POLITICAL PATRONAGE AND PRIVATIZATION OF PUBLIC ENTERPRISES: A COMPARATIVE STUDY OF KENYA AND RWANDA

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A dissertation submitted in partial fulfillment of the requirements for the degree of Master of Arts in International Studies in the University of Nairobi.

Declaration

This dissertation is my original work and has not been submitted for a degree in any other university.

7 - 12 - 2004

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This dissertation has been submitted for examination with my approval as university supervisor.

7th December 04

DR LUDEKI CHWEYA

DATE

Dedication

To my wife Diane and our children Joel, Joanna, Jordan, and Jovia.

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Abbreviations and Acronyms

BK	Banque de Kigali
BOO	Build Own Operate
BOOT	Build Own Operate Transfer
BOT	Build Operate Transfer
CMA	Capital Market Authority
CAO	Central Accounts Organization
DFIs	Development Finance Institutions
DGIPE	Department of Government Investment and Public Enterprises
EAC	East African Community
ESTU	Executive Secretariat and Technical Unit
ICA	International Coffee Agreement
ICDC	Industrial Commercial Development Corporation
IDB	Industrial Development Bank
IFC	International Finance Corporation
IFIs	International Financial Institutions
Kenya Re	Kenya Reinsurance Corporation Ltd
KTDA	Kenya Tea Development Authority
KTDC	Kenya Tourist Development Corporation
MoF	Ministry of Finance
NSE	Nairobi Stock Exchange
PERP	Public Enterprise Reform Programme
PEs	Public Enterprises
PFPs	Policy Framework Papers
PITs	Privatization Implementation Teams
PRPC	Parastatal Reform Programme Committee
RPF	Rwandese Patriotic Front
SAPs	Structural Adjustment programs
SOEs	State Owned Enterprises
Telcom Kenya	Kenya Post and Telecommunications Corporation

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Chapter Four: Public Enterprise Privatization in Rwanda

Chapter Five: Conclusions: Politics, Economics and Privatization in Two Countries

ABSTRACT

This study is a comparative analysis of privatization of public enterprises in Kenya and Rwanda. The study seeks to assess the relative influence of patronage and economic considerations on the exercise of public enterprise privatization in the two countries and the impact of the confluence of the two variables on the realization of the goals of privatization.

The study has established that Kenya and Rwanda have initiated a policy to privatize both performing and non-performing enterprises. The decision to privatize was based on convergence of the interests of donor countries, international financial institutions and the governments of the two countries. Privatization in the two countries was therefore a result of both political and economic considerations, but political patronage played a more central role than economic thinking.

The problems that faced Public Enterprises in Kenya and Rwanda were largely mismanagement, and political interferences in the day-to-day operations of the enterprises. The problems were compounded by structural difficulties in the economy of each of the two countries. The solutions to the problem of poor performance of PEs therefore lie in the issues and not in ownership of the enterprises. Privatization largely answers the question of ownership rather than management or performance of the enterprises, and fails to merit therefore as panacea for an ailing economy and poorly performing enterprises.

CHAPTER ONE

Introduction to a Comparative Study of Privatization of Public Enterprises

The Problem

Most post-colonial African states were characterized by high levels of government ownership of enterprises and high levels of economic regulation over the past two decades or so. By the beginning of 1980s however, most of the countries had embarked on economic reforms, that entailed a transition from state-led economic development to a free market economy. These economic reforms revolved around economic de-control and de-regulation, including privatization of public enterprises under the neo-liberal "structural adjustment programmes." As Mkandawire *et al* say;

> any keen observer of the African scene will not fail to recognize the wide ranging economic, social, and political changes that have occurred in most countries following the onset of recession in the 1970s and the implementation of adjustment programmes in the 1980s.[1]

The economic reforms embarked on emerged as "rescue projects" for the failing, poor economic growth that characterized the African states in mid-1980s and 1990s. The thrust in the initial structural adjustment programmes (SAPs) were basically macro and sought to liberalize state-led economic regimes. The failure of these programmes to jump-start the economies was blamed on wanton elite-led corruption and the presence of Gross Domestic Product (GDP) guzzling parastatals.

Like many other African states, the Governments of Kenya and Rwanda have been undertaking reforms under the structural adjustment programmes (SAPs); by first, going through the cycle of a first, State-led development approach from independence in 1963 in the case of Kenya and 1962 in the case of Rwanda; to an increasingly market-led development approach from 1987 and 1996 respectively.

The Structural Adjustment Programmes' (SAPs) logic was that liberalization and de-regulation of the domestic markets would lead to promotion of export oriented production, attraction of foreign direct investment, encouragement of fiscal discipline and generally spur economic recovery and growth. Ironically, this logic did not mention the political motives that

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[1] Thandika Mkandawire and Adebayo Olukoshi (ed) Between Liberalization and Oppression. The Politics of Structural Adjustment in Africa ed. Dakar: (1995:77)

largely informed the programme. The focus was on adjustment of market operations and other economic aspects of the African countries. As Mkandawire and Adebayo Olukoshi however, argue,

> when, in the early 1980s, structural adjustment programmes (SAPs) first made their entry on a massive scale into the economic crisis management strategies of African states, few bothered to ponder systematically the politics of a reform package whose immediate impact was as unsettling for the state as for the various social forces in society and whose ultimate aim 'was to fundamentally alter the structural basis of African economies.

Structural Adjustment Programmes (SAPs), including privatization of public enterprises, were promoted mainly by the International Monetary Fund(IMF) and the World Bank. The two financial institutions represent a nearly two decade old right wing movement in the economically dominant West European industrialized countries that favour an increasingly dominant role for the private sector and competition for supposedly efficient allocation and utilization of resources as a strategy for economic development.[2]

Privatization has tended to be associated with the Margaret Thatcher regime in the UK and the Reagan era in the USA. The call for privatization however in reality pre-dates the Reagan and Margaret Thatcher administrations. The new wave of privatization sweeping the globe is just a recurrence of the old liberal and neo-liberal theories of societal management. Privatization of state owned enterprises was considered a vital part of the changes under the liberal and neo-liberal economic theories. Reforms of public enterprises in Kenya and Rwanda can be understood against this broad national and international context.

The term 'privatization' has been used to define an array of actions designed to broaden the scope of private sector activity or the assimilation by public sector of efficiency enhancing techniques generally employed by the private sector. It is the transfer from the public to the private sector of the ownership and /or control of productive assets, their allocation and pricing, and their entitlement to the residual profit flows generated by them.

Privatization may be; the outright, or partial sale of assets by the state; the transfer of assets to the private sector under leasing arrangements; or the introduction of management contracting arrangements.[3] It involves effecting a wide range of policies and the objectives can

[2] Ibid, p.1
[3] Christopher Adam, William Cavendish and Percy S. Mistry; Adjusting Privatization: London (1992 pp 5-6)

be political, social, fiscal, economic or a combination of several of these. However, privatization is a controversial undertaking with competing views about the motives and the implications.

Privatization is mostly associated with economic motives, the objectives being public finance rationalization and economic efficiency. Local politics within a country does however play a key role in privatization, especially in decision making. The success of privatization requires political will and adequate support.

Cook and Kirkpatrick observed that the appeal for privatization embraces both the ideological desire for limited government participation and a broad role of the private sector.[4] However, governments, particularly in the less developed countries mostly preferred a greater role for the state. Indeed government, hesitate to privatize and prefer to conduct management reforms of public enterprises in order to curtail losses and wastage and continue to tap the benefits of public enterprises. Nevertheless, managerial reform of public enterprises especially in less developed countries, has met limitations; many public enterprises incur losses and depend on lending countries or on the national treasury for their budget support, so as to meet their targets. The ability to take independent decisions in such enterprises is therefore limited. The IMF and World Bank on the other hand have exerted pressure on governments to privatize such PEs and made privatization a pre-condition for disbursement of external loans. This also leads to a reduction in financial support from the lending organizations as well as the national treasury to the enterprises. The reduction of support for the public enterprises inhibits expansion of investment and realization of the original goals set in the establishment of public enterprises.

States have responded to external demands for privatization through compliance, rejection and compulsion. That is, the response has been ambivalent. Nevertheless, the general trend has been towards privatization. Indeed, privatization of PE has become the new orthodoxy since the early 1990s.

The aim of this study therefore is to assess the comparative political and economic influences upon the rise, course, and outcome of privatization of public enterprises in Kenya and Rwanda.

[4] Cook, P. and Kirkpatrick C. (eds), Privatisation in Less Developed Countries (1998)., Helmel Hempstead: Harvester Press.

Justification of the Study

Studies on privatization have tended to focus on economic aspects of the process, understandably because of the conventional economistic interpretation of the purpose and operations of public enterprises. Politics has a far reaching impact on the course and results of privatization, but it has not been given adequate attention. This study seeks to, accordingly, correct the inattention accorded to the political dimensions of privatization of public enterprises.

Public enterprises in Kenya and Rwanda were established because they were considered to be the most efficient mechanism of ensuring that the search for profits does not hurt social interests and needs of society. Privatisation of those enterprises has been undertaken, because the enterprises are regarded inefficient and a burden to the national treasury and governments considered incapable of running profit making enterprises, but the reasons for the establishment of those enterprises remain. This contradiction needs to be analyzed and explained.

The African state, at the same time, is still called upon to play an important role in developing a strong private sector and in creating an enabling environment for private sector investment and growth, through provision of appropriate legal systems and infrastructure. This same state in on the other hand regarded incompetent to manage certain key sectors of the economy. This too, needs to be analyzed and explained.

The study hopes to contribute to the debate on privatization and shed light on the conflicting influences behind privatization, about which little is often said, focusing on the politico-economic influences and implications of privatization in Kenya and Rwanda.

Literature Review

The literature on public enterprises (PEs) and privatization revolves around four themes: origins or motivation for privatization, privatization procedures, institutional framework for privatization, and obstacles and dilemmas in privatization.

Motivation for Privatization

The neo-classical policy prescriptions, including privatization of PE were generally intended to reduce the public sector. The resurgence of economic liberalization and the change in people's attitude against the economic regime regulated by public monopolies was widespread in the 1970s.

The British privatization programmes initiated in the 1970s has been one of the most extensive in non-communist countries and has stimulated emergence of privatization as a global phenomenon. In the early 1980s, the privatization programmes in the UK was largely confined to the housing and industrial enterprises. The most visible element of the privatization strategy was the complete or partial sale of public enterprises. Between 1979 and 1983, nearly 60000 public housing units were sold. Bishop & Kay contend that the UK privatization programmes has been widely noted and widely imitated[5]. The election of a conservative government in 1979 led to a large-scale privatization programmes. The pressure for privatization in the UK was attributed to several factors, the most significant factor of which was the nature and performance of the controlled and regulatory system over PEs by the state. A series of studies by scholars such as Vickers and Yarrow acknowledge the disadvantages caused by the regulatory and control system in terms of production and allocative efficiency.[6]

Bishop and Kay note that the trend towards privatization appears to be worldwide and that there is a renewed belief in the value of market forces in economic policy making throughout the world. They stated that the causes of the trend are numerous and in many cases particular to individual countries. Thus, privatization is often suggested as the best means of enforcing market discipline and improving the efficiency of State Owned Enterprises.[7]

Joseph Stiglitzon the other hand observed on the other hand, that even in the most industrial countries liberal policies were not embraced and that the tendency was to balance the role of the state and that of the market. He stated that:

> in the aftermath of the Great Depression and recognition of the other failings of the market system, from massive inequality to unlivable cities marred by pollution and decay, these free market policies have been widely rejected in the more advanced industrial countries, though within these countries there remains an active debate about the appropriate balance between Governments and markets.[8]

Privatisation spread to developing countries under the impetus of the international lending community, that cited the need to cut government expenditure in the face of fiscal crises after the oil shocks of 1970s to enable governments service their foreign loan obligations and

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[5] Bishop M. R. and Kay J. A. Privatization in the United Kingdom. Lessons from Experience. World Development Vol 17(5) (1989: p p643 – 658)

[6] Vickers, J. and Yallow, G. (1988), Privatisation: An Economic Analysis. London MIT Press

[7] Bishop M. R. and Kay, JA (1989), Privatisation in United Kingdom. Lessons for Experience "World Development Vol. 17(5), (1989: 643-657)

[8] Joseph Stiglitz, Globalization and its discontents, Clays Ltd, St Ives Plc, UK (2002: pp 74-75)

overcome the debt crisis. This was reinforced by a rightwing intellectual and ideological movement that was increasingly hostile to state intervention in the economy. Many of the countries which became candidates for the World Bank structural adjustment lending have used privatization and public sector reform as an integral element in their adjustment process to reduce the macroeconomic burden of the state enterprise sector. Over the past few decades, the concept of privatization became a dominant economic policy orientation in the developing world, including Latin America, Eastern Europe, Asia and Africa. The Republic of China has given access to the outside world and seeks joint ventures with privately owned foreign companies. In China, in its most visible form, privatization created in three years two stock exchanges with a combined market capitalization of over $40 billion.[9]

A similar trend was observed in a number of transitional economies in Asia Myaunar, Laos and Vietnam aimed at shifting from a centrally planned to a market based economic system. Cook and Kirkpatrick observed that the process of privatization of state enterprises began slowly in developing countries, but in the late 1980s, the pace accelerated. They pointed to the fact that by the early 1990s, there had been almost 3000 separate privatizations in the developing world. In Latin America when the six years from 1988-93 are compared with the preceding eight years 1980 to 1987 the number of privatizations increased more than fourfold and threefold in Asia.[10]

For a long time, vast expanses of the Mozambique economy were for example controlled by state-owned enterprises. Massive privatization has taken place over the years with the adoption of outward oriented policies. Significant steps were taken to promote macroeconomic stability, and fiscal policies have been tightened to ensure that the government is not a source of economic instability. In 1995, the inflation rate was about 50 per cent a year, but by 1998 the rate had dropped to single digits, and real growth of GDP was consistently in the range of 7-8 percent. Of importance was the minimization of government interference in the privatization process. This is attributed largely to the government of Mozambique's ability to determine when liberalization required new and different regulations.

A dramatic change took place in Eastern Europe. Yolles and Kalunza referred to the change as a paradigm shift, which occurred within the perspectives of the dominant decision

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[9] Privatization Year Book, London (1994)

[10] Cook and Kirkpatrick: Reflections on Privatization in Developing Countries: Positive and Negative Lessons in Privatization in Africa: Trends and Lessons, DPMN, Vol. V No 1 (1998)

making organization in these countries.[11] Ever since the collapse of the centrally planned economic system, Eastern European countries and the Soviet Union have implemented far-reaching privatization programmes and enterprise restructuring. For these economies, Danji and Milovonich suggested two other possible arguments for privatization: Firstly, to stabilize the political system based upon private property rights and individual freedom. Secondly, to boost state revenues.

