polish sociological review 2(174)'11
ISSN 1231 – 1413

RADOSŁAW SOJAK
Nicolaus Copernicus University

PIOTR STANKIEWICZ
Nicolaus Copernicus University

From the Editors*

No man can serve two masters
Mt 6, 24

Conflict of interests (henceforth COI) is an important social phenomenon and probably no less important than violence, cultural diversity or stereotypes, all of which have remained within the orbit of human reflection for thousands of years yet have continued to evade definitive scientific classification and conceptualization. This state of scientific confusion is evident not only in the fact that the phenomenon is difficult to define but also in the sheer number of typologies and theoretical penumbras which are in stark contrast to the belief in the increasing significance of the various manifestations of COI in the world today.

In spite of the many differences in definition, researchers now seem to agree that basically COI takes place when the subject (individual, institution, social group) is either forced or tempted to pursue two or more conflicting interests simultaneously when at least one of these interests is believed to be illegitimate in the particular context. The basic conscious outcome of this situation is the so-called dual loyalty syndrome. The subject who is experiencing COI is therefore cast in the role of go-between between two social realities which ought to remain separate for one reason or another.

Therefore we cannot fully appreciate the social significance of COI if we fail to understand the specific contours of modern social order. To whichever concept we choose to refer, be it Weber's *Entzauberung*, Parson's specificity vs. diffuseness, Luhmann's functional differentiation or Giddens' mechanisms of uprooting (disembedding), one of the recurrent themes in sociological accounts of modernity is the fragmentation of experience and the social world, counterbalanced by the (often

* This publication is part of a larger research project, „Monitoring, identyfikacja i przeciwdziałanie zagrożeniom bezpieczeństwa obywateli" [Monitoring, identification and counteracting threats to citizen security], no. PBZ-MNiSW-DBO-01/1/2007, sponsored by the Ministry of Science and Higher Education and conducted as part of the Polish Platform for Homeland Security. The project coordinator is Professor Emil Pływaczewski, University of Białystok, Poland. As editors of this volume, we would like to express our special thanks to Professor Pływaczewski for his support for this volume and for ensuring us that it would be a good idea to study conflict of interests.

irrational) sense of trust. We experience this fragmentation both at the individual level, as when we take great pains to keep our various social roles separate, and at the institutional level when we respect bureaucratic specialization and hierarchical decision making practices. In this context, COI appears to be a major social mechanism by means of which this modern fragmentation is systematically sabotaged. On the one hand, such phenomena as corruption, nepotism, certain forms of lobbying, scientific ghost-writing, or the privatization of expert systems, question and erode the boundaries between the modern world's various subsystems and on the other hand they corrode the social trust without which contemporary fragmentation ceases to be legitimate. It is worth noting that those who write about trust seldom mention the negative effects of COI in this context.

The relations between trust and conflict of interests are repeatedly discussed in the texts contributed to this volume. Two articles address this problem area directly, "Politics and Trust in the South Caucasus and in East and West Europe" by Ken Roberts and Garry Pollock and "Coping with Low-Trust Situations in Eastern and Western Europe: On the Role of Justice and Corruption as Buffers of Interpersonal Distrust" by Georg P. Mueller.

Roberts and Pollock suggest that low social trust is the effect of "deficits of democracy," understood not as low citizen involvement in politics, however, but as discrepancies between democratic theory and practice. These discrepancies are caused and upheld largely by the functioning of informal power networks which are a fertile substrate for various phenomena belonging to the COI category. The now dominant configuration of global economy, national political process and citizen activity have led to social distrust. Roberts and Pollock analyze this by comparing data for 27 EU countries and South Caucasus.

Distrust (individual, not social) is the problem which opens Georg P. Mueller's text. The author assumes that individuals' lack of social trust in surrounding agents triggers the psychological shift of perceived locus of control. This in turn leads to feelings of helplessness and loss of control over one's life: the more we feel that we are surrounded by social actors whom we cannot trust, the more we lose control of reality, and the more likely we are to attribute this loss of control to distrusted others.

This situation generates "virtual conflict of interests" when the distrustful actor perceives other actors to be realizing implicit goals which may collide with his/her own interests. Hence the author's main research question is concerned with "risk buffers" which can be applied in order to minimize the negative consequences of distrust in others. Rather surprisingly, one of these buffers is … corruption. Corruption gives a feeling of access to those who have real power and control and by giving bribes one is able to regain one's feeling of control of realty.

Like Roberts and Pollock, Mueller uses quantitative data on EU countries. Thanks to the application of statistical analyses, he is able to demonstrate that corruption is a more effective "risk buffer" in Eastern-European countries than in Western-European ones and that quite the reverse is true as far as law enforcement is concerned: the psychological effects of law enforcement on the reduction of feelings of lack of control are larger in "old" EU countries.

