Transformation of ownership rights in Russia at the end of the 90-s of the XX century: Theoretic bases and practical solutions

The fact of historically unprecedented in its scale and methods transformation of the rights and forms of ownership at the 90-s of the last century have been widely known. However, not all prerequisites, internal and external motive forces, tendencies and outlooks of this process have been studied and covered well enough. In this paper, an attempt to fill in these gaps will be made, bearing in mind that the main problems and contradictions typical of the ownership rights transformation were laid in the 80-s of the XX century. In this connection, we see it important to disclose the prerequisites of the privatization mechanism in the period which is known as the policy of “perestroika”.

At the level of economic entities in the said period, new entities were formed which had never been inherent in the planed economy, simultaneously with this, there had been changes in the legal, economic and functional environment of the state-owned enterprises (companies). Later, as it will be shown below, these two tendencies moved closer and finally merged. To start the analysis, it is necessary to remind of the structure of property under planned economy. In the Constitution of the USSR of 1997, the state and collective-and-cooperative forms of ownership were defined as forming the basis of the economic system of the USSR. There were also such forms of ownership as ownership of trade unions and other public organizations, also personal property of citizens. Within the frame of personal property, there were private plots of land with vegetable gardens and gardens, private plots of land for cattle or animal breeding. The products from such farms were sold on the market at market prices.

In the second half of the 80-s, significant changes took place. In 1986, a law “On Individual Labor Activity” was adopted in the USSR. It became the basis for legalization and development of private enterprise and individual-and-labor property which also took the form of family business property. In 1988, a law “On Cooperation in USSR” was adopted and it became the first essential step towards expansion of private business activities and the development of the relevant form of ownership. Hired labor (work of those who were not members of cooperatives) and free price formation for the products of cooperatives were the two most essential aspects of the said law.

Thus, new economic entities and new forms of ownership such as private property of the means of production and hired labor had appeared in the planned economy, which contradicted to the planned socialist economy as such. If the newly appeared entities had functioned under the same conditions as state-owned companies, competition could have taken place among them giving the effective results as it, for example, happened in China. But the specific feature of the situation in Russia was that state-owned companies operated within the frame of planned price formation pattern, while the alternative structures used price discrepancy (price scissors). Feedstock and finished products were bought from state-owned companies at planned prices, and the same was then sold at free (market) prices. The main result of this process was that money flowed from state-owned companies to private persons by means of formation of new economic entities.

Simultaneously with this, significant changes in state-owned companies themselves took place. In June 1987, the law “On State-Owned Enterprises” was adopted in the USSR, this law changed the conditions for a sate-owned company significantly. Firstly, labor collectives obtained the
right to elect the head (director); secondly, the rights of companies to administer funds from operations on self-supporting basis expanded; thirdly, companies gained the right to manage (sell) excess current assets and equipment. The situation of a number of companies changed significantly by establishing joint ventures with foreign legal entities in compliance with the Resolution of the USSR government “On Procedures of Establishing and Activities of Joint Ventures With the Participation of Soviet Authorities and Companies from Capitalist and Developing Countries on the territory of USSR”. Such companies became entitled to independent sale of their products without any centralized distribution. An introduction of rent became a significant step in changing the situation of companies. Rent was introduced under the name of the third model of operations on self-supporting basis. Experiments on local and industrial scale were also conducted. A number of normative legal acts was adopted, the last of which was the law “The Fundamental Principles of Rent in the USSR and the Republics” (1989). In compliance with this law labor collective became the owner of the produced products and earnings. It was permitted to buy property of state-owned companies and to form alternative forms of ownership. However, this was property of labor collective headed by the board of labor collective. There remained one step to legalize private property at state-owned companies. This step was made in July 1990 by the resolution of the Council of Ministers of the USSR “On Joint Stock Companies and Companies with Limited Liability”. The similar document was adopted by the Russian government in December 1990 (#601).

Laws on privatization had not been adopted yet. But the process started on the basis of the legal basis described above. Later it was called “spontaneous privatization”.

The legislative basis for property rights redistribution and form of ownership changing was fixed in the law “The Basis for the Civil Legislation of USSR and the Republics” (May 31, 1990). Finally, the road to the process of state property transformation into the non-state forms was opened by the law “On the Basis of Denationalization and Privatization in USSR” dated 01.08.1991. Thus, the transformation process was started and moved further on by the policy of perestroika. But this policy called the forces in the union republics into existence, which entered into severe competition with the policy of the centre and thus, boosting privatization.

Thus, for example, on July 3, 1991, the Russian law “On the Privatization of State-Owned and Municipal Enterprises” was adopted. Similar laws were adopted in other republics which were so drastic in their initiatives and the steps they took, that it buried the union legislation which gave birth to them. Supported by a number of the Decrees of President of Russia, the privatization process turned into a mass, politically drastic and economically destructive process. It is enough to give three indicators as an example: by 1997, GDP decreased by two times, investments fell down by five times and the prices rose by 60 times.