The difficulty of privatization in the former Soviet Union stemmed from the absence of a private sector at the end of the collapse of communism, owing to the legacy of more than 70 years of central planning. The privatization of small-scale enterprises, retail trade and services was the central element of the overall privatization programmes in Eastern Europe. What is remarkable is that in most cases privatization in Eastern Europe did not involve a transfer of ownership rights. Instead, privatization often involved short-term leasing arrangements from the state[12].

Cook and Kirkpatrick argued that the transfer of large scale enterprises to the private sector proceeded much more slowly due to the complex procedural arrangements and politically sensitive issues[13]. On the other hand, privatization in Eastern Europe suffered a severe setback resulting from macroeconomic instability. The economies of these countries plunged into a great depression. Inflation and unemployment rose sharply. Nevertheless, according to the 1994 Privatisation International; by the end of 1993, over 8000 enterprises employing more than 8 million had been transferred to the private sector by means of voucher action.

Total privatization prospects from major sales of public enterprises however grew sharply between 1988 and 1992. According to Cook and Kirkpatrick, in the developed countries, privatization transactions over this period amounted to US$ 135 billion, representing 74% of the global transactions. The share of these countries in the year 1992, however, fell to 58% although the world-wide figure excluded over 11000 privatisations which occurred in the former East Germany between 1990 and 1992. Meanwhile, privatization proceeds in Japan amounted to US $ 22.8 billion in 1988, accounting for over two thirds of the privatizations in that year.

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[11] Yolles, M. and Kaluza, J. "Manifesting Conflict Paradigm Incommensurability. "Conflict Processes", Vol. 3(1), (1997: pp 25-42)

[12] Friedman, R. and Rapaczymski, Privatisation in Eastern Europe (1993), Is the State Withdrawing Away? Finance and Development. Vol. 30(2).

[13] Cook, P. and Kirkpatrick C. (eds), Privatisation in Less Developed Countries Helmel Hempstead: Harvester Press. (1998)

The process of privatization was remarkable in mixed economies, where privatization activity sharply increased over the past few years. A number of Latin American & South East Asian countries achieved rapid progress in this respect. In Latin America and the Caribbean, privatization grew sharply particularly in Chile, Argentina, Brazil & Jamaica. In South East Asia, Singapore, Thailand, Malaysia, Pakistan, Sri Lanka and Bangladesh have been in the forefront of privatization since the late 1980s.[14]

Privatization transactions from major sales of public enterprises in the developing countries also increased rapidly; with the passage of time. In terms of the proceeds obtained from privatization, Sheshinski and Lopez contended that most countries were successful. They indicated that between 1990 and 1996, for example Brazil, Argentina and Mexico obtained US$ 22.4, US$ 16.3 and $24.9 billion respectively, as a result of privatization sales. Smaller countries like Peru, Philippines and Poland obtained US$ 9.5, 3.7 and 3.8 billion respectively, during the same period.[15] It must be said however that viewed from the perspective of transparency, and absence of corruption, employment and social benefits, results of privatization have not been as impressive as the figures portray.

Privatization Methods and Procedures

Privatization can be defined in many different ways. We have defined it here as an array of actions designed to broaden the scope of private sector activity or the assimilation by public sector of efficiency enhancing techniques generally employed by the private sector. It is the transfer from the public to the private sector of the ownership and /or control of productive assets, their allocation and pricing, and their entitlement to the residual profit flows generated.[16] This definition deals with the process as well as the ultimate goal of privatization.

Several methods are used to transfer assets from public ownership to private ownership. These include sale of shares, sale of assets, leasing arrangements and liquidations. The objectives set for privatization, by and large, dictate the method used. Whatever the method used realization of set goals is a function of a number of factors: the legal status of the enterprise, the

[14] Adam, C. Cavendish, W. and Minsitry, P.S. Adjusting Privatisation: Case Studies from Developing Countries Ltd, James Currey, (1992)
[15] Sheshinski, E and Lopez – Calva, L. F. "Privatisation and Its Benefits: Theory and Evidence (1998), http://www.hiid.havard,edi,project/caer/papers/35.html.
[16] Christopher Adam, William, Cavendish and Percy S Mistry, Adjusting Privatization; *op cit* (1992: 5-6)

privatization process and the overall economic development process, government share of ownership, and the enterprise economic activity; such as macroeconomic performance and hence the prospects for growth of the private sector as well as the absorption capacity to accommodate the privatization process; the legal and regulatory factors that define the extent of private sector participation and the political support which influence policy implementation; the autonomy of implementing openly and finally the sequencing of policy with other economic development policies.[17]

The methods and procedures followed while embarking on privatization are determined by factors that at the same time determine the success of privatization. According to Shirley, governments have to consider several factors to make privatization successful: create the right environment, proper management, decide on the proportion to be given to the private sector, set the pace for privatization, prioritize the enterprises and the approach; deal with the interest of the labour with public trust, and use the right strategy on specific public enterprises.[18] Transfer of ownership of productive assets from the public to the private sector, may therefore be; the outright, or partial sale of assets by the state; the transfer of assets to the private sector under leasing arrangements and the introduction of management contracting arrangements and liquidations.[19]

The cornerstone of privatization in Czechoslovakia, for example, was the voucher scheme. Between 40 percent and 80 percent of the equity in 1000 – 2000 of the largest enterprises were to be distributed through vouchers. Vouchers were not issued to all citizens, but were instead sold for a nominal sum. This was done in the hope that voucher holders would take interest in the privatization process and the performance of the enterprise that they would ultimately own. The state retained a minority shareholding in many large enterprises. Other forms supplemented the voucher scheme. There was substantial progress with small-scale privatization through auctions of shops, restaurants, and other businesses in the service sector.

In Ghana past employment also led to significant overstaffing in the public enterprise sector. However, collective bargaining agreements granted generous severance pay

[17] P. Anyang Nyong'o; G. K Ikiara, S. M. Mwale, R.W Ngugi and Oyugi Aseto, The Context of Privatization in Kenya; Nairobi Colourprint Ltd' *op. cit* (2000: pp 84-85)
[18] Shirley: The Economies and Politics of government ownership, Journal of International Development Vol 9 No 6 cited in P. Anyang Nyong'o; G. K Ikiara, S. M. Mwale, R.W Ngugi and Oyugi Aseto: The Context of Privatization in Kenya; Nairobi Colourprint Ltd *op. cit* (2000: pp 84)
[19] Ibid

arrangement. To maximize proceeds from the eventual sales, pre-privatisation efforts focused on rationalizing manpower levels at many of the firms to be divested. The absence of political will or desire to repudiate past ill-conceived policies hindered, part of Ghana's privatization programme. Lack of budgetary resources to cover the contingent liabilities of the firms to be divested, and in particular severance pay were also hindered or delayed.

Thailand uses an alternative form of privatization: franchising the Bangkok Metropolitan Mass Transit Organization (BMMTO), increasing the number of buses on crowded routes and selling off many of its used buses at attractive prices. The franchises were however under-priced, and the BMMTO did not maximize its financial gain.

In Australia, in an effort to improve road seating, town sweeping and other activities at the city level, the government decided to contract out these functions. Contract specification and conditions with built-in safety clauses to maintain the quality of service were developed. Regular review procedures and monitoring systems were introduced. Competitive tendering resulted in a reduction in costs and an improvement in services offered.[20]

The form of privatization can therefore be ownership, management or decontrol. This gives rise to two major classifications. In the first group, ownership of assets remains with the government but there is transfer of control from the public to the private sector, where the private sector or management takes a contract with the government to provide public services at a fee. The methods used include service contracts, management contracts, lease arrangement and concessions. These methods have been applied extensively in the strategic enterprises. In the second group, partial or full ownership transfers to the public sector, through BOOT (Build Own Operate Transfer), Concession; BOT (Build-Operate-Transfer);BOO (Build-Own-Operate - demonopolize); Reverse BOOT, joint Ownership and outright sale (liquidation, direct sale, public floatation and management/employee buyout). These methods are supposed to introduce competition, improve cost recovery, and performance based compensation, by promoting operational efficiency and commercial viability of the enterprises.[21]

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[20] Shirley: The Economies and Politics of government ownership, Journal of International Development Vol 9 No 6 cited in P. Anyang Nyong'o; G. K Ikiara, S. M. Mwale, R.W Ngugi and Oyugi Aseto: The Context of Privatization in Kenya: Colourprint Ltd' Nairobi *op cit* (2000: pp 84)

[21] P. Anyang Nyong'o; G. K Ikiara, S. M. Mwale, R.W Ngugi and Oyugi Aseto: The Context of Privatization in Kenya; Colourprint Ltd' Nairobi *op cit* (2000: pp 89-91)

Technically, the theory of privatization may be viewed at two level: Firstly the micro level, from the concept of utility maximization behaviour of the property rights (principal) and agents (managers), subject to information availability, and the consequences of this behaviour for allocative efficiency in the market and economic performance; secondly the macro level, from the perspective of the macro public choice theory, which is a macro level approach focusing on political considerations in the study of both public enterprises and private enterprises, subject to political influences. The latter is a political game that involves the public, the politicians and enterprise managers each with their distinct utility functions, seeking to maximize these utilities but none having access to identical information.[22]

Institutional Framework for Privatization

Privatization seeks, among other things, to create an environment within which enterprises can compete freely. Competition and regulation have mutually reinforcing linkages. Regulation can help competition by creating a level playing field, for example by, anti-trust regulation or enforcing interconnection arrangements. On the other hand, competition has the potential to help regulation by for example, unbundling – breaking private or public monopoly firms into components by stages of production.[23]

Institutional framework must be fitted into the national context by looking at the number of operators in the sector, the size of the market, the availability of regulatory resources, the complexity of regulatory rules to be monitored and enforced, and the political disposition regarding the degree of autonomy for the regulatory agency. Regulatory agencies may be the independent sectoral regulatory agency, cross-sectoral regulatory body or the establishment of a department of regulation in the sector ministry. The choice of the institutional framework will be guided by the national context,[24] while the design of the regulatory rules and framework is guided by regulatory resources available in the country and for the particular sector. The contexts of most regulation are eventually social, political, and economic. Regulation is one of the measures of state intervention to promote or protect public interests and to address market failures. Privatization is a bargaining process and acts as a safeguard to public interest in

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22 Oyugi Aseto and Jasper A Okelo: Privatization in Kenya. Basic Books (Kenya) Limited, Nairobi (1997: pp 1-4)
23 Development Policy Management bulletin: Development Policy in Sub Saharan Africa; Privatization in Africa, Trends and Lessons; Volume v, No 1 (December 1998: 24-28)
24 Ibid

privatization by ensuring effective enforcement. To the extent that a carefully designed and implemented regulatory framework can provide an insurance against abuse of public trust and provide a level playing field for all operators regulation can reinforce confidence in and facilitate privatization process.[25] According to Tumusiime, Uganda embarked on a capacity building plan on good governance in order to achieve economic growth. Capacity building entailed training and development of human resources as well as improving the system and institutional structures. In 1994, Uganda's Capacity Building Plan was published with the objective of building Ugandan ownership of the capacity building process, identifying the areas that needed priority attention, developing an overall institutional framework to implement the plan and to guide donors in their financial and technical contributions. Uganda also drafted a new constitution, which codified among other things, the decentralization of government to ensure that the people had control of the decision-making process and allocation of resources.

The programme aimed at opening up and liberalizing the economy, and to increase competition, which, was to help eliminate, the opportunities for rent seeking. Privatization of state-owned enterprises was one way of doing this.[26]

Uganda recognized the importance of increasing the transparency of the interface between the public officials and the private sector, leveling the playing field for all private sector participants and reducing to the bare minimum the discretion allowed to government officials in the decision-making process. This was all in the effort of making the privatization process a success.[27] One of course needs to re-examine the Ugandan privatization process and results to determine whether it was genuinely transparent and corruption-free and whether, in real terms, performance of the economy has improved or deteriorated as a result of privatization of PEs in Uganda

Mozambique undertook massive privatization and significant steps to promote macroeconomic stability, with tight fiscal policies; and minimization of government interference in the process of liberalization. The process still demands however that an appropriate institutional framework be established. Mozambique has to work on institutional reforms,

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[25] Ejeviome Eloho Otobo: Privatization and Regulation in Africa: Some key Issues in Development Policy in Management Bulletin: Development Policy in Sub-Saharan Africa; Privatization in Africa: Trends and Lessons. Addis Ababa (December 1998:27)

[26] Emmanuel Tumusiime: Better Public Sector Resource Management: cited in Wallace Laura: Adjusting to the Challenges of Globalization. International Monetary Fund, Washington (1999: 107-112)

[27] Saloma Tamaz, Panel discussion paper cited in Wallace Laura (ed) Africa: Adjusting to the Challenges of Globalization, International Monetary Fund, Washington *op cit* (1999: pp 107-172)

especially in terms of policy implementation and public administration. It would take concerted effort over a period of years to improve the operation of the public service and to mold the laws and regulations into shapes that can be implemented by their own public service.[28]

Obstacles and Dilemmas Facing Privatization

Kenya and Rwanda encountered obstacles and dilemmas in the privatization process, similar to those faced by most other African countries. Oyugi and Okelo cited the problems of shortage of technical expertise to undertake the privatization exercise, resistance to change property ownership, unwillingness of the government to abandon the public sector to private ownership and management, political uncertainty and shortage of buyers of privatized enterprises, substantial interim costs, job losses for workers in privatized enterprises, safety nets, large social costs due to removal of subsidy, opposition within the public administration, political opposition, lack of efficient capital markets and lack of a favourable international environment to reduce the impact of the escalated prices, as the key obstacles and dilemmas facing privatization.[29] The obstacles and dilemmas cited were anticipated or planned for in Kenya and Rwanda. The two countries failed therefore to take lessons from third world countries that preceded them in privatization. elements are indeed applicable in the case of Kenya as they are with Rwanda

The most imposing obstacle to privatization is perhaps political. Politicians have created industrial fiefdoms, and are simply unwilling to pass them over to the private sector. Parastatals have for a long time played many political functions and served as instruments of political stability and national unity. They are at the same time sources of private and public funds and strong instruments of political and economic pressures. They constitute a shield against the possible extension of private domestic monopolies and the threat of international trading companies.

