultural process of legitimizing a particular system of property rights will affect the "transaction costs", the costs of agreeing upon and enforcing the property rights, as the enactment of laws, the police and the court system. In so far as cultural norms and values underpin a property rights system the cost of enforcing laws will be less than in a system with a high level of disputes about the property rights.

In the cultural process elaborating justifications for the distribution of property rights concerns about fairness and desert is as prominent as concerns about utility and effectiveness.

4) The social power perspective.

In any particular circumstance where costs and benefits and their distribution are considered, it matters who bears the costs and who reaps the benefits. The social power of the different interested groups affects the way property rights will be redefined if they change at all. Five types of power (Berge 1989) will be relevant to consider: I. Power based on the control of resources: 1) Physical power, 2) Economic power, 3) Ideological power, and 4) Knowledge power, and II. Power

⁴ But Bromley (1989) begins to assess their significance when he notes that new costs and/or benefits as the cause of changes in property rights "tells little if anything about the progression of property arrangements, nor does it address the obvious question of the suitability of the property institutions prior to change" (p. 217), and "in summary, property arrangements change in response to both market and extra-market pressures. The market pressures come by way of price changes, supply difficulties, and the expression of new tastes and preferences on the part of consumers. The extra-market pressures come by way of demands brought in the political arena in response to new issues and preferences, new relative prices, and supply problems. The mix between market and extra-market will depend on costs and potential gains available from each route." (p. 219). Also the work of Sen (1984) on the entitlement approach to development is notable here. "Entitlements refer to the bundle of commodities over any of which a person can establish command, by using the rules of acquirement that govern his circumstances" (p. 30). Obviously, entitlements are the individual side of a particular property rights system.

based on the control of processes: 5) State power⁷.

In our societies these various kinds of power are organized and brought into two arenas: the markets, where streams of benefits are exchanged, and the political field where control of the state and some of the rules governing the market exchanges are determined.

Professions and professionalization

After reviewing the literature on professions Starr (1982) found that "A profession ... is an occupation that regulates itself⁸ through systematic, required training and collegial discipline; that has a base in technical, specialized knowledge; and that has a service rather than profit orientation, enshrined in its code of ethics." (Starr 1982, p.15)

This seems a fair summary of the current sociology of professions⁹. But to begin to assess a profession as a system of property rights we need to look closer at a profession and the process of professionalization in terms of

- 1) what is special about the valuable resource which the profession "owns"?,
- 2) how can anyone become an owner, and
- 3) how can the owners go about maximizing the benefits from being "owners".

The "claim to expert knowledge and still more the procedures by which to put it into practice are the major resources from which the professional may hope to wring income" noted Perkin (1981, p. 8).

⁷ State power as different from control of resources and emanating from processes, can be defined in relation to the development and enforcement of rules governing social process so that 1) economies of scale are maximized, 2) diseconomies of scale are minimized, and 3) the unintended consequences flowing from processes and interactions of various processes give rise to benefits rather than costs (Berge 1989, pp. 39-45).

⁸ It seems to be a common presumption in American literature that a profession regulates itself. While this is true of the U.S.A., it is not a universal state of affairs (as also recognized by Parsons 1968). Most European states regulate profession by public intervention through law or or grants of charters to the professional association. This difference may be important when it comes to the question of regulating the activities of professions.

⁹ See e.g. Huntington 1957, Parsons 1968, Torgersen 1971, Merton 1982, Abrahamson 1985, Kruttsen 1989.

Knowledge and expertise is, once acquired, an inalienable and renewable resource. Actually, exercising the procedures of ones training is the best way of keeping them in repair. The gateway to this kind of resource is education and training. All persons taking the time and effort to acquire the education and training will have access to the resource.

Having access to a resource, however, is not enough. Some product or service based on the expert knowledge has to be offered to those without access to the resource. Payment received for this can then be converted to the necessities and luxuries of life.

Having access to expert knowledge and training and being able to offer consumers some product based on this, is the necessary prerequisites for the establishment of a profession. To establish a profession the utilization of the expert knowledge and the payment for the services based on it must be regulated. Professionalization really means elaboration and specification of the property rights governing the utilization and remuneration of the expert knowledge.

Knowledge and training for some particular kind of occupation is in the concepts developed above, an indivisible and excludable good. It is indivisible since, however much any particular individual uses it, he or she does not diminish in any way the resource for any other individual with access to it. It is excludable since anyone wanting access to the resource, has to have education and training. It is possible to deny this education and training to any particular individual. In other words, the expert knowledge and training for a particular occupation is a club resource.