Taking into account this pattern of relations between COI on the one hand and fragmentation and level of trust on the other hand, even if we ignore the circumstances outlined below, COI should be submitted to uninterrupted reflection by sociologists who want to capture the dynamics of modern times. Several contingencies, both local and global, suggest even further that it is their duty to do so. Let us begin with the former.

Transformation in Central-Eastern European countries has been interpreted in terms of modernization. One of its important elements is restitution of modern fragmentation of the social system which has been at least partly deformed or negated by both command economy and political systems ranging from almost completely totalitarian through autocratic to police and military ones. In this context, COI is one of the basic factors which may inhibit and bias the processes of transformation. We shall see that its role is even greater if we bear in mind that disintegration of the old order often generated a normative gap (a regulative void) which was conducive to the development of COI in many areas of social life. We shall find examples of such normative gaps in Martin Mendelski's text on Romania or Tetiana Kostiuchenko's text on Ukraine.

Mendelski focuses precisely on the relations between the transformative processes ensuing from Romania's accession to the European Union and her local judiciary structures. His analysis provides an excellent portrayal of what would seem to be an elementary, albeit still incompletely explored, sociological distinction between the formal and informal principles of institutional operation. Whereas the process of adjustment of Romanian legislation to EU requirements used to be relatively successful, Romania has been unable to develop a reliable and honest judicial system. Mendelski traces the sources of this failure to the hardy condition of the clientelistic system which reigns, for example, in the judicature, i.e. in these informal principles of operation of state institutions. Strong resistance from the clientelistic veto players who control the process of reform and undermine the development of genuine rule of law in Romania is the reason why the EU's transformative mission has failed.

Tetiana Kostiuchenko's focus of interest is the effectiveness of systemic transformation in real power structures in Ukraine. Her article strives to define the nature of the functioning and structure connecting the individuals and key decision makers who make up the political elite networks twenty years after the change of political system. Once again, we are witnessing the clash of the "new order," involving the introduction of new formal institutions, and existing informal power structures which are reconfiguring and regrouping in order to defend their interests. Kostiuchenko's main research question is: what are the bonds which link members of the political elite and what are the various clusters which constitute the political elite networks? She wants to know how the circulating "governing class," whose members occupy key positions in various institutions and collectively appropriate the state's decision-making processes, originate. Kostiuchenko distinguishes five types of bonds among members of the political elite: political, business, citizen, educational, and kinship bonds. She then refers to these types, applying the Social Network Analysis Method, to study the connections linking members of the executive, legislative and presidential authorities.

Global tendencies have reinforced these local processes. The most important ones are: the progressing privatization of various state functions (from the monopolization of violence through administrative functions to the services); increasing control of citizens leading to increasing obliteration of the distinction between the private and public spheres with respect to the everyday functioning of individuals; the shift of centres of real authority from politics to business (including the media business), leading, among other things, to the revolving doors phenomenon (the frequent moving of the same individuals from business to politics and back), and the systematic tightening of relations between business and scientific research.

Janine Wedel describes the changes which are taking place in the global relations between various domains of social life in her contribution entitled "Beyond Conflict of Interests: Shadow Elites and the Challenge to Democracy and the Free Market." She pays attention to several aspects of these global reconfigurations in power relations. First, we have the "shadow elites" which function outside of the classic division into politics, the economy and the media and hence sabotage the modern fragmentation of social life. These shadow elites consist of representatives of a new type of "power brokers" who know how to combine their own private interests with official ones. For this reason, we can hardly talk of *conflict of interests* in their case. According to Wedel, they are the ones who *define* what is official (public) interest and therefore they avoid the risk of conflict of interests.

Emergence of shadow elites is the outcome of several processes including diffusion of global power, progressing privatization of the state's functions, and the development of new information technologies. These phenomena provide a fertile substrate in which new, informal power structures, transcending traditionally legitimized distinctions, can flourish. Wedel discusses the processes which facilitated the emergence of shadow elites and their members' modes of operation and she indicates the consequences of these phenomena for democracy.

Global reconfigurations in power structures are also the focus of attention of Joanna Szalacha in her text entitled "Interlocking Directorates and Possible Conflict of Interests." According to this writer, we ought to look for contemporary power centres not among individual actors (individuals, institutions) but in global and local networks (or their combinations). Szalacha looks at the newly emerging networks in the economic domain though the prism of interlocking directorates. This concept refers to the situation when a member of one organization is also a member of the board of another organization. According to Szalacha, such connections are possible both between firms and between firms and private institutions. They provide a common denominator for such events as international fusions, hostile takeovers, cartels or international business organizations. Interlocking directorates can streamline market functioning but they can also pose a threat to the free market, competition and consumer rights, precisely because they increase the risk of conflict of interests. They do so by means of pricing mechanisms, informal division of markets, price conspiracies, creation of oligopolies, etc.