In Kenya and Rwanda, for example, marketing boards and other parastatals have been around since the colonial times. They have been a feature of the administrative apparatus inherited at independence and were highly regarded as engines of government machinery by their staff. The public has always regarded state enterprises as part and parcel of government

[28] Ibid p. 12

[29] Oyugi Aseto and Jasper A Okelo: Privatization in Kenya. *op cit* (1997: pp 208-218)

machinery. Privatization of state enterprises appears difficult, simply because people have always known them as "parastatals," and are part of the public psyche.[30]

Sierra Leone, members of the civil administration were the most interested prospective buyers of assets under a World Bank coordinated privatization programmes. It appears however that the government was faced with certain obstacles. Because of foreign ownership, a weak private sector and a poor financial intermediation the government may have ended up receiving less than a fair price for the privatized enterprises. The government had to then restructure the privatization programmes with a view to raising the income it derived from privatization proceeds so as to improve its fiscal position.[31]

Transparent privatization processes are key to the results and process of privatization. In Western Europe, privatization has generally been part of a comprehensive change in regime, institution building, and reorientation of the economy towards the market. Countries with a tradition of strong institutions, rule of law, and judicial accountability have engendered transparent privatization processes. A number of Latin American countries in the 1990s also experienced a significantly transparent privatization process largely as a result of regime change, institution building and reorientation of the economy towards a market economy.

However, corrupt practices associated with privatization have been reported where there has been limited oversight from other branches of government.[32] In Russia, strong and well-organized interest groups have tended to "hijack" the privatization process to their advantage because the institutional framework and rule of law have been weak.[33]

The legal framework for Poland was established in June 1990, with the passing of the Privatization Law. By the end of the year, a provisional programmes was outlined by the Government of the Republic of Poland. Reflecting the strengths and weaknesses of the available options, the proposed programme was somehow eclectic in character. It had four aspects: enterprise commercialization; mass privatization; direct sale of some large enterprises; and the privatization of small and medium-sized enterprises. Poland intended to privatize about half the

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30 Ibid p. 13

31 Respondent one

32 Manzetti, Luigi; Are Market Reforms Ending Corruption in Latin America? Mondes et Development. Vol 26 (1998: p. 69-81) in Davis, Jeffery, Roland Ossowski, Thomas Richardson and Steven Barnet: Fiscal and Macroeconomic Impact of Privatization. Washington: International Monetary Fund (2000: 340)

33 Asund, Anders; Why has Russia's Economic Transformation been so arduous? (1999) Paper prepared for the Annual World Bank Conference on Development Economics in Davis, Jeffery, Roland Ossowski, Thomas Richardson, and Steven Barnett. Washington (2000: 34)

state industry that dominated the economy in as little as three years. Indeed the Polish government had largely inconsistent objectives – attract strategic foreign investors, raise revenues, advance enterprises restructuring, protect fledgling stock market and promote a strong domestic presence in the banking sector. In the case of privatizing its banking sector, for example, political commitment was evident but institutional obstacles were immense. Price distortions made valuation difficult, and domestic savings were a small fraction of enterprise worth.[34]

There were no capital markets, administrative capacity was weak, and the legal infrastructure hardly recognized private property. A combination of every available privatization technique was adopted, which included mass privatization based upon the free disposal of shares to the population. Privatisation was also supported by wide-ranging price and trade liberalization, appropriate competition policy, and fiscal and monetary reform."[35]

Privatization in Hungary began in late 1998, with the passing of legislation allowing enterprises to be transformed into joint stock companies as a prelude to privatization. These followed a flood of spontaneous privatization, as the management of many enterprises exploited opportunities to take them over or to enter into lucrative deals with foreign partners. To prevent the privatization process from falling into further disrepute, the direction of policy was shifted. By mid-1989, spontaneous privatization was under control, and a government-led strategy was adopted.[36]

A new State property Agency (SPA) was set up in 1990 to oversee the Hungary privatization process. The programme emphasized the sale of enterprises, with a view to using the proceeds to reduce debt and avoid the use of vouchers. Privatisation was to proceed through three main avenues: small shops and restaurants were to be auctioned in 1991; and two programmes for selling large enterprises had been launched during 1990. Hungarians also adopted a liberal attitude to foreign participation in the privatization process. There were special incentives for foreign investors and state assets were disposed of free of charge only to public agencies, such as social insurance funds, but with a corresponding reduction in subsidies.

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[34] Hemming, Richard, Privatization of State Enterprises in Tanzi Vito (ed), Fiscal Policies in Economies in Transition Washington: International Monetary Fund (1992: 94)

[35] Hemming Richard and Kenneth Miranda, "Privatization" in Chu Ke-young and Richard Hemming (ed) Public Expenditure Handbook: A Guide to Public Policy Issues in Developing Countries. Washington: International Monetary Fund (1991: 143)

[36] Hemming Richard and Kenneth Miranda Privatization cited in Chu Ke-Young and Richard Hemming (ed) (1991: 143)

The political leadership, and the rest of the administration, has often times proven an obstacle in themselves. Scwartz, Gerd pointed out that in the case of Sierra Leone, members of the civil administration were the most interested prospective buyers of assets under a World Bank coordinated privatization programme. Because of limits of foreign ownership as well as a weak private sector and poor financial intermediation, it appeared that the government might have ended up receiving less than a fair price for privatized enterprises. The government had then to restructure the privatization programme, with a view to raising the income the government derived from privatization and improve the government's fiscal position.[37]

The above literature on privatization focuses therefore on the economic aspects of the process reflected through the four themes of origins and motivation, procedures, institutional frameworks and dilemmas in privatization. The literature is however, limited, to the extent that it tends to be economistic and ignores the critical political context of privatization, even where the role of the political leadership in influencing the process is critical and obvious. Paul Samuel noted that institutional analysis by the World Bank is focused on the technical aspects of service delivery and of institutions. The impact of interest groups on the workings of the institutions, the likely resistance to reforms from political or bureaucratic fronts and an assessment of the political and economic risks involved in the proposed reforms seem to be neglected.[38] Proponents of economic reforms, such as the IMF, should also be actively involved in political reforms; and these reforms should be based on an understanding of the political problems facing the countries in question, if they are to be meaningful.

From past experience, emphasis on economic reforms alone has led to a failure or a partial success of the reform effort. The IMF and the World Bank have also largely imposed conditionalities based on political solutions that are largely eurocentric and therefore irrelevant to the objective conditions prevailing in Third world countries, particularly in African countries. It is for this reason that scholars such as Piertese, in *Global Futures Shaping Globalisation* correctly observed that Structural Adjustment Programmes (SAPs) implemented in Latin

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[37] Gerd Scwartz: Privatization. Possible lessons learnt from the Hungarian Case. World Development cited in Chu Ke-Young and Hemming Richard *op cit* (1991)

[38] Paul Samuel; Institutional Reforms in Sector Adjustment, World Bank, (March 1989) cited in White Louise G. Implementing Policy Reforms in LDCs: Colorado: Lynne Publishers (1990: 24)

America and Africa paid no more than rhetorical attention to political democratization while giving overwhelming priority to the rationalization of the market.[39]

Likewise after a research on public enterprises in Kenya from independence in 1963 until 1988, Barbara Grosh concluded that privatisation will not rescue Africa from the public enterprise problem.[40] For privatization to result in greater efficiency and profitability, it may be necessary to address the parastatal's failure, either directly or indirectly. To improve efficiency and profitability, it would be more effective to begin with detailed sectoral reforms of the small number of firms that constitute the bulk of the public enterprise problem. The performance improvement should be the result of policy reform, rather than privatization *per se*. Policy reform might be possible without privatization, but because of the politics surrounding political functions of parastatals, privatization may be a political necessity to permit the cutting off of social roles previously performed. As Vuylsteke noted, privatization is a field that does not permit dogmatic treatment.[41] It is a field that demands a thorough analysis before commitment. Nyong'o *et al* posed pertinent questions, whose answer largely lies in the fact that privatization is more than an economic reaction to the economic crisis; when they ask:

> What has been the place of public enterprises in the Kenyan political economy? What problems have public enterprises posed in the process of economic growth – or stagnation in Kenya? Is privatization necessarily the answer to problems that faced the public sector and the economy in general?[42]

Different models of state activity have been formulated to change the role of the state in public enterprise running and not necessarily to reduce it. The Nordic social market model, for example, includes a strong and unencumbered private sector with state responsibility for developing human resources and providing safety nets."[43]

Each country's experience on privatization is unique in its own way, but one thing is clear in each experience. Where there was great commitment shown by the government towards the privatization process, sacrifices were made to ensure the success of the process. For example, in Poland, Hemming and Miranda believe that any constraint to privatization can be

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39 Piertese Jan Nerderveen; Global Futures – Shaping Globalization, London Red Books (2000: 105)

40 Grosh Barbara; What Works, What doesn't and Why *op cit*

41 Charles Vulysteke: "Techniques of Privatization of State owned enterprises." Vol 11, Selected Country Case studies, World Bank Technical Paper No. 88, The World Bank (1988).

42 P. Ayang' Nyong'o, The Context of Privatisation in Kenya, Academy Science Publishers, Nairobi, (2000: pp 10-11)

43 Mitia, Radja (1989). The Social Market Economy Paradigm: Lessons Learnt from the Early Nordic Development Experience. Washington DC: World Bank, Special Economic Office. Mimeo in Whit, Louse G, *op cit* (1990: 27)

overcome by political commitment without which privatization is unlikely to occur.[44] Louise White also shares the same sentiments and adds that strong state support is needed to make the privatization reform process work.[45] The question is, why should governments commit themselves to privatize and then backtrack on that decision? The heated debate on privatization and in particular on its implications for third world economies continues. That not withstanding, privatisation has become a central policy feature of most governments.

A contrary view to Hemming and Miranda's is held by Yolles who views UK privatization as an abandonment to social neodarwinism. Referring to privatization in UK Yolles argues that the policy that informed privatization emphasized the efficiency and effectiveness of private organization over public ones due to the competitive nature of a market place. He cited the conservative government's view that political control and efficiency were incompatible and that subjecting public sector activities to the market made them more efficient, reduced public spending and freed resources for use elsewhere. The British privatization programmes initiated in the 1970s has been one of the most extensive in non-communist countries and has stimulated emergence of privatization as a global phenomenon. In the early 1980s, the privatization programmes in the UK was largely confined to housing and the industrial enterprises. The most visible element of the privatization strategy was the complete or partial sale of PEs. Between 1979 and 1983 nearly 6000 public housing units were sold. But Yolles wonders whether privatization will not lead to the emergence of new purposes that might not suit the infrastructure needs of society.[46]

Yolles' fears appear to be more relevant to developing countries than to the developed ones. Yolles pointed out that in the second phase of privatization in the UK, the programmes largely focused on the huge public sector monopolies. The sale of the British Telcom and British Gas, for example, was a major departure from earlier experiences, as both were dominant firms and the question of how to regulate and monitor private firms with substantial market power had to be faced for the first time. The creation of a new, separate regulatory body was the government's response to this challenge. Separate regulatory agencies were established to monitor British Telcom British Gas and other large privatized public monopolies.

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[44] Hemming, Richard and Kenneth Miranda. "Privatisation" in Chu Ke-Young and Richard Hemming *op cit*, (1991: 142)
[45] White, Louse *op cit* (1990:27)
[46] Yolles, M. I., Managing Complexity: A Viable Systems Approach to Inquiry. (1998), Pitman.

The process of privatization spread to other developed countries. In the early 1980s, The Reagan administration in the USA formulated a detailed agenda for the privatization of SOEs. The growth of privatization in the USA has been predominantly in the area of industrial and commercial enterprises. In the case of other developed countries, the privatization process was prominent in Canada, France, Italy, Japan and Spain.[47]

Joseph Stiglitz's arguments are radically different. He argues that the IMF, World Bank and the US Treasury actually pushes positions that were precisely the opposite of what it had fought at home; pushing market fundamentalism on the rest of the world both directly and through the IMF, while they did not believe in it.[48]

Just as the 1960s and the 1970s were characterized by the rapid expansion of the public sector in the developing world, the 1980s have seen wide spread attempts by policy makers to curtail the state's economic role. This is neither result of change in the thinking of the leadership in those countries that had been fighting to establish public enterprises nor is it exclusively a result of the failure of PEs to meet their goals, but partly a result of the shift in emphasis by the donor countries and agencies. Van de Wall argues that privatization of public enterprises has featured prominently in these attempts; just as an earlier generation of policy makers had emphasized direct state intervention to redress perceived failures in the operation of the private market.[49] Ironically, developing countries accounted for 86% of all transactions in the second period, an increase from 66% in the first period of privatization.[50]

In developing countries, when privatization was measured on the basis of the number of transactions, it was realized that most privatization took place in manufacturing, commerce and industrial sectors. A case study covering seven developing countries, namely Jamaica, Malaysia, Papua New Guinea, Sri Lanka, Kenya and Malawi concluded that the majority of enterprises that were privatized were commercial, manufacturing and service enterprises. The only large enterprises dealt with have tended to be banks or telecommunications.[51] It has since however spread to all sectors of the economy.

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47 Ibid p. 18

48 Stiglitz, J. The Roaring Nineties Seeds Of Destruction, Clays Ltd, St Ives Plc, (2003: pp 228 – 229)

49 Van de Wall, Nicolas, "Privatisation in Developing Countries: A Review of the Issues", World Development, Vol. 17 No. 5, (1989: pp. 601-615)

50 Cook P and Kirkpatrick, (ed) Privatisation in Less Developed Countries: An Overview, Harvester Press, (1986).

51 Cook, Schartz and Lopes, Privatisation and Reform of Public Enterprises: An Overview on Trade offs and Results (1993). Paper Presented at a Conference on Privatisation, Brisbane, Australia.

Kenya's and Rwanda's privatization programmes, although recognizing that privatization is not an end in itself, argued that it can be an instrument for making the government more efficient and the economy more productive. This is usually so when it is part of broader social reforms. Privatisation equally began with the relatively smaller and more economically shattered enterprises. The process has in both countries been riddled with a lot of political interferences and considerations. Kenya embarked on the process amidst disagreements over the inadequancy of the legal framework and a Bill still remains in parliament, close to twenty years since the implementation of the programmes started.

Lawrence W. Reed of the Mackinac Center for Public Policy says "Rwanda, ... is engaged in the continent's most ambitious privatization campaign." But he also recognizes also that "by late 1992 the Rwanda Socialist experiment had become a failure too embarrassing to hide or ignore."[52]

The idea of liberalization and therefore privatization is however not entirely new. Scholars such as Adam Smith argued that free trade should be practiced at the domestic and at the international level, because mercantilism may serve the state, but it is economically inefficient. Adam argued that national and international economies would be spontaneous and goods and services cheaper and better through competition in the marketplace that allowed a rising prosperity for all people.[53]

The danger of applying this logic may be that entrepreneurs will drive consumer prices up and offer poor labour wages as they yearn for higher and higher profits. Internationally, with the logic in place, developed countries isolated the less developed and the inequalities threatened international peace and security. In order to stop such adverse effects, Keynes introduced what was later to be called Keynesianism: at the national level it meant that the state would regulate the economy through, for instance, regulating international investments. The state provided welfare services such as social security services education, pension and health services; built infrastructure, provided credit for investment, organized the market for local producers and set up state corporations.