To convert a club resource to an income generating asset, capitalistic property, there are at least five steps to be considered. They do not have to be taken in any particular sequence, but they are cumulative in the sense that the more steps

an association has taken the more "professional" it will be¹⁰.

- 1) The first step of professionalization is to issue membership cards showing who can legitimately claim access to the resource.

By definition the only qualified judge of the expert knowledge and training of a person is another person with the same expert knowledge. To guard against charlatans destroying the market for those who offer the "real thing"¹¹, those having passed the education and training with adequate results are issued certificates, diplomas or some such public guaranty. They are members of the professional association and have now a monopoly on a particular configuration of knowledge and training.

- 2) The second step of professionalization is to gain control of who and how many get access to the required education and training.

The number of entrants is important for two reasons. There are few products which can be supplied in unlimited quantity. If there are too many members of the professional club, there may be problems of income for the members of the club either because there is an upper limit to the demand or because there is not enough resources available to pay for what is on offer. The fear for a collapse of income from oversupply of qualified personnel is one reason for wanting to control the entry into the profession. The other reason is the possibility of extracting a scarcity rent from the market. If there is no substitute for the services of the profession, undersupply of the service can increase the incomes of the members of the profession. With control of numbers and monopoly of services members of the profession were assured a high income which easily could be transformed into

¹⁰ Often the question of the degree of professionalization of an occupation is asked (Broadly ed. 1986). In a property rights perspective this question can be given a rather precise answer.

¹¹ As agreed upon by the "experts" and believed by the "customers": "For the essence of a profession is the provision of an esoteric, evanescent, fiduciary service - salvation, litigation, medical advice, education, financial control, administration, or even engineering (when the final test involves loss of life) - which is beyond the immediate judgement of the non-professional, cannot easily be pinned down or faulted even when it fails to achieve the desired result, and must therefore be taken on trust" (Perkin 1981, p.8).

high status. But an attractive career also attracts applicants from high-status groups in society.

The question of who enters the profession is important not only in terms of aptitudes and skills, but also in terms of social statuses and cultural beliefs. Perkin found that "it is important to note that it is not the knowledge itself or even the service as such - which may be false or non-existent as in some kind of medicine or religion - that matters, but the belief in it on the part of the client or employer and society" (Perkin 1981, p. 8). High-status entrants facilitate the task of reinforcing the authority necessary for an unproblematic exercise of the profession.

3) The third step of professionalization is to gain control of the market for the products offered by the members of the profession.

The control of the market has two components. The first is to manage the need for the products offered by the members of the profession. The second is to assure the ability of the consumers to pay for products. The basic requirement for doing something in this field is to have acceptance of the expert knowledge in defining the needs of the consumer. But the ability to do something depends heavily both on the nature of the product offered and on the cultural beliefs in the validity and significance of the products offered. The ideal situation is to have a product of high cultural value, with no easily defined upper limit for consumption, and with some other than the clients having to underwrite the bill.

The problem for the medical profession, so far, has been, that there existed a fairly well-founded belief in an upper limit to the consumption of medical services. New technology has, however, improved the ability to keep people alive to the point where it is the ability to pay which effectively sets the limit on consumption.

Particularly in relation to the welfare professions, the state has taken on the duty

profession. If anyone else does it, the profession is in constant danger of being replaced by another group.

A property rights paradigm on professionalization

That an interest group wants to do all the things which above was suggested they can do, is not surprising. It is a rather common observation that any group will rig the market if it can. What is interesting to ask is why any particular group have been allowed to do some or all of what they would like to do. Can the four perspectives on property rights, the transaction costs and externality perspective and the social power and distributional justice perspectives indicated above be of any help?

To gauge the utility of the various perspectives on property rights one has to apply them to concrete situations. In the literature the medical profession seems to be judged as the most successful of all groups aspiring to professional status¹². They will be used as an example in the following discussion.

1) Transaction costs and externalities.

Transaction costs in this connection means all costs involved in the development, policing and enforcement of a particular institutional arrangement, including all particular contracts involved in the total institutional arrangement. They become relevant only at the point where external (dis)economies of an existing institutional arrangement become large enough for a group powerful enough to change the institutional structure to take account of - to internalize - the external effects. The question then is whether the transaction costs of the new institutional arrangement is higher or lower than the present ones. If they are higher than before, but less than the gain from control of externalities, can those gaining from the change be persuaded to pay the increase in transaction costs?

¹² Starr's (1982) account of *"The social transformation of American Medicine. The rise of a sovereign profession and the making of a vast industry."* is a remarkable story of how the medical profession succeeded in the U.S.A.