The stages of privatization. Three stages of privatization such as spontaneous, voucher and cash privatization are emphasized in the domestic and foreign literature. We deem that the next stage was privatization of big highly profitable state assets on the basis of the Decree of President of Russia “On the Procedure of Putting the Federally-Owned Shares in Pledge in 1995” dated 31 August, #889. The form of the law was fraudulent since there had been no cash reserves in the federal budget for redemption of the shares at the time of pledge expiration. That is why shares-for-loans auctions were both, the form and the stage of privatization. Shares-for-loans auctions had significant social and economic consequences. Big and the most attractive companies of the Russian industry like “Norilsk Nickel” were privatized trough shares-for-loans auctions. Privatization through shares-for-loans auctions was called “oligarchs appointment”. It is true in case of the privatization under the conditions of “special procedure” of the whole economic branches, for example, such facilities as RAO EEC (Unified Energy Systems of the Russian Federation), GAZPROM, etc.
One more not implemented privatization stage should be also mentioned. By summer 1998, a big package of documents was prepared for a large-scale redistribution of property by means of rapid bankruptcy. At that time under the conditions of overall non-payments when everyone was in debt to everyone, there was a possibility for a new huge redistribution of property. Financial crisis of 1998 and the change of the government of the Russian Federation hampered this process.

By the second half of first decade of the XXI century, privatization of the state property is being conducted in a more weighted way. But voluntary redistribution of property affected poorly protected non-state companies. Special raider firms are set up for their heavy-handed way takeover on the order of the interested persons. They act from the position of strength on the basis of the devious use of the cumbersome and contradictory normative basis and corrupt bureaucrats and officials.

The modern stage of privatization can be called declarative and pragmatic. The purposes of efficiency of the privatized property are set and the necessity to overcome the previous mistakes is proclaimed, and so on and so forth. There is plenty of wishful thinking. But all of them are held up by unfavorable institutional environment.

The character of privatization
The grounding for the privatization necessity were the main provisions of liberal theory and methodology. The population was suggested an idea that the economic freedom and private property is the basis for the competitive growth of economy, technical progress, adequate level of life and wellbeing, etc. In the reality, the privatization in Russia has brought about the listed below typical results:

1. **The priority of the political purposes and tasks over the economic ones.** The desire to destroy the former economic system, to make it impossible to get back to the planned economy again led to the situation when the politics had become a concentrated means for economy suppression.
2. **Economic inefficiency.** All activities to divide and seize property forced industrial and economic activities. The state property was taken over by criminally active and incompetent persons.
3. **Artificial introduction of joint stock form.** Joint stock companies are a result of a speedy and cheap appraisal or the earlier created assets, but not a result of development and implementation of promising and efficient projects.
4. **Superficial administrative approach.** Financial and economic condition of enterprises and labor collectives readiness was not taken into account. Stereotyped superficial approach was used.
5. **Biased approach and social differentiation.** A special privatization mechanism artificially created a layer of oligarchs over a short period of time. Rapid and deep stratification of the society by property owned, earnings and well-being took place.
6. **Stock market development.** The market was flooded by securities of surrogate type. All shortages of state-owned companied transformation into joint stock companies floated to stock market. The state spent much on the creation of this institute of market economy.

Summarizing the character of the privatization, it should be noted that the real life has not confirmed the theory and ideology which were used as the basis for the privatization:

- Private property has not become a powerful impulse for the economy competitive development;
- Technological stagnation of the economy took place instead of the market of scientific and technical progress;
• Sharp worsening of the life level and quality took place instead of the increase in the well-being, life expectation and the number of the population decreased. The practical results turned out to be in contradiction with the theory and ideology of privatization in Russia.

The results of the privatization

The estimate of the results of privatization is not unambiguous and depends on the approach.

Quantitative approach. According to Goskomstat of RF (State Committee for Statistics) data, in 1992, there were in Russia: 349381 state and municipal enterprises, 80809 federal association, organizations and agencies. 46,8 thousand of enterprises were privatized. By 2003, the structure of ownership changed drastically. 77% were private property; 4% were state property, 6$ were municipal property and 13% were other types of property.

Institutional approach. There was no relevant institutional environment for those high rates of privatization. It could not have been different. The privatization experience in the countries with traditional market economy shows inefficiency of drastic forms and high rates of privatization. Not a single institutional environment could stand the Russian privatization practice so that it could be economically efficient. On the other hand, it was impossible to develop an efficient institutional environment for the Russian privatization model.

Classical (economically efficient) approach. The privatization qualitative results appeared to be in deep contradiction with quantitative results. There was no expected growth, economic efficiency and competitiveness which would follow the rapid increase in the number of privatized companies. On the contrary, the privatization accelerated rate gave its impact on almost in all branches of the Russian economy and especially in high-technology sphere, science-intensive products and the products with high level of the added value. The quality of labor deteriorated significantly.

Social approach. Social approach refer to qualitative approach. The public opinion was attempted to be convinced by the demonstration of high level of life in the countries with the market economy. In the reality, the actual income of the population decreased sharply. In 1992-1994, Giffen effect could be observed on the Russian market, when the products of lowest quality forced out the products of lower quality. The mortality was in excess of the birth rate.

Normative approach. The privatization normative basis was on the three levels: parliamentary, presidential and governmental. Regional level represented by the regions should be also added. The normative legal acts developed at these levels reflected the diverse interests and were in contradiction to each other. Violation of the laws, criminality, corruption flourished in this contradictory normative environment The privatization extremely inefficient normative environment and the connected with it results were reflected in the analytical report of the Audit Chamber of the Russian federation “The analysis of the processes of the state property privatization in the Russian federation in the period of 1993-2003” (Moscow, 2004). The material was prepared for the hearing in the State Duma (the Parliament), but it contained the indication to such a big number of violations and damage to the state, that the State Duma decided not to put this material forward for discussion.

Starting from 1999, economic situation improvement started in Russia. The sharpness of the problem became less obvious. But quite a lot of problems have not yet been solved. In Russia, the structure of ownership relevant to the socially oriented and efficient economy. shall still be created