[52] Lawrence W. Reed, A Privatisation Revolution – In a Most Unlikely Place, In Foundation for Economic Education, Mackinac Centre for Public Policy Irvington, New York, (2002)
[53] Adam Smith; Wealth of Nation in Henderson Conway International Relations, Conflict and Cooperation at the turn of the 21st Century, McGraw Hill (1997: 23)

Stigliz observed that:

> Keynes identified a market failure – a reason why markets could not be left to themselves – that might benefit from collective action. He was concerned that markets might generate persistent unemployment. --- he explained why an institution like the IMF could improve matters: by putting pressure on countries to maintain their economy at full employment, and by providing liquidity for countries facing downturns that could not afford an expansionary increase in government expenditures, global aggregate demand could be sustained.[54]

Keynes therefore sought to protect liberalism through the introduction of welfarism. The neo-liberalists however initiated an anti-Keynesian movement that pushed for reforms that completely ignored the need for welfare programmes. The reform path is the trend in most parts of the world today; despite the need for welfare programme in most developing countries.

Theoretical and Conceptual Framework

Privatization is the deliberate wholesale or partial sale by government of its share of ownership of assets in public enterprises to private investors. Privatisation involves not only the sale or other forms of transfer of ownership of state assets, but also the transfer of the management of state enterprises to the private sector accompanied by a radical re-allocation of the available productive resources. The objectives of privatisation are largely similar in all countries in that they center around the benefits to be gained from re-balancing the roles of the private and public sectors so as to enhance the productive power of the economy.

Paul Cook and Colin Kirkpatrick define privatisation as the transfer of productive assets from public to private ownership and control[55] while Hemming and Mansoor[56] narrowly define privatization as the transfer of public sector assets and activities to the private sector. In a broad sense, privatization involves not only the sale or other form of transfer of state assets, but also the transfer of the management of state enterprises to the private sector accompanied by a radical reallocation of the available productive resources.[57] The Second Nigerian Economic Summit

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54 Joseph Stightiz; Globalisation and its Discontents Clays ltd, St Ives plc (2002: 196)

55 Paul Cook and Colin Kirkpatrick: Reflections on Privatisation in Developing Countries: Positive and Negative Lessons in DPMN Bulletin Volume V, Number 1, Commercial Printing Enterprise, Addis Ababa (1998:4)

56 Hemming R and A Mansoor "Is privatisation the Answer?" Finance and Development, 25 September in Anyang' Nyong'o; G. K. Ikiara, S.M.Mwale, R.W. Ngugi and Oyugi Aseto: Context of privatisation in Kenya, *op cit* (2000:2)

57 Shirley MM: Managing state owned enterprises, Washington DC: IBRD in Anyang' Nyong'o, J.K. Ikiara, S.M. Mwale, R.W. Oyugi and Oyugi Aseto: Context of Privatisation in Kenya, *op cit* (2000:2)

held in May 1995 in Abuja defined privatization as policies aimed at transferring full or partial ownership and control of public enterprises to the private sector to encourage competition and emphasize the role of the free market in place of statutory restrictions and monopoly power.[58] This study however focused on the motives, the process, and the ultimate goal of privatization in order to discern political and economic factors that inform the exercise.

Political patronage concerns itself with discharging an obligation, a favour or service to political supporters, friends, family members and others. Miriam stated that the patronage game is self enforcing equilibrium and that:

> political patronage is a form of constituency service that serves the electoral needs of incumbent politicians and may be conceptualized as individualization and personalization of what are elsewhere packaged as pork barrel allocations, pork barrel allocations involve targeting collective benefits to a specific electoral district. Political patronage involves the individuated delivery of the same benefit to specific, named clienteles. Political patronage and political corruption should be analysed in the first instance by the relevant actors involved.[59]

Tangri on the other hand, associated poor governance and economic problems in Africa with political patronage. He stated that:

> Patronage politics has not only constituted a pervasive form of governance in Africa but also it has been a principle form of influence on state economic management in the region since independence. ... In sum, economic resource allocation has served political and personal ends with less than salutary consequences for the growth of Africa's economies.[60]

McCourt has also argued that the 'patron' can present himself or herself as a social altruist, discharging an obligation to political supporters; and that therefore government should think seriously about determining merit, what merit means, and be clear about the circumstances in which it is not appropriate.[61] While Wasby looks at patronage from the perspective of government jobs awarded primarily on a basis other than merit, most frequently on the basis of royalty and service to a political party or on the basis of friendship.[62]

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[58] Etukado, A: Issues in Privatization and Restructuring in Sub-Saharan Africa WP IPPPRED – in Anyang' Nyong'o, G.K.. Ikiara, S.M. Mwale, R.W. Ngugi and Oyugi Aseto *op cit* (2000:83)

[59] Golden Miriam Political Patronage, Bureaucracy and Corruption in Postwar Italy. Paper presented to the Annual Meeting of the American Political Science Association, Marriott Wardman Park, Washington DC (Sept 2000: 2)

[60] Roger Tangri: Parastatals, Privatization & Private Enterprise: The Politics of Patronage in Africa; James Currey, Oxford (1999: pp 7-11)

[61] Willy McCourt: Public Appointments: From Patronage to Economic Merits; working paper 9; Institute of Development Policy and Management, University of Manchester, Precinct Centre, Manchester M13 9GH, UK

[62] Stephen L Wasby: Political Science The Discipline and its Dimensions: An Introduction, Charles Scribner's Sons Press, New York (1970)

Politics on the other hand, specifically, seeks to define the relationship between power and allocation of resources. Ridley defines politics as the study of human beings in situations where political decisions have to be made, in respect to the allocation of resources and choices involving the exercise of power.[63]

Aristotle's view of politics as outlined by Wiseman,[64] is the activity by which differing interests within a given unit of rule are conciliated by giving them a share in power in proportion to their importance to the welfare and survival of the whole community. Politics is a way of getting things done governmentally, the process of making power operative. It is governance in action. David Easton defines politics as "the authoritative allocation of values for a society"[65] As James Dougherty and Robert Pfaltz grapff Jr. observe such a definition presupposes the organization of society under effective authority able to take decisions on values and priorities by way of the budget process and able to enforce its laws.[66]

Privatization has both an economic and an ideological aspect. The ideological aspect involves how the exercise is adopted into the system of a country. It is also ideological and controversial since it rests on the idea that the role of the state should be redefined, in effect, reduced to allow for market forces to lead. In Africa, for example, it is incorporated in the context of "African socialism" which traditionally sees the state as the provider and the caretaker for the citizenry. The adaptation process is based on what works. Privatization is an economics based process to the extent that it involves resource allocation and control. The politics arising out of the role played by politicians in decision making regarding privatization transforms the process into a political activity. Privatization has been used as a means of shifting the balance between the public and private sectors. The tendency to view privatization entirely from a political angle can however blur the economic benefits that accrue to the process, while a tendency to look at privatization from an economistic angle blurs the influence of political patronage in decision making on privatization. Privatization touches an area where politicians are largely involved, interferes in and have power. Privatization therefore touches on both economic and political issues; the economic issues involved having political implications. This

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[63] F. F. Ridley (Ed): Studies in Politics: London, Oxford University Press (1975: 16)
[64] Victor H. Wiseman: Politics the Master Science. New York, Pegasus (1969: pp 11-12)
[65] David Easton; The Political System New York: Knopf, (1953: 129) in James E. Dougherty and Robert. L. Pfaltz Jr., Contending Theories of International Relations. A. Comprehensive Survey. New York (2001:559)
[66] David Easton: The Political System. New York: Knopf (1953:129) in Dougherty E. James and Pfaltzgraff Jr: Contending Theories of International Relations: A Comprehensive Survey. 5th Edition, New York: (2001:35)

largely explains the tendency for decision makers to backtrack on their decisions where costs are deemed to be high. It explains the cascading nature of the process and the differentiated interests in the privatization exercise.

Economics and politics cannot be separated from privatization. Privatization is both an economic and political process because it involves getting the private sector into what was once a public sector utility, based on decisions by politicians in cabinet and parliament. There are economic, social and political considerations and implications in privatization. The government may own assets for reasons that may not necessarily be in nature economic selling such assets involves sacrifice of the non-economic (social) interests in the PE. Economic interests may therefore be sacrificed for social and political reasons. Both political and economic issues intertwine in the process of privatization. The role of politics is seen in the authority needed to dispense parastatals. Privatization as an economic process requires a supportive political environment.[67]

Politics play a key role in privatization, especially in the disposing off of public assets to the private sector. Whether based on political or economic rationality, politicians do not only make decisions regarding privatization, but they are also the custodians of PEs on behalf of the public and are, consequently, the primary determinants in the success of the process. To the extent that they back the process it succeeds; likewise, to the extent that they backtrack on the process success will be hindered.[68]

The fact that what is being privatized is actually owned by the public makes privatization a political process. The decisions to privatize are made by the political leadership, but the people want to understand and to have a say as to how their resources are used, and on the socio-economic implications of the process. The impact of politics on privatization depends on the kind of politics conditioning it. Politics that is focused on improving the lives of people would have a positive effect on privatization, because then it would be undertaken in a pragmatic manner and take into account its accompanying socio-economic burdens. If politicians are not committed to the process then it may take time to get the people to embrace it. This will impact negatively on the investment environment. Political will and commitment are therefore as crucial to privatization as a political leadership capable of focusing on the public good, able and

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[67] Respondent two

[68] Anyang' Nyong'o P., G. K. Ikiara, S M Mwale, R. W. Ngugi & Oyugi Aseto The Context of Privatization in Kenya, *op cit* (2000: 77)

willing to establish adequate selection, monitoring and enforcement measures as well as dealing with post – privatization challenges.

There is however, no consensus over whether the process of political decision making is fundamentally the same as the process of non – public or private decision making since, in practice, a distinctive rationality to economic, social, technical, legal and political decisions exists.[69] This study captured the decision-making aspect of politics as fundamental in the definition of the politics of privatization. The politics of privatization is a result of the activity and process by which collective decisions are made regarding the full or partial transfer of the ownership and control of public enterprises to the private sector. The decisions could be influenced by factors both internal and external to the process of privatization and they involve the exercise of power. This study, noted that the politics of privatization is thus a decision-making process or activity, which involves the exercise of power, that influences the exercise and process of privatization. Political patronage is, therefore, a key factor in privatization.

Different methods are used in the transfer assets/ownership, from the public to private sector: the sale or transfer of shares, sale of assets, leasing arrangements, management contracts, and liquidations. While the objectives set for privatization dictate the method used, and the realization of goals set the method used, privatization is dependent on several factors. These factors influence the action to take and the speed of the process. They include the legal status of the enterprise, performance of the enterprise, size of the enterprise, objectives set for the enterprise, the privatization process and the overall economic development process, government share of ownership, and the enterprises' economic activity.

There are three general forms of privatization: ownership, management, and de-control. These have given rise to two major classifications. In the first group, ownership of assets remain with the government but there is transfer of control from the public to the private sector, where the private sector or management takes a contract with the government to provide public services at a fee. The methods used include service contracts, management contracts, lease arrangements and concessions. These methods have been applied extensively in the strategic enterprises. The second category involves partial or full ownership transfers to the private sector, through 'BOOT (build-own-operate-transfer) concession, BOT (build-operate-transfer), BOO (build-own-

[69] Ibid p 24 (2000: 559 – 560)

operate), de- monopolize, Reverse BOOT, joint ownership and outright sale (liquidation, direct sale, public floatation, and management/employee buyout).

Service contracts entail retention of operation and maintenance of the system, commercial risk and financing of fixed assets and working capital from the government. The private sector is contracted for maintenance, emergency, billing and collection duties, while it manages its own personnel and services. In management contracts, management is privatized but not ownership, so that the private sector has the freedom to make day-to-day management decisions without assuming commercial risks. The leasing arrangement method allows the private firm to rent facilities from the government and assume the responsibility for operation, maintenance and management of the system. The private firm also takes up the commercial risk but has no obligation to invest in the enterprise. It is the responsibility of the government to meet capital expenditure, debt servicing, tariffs, and cost recovery policies. Concessions involve temporary transfer of a state-owned facility to a private operator or the construction of a new facility by a private firm on condition that it is transferred to the government at the end of the concession period. The private firm operates the state-owned enterprise at its own commercial risk and accepts the investment obligations. Fixed assets, however, remain the property of the government.

De-monopolization allows for private firms to enter the market at their own risk as the government de-monopolizes a market segment in whole or in part. Thus the private firm complements or competes with the government. BOOT contract is where a private sector participant finances, builds, owns, and operates a new facility and then transfers ownership later to the public authority. This kind of contract attracts new plants that require large amounts of financing. The public sector determines the size of the facility as demand is guaranteed by the contracting agency. Two alternatives for BOOT include BOT, where the private firm only builds and operates while the ownership is transferred to the public sector, and BOO where there is no transfer to the public enterprise; but rather the private firm builds, operates and owns the facility.

The divestiture method promises government revenue to pay debts or other government obligations while in some cases it distributes share ownership across the population. Sale of public enterprises or divestiture is carried out through public floatation, private placement, direct sale, and management buyouts. Public floatation is through formal capital market of full or part of the government shares as a going concern. Direct sale or direct transfer to chosen private agents is a highly vulnerable option due to political opposition from the existing workers and political lobbies. It is appropriate for large shares when the objective is to achieve widespread ownership and to gain public approval with transparency.

Public enterprises are sold through competitive bidding if an enterprise is no longer viable as a going concern, and the performance record, including the accumulation of large debts is appalling. Thus, it faces high search costs and creates monopolies because it does not allow widespread ownership.