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Transaction costs in this connection means all costs involved in the development, policing and enforcement of a particular institutional arrangement, including all particular contracts involved in the total institutional arrangement. They become relevant only at the point where external (dis)economies of an existing institutional arrangement become large enough for a group powerful enough to change the institutional structure to take account of - to internalize - the external effects. The question then is whether the transaction costs of the new institutional arrangement is higher or lower than the present ones. If they are higher than before, but less than the gain from control of externalities, can those gaining from the change be persuaded to pay the increase in transaction costs?

¹² Starr's (1982) account of *"The social transformation of American Medicine. The rise of a sovereign profession and the making of a vast industry."* is a remarkable story of how the medical profession succeeded in the U.S.A.

For medicine to become established as a profession the old institutionalized arrangement taking care of the health problems of a population had to have accumulated the inducements (the diseconomies) to change it. Two developments are significant in this respect. Population increase and concentration into urban areas along with increases in volume and frequency in traveling set the stage for new and more dangerous epidemic diseases. At the same pace cultural changes connected with education and industrialization led to a decline in the authority of religion and the lay treatment of illness.

The diseconomies of slow and inadequate treatment of epidemic diseases were eloquently demonstrated by the large pandemics from the Black death and onwards. Control of epidemic diseases, however, were achieved before the rise of the medical profession. The import of the historical experience lies in the meaning and significance it gave to their claim to expertise in this field. When trust in the religious explanation of disease and suffering waned, and the medical men claimed expertise in the field, people were ready to believe and grant them the rights, privileges, powers and immunities necessary for dealing with the grave danger represented by the epidemic diseases.

Once granted these property rights, the medical men set about capitalizing it¹³. They closed the profession by requiring certification and outlawing anyone else wanting to give advice on health matters. Otherwise they could not guarantee the quality of their service. Since any particular customer as well as whole communities were unable to check on the quality of the services, no one could deny this as a sensible measure. The major tool for this were the medical schools. Certification and control of education and research at the medical schools followed.

The profession also started regulating the number of entrants to the medical schools to guard against oversupply of medical men. If the quality of the service

¹³ The story of how they did it in the U.S.A. is eloquently told by Starr (1982).

were to be upheld, there should not be more doctors around than actually needed. The education was expensive and if there were too few patients the moral hazard of prescribing unnecessary treatments would be great for the doctor with too few patients to earn a decent living. The scarcity rent which the control of numbers paved the way for, was a happy unintended consequence - for the medical profession at least. The competitive admittance requirements and the good income possibilities assured a steady flow of talented youth into the profession. Again a happy unintended consequence for the profession.

The certification of the medical expertise and the closure of the profession may be explained by the problems (diseconomies for the population) which one might imagine followed from not doing it. But the further steps of gaining complete control of the market in the form of separating ability to pay for services from services rendered and gaining control of the transformation of knowledge to final product, can not be understood in terms of external diseconomies alone.

2) Distributional justice and social power.

In order to contain epidemics and assure everyone a minimum of health, the society should insure its citizens so that the doctor would get his pay whether the patient were able to pay or not. Without a cultural commitment to distributional justice this would have been difficult to achieve. But in all countries the trend has been in the direction of separating needs for services from ability to pay for services. But this separation of service and payment has generated some problems as yet unresolved. The moral hazard of doctors to prescribe unnecessary or too expensive treatment - which once was a reason for professionalization - has reappeared since payment is assured in any case, and the incentive for the public to take care of themselves and not run to the doctor for any kind of trifling problem is at least not economic.

The problem of securing control of the transformation of knowledge to final product have been fought on several fronts and is still being waged. The first impor-

tant fight was to gain control of the drug industry. This was achieved by regulation giving the medical profession the right to approve and prescribe drugs. A major reason for this was again the problems following from charlatans and deceptions in the drug industry. The potential consequences of unregulated drug-marketing were seen as too damaging for a trusting population.

The next and still unresolved fight was to keep control of all the "ancillary" occupations which have risen in the health system. So far the medical profession has been able to stay on top by the thrust of being first and utilizing their authority. This struggle is intimately linked to the rise of the hospital as the major arena of the health system and the administrative bureaucracy this requires. Membership in the medical profession does not qualify in any particular way for bureaucratic administration, still the members of the profession have been able to persuade the public that only they can do such a job¹⁴.

To keep the control of the hospitals is important because of the increasing importance of technology in expanding the needs for medical services, and it is important because of the role of hospitals in the research and development of this technology.

Problems in the property rights of the medical profession

The institutional implementation of the property rights of the medical profession contains some severe problems.

One problem is the relationship between the medical profession and other occupational groups involved in the production of the endproduct.

A second problem lies in the internal dynamics of a profession in relation to the needs of its customers.

A third problem is the cost explosion following the divorce of needs from pay-

¹⁴ At least that holds for Norway. The situation in the U.S.A. is different (Starr 1982).

ment and the increasing capital requirement of treatment.