Aleksandra Lis approaches conflict of interests from the global perspective in her text "Negotiating Carbon Markets: Problematizations, Entanglements and Reduc-

tion of Complexity." She takes a close look at the redrawing of boundaries between politics and the economy. However, she views this redrawing of boundaries not as an unintentional process over and above actors' activities but as a strategic activity whose purpose is to redefine what is legitimate and what is not. Aleksandra Lis analyzes these processes from the constructivist perspective and illustrates them with the example of the European Union Emission Trading Scheme. Following Michael Callon's lead, she views markets as social constructs, not as units with identities of their own. Having thus redefined them, she is able to demarcate the boundaries between politics and the economy. Where the European Union Emission Trading Scheme is concerned, this is closely related to European integration.

Each of the processes mentioned above is a natural framework for the multiplication of COI and dual loyalties. Acting together, within the context of serious systemic transformations, they are generating a plane for capital and interest conversion which is so complex, yet structurally so significant, that their scientific understanding is probably one of the most important challenges facing the social sciences in the next few decades.

The categorical instability of the social sciences and the many theoretical conceptualizations of COI hardly make this challenge easier to tackle. Among the many conceptualizations and typologies, however, some may prove to be significant enough to mention in this context.

First and foremost, researchers make a distinction between COI in the narrow sense and in the broad sense. In the former case, dual loyalty is associated with the simultaneous operation of two external actors (e.g. boss and gangsters). In the latter case, the situation when one colliding loyalty is associated with the individual's private interest is also thought to involve COI. Giovannio Guzetta further distinguishes two types of conflict of interests in the broad sense: bottom-up COI and top-down COI (Guzetta 2008: 24). In top-down COI we have the classic taking advantage of one's official position for private purposes. This category includes corruption, nepotism and protectionism. Bottom-up COI is "the situation when one's private position may be used to achieve (…), strengthen or maintain an influential public position in a way which conflicts with the interest they serve" (ibid.). Buying votes by an electoral candidate or cheating so as to secure a position are examples of bottom-up conflict of interests.

It is only in this context that we are able to grasp the importance of distinguishing between potential and actual COI. Anna Lewicka-Strzałecka defines actual conflict of interests as the situation "when a person realizes his/her own private interest at the cost of the interest of the firm or public interest, for example when the hospital director engages in his/her private practice on hospital premises or using hospital equipment free of charge or charging less than normal." She defines potential conflict of interests as "the probability that the firm's interest or public interest will be dominated by private interest, as for example when a local councillor rents premises to the local administration on the conditions proposed by the borough leader whom he is supposed to control" (Lewicka-Strzałecka 2005: 9–10; cf. Davis 2001: 15; Suwaj 2009: 54–55). In the last of these examples it is possible that, were the councillor to find out that the

borough leader was misbehaving, he would face a real conflict of interests and would have to decide whether to expose the wrongdoing or take care of his own interests.

Although it would seem that real and potential conflict of interests are two quite different things, and that we ought to pay more attention to real COI than to potential COI, Suwaj explains that "the OECD makes it clear that potential conflict of interests may be just as harmful as exposed and documented conflict of interests because they both lead to loss of public trust in public institutions, and also lead (or can lead) to corruption" (Suwaj 2009: 65).

And it is in this context that we see the basic duty of the social sciences. Whereas real COI can be (and is) legally regulated, potential—and often equally detrimental for social cohesion—COI often evades legislative formulations. The authors of the texts collected in this volume have made the effort to offer a sociological diagnosis of the social space of potential COI.

References

D a v i s, Michael. 2001. "Introduction," in: M. Davis and A. Stark (eds.), *Conflict of Interest in the Professions*. Oxford, New York: Oxford University Press, pp. 3–19.

G u z z e t t a, Giovanni. 2008. "Legal Standards and Ethical Norms," in: Ch. Trost and A. L. Gash (eds.), *Conflict of Interest and Public Life*. Cambridge: Cambridge University Press, pp. 21–34.

L e w i c k a - S t r z a ł e c k a, Anna. 2005. "Teoretyczne i praktyczne aspekty identyfikacji i ograniczania konfliktu interesów" [Theoretical and Practical Aspects of Identification and Limitation of Conflict of Interests], in: A. Węgrzecki (ed.), *Konflikt interesów — konflikt wartości* [Conflict of Interest—Conflict of Values]. Kraków: Wydawnictwo Akademii Ekonomicznej, p. 7–23.

S u w a j, Patrycja Joanna. 2009. *Konflikt interesów w administracji publicznej* [Conflict of Interest in Public Administration]. Warszawa: Wolters Kluwer Polska.

Biographical Notes: Radosław Sojak (Ph.D.), Institute of Sociology, Nicolaus Copernicus University; Toruń, Poland.

E-mail: kedar@umk.pl

Piotr Stankiewicz (Ph.D.), Institute of Sociology, Nicolaus Copernicus University, Toruń, Poland.

E-mail: piotrek@umk.pl