Competitive bidding demonstrates transparency, although this may be done at the expense of technical improvement. Management buyout is the sale of assets to the employees who, with appropriate loan provisions from banks, take over ownership so that managers and employees have a controlling shareholding. Management buy out is mainly undertaken when it is in the interest of the government to encourage employee ownership. Liquidation is the ultimate step in the arsenal of the owner; it results from either the sale of assets to someone who uses it for provision or as a response to the failure of the enterprise, which may have stopped operation or is in bad shape. It could also be that there is no buyer of the enterprise rehabilitation, is not feasible or the government is not willing to continue subsidizing productions.[70]

Oyugi Aseto and Jasper Okelo, on the other hand, single out two approaches to privatization, with one approach highlighting utility maximization and allocative efficiency and the other highlighting political considerations. The utility maximization and allocative efficiency approach focuses on the concept of utility maximization behaviour of the property rights (principal) and agents (managers), subject to information availability, and the consequences of this behaviour for allocative efficiency in the market and economic performance ... the public choice theory on the other hand, focuses on political considerations in the study of both public and private enterprises subject to political influence... a political game between the public, the politicians, and the enterprise managers.[71]

Public Enterprises are firms owned by the state. These have often been established because of the lack of private initiative and capital to establish them; because of the desire to achieve better allocation of goods and services than the market can produce; to alter the

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[70] Anyang' Nyong'o P., G.K. Ikiara, S.M. Mwale, R.W. Ngugi and Oyugi Aseto, Context of Privatization in Kenya; opcit (2000: pp 83-96)
[71] Oyugi Aseto and Jasper A. Okelo: Privatization in Kenya, Nairobi, Basic Books Limited (1997:3)

distribution of income; aid macroeconomic policy by having direct control over basic industries and exploit benefits of natural monopoly for the country as a whole.

The corporate sector initiated the anti-Keynesian movement, supposedly in order to stimulate economic revival and growth, pushing for reduced taxation, reduced wages and hence increased profits and investment expansion. The movement resulted in the reformulation of the development theory that was a new version of the liberal theory. Neo-liberalism strongly argued that state control and regulation of the economy had to be curtailed in favour of the free market. It favoured the free market ostensibly, because the free market is the efficient mechanism for the allocation and distribution of resources and that, therefore, facilitates rapid economic growth and ultimately rapid realization of welfare.

Specifically, according to neo-liberalism the free market, enables the transfer of economic responsibility, notably decision making, action and entrepreneurship to the individual citizen which in turn enhances the moral standing of society, enhances political rights and freedoms exemplified through free entry into and exit from the market; and finally, because the free market is rooted in rational scientific knowledge, decisions are made rationally.

Neo-liberalism came with structural adjustment of the economic structure under and consequently, Structural Adjustment Programmes as we know them today, demand that the state removes the controls it places on the market and all the mechanism it applies to control and regulate the market. Neo-liberalists argued that the state should withdraw from entrepreneurial activities and abandon its commercial and industrial ventures. Structural Adjustment Programmes require third world countries to eliminate subsidies in the provision of services in order to avoid distortions in the market. The neo-liberals argued that lower interest rates offered by the state distorted the market and that there were even more distortions due to provision of free services, for example, education, health and agriculture. Structural Adjustment programmes also required third world countries to reduce the size of the state. Government machinery had expanded, under the Keynesian era because of the interventions undertaken. It was now required that the size be reduced through retrenchment of workers, since there would be no state interventions; so as to cut government expenditure through lower wage bills smaller number of government departments and the lower cost of maintenance of institutions. The Structural Adjustment programmes largely pushed for privatization of public enterprises as a reform that promoted economic efficiency and resulted in macroeconomic stability. Privatisation according to its proponents would:

> .... Promote economic efficiency by fostering well-functioning markets and competition; ... redefine the role of the state in order to allow it to concentrate on the essential task of governing; ... reduce the fiscal burden of loss-making public enterprises in order to help regain fiscal control and macroeconomic stability; ... reduce public debt; ... release limited state resources for the financing of other demands, for example in the area of education; ... generate new investment including foreign investment; mobilize domestic resources for development; deepen domestic financial development; and spread and democratize share ownership.[72]

A critical issue at hand that remained unanswered is that Privatisation was ushered in whilst the very reasons for establishing public enterprises are still relevant. The key question is how, far are the neo-liberal arguments applicable to the third world? How developmental, for example, is foreign investment to the third world? How does privatization of public enterprises address the fundamental question of investment in areas deemed critical for the population but not necessarily attractive to the private investor, who is profit driven? How can the poor access goods and services at an affordable rate and save the ever dwindling labour wages provided by monopolies? How do the local entrepreneurs and local industries survive competition from external entrepreneurs and industries that are capital heavy and better equipped to take risks?

This study will be guided by the hypothesis that the exercise of privatization in Kenya and Rwanda is influenced by political patronage rather than economic rationality.

Methodology

This study examined privatization in Kenya and Rwanda, particularly the extent to which the process was responsive to political patronage vis-a-vis the need for economic gain. It adopted a comparative approach based on the experience of the two Eastern African countries: Kenya and Rwanda. The study was largely set at macro policy level, focusing on the process and outcomes of privatization and critical privatization decisions that the two governments undertook.

[72] United Nations, United Nations Conference on Trade and Development, Comparative Experiences with Privatization, Policy Insights and Lessons Learned New York (1995: p1-2).

Sources of Data

The study used both primary and secondary sources of data; and from both documentary and oral sources.

(a) **Primary Sources**

Oral sources: Oral data was obtained mainly through the interview method. Interviews are important because significant information about privatization, like most activities, is not often captured in record forms. Interviews were thus an important complementary to documentary sources of data. Respondents in the interviews were selected through the target method. Target interviews were conducted with specific public officials and policy makers who bore responsibility in the privatization process and therefore have first hand information relating to the technical aspects of the privatization exercise as well as to government policies. These include: Officials of the parent ministries in central government who supervise public enterprises as well as the process of privatization, including Kenya's Minister of Planning and Economic Development, Rwanda's Minister of Finance and Economic Development and the Permanent secretaries to the said ministries; The Executive Director/ Executive Secretary to the privatization Commissions/Secretariats in both countries; The Executive Director Investment promotion Agency/ Council in both countries; Representatives of the World Bank and IMF offices in Kenya and Rwanda. These are important because the entire structural adjustment programmes that include privatization were originally formulated and subsequently enforced by the two multilateral financial institutions; two members of parliament from the ruling party and two members from the opposition party, in order to capture the political aspects that underpin the process and auditors of state corporations in both countries.

Questionnaires were sent by post and by email to respondents who , for reasons of being out of immediate reach, were difficult to access physically and those who were not accessible by phone. They include Self- administered and Interviewer administered questionnaires: Six different sets of questions were formulated in accordance with information required from each of the categories of respondents; Officials of the parent ministries in central government who supervise public enterprises as well as the process of privatization including Kenya's Minister of Planning and Economic Development, Rwanda's Minister of Finance and Economic Development and the Permanent secretaries to the said ministries; The Executive Director/

Executive Secretary to the privatization Commissions/Secretariats in both countries; The Executive Director, Investment promotion Agency/Council in both countries; Representatives of the World Bank and IMF offices in Kenya and Rwanda; two members of parliament from the ruling party and two members from the opposition party and auditors of state corporations in the two countries.

Documentary sources: Documentary sources of data are important because they contain recorded facts and figures about official transactions relating to public enterprises. These records were therefore examined so as to gain information about performance of public enterprises, origins of privatization, relationship between public enterprises and clients, relationship between public enterprises and parent ministries and key managerial issues. These include: Parliamentary Hansard reports, including bills in parliament, reports of parliamentary proceedings and sessional papers; Annual reports and files on correspondences between public enterprises and parent ministries; Reports by the auditor of state corporations; Records of activities collected and stored by the agencies of privatization in both Kenya and Rwanda as well as data in the hands of media houses, including television and radio in form of video and audio taped interviews.

(b) **Secondary Sources**

Secondary sources of data used include periodic journals and publications of the offices currently dealing with privatization, as well as academic publications on privatization in Kenya and Rwanda; publications on neo-liberalism, structural adjustment programmes, parastatal performance and on the political context of economic reforms will constitute a major source of the data for the research. This was complemented by literature in print media as well as internet sources; official documents such as Kenya's development plans and Rwanda's development plans as well as corporation reports; Kenya's Sessional Paper No.10 of 1965, Sessional Paper No 1 of 1986 and the report by the 1979 committee on Review of Statutory Boards and the 1982 working party on government expenditure. Kenya's privatization bill and Rwanda's law on privatization was also be examined. World Bank annual reports and its African Development indicators were also examined.

The study therefore relied on both primary and secondary sources of data. Analysis of secondary data were besides providing information, help the researcher to have more time spent on thinking about the theoretical aims, substantive issues, and analysis and interpretation of existing data. Much of the data is contained in the records of organizations involved in the exercise of privatization and it is likely to provide a clear measure of the course and results of privatization. Pre-privatization studies conducted by each of the two countries will also be examined. Besides time constraints, the only shortcoming of the study envisaged at this time is that in the case of Rwanda there isn't much academic literature written on this subject and a substantial amount of data on public enterprises in Rwanda was either destroyed during the 1994 war in the country or simply did not exist.

(c) **Data Analysis**

The study investigates the interface between political patronage and economic motives in the decision to privatize public enterprises, examines the relationship between public enterprises and their clients, relationship between public enterprise and their parent ministries, performance of public enterprises, origins of privatization and other key managerial decisions. It therefore uses a qualitative analysis of data which will involve the use of conceptualization, recognition of relationships between categories of data, and developing and testing hypotheses to produce well grounded conclusions.

CHAPTER TWO

The Rise and Decline of Public Enterprises Orthodoxy

Introduction

This chapter examines the rise and performance of public enterprises during the first three post independence decades as well as the emergence of privatization in Kenya and Rwanda since the beginning of the 1990s. The chapter aims to assess the extent to which enterprises fulfilled the objectives for which they were established as well as the courses for the rise of privatization.

The chapter is divided into five parts. The first part seeks to recapture the state of the economy of these countries, at independence; the second part lays out the rationale for public enterprises; the third part discusses political patronage and its influence on performance of public enterprises; the fourth demonstrates the demands for reforms and the dawn of privatization; while the fifth concludes the chapter.

The State of the Economy at Independence

African countries entered independence with the great challenge of development. They had to restructure their economies so as to achieve higher standards of living for their people. The new political leadership believed that the mammoth goal of development could be achieved through a state–centered strategy. That is, the state had to be strengthened so as to achieve development, influence and direct economic action that would meet the hopes nurtured in the minds of the majority of population. The new governments also realized that unlike the colonial states, their legitimacy hinged on the fulfillment of socio-economic expectations of the population. Consequently, since the 1960s, functions of governments expanded and got reoriented from the colonial role of maintenance of law and order and mobilization of revenue to direct involvement in development activities. The strategy for intervention included establishment of public enterprises and reorganization of technical departments. The overall principle was a state-led approach (welfare state system) with allowance for a private sector initiative where possible.[1]

Kenya's Sessional Paper No.10 of 1965 on "African Socialism and its Applications to Planning in Kenya" stating that the case for PEs argued under African socialism the power to control resource use resides with the state, and that state or joint ownership and operation is desirable where general services of major importance must be provided at low or subsidized cost to citizens, firms or farm.[2] In the paper, the president reiterated the governments' determination to pursue a developmental approach contained in the KANU manifesto based on "the concept and philosophy of Democratic African Socialism (that) rejected both western capitalism and eastern communism ...."[3]

In a broadcast, on the occasion of Rwanda's independence anniversary on July 1, 1960 President Gregoire Kayibanda, on the other hand encouraged foreign investment provided they respect the laws and regulations of the republic of Rwanda, but declared also the governments' determination to offer a fair wage for all workers and a minimum income for all agricultural producers on each hectare of land while safeguarding the value of the Rwandan currency.[4] The need for government to get involved in economic activities was therefore underscored.

In both, Kenya and Rwanda, a shift to public enterprises was emphasized against a background of largely foreign owned economies. Beyene Asmelash noted that in a number of countries, critical economic factors were controlled by foreigners at independence due to a colonial economic structure rather than by the indigenous middle class;[5] with indigenous entrepreneurships at this time was, in the main, either lacking or in its infancy. Local capital was, on the other hand, either underdeveloped or non-existent. A few domestic entrepreneurs had emerged in the colonial era, but concentrated in commerce at the expense of investment in industrial manufacturers. These could not be counted upon as the empire of development under a free market system. Furthermore,

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[1] United Nations, United Nations Conference on Trade and Development, Comparative Experiences with Privatization, Policy Insights and Lessons Learned New York (1995)

[2] Republic of Kenya: African Socialism and its Application to Planning in Kenya (1965: 15)

[3] Ibid

[4] Collin Legum and John Drysdale (ed), Africa Contemporary Record, Annual Survey and Documents (1968 – 1969 p.197)

[5] Beyene Asmelash, Redynamizing Public Enterprises in Africa: the Essence and strategies of Commercialisation. AJPAM Vol VI, No.1 (July 1999)

there was widespread mistrust and resentment for an economy controlled by foreigners that seemed to negate independence and spell neo-colonialism, coupled with the fear of returning to a dependent or neo-colonial status.

The Secretariat to the United Nations Economic Commission for Africa, in its report at the Arusha conference, noted that prior to independence, economic development as such was largely in the hands of a predominantly foreign, private sector which, in respect of the modern sector, was often a foreign preserve. The policies and priorities of the foreign investors were geared to the interests of the metropolitan economic powers and were seldom identical with those of the colonies; there were practically no indigenous entrepreneurs with expertise and capital to compete in the sector. To correct the imbalance and boost economic growth in these economies, mechanisms were put in place, one of which was the establishments of public enterprises.[6]

Rationale for Establishment of Public Enterprises

The 1975 International Conference held at the East African Community Management Institute in Arusha highlighted the political rationale of the establishment of Public Enterprises. While the outward looking policies and priorities of foreign investors created an imbalance in the economy the absence of indigenous entrepreneurs and local capital created a vaccum which needed to be filled. This called for the establishment of corrective mechanisms that would also help boost growth in these economies. Public enterprises which were then established with the overall motive of self-interest and for the state to share in the benefits of a mixed economy, permeated almost every aspect of national economic activities ranging from commerce, agriculture to industry and transport, to mention but a few areas.[7] Beside, they were also set up for socio-political reasons, benefiting and becoming important state agencies of the day. [6]

The World Bank, in its report on Sub-Saharan Africa, on the other hand, observed that the states' role as an entrepreneur was justified by the argument that the indigenous private sector had neither the capital nor the expertise to drive rapid

[6] Improving Performance In Public Enterprises: Report of the International Conference held at the East African Community Management Institute, Arusha, Tanzania: *op cit* 2nd – 5th December 1975.
[7] Ibid

development and industrialization. Africa was seen as a continent without indigenous entrepreneurial skills, its "progressive" modern sector at odds with a "backward" informal sector that could provide subsistence but nothing more...[8]

Barbara Grosh traced public enterprises to the colonial administration and argued that establishment of those monopolies was for the benefit of the regime of the day. She said that:

> as in most African countries, one of Kenya's colonial legacies was a large public enterprise sector. During the colonial period, the infrastructural services which are mostly natural monopolies, were organized as public enterprises. These included ports and railway airlines, and posts and telecommunications. ...another major group of public enterprises set up during the colonial period was the crop marketing boards organized primarily for the benefit of the white settler farmers, whose produce they marketed.[9]