The endproduct of the medical profession, the delivery of which is the basis for the incomes of the medical profession, is a joint product with several occupational groups which have to be paid from the same incomes basis. In so far as there is a roof on the total expenditure on the health system, the remuneration going to the various occupational groups is a zero-sum game. The norms of distributional justice which supported the work to establish a public health insurance, are also applicable to the distribution of wages among the health occupations. At present the medical profession seems to have problems justifying the existing inequalities. If they are not able to meet the challenge for fair distribution from their co-workers in the health system, their authority and trust, on which so much of their achievements are built, may suffer, and their ability to persuade the political forces to accomodate their interests may diminish.

The public interest in this fight over remuneration is, however, more than just a worry over the bill. Such disputes within a system always absorb energies which then is lost to the patients. The union struggles of the health occupations entails costs (external diseconomies) for the public in terms of less health care for the money spent.

Also the second problem area mentioned, the internal dynamic of a profession, leads to such conclusions. Weale (1985) observes: "any professional ethos is bound to encourage the development of certain attitudes and practices which run contrary to the needs of consumers. Let me pick out three features of a professional ethos that can lead to this result: professionals will prefer the interesting to the mundane; they will prefer the prestigious to the ordinary; and they will prefer the fashionable to the unfashionable." (Weale 1985, p. 156).

These tendencies together with the unavoidable specialization of the medical service as it has expanded, will inevitably lead to a distortion in the supply of

products as measured against demand. The mundane, ordinary and unfashionable patients will receive less attention and ultimately less service than the interesting, prestigious, and fashionable.

In so far as there is a roof on the expenditures for health services, not only will the various occupational groups have opposing interest, but also the various specialties of the medical profession. The fights among specialties to increase resources devoted to ones own specialty, will, as for fights among the occupational groups, take time and attention away from the patients, and ultimately mean less health services for money spent.

The primacy of the interesting, prestigious and fashionable also has consequences for costs seen from another perspective. Today the interesting, prestigious and fashionable is tied up with research and development of new medical technology as well as a strong demand for this technology from the practitioner. The divorce of needs from payment at the consumer level and the divorce of demand for equipment from the utilization and corporate efficiency of it, leads to a badly distorted investment program, less resources for the less "sophisticated" patients, a confused picture of treatment possibilities, and, ultimately, less health services for money spent.

The comparative lack of professional interest in the mundane, ordinary and unfashionable also have sparked reactions against the medical profession in the form of various health rights movements demanding better care for special groups like the mentally and physically retarded.

The cost escalation of a professionally managed consumption rather than a consumer managed consumption in a world of competing claims (from various types of medicine as well as various types of consumer interests) has about run its course. The ability of the state to pay is about exhausted. How will this affect the dialectic between doctor and patient? and how will it affect the health establishment?

Conclusion

It seems that the current implementation of the property rights of the medical profession generates an increasing number of external diseconomies, as well as increasing transaction costs in the form of bargaining between and administration of various factions of the health professions. Questions about the distributional justice of the professional practice both vis a vis the other occupation and vis a vis the various types of illnesses in the population can be raised. When external diseconomies rise, because of the way property rights are defined, it is the duty of a state to intervene and regulate the property rights in such a way that the external diseconomies are reduced.

In such an attempt the following points would be relevant:

- 1) One must recognize the fragmentation of the knowledge and skill base of the medical profession as well as the importance of the new occupational groups and their knowledge and skill base, and ask the question of how one can judge the relative merits of the contribution from any particular occupation to the overall product.

It may be a bit hard to envisage that the powerful medical profession will see the enlightened selfinterest in sharing the various benefits flowing from their property. In this they need help of the state and its power to regulate. But, given the power of the medical profession, one can equally doubt the ability of a democratic state to go far in diminishing the privileges and immunities of the doctor. The best bet to do something in this may be to get a professional bureaucracy for running the hospitals and make the doctors employees. In addition one has to define more clearly the boundaries of the intellectual and practical property of the various occupations. In other words: make all health occupations more like professions, but also emphasis the need for a stat to regulate as well as garanty the rights, privileges, powers and immunities of the various owners.

2) The cost problem of modern health systems can be traced to the divorce of payment from services rendered. However, the considerations leading to this divorce are still valid. The positive externalities from a prompt handling of illness are large and the value of equality in health care and opportunity for a healthy life so strong that it is unlikely a return to the old system of payment will come easily. The question of finding an alternative way of controlling the balance between benefit of services and pay for services must be investigated. This work has been going on for some time in attempts to design "performance measurements" (National Consumer Council 1987).

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