Kenya, at independence, was indeed to define development in terms of the continued growth and elaboration of such economic and political institutions. In Sessional paper No.10 of 1965, the government emphasized that policies designed to alleviate pressing and immediate problems would be selected. The

> most important of this is to provide a firm basis for rapid economic growth. Other immediate problems such as Africanization of the economy, education, unemployment, welfare services, and provincial policies must be handled in ways that will not jeopardize growth. The only permanent solution to all these problems rests on rapid growth. Growth then, is the first concern of planning in Kenya, but the responsibility for the success of African socialism in attaining this objective is a dual one. In addition to the efforts of government, the people themselves must contribute in...every walk of life.[10]

Kenya therefore not only inherited PEs but also established others at independence, for political and strategic reasons, particularly with the hope of using them to spur economic development. Anyang' Nyong'o observed that at independence, Kenya inherited PEs and immediately undertook to establish others with a view to have the state spearhead the development process. The high profile of state owned enterprises in Kenya, by the end of 1980s, had its roots in the expected strategic role of the government in the economy. The predominant political philosophy on development at that time was based

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[8] The World Bank: Sub-Saharan Africa: From Crisis to Sustainable Development Washington D.C *op cit* (1998)

[9] Barbara Grosh: What Works. What Doesn't and Why. London, Lynne Rienner Publishers (1991:11)

[10] Kenya, Sessional Paper No.10, 1965: 18

on a combination of the concepts of nationalism and African socialism, both of which supported and enhanced the role of the state in the development process.[11]

In its policy considerations, reflected in Sessional paper No.10 of 1965, the government focused on economic, social and political development, centered on use of resources and development planning for the public and cooperative sectors and indicated that "...development planning will ensure that the public and cooperative sectors grow rapidly to embrace a large enough section of the economy to establish a socialist basis for future development."[12]

Similarly, the Rwandan National Assembly, adopting a constitutional amendment on 3 May 1973 rejected the capitalism system in favour of 'democratic socialism," and stated the underlying socio-political motives of the decision. It noted that "it is considered indispensable to give our country's economy a dynamic orientation with the assurance of priority participation by the popular masses at different levels of economic promotion."[13] In June that year, a national trade office for the import and distribution of all consumer products, capital goods, raw materials and fuel, as well as for the export of all agricultural products, minerals, industrial and craft products, and for transport inside and outside Rwanda with government – ownership of 75% shares, was established.[14]

Like Kenya, Rwanda had also inherited public enterprises from its colonizers, which had been established not only as a result of political patronage but also because the colonial government viewed them as the most efficient mechanism for providing certain services. In order to facilitate and finance its operations, the colonial administration for example, introduced a postal service system in the early 1930s, a telegraphic service system in the 1950s, and compelled the indigenous Rwandese to start the plantation crop sector, at the expense of food crops, as early as the 1920s. It established "Banque de Kigali" in Kigali, an affiliate of the Belogolaise - a Belgian Bank, in the 1950s. Public production also corresponded closely to an ideological climate, in which the private sector was then held in low esteem and a large public role in the economy seen as

[11] Prof. Anyang Nyong'o. The Concept of Privatization in Kenya.: Nairobi Academy of Science Publishers, Nairobi (2000: 40)

[12] Republic of Kenya Kenya Sessional Paper No.10. 1965:50

[13] Collin Legun and John Drysdale: (eds) Africa Contemporary Record, Annual Survey and Documents, Public Company, New York and London (1973-1974:238)

[14] Ibid (pp. 241)

necessary for rapid and sustainable development.[15] More parastatals were established by post-colonial governments to continue with the provision of services. In Rwanda, consequently, there were 72 public enterprises slated for privatization at the time of parastatal reform and privatization in 1996.

According to the World Bank, at the time of parastatal reform and privatization in Kenya, the government participated directly and indirectly through equity in 255 public enterprises, with a majority ownership in 135 and a minority ownership in 120 of them. Total direct ownership was 55, 45 of which were majority owned and 6 minority owned by government, while 4 had a combined direct and indirect ownership. The government had indirect ownership of 204 firms out of which 86 were majority owned and 114 minority owned. Of the majority owned 101 were formed under the various statutory Acts. Sixty percent of the enterprises were in manufacturing and mining, eighteen percent in distribution, fifteen percent in finance and the rest in transport, electricity and other services.[16] Kenya also had a large state enterprise sector, contributing 11.2 per cent of the GDP, at independence.[17]

A World Bank mission report, commenting on the size and extent of the public sector in Kenya, in 1963, observed that few underdeveloped countries can compare with Kenya in the magnitude of the organizational arrangements which have been provided by the government to further agricultural development and marketing, and that the statutory authorities were not confined to agriculture.[18]

Oyugi Aseto and Jasper A. Okelo also stated that the late 1960s and early 1970s saw the mushrooming of state enterprises, enlarged not only in number but also in their diversified functions.[19] They argued that, the ongoing privatization programme was meant to provide private indigenous Kenyans with an opportunity to acquire, own, manage and control a substantial portion of the economy through the purchase of

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[15] Van de Wall, Nicholas; "Privatization in Developing Countries: A Review of Issues". World Development, Vol.17 No.5 (1989)

[16] World Bank (1998): African Development Indicators 1989/1999

[17] The International Bank for Reconstruction and Development, The Economic Development of Kenya, 1963 p.108 cited in Oyugi Aseto and Jasper A. Okelo: Privatisation in Kenya: Basic Books (Kenya) Limited, Nairobi (1997:61)

[18] Ibid

[19] The International Bank for Reconstruction and Development, The Economic Development of Kenya, 1963 cited in Oyugi Aseto and Jasper A. Okelo: Privatisation in Kenya: Basic Books (Kenya) Limited, Nairobi (1997: 73-77)

parastatals and by acquiring shares being sold by government.[20] This position was similar to the one stated in Sessional Paper No.10 of 1965 at independence, except for the shift from government participation in commercially oriented activities. The key question is whether the privatised parastatals went into the hands of Kenyans and whether those in the process of being privatized are likely to go into the hands of the indigenous people. The dilemma of whether or not the empowerment of the indigenous people comes better with private enterprises than with public enterprises remains.

According to R. W. Karanja, nearly all post-independence state corporations in Kenya were established in realization of commitments made in the ruling party's (KANU) manifesto, reiterated thereafter in the sessional Paper No.10 of 1965 on African Socialism and its Application to Planning in Kenya.[21] Like privatization in the 1980s, the drive in this case was therefore fulfillment of promises made by a ruling party to its electorate and not necessarily a response to economic demands.

Patronage and Performance of Public Enterprises

The establishment of PEs has been identified with both political and economic motives. There is no consensus however as to what part was played by political patronage in the establishment of public enterprises in Kenya and Rwanda. Oyugi Aseto and Okelo A Jasper have argued that in pre-colonial Kenya, patronage did not count in establishing state enterprises. They argued that the state was not involved in the management of state enterprises but largely left them to respond to the dictates of market forces and hardly ever subsidized loss-making public enterprises. They argued further that public enterprises were apolitical in the sense that they were rarely used in factional and inter-factional struggles.[22]

Adam Christopher *et al,* on the other hand, saw outright patronage in the establishment of public enterprises in Kenya. They asserted that establishment of public enterprises dates back to pre-independence days and that with independence came a more

[20] Oyugi Aseto and Jasper A Okelo: Privatization in Kenya. Zealot Printers, Nairobi (1997:

[21] V. V. Ramanadham (1989) (ed). Privatization in Developing Countries. Rontledge, Chapman and Hall. New York (1989:268)

[22] Aseto Oyugi and Jasper A. Okelo: Privatization in Kenya. Basic Books Kenya Limited, Nairobi (1997:61)

politically ridden, political-economic policy known as "African Socialism." They observed that:

> The origins of the SOE sector in Kenya extend back to early 1900s, with the creation of the East African railway system, linking Mombasa on the coast with the inland cities of Nairobi and Kampala. By independence in 1963, public ownership was widespread in infrastructure, agricultural marketing, and also in the development finance sector. From independence until the late 1970s, attention shifted towards the role of the state in broader resource management, under the auspices of a political and economic philosophy known as "African Socialism". This, combined with the notion of a collective mixed economy and the goal of 'Kenyanization', that is, the rapid acceleration of the transfer of economic control from the hands of foreigners and Kenyan Asians to Kenyan Africans.[23]

Patronage behind the establishment of public enterprises in pre-independence Kenya, based on the British Colonial Governments desire to satisfy the white farmers and to stamp its authority on Kenya, was stated by Gerrishon K. Ikiara who observed that the beginning of Kenya's public sector dates back to the years soon after Kenya became a British Colony in the early 20th Century as the colonial government attempted to stamp its authority on the newly acquired territory, gained momentum around the 1930s as the colonial government tried to create and improve facilities under pressure from white farmers for marketing of agricultural commodities through state and quasi state marketing boards, a system that was later inherited by the post-independent government.[24]

Aseto Oyugi and Okelo A Jasper's argument that at independence the government of Kenya had justifiable concerns that the private sector could not, or would not, help to improve living conditions for the poorest citizens because it was dominated by foreigners, whose nationality status then was not clear; and that therefore the government deliberately used parastatals to solve political and economic problems as a way of de-colonizing the economy; increasing citizen participation, promoting development and regional balance and ensuring greater public control of the economy, on the other hand confirmed the argument that political patronage underpinned

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[23] Christopher Adam, William Cavendish and Percy S Mistry: Adjusting Privatization. Case Studies from Developing Countries, James Currey, London (1992:35)
[24]Anyang Nyong'o, G. K. Ikiara, S. M. Mwale, R. W. Ngugi, Oyugi Aseto: Context of Privatisation In Kenya, Academy Of Science Publishers Ltd, (2000:44)

establishment of public enterprises.[25] It put to question their argument that PEs were apolitical and that the management of PEs was left to the whims of market forces.

Anyang Nyong'o, *et al* on the other hand, rationalized the establishment of public enterprises. They referred to arguments advanced in favour of PEs such as correcting perceived market failures (Shirley, 1983:4), sources of revenue generation, employment creation, a facilitating factor for income distribution (Killick 1983, Short 1984, Nunnekamp 1986), flexibility and less corruption compared with central government (Shirley 1986) and as a catalyst in overall development (Ikiara 1994:370). They observed that, in the specific case of Kenya, establishment of public enterprises was driven by the "desire to maintain a high degree of public control over national resources as means of facilitating economic growth", adding that "while ideological reasons were not always stated, they were nonetheless important;"[26] which is indication of political considerations underlying the economic decision to establish PEs.

The role of the state in controlling and directing the economy and the political and economic motives behind the establishment of public enterprises, stated in Sessional Paper No.10 of 1965. It stated that African socialism must be politically democratic, socially responsible, adaptable and independent, based on the further idea that the nation's productive assets must be used in the interest of society and its members and that under African socialism the power to control resources resides with the state. It argued that African socialism must rely on planning to determine the appropriate uses of productive resources on a range of controls to ensure that the plans are carried out. It underscored the fact that in order to control effectively, sufficiently and not excessively in each case, many types and degrees of control are needed, ranging from none, through influence, guidance and the control of a few variables such as prices or quantities, to absolute control represented by state ownership and operation.[27]

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[25] Oyugi Aseto and Jasper A Okelo: Privatization in Kenya, Basic Books (Kenya) Limited, Nairobi (1997:62)

[26] Anyang Nyong'o, G. K. Ikiara, S. M. Mwale, R. W. Ngugi, Oyugi Aseto: Context of Privatisation In Kenya, Academy Of Science Publishers Ltd, (2000:44)

[27] Republic of Kenya African Socialism and its Application to Planning in Kenya, Sessional Paper No.10, 1965 pp 9-11.

The move for government to control and direct the economy, with a view to achieve political and socio-economic benefits for the people was not always commensurate with maximization of profits and other economic benefits.

Kenya's Sessional Paper No.10 of 1965 shows that the government appreciated the potential conflict between its stated goals of rapid growth and equitable distribution and spelt out the necessary trade offs; it accordingly stated that:

> The high priorities placed on political equality, social justice and human dignity mean that these principles will not be compromised in selecting policies designed to alleviate pressing and immediate problems. The most important of these policies is to provide a firm basis for rapid economic growth. Other immediate problems such as Africanization of the economy, education, unemployment, welfare services, and provincial policies must be handled in ways that will not jeopardize growth. If growth is given up in order to reduce unemployment, a growing population will quickly demonstrate how false that policy is, if Africanization is undertaken at the expense of growth, our reward will be a falling standard of living. [26]

Public enterprises serve a multiplicity of objectives, and are subjected to different pressure groups with different interests. The multiple objectives and goals sometimes conflict and impact on their performance. Barbara Grosh cited the following as the most important pressure groups to which public enterprises are subjected. Consumers who press for low prices; suppliers of inputs, who press for high input prices and procurement for themselves; competitors, who press for the firm to charge high prices and restrict services offered; employees, including management, who wish to ensure that the firm generates a continuing stream of surplus from which it can appropriate a portion, either directly or indirectly, and shareholders, who press for the firm to earn profits.[28]

In general, in spite of the conflicting objectives and diverse pressures facing public enterprises, a number of different criteria can be used to asses performance of public enterprises. These include: financial rate of return on investment, defined as before tax profits plus interest expense divided by total long term investment; efficiency, returns to consumers – generally measured by comparing actual prices with some measure of the opportunity cost of the good, and returns to suppliers, also measured by comparing actual

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[28] Barbara Grosh: What Works, What Doesn't, and Why, Lynne Rienner Publishers, Boulders & London (1991:19)

prices with opportunity costs, and at times indirect measures such as the ability of public firms to attract inputs in competition with private firms.[29]

Public enterprises, over the years, found themselves on the decline. Anyang Nyong'o *et al* stated that in Kenya, public enterprises started to deteriorate in the 1970s when the sector began to rely too much on the treasury for its routine operations.[30] Karanja attributed this decline in performance partly to stiff competition from the private sector, most evident in the manufacturing sector where public enterprise performance has been poorest. For instance, some of the enterprises in which the government has a controlling interest either directly or indirectly but have demonstrated minimal or negative performance include: Yuken Textile Industry Limited, Ceramic Industries (EA) Limited, Synthetic Fibres (K) Limited, Kenya Engineering Industries Limited, Nepal Plastics Limited, Kenya Fibre Corporation, EA Publishing Horse, Kenya Meat Commission, Uplands Bacon Factory, South Nyanza Sugar Company, Nzoia Sugar Company, EA Sugar Industries, and National Construction Corporation."[31]

The government of Kenya established a review commission in 1979 to review the performance of its PEs in 1979. The 1979 Kenyan Committee on Review of Statutory Boards, appointed to review performance; also made recommendations with regard to urgent financial, administrative and operational problems facing important boards in Kenya. It observed that public enterprises were generally a principal cause of the long term fiscal problems, absorbing an excess portion of the budget. The commission stated that there was a rapid growth and low productivity of public expenditure. And that the sector had over extended itself, and government had not succeeded in managing the economy inherited, with massive structural problems and minimum capital outlays. The board asserted that "there is clear evidence of prolonged inefficiency, financial mismanagement, waste and malpractices in many parastatals"[32].

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[29] Ibid p 41 (pp.19-21)
[30] Anyang Nyong'o, G. K. Ikara, S. M. Mwale, R. W. Ngugi, Oyugi Aseto: Context of Privatisation In Kenya. Academy Of Science Publishers Ltd, *op cit* (2000: p.14)
[31] V. V. Ramanadham (ed) Privatisation in Developing Countries.. New York and London, Pontledge Chapman & Hall, (1989: 274-275)
[32] V. V. Ramanadham (ed) Privatisation in Developing Countries. New York, Pontledge Chapman & Hall, (1989: 16)

The 1979 Ndegwa Commission was followed up by the 1982 working party on government expenditure. The working party, like the Ndegwa Commission, found major problems among public enterprises in Kenya and stated that:

> The report of the 1982 working party on government expenditure took cognizance of the fact that much of the responsibility for poor financial performance lay with central government. ...The working party, highly critical of what it viewed as over extension of public enterprises into sectors that were strictly commercial, called for a programme of divestiture.[33]

In reaction to government interference in public enterprises for purposes of realizing government policy related activities, the report recommended that the government should not direct parastatals to carry out policy related activities which might not be financially sound without providing explicit subsides for those activities.[34] This confirmed however the argument that PEs had performed poorly largely because they were directed to carryout policy related activities that were not necessary economically viable.

Sessional Paper No.1 of 1986 on Economic Management for Renewed Growth attempted to shift the paradigm from African Socialism to a market economy; with government officials however, continuing for a long time, to refer to it as an improvement or updating of Sessional Paper No.10 of 1965. The paper set out policies that were aimed at restructuring the economy, mapping out patterns of government expenditure, and reorienting parastatal investments.[35] Without any improvements in the performance of the public enterprises, with all the political patronage, because of poor management, lack of professionalism in the management of public enterprises, with top appointments in the enterprises determined by political factors and not on grounds of merit and efficiency perhaps as Grosh,[36] Ndegwa[37] and Oyugi[38] stated, the intended

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[33] Barbara Grosh: What Works What Doesn't and Why? *op cit* p.18
[34] Ibid p.18
[35] Aseto Oyugi and Okelo Jasper, Privatization in Kenya (1997) cited in Grosh Barbara, What Works, What Doesn't, and Why; Lynne Rienner Publishers, Boulder & London (1991:70)
[36] Grosh Barbara, What Works, What Doesn't and Why? cited in Prof. Anyang Nyong'o, G. K Ikiara, S.M. Mwale, R.W. Ngugi and Oyugi Aseto: The Context of Privatization in Kenya, Academy of Science Publishers, Nairobi (2000:49)
[37] Report and Recommendations, Government Printers, Nairobi, cited in Prof. Anyang Nyong'o G. K Ikiara, S.M. Mwale, R.W. Ngugi and Oyugi Aseto: The Context of Privatization in Kenya, Academy of Science Publishers, Nairobi (2000:49)

restructuring of the economy and re-orientation of parastatal investments would not be realized. State-controlled resources if allocated on the basis of patronage politics cannot yield economic benefits. Tangri noted that:

> The allocation of state-controlled resources on the basis of patronage politics had damaging economic consequences. The political forms of government economic intervention led to domestic fiscal deficits and international indebtedness. ...... Public enterprises have been one of the public institutions operating within the authoritarian and patronage-based political system.....everywhere their economic performance has been adversely affected by economic and political factors, most notably patronage politics.[39]

Swany, attributed the downturn in the economies of the 1970s to managerial problems and to misuse of government resources, itself a result of political patronage. This did not however negate the rationale of PEs nor did justify privatization as a policy option. He observed that:

> The structure and dynamism of the economy in the late 1970s evolved out of the favourable policy environment of the past. But economic management deteriorated in the late 1970s, which resulted in the intensification or emergence of a number of major distortions. In 1982 the Kenya government commission on government expenditures clearly indicated that greater discipline and efficiency were necessary, and that the gross misuse of government resources should be curbed.[40]

The government of Kenya attempted to define the role of the state and the role of the private sector, given the competing objectives. Sessional Paper No 1 of 1986 on Economic Management for renewed growth emphasized the delimitation between the role of the state and that of the private sector in Kenya's economy. The paper stated that the private sector must play the dominant role in revitalizing Kenya's economy, and stressed that Kenya's private sector includes the kind of dynamic entrepreneurship that is essential to a long period of sustained economic growth. It outlined the role of Government as maintenance of a stable, political and economic climate in which the private sector can operate, the provision of administrative and social services that cannot

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[38] Oyugi Aseto and Jasper A. Okelo: Privatization in Kenya, cited in Prof. Anyang Nyong'o G. K Ikiara, S.M. Mwale, R.W. Ngugi and Oyugi Aseto: The Context of Privatization in Kenya. Academy of Science Publishers, Nairobi (2000:49)

[39] Roger Tangri: Parastatal – Privatization And Private Enterprise. The Politics Of Patronage In Africa Fountain Publishers, Kampala (1999: pp.12-13)

[40] Gurushri Swany (ed) Ishrat Husain and Rashid Faruqee In Adjustment In Africa. Lessons from Country Case Studies. The World Bank, Washington, D.C. (1994:193)

be readily provided by private enterprise, provision of infrastructure that supports private activity of all kinds, and establishment of market-based incentives and regulatory structures that will channel private activity into areas of greatest benefit for all Kenyans.[41] Despite the efforts; the performance of Public Enterprises continued to deteriorate and in the 2004 budget speech, Hon. David Mwiraria observed that public enterprises had continued to deteriorate and that consequently the public had paid for services that were non existent or of low quality. The minister made a case for privatization and argued that the PEs were corrupt, hired excess labour, and imposed a burden on the exchequer. He stated that:

> In the past incidents of mismanagement in public enterprises have imposed heavy financial costs on both the economy and the taxpayer. As a result the public has paid for service which were, either not rendered, or when rendered, were of low quality, or irrelevant to their needs. In general this sub sector has been largely under performing and unable to service its debt obligations, transferring most of the burden to the exchequer. In some instances, these enterprises hired excess labour while engaging in inappropriate procurement procedures. The result has been overpriced purchases of assets, real estates or outright theft through purchase of wrong equipment."[42]

The process of privatization had however already started, and similar accusations of corruption and failure to meet set targets were leveled against private enterprises.

Demands for Reforms and the Dawn of Privatization

In the Kenyan case, as stated above, both, the government – instituted review of statutory boards of 1979 and the working party on government expenditure of 1982 found the performance of public enterprises wanting and urged government to make reforms. The recommendations included that government needed to: act as a creator of a favourable setting within which people can develop themselves and the economy; to reduce government exposure to risk in areas in which the private sector can assume the risk without government intervention; to divest in commercial and industrial activities and transfer active participation of more Kenyans in shareholding; to dismantle some of the existing administrative hurdles that discourage private sector initiative and provide

[41] Republic of Kenya Sessional paper No. 1 of 1986: Economic Management for Renewed Growth; Nairobi (1986: p.24)
[42] David Mwiraria, M.P, Minister For Finance: Speech Delivered To The National Assembly, When Presenting The Budget For Fiscal Year 2004/2005 Nairobi (2004: pp 14-15).

needless opportunities for corruption; and to reorganize the legal and institutional framework for monitoring and supervision of parastatals.

R.W. Karanja observed, that the decision to privatize had been arrived at much before the formal declaration of the privatization programme; but disagreements over the procedure had stalled implementation. Differences between members of parliament and government were alluded to:

> It seems that the need to pull out of unprofitable ventures had been recognized as early as 1979 at the formation of the then Parastatals Advisory Committee. Among its terms of reference was, to consider and advise the government on the desirability of amalgamating or winding up some parastatals. There had been violated requests, even in the National Assembly , for the establishment of a privatization commission to study particularly loss-making state corporations and to make recommendations on how they may be disposed off to the public.[43]

The World Bank, on the other hand, observed that, in Kenya, as in most developing countries, the period after independence was marked by a deliberate policy of direct participation by the Government in production and trade.

During the 1970's it became increasingly apparent that state participation in the economy had grown well beyond the Governments' original intentions. Furthermore a large debt exposure among parastatal enterprises resulted in their increased vulnerability, as operating losses and inadequate rations on parastatal investments further eroded the already weak capital bases of these enterprises. Administrative and regulatory interventions introduced to protect ailing parastatals became an additional constraint to economic expansion and adversely affected the ability of the economy to create jobs and improve living standards since higher efficiency was not demanded from these favoured firms.[44]

> Later, some of the wholly or partly privately-owned enterprises were acquired by the Government in the process of attempts to rescue collapsing firms including converting outstanding debts or tax liabilities to equity. .. Similarly, investments made by the Government in enterprises/ventures requiring risk capital resources or where local investors lacked necessary entrepreneurial skills at the time of

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[43] R.W. Karanja, Privatization in Kenya, cited in V.V. Ramanadham (ed), Privatization in Developing Countries, Routledge, Chapman & Hall; New York and London (1989: 279-280)

[44] World Bank, Public and Private Enterprise Division, Eastern Africa Department; The Republic of Kenya Parastatal Reform and Privatization, Technical Assistance Project, Staff Appraisal Report: Volume 1, *op cit* (Washington DC, November 9,1992:3)

independence, became permanent holdings by the Government for lack of a conscious effort to divert those investments to citizens as they became wealthier and acquired more sophisticated business skills.[45]

The World Bank report elaborated on the poor performance of the state-owned enterprises, government subsidies, and administrative and regulatory interventions, and asserted that:

> the report further says: "performance of the parastatal sector has continued to deteriorate … This is indicated by more recent data on parastatal performance for the period 1986-1990 in the areas of productivity growth, contribution to the budget deficit, indebtedness and export performance.[46]

The report did not however swell on the underlying causes of the deterioration and consequently the appropriate remedy to the problems. The argument of parastatal deterioration is made further by P.Anyang'Nyong'o *et al* when they sought to justify that certain government investments in public enterprises simply led to a growing external indebtedness and lost opportunities for growth; and that in fact public enterprises often times added to the increase in public consumption and a reduction in public savings because they were high cost producers, large employers and loss makers.[47] This was despite the fact that they had observed the genesis of privatization programmes and policies can be traced to policies and programmes pursued in the period immediately after independence with a vision of a benevolent guiding hand from the government enabling the private sector to rapidly grow the economy while providing economic opportunities and space for indigenous Kenyans,[48] which underscored the need to meet socio-economic needs for the disadvantaged Kenyans at independence. PEs performance could not therefore be judged against economic results only. Kenya clearly adopted privatization as an integral part of economic reforms in the 1980's and early 1990's under the World Bank and IMF pressures as well as pressure from the demands of PEs whose operations had been stalled by the need to satisfy social needs abandoning some of the

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[45] World Bank, Public and Private Enterprise Division, Eastern Africa Department; The Republic of Kenya Parastatal Reform and Privatization, Technical Assistance Project, Staff Appraisal Report: Volume 1, (Washington DC, November 9,1992:2)

[46] Republic of Kenya, Development Plan (1979 to 1983: 1)

[47] Anyang Nyong'o, G. K. Ikiara, S. M. Mwale, R. W. Ngugi, Oyugi Aseto: Context of Privatisation In Kenya, Academy Of Science Publishers Ltd, (2000:26-27)

[48] Ibid (2000:59)

objectives for which PEs were established. Proponents of the reform programme argued that the enterprise reform programme was intended to enhance the role of the private sector in the economy by: shifting more of the responsibility for production and delivery of products and services from the public to the private sector. This was supposed to create more level playing field by eliminating preferential treatment, (including monopoly rights) and enabling the private sector to enter into areas of activity of the Public Enterprises (PE) on an equitable basis.

It was to reduce demands of the PE on the exchequer so as to improve the use of the available scarce resources; increase returns on scarce resources by achieving greater efficiency in both private and public enterprises through greater responsiveness to market signals and reduce the role and rationalize the operations of PEs. It was expected further to improve the regulatory environment by selecting more economically rational means of regulation and thereby reduce conflict of interest between the regulatory and commercial functions of PEs that are consistent with government policies. Privatization was also expected to as well as broaden the ownership base and enhance capital markets development.

Proponents of privatization argued further that, following significant restructuring of strategic enterprises which separate commercial from regulatory functions, the government adopted a policy of bringing in private sector participation into the commercial activities of the strategic enterprises. This policy shift was in appreciation of the need for private sector financial, technical and management resources necessary to rehabilitate, expand and modernize the infrastructure with a view to enhancing access and efficiency in the supply of services to support private sector operations and spur economic growth There had been, concerns expressed by both the World Bank and Government Instituted Parastatals Advisory Committee, the Review of statutory boards of 1975 and the working party on Government Expenditure of 1982 over the burden public enterprises imposed on both the government budget and the economy in general.

The IMF and World Bank were also pushing for structural adjustment programme, with demands that government withdraws from Business and privatized public owned enterprises privatized. The focus remained on economic performance with no consideration for the social and political factors underlying the performance. Fantu Cheru for example observed that:

> Between 1979 and February 1985, Kenya negotiated five standby arrangements with the IMF. The policy conditions and performance criteria underlying these arrangements were consistent with and Supportive of Strategic Adjustment Loan (SAL) I and II negotiated between the World Bank and Government. The conditions focused on budgetary restraint, prudent expansion of bank credit, liberalization of trade, devaluation of the currency and restraint in external borrowing.[49]

The argument that the public sector was characterized by poor relations on public investments, together with endless claims on the exchequer, with support to these enterprises systematically leading to the stifling of private sector initiatives due to unfair competition, budgetary and other fiscal initiatives as public enterprises accessed subsidies and fiscal privileges had, therefore, led to a rethinking of the role of the government in the economy. The Government of Kenya reviewed virtually all its economic policies between 1978 and 1982, in what was an acknowledgement of the inevitability of reforms in a stressed economy.

The performance of PEs had much to do with political and economic realities of the country but also with the realities of the international system at the time. Kenya's largely state-driven economy was heavily supported by both bilateral and multilateral donor funds. The realities of the cold war era, for a long period of time, made Kenya a one-way stop for western investments in a region where her neighbours were considered to be leaning to the East. Kenya was geopolitically of strategic importance, with regards to Western interests in the Middle East, because of its access to the sea through Mombasa and to Eastern Africa. This contributed to her rapid growth in the early 1960's to the late 1970's.

As the economic and international conditions changed following the erratic prices for agricultural products on the global market, the global oil shocks collapse of the East African Community and the collapse of the Berlin wall and end of cold war; Kenya's geopolitical significance waned and her economic growth rapidly declined. This greatly affected the political regime and its capacity to continue to provide services and thereby legitimize itself.

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[49] Fantu Cheru: The Silent Revolution in Africa, Zed books Ltd, Harare (1989: 73-79)

There had been massive dependence on foreign aid on the part of Kenya's economy. The government, failed to correspondingly reduce government expenditure as the coffee and tea boom of 1976 – 1978 ceased. Her economic decline and, ultimately, economic reforms are intertwined with the foreign debt and the 1991 balance of payments support. According to Mudavadi therefore:

> ... the problem of Kenya is not so much a lack of commitment to economic reform as the burden of the past. It is in part this accumulated debt of many years which has pegged the country to high dependency on continued aid in order to sustain repayment.[50]

Political patronage still played a big role in this economic crisis. Government intervention in the management of personnel and finances continued, and mismanagement had slowly but surely crept into the economy. Private investment began to decline and the public sector grew faster than the economy. The large state – owned enterprises were a liability to the economy. "... indeed the whole economy was stalling and needed significant changes in policy, if these problems, in their whole complexity, were to be properly addressed"[51]

The Kenyan Government, as reflected in the Development plan for the period 1979 to 1983 and subsequent plans expressed its intention to continue participating in economic activities, stating that

> The Government has adopted four basic principles which define the nature of the development process in Kenya: .... Widespread participation, Diversity of Organizational forms and incentives, Government Participation and Mutual Social Responsibility.[52]

A policy paper on Public Enterprise Reform and Privatization was however issued in 1994, based on the realization that government needed to withdraw from business activities: it cited the overall aims of the reform programme and outlined the scope of the programme, the institutional framework, as well as the principles, guidelines and procedures to be applied in privatizing Public Enterprises in Kenya. It therefore stated that the reform programme aimed at:

> Enhancing the role of the private sector in the economy, reducing the demand of the public enterprises on the Exchequer so as to improve the use of Kenya's scarce resources, reducing the role and rationalizing the operations of public

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[50] Musalia Mudavadi: Rethinking the 21st Century: The Case of Kenya. *op cit* (1998:12)
[51] Ibid (p.8)
[52] Republic of Kenya, Development Plan for the Period 1979 to 1983; p.1.

enterprises sector, improving the regulatory environment and broadening the base of ownership and enhancing capital market development.[53]

Kenya's Economic Recovery Strategy for Wealth and Employment Creation of 2003 – 2007 almost two decades after the policy of privatization was adopted further promised to intensify Privatization of Public Enterprises; and stated the Government remained fully committed to moving away from commercial activities that can be performed more efficiently and effectively by the private sector. For this reason, the process of reducing the role of the government in commercial activities, which has been going on since the early nineties, was to continue especially through accelerating the Privatization Programme.[54] This was a political gesture of the new regime to western donor countries and IFIs.

Rwanda, on the other hand, remained a recipient of substantial development aid, after independence despite the Government's declaration of the intention to safeguard the value of the currency, whose stability was assured by a balanced budget and by limitations on credit facilities. In 1967 for example, Rwanda's trade deficit was partly compensated for, as had been in 1966, by various offers of aid, such as US financial aid or gifts in kind.[55] The donor support, particularly in the form of balance of payments support, increased to an average of USD 150 million over the period 1988/1990 and to an average of 206 million USD over the period 1991/1993.[56]

Rwanda's parastatals had been performing poorly. Somirwa's Rutongo tin mine, for example, operated at a loss of $1,500 on every ton of cassiterite produced in1984, with two furnace tin smelter running at 50% capacity. The sugar parastatals at Kabuye encountered problems due to low yields per ha and poor management, with low cane and refining production accounting for less than a quarter of Rwandas' 9000 ton annual consumption in 1984. These and other parastatals had been surviving on subventions and brought government under pressure from international financial institutions to reduce their number and reform those retained. Consequently, in February 1984, President

[53] Republic of Kenya, Ministry of Finance: Policy Paper on Public Enterprises Reform and Privatization, (Oct, 1994:1)
[54] Republic Kenya; Economic Recovery Strategy For Wealth And Employment Creation (2003 – 2007: 16)
[55] Colin Legum and John Drysdale: (ed) Africa Contemporary Record, Annual Survey and Documents; 1968 – 1969 *op cit* (1969: 194)
[56] Barre et al quoted in The World Bank's Discursive Construction of Rwanda: Poverty, Inequality and the Rise of the State; (1994: 8)

Habyarimana told directors of parastatals that he was very dissatisfied with the way many were ran. He wanted them to show a profit and to satisfy their capital needs by commercial borrowing. He also said that new laws and regulations, defining powers and responsibilities of parastatal directors, councils of administration and supervisory bodies, were needed.[57] Habyarimana did not allude to the complexities imposed on the economy by the international system and the structural obstacles of the Rwandan economy.

In 1975 Rwanda had recorded a negative balance of 5,004.6 million Rwandese Francs as a commercial balance of external trade, and a negative balance of 2,071.7 million Rwandese Francs in commercial balance of External trade. (100 Rwanda Francs = 100 USD (1969). The internal debt was 470% over the period 1977 – 1978. At the same time, corruption particularly among the military, certain high ranking officials and members of the president's own family had, by 1987, reached intolerable levels.[58] This situation made the performance of Public Enterprises decline further.

Prunnier noted the levels of corruption in the country at the time and the level of patronage, and argued that in the 1980s the politico-commercial network in Rwanda centred around the family of the president and that of his wife- *'le clan de madame'*, and that public enterprises were seen as a fertile ground for rewarding ruling party stalwarts and for the implementation of the government's segregation policy.[59]

The Habyarimana Government announced plans to privatize several parastatals on June 10th 1988. The President defended the planned liberal economic philosophy and in his independence speech candidly said: "Do not expect me to paint a brilliant future for you when we all know that we face huge problems."[60] The president committed himself to a "review .. of anything which seemed at first to be efficient and useful, but which became less efficient .. with the passage of time."[61] A plan to privatize some of the parastatals was then announced.

Parastatals slated for privatization as early as 1988 in Rwanda this included six state owned hotels, and the National printing works along with the sale of government

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[57] Colin Legum, Hellen Sean Moroney and Diana Lecore: Africa Contemporary Record, Annual Survey and Documents, 1984 – 1985, b 328

[58] Republic of Rwanda Rwanda's Ministry of Planning; Bulletin statistique, January 1977 – 1981 cited in Africa Research Bulletin (ARB) Exeter 15 April – 14 May 1977.

[59] G. Prunner: The Rwandan crisis 1959-1994 – History of Genocide. London: Hurst & Company, 1995
Colin Legum and John Dry dale: Africa Contemporary Record; Annual Survey and documents 1979.

shares in three joint venture firms: sonatubes which makes PVC pipes, Rwantexco which manufactures blankets and the International Road Haulage firm – societe de Transport Internationale (STIR).[62]

A World Bank report of 1990 stated that Habyarimana traveled to Washington in October 1990 to assure the Breton Woods institutions of his personal commitment and his governments intention to implement the SAPs, despite the ongoing war.[63] The political situation in the country was however also in turmoil. In October 1990, the Rwandese Patriotic Front (RPF) largely based in exile, in the Diaspora, declared war against the Habyarimana regime.

The RPF Manifesto committed itself to a liberal economic philosophy; and while pledging to strive for self reliance and food security, declared that it would increase the quality and quantity of her exports and surrender tea plantations and tea factories to farmers' cooperative and Private Investors.[64]

The war took four years, causing massive destruction of the existing infrastructure and generally ravaging the economy. By the time the new government took power in 1994, the already poorly performing public enterprises, were destroyed or simply rendered in operational. One million people had been massacred by the fallen regime. The Government had two options, to rehabilitate and recapitalise the enterprises and run them as state owned parastatals or privatize them. The New dispensation, already largely committed to a liberal economy chose to privatize them wholly and in a few instances to privatize their management.[65]

Conclusions

Kenya and Rwanda had, at independence, therefore adopted a development strategy that involved state intervention in the economy through public enterprises, with a heavy patronage motivation, seeking to meet social, economic and political objectives

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[62] Colin Legum and John Dry dale: Africa Contemporary Record: Annual Survey and documents 1979
[63] Marion E Doro: Africa Contemporary Record: Annual Survey and Documentation, 1978 - 1988World Bank Report (1990); cited in Review of Africa Political Economy. June – September 2001:374

[59] The Rwandese Patriotic Front, Manifesto 1990, Revised 2003 pp: 44-46
[60]Respondent one: Government of Rwanda

that included rapid development, redress of regional imbalances, increased participation of the citizenry and promotion of indigenous entrepreneurship.

The state interventionist strategy did not however work well. The economies went into a crisis largely from the 1970's and public enterprise performance declined drastically. The reasons for the decline were internal and external to the public enterprises. Patronage contributed to the decline. By the end of 1980's, there had been Kenya and Rwanda had realized that there was need to redress the situation. Pressure for a policy shift, largely from the World Bank , the IMF and donor countries, gathered momentum, prompting the commencement of privatization policies in both countries as a means of redressing economic decline and stimulating growth.

In this chapter therefore we have argued that establishment of public enterprises was aimed at addressing the socio-economic challenges largely inherited at independence and that the political leadership of the time believed and demanded that the state influences and directs economic action, hence the establishment of public enterprises, but that this objective was not met.

To this extent we are now able to engage in the tasks of the next two chapters which seek to examine the interface of politics and economics in decision making in the process of privatization in each of the two countries - Kenya and Rwanda, in general; and to examine the differentiated interests and the cascading nature of the process in the two countries over the last decade or so.

CHAPTER THREE

Privatization of Public Enterprises in Kenya

Introduction

This chapter examines the interaction between political expediency and economic exigency in the process of privatization of public enterprises in Kenya. The chapter seeks to investigate the differentiated interests and the cascading nature of the process since 1990 with a focus on the socio-economic and political factors that inform the reforms.

The central argument of the chapter is that the implementation of agreed upon objectives of privatization process in Kenya is a function of convergence of the political interests of the ruling elite and western donor countries and agencies. The economic considerations in privatization tend therefore to be sacrificed.

The Privatization Process

Kenya adopted privatization as an integral part of its economic reforms in the early 1990s. The shift in policy against public enterprises has been attributed to the advent of an economic crisis that was in turn partly blamed upon the operation of public enterprises and the financial burden that the enterprises placed upon the government budget and the economy. (See chapter two). Economic recovery and growth in Kenya, as in other African countries, was therefore believed to be possible only through the establishment of a competitive market with limited government involvement. The public enterprise subsector had been characterized by poor returns on investments, reliance on subsides from an already over-burdened economy together with endless claims on exchequer. Moreover, such support for public enterprises was thought to be stifling private sector initiative due to unfair competition from subsidized, state-run enterprises.

State subsides and other fiscal privileges for public enterprises supposedly undermined private sector investment. Consequently, the policy reforms were driven by a rethinking of the role of the state in the economy. The increasingly globalized and competitive world made it imperative for the Government to be more concerned with creating an enabling environment within which people can develop themselves and the economy. The state was therefore, supposedly unable to act as regulator and facilitator in the market without generating policy conflicts. Cheru observed that Kenya faced economic difficulties as real growth lost pace with a rapidly growing population, causing a decline in per capita Gross Domestic Product (GDP) by the 1970s. The cause of economic stagnation were high prices, import intensive industrial sector products, low world prices for her primary products notably coffee and tea, continued bottlenecks in the agricultural sector and rapidly increasing prices of manufactured imports; as well as declining import receipts and high import dependence that contributed to chronic balance of payments deficits for the country.[1]

In responding to these challenges the government of Kenya undertook divestiture, which captures PE reforms of whatever magnitude at one end and privatization at the other. The sale of government shares or assets has involved the use of several privatization methods. However none of the methods that retain ownership of assets with the government have been used. The choice of method reflects the category of enterprises targeted in the first phase; that is, the non-strategic enterprises, although the process of privatizing telecommunications and rail transport currently underway reflects a shift to more strategic areas. The process also reflects a heavy influence of the type of enterprise (in terms of legal status, performance), and the adopted policy of minimal, financial restructuring before sale. The methods include liquidation, targeted for perpetual loss-making enterprises, competitive bidding mainly for those that could not qualify for the stock market as a demonstration of transparency of the process, public floatation for enterprises with good performance, partial divestiture which was accomplished through public floatation and pre-emptive rights, and management buyouts. Receiverships are common especially for enterprises with liquidity problems, and act as a transitory process waiting for the final action to be taken.

Liquidation enhances the role of the private sector where there is a market for the commodities being produced and the technological advancements to warrant the purchase of equipment. Among the enterprises liquidated, majorities had already closed their doors and were facing stiff competition from the private sector. Out of the 14 enterprises liquidated, only two yielded positive proceeds, which constituted zero point zero one four

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[1] Fantu Cheru: The Silent Revolution in Africa,. Zed Books Ltd, Harare (1999:73-79)

percent of the total proceeds realized by September 1998. Poor performance of enterprises hindered the wider use of the public floatation, and the non-restructuring strategy adopted hindered the uplifting of enterprises for floatation. It is only in Kenya Airways that restructuring was carried out to maximize returns from sale. Despite the limited use of public floatation, the method yielded the highest percentage sixty per cent of the realized proceeds.

Pre-emptive rights was a popular method of privatization, due to the legal status of the enterprises. The company laws under which these enterprises are registered stipulate that the existing shareholders must give their consent to any of the partners to sell shares to an outsider. Only in one enterprise did the shareholders fail to exercise this right. Otherwise the shareholders have the first option to buy the shares before they are offered to anybody else. The pre-emptive rights method of privatization used here generated only twenty per cent of the proceeds realized although it involved over fifty per cent of the privatized enterprises. The low proceeds are because the government was a minority shareholder and therefore only a small proportion of shares were being traded. The shareholders also offered low share prices to take advantage of their legal power, making it impossible to search for a buyer with a better price.

Partial divestiture was achieved mainly through public floatation and pre-emptive rights where the government retained less than forty-seven per cent of the total shares. The contribution to the total proceeds of the partially divested enterprises was thirty six per cent (thirty per cent of those divested through public floatation and six per cent through pre-emptive rights), with two enterprises privatized through share dilution. Competitive bidding has a high potential of promoting the activities of the private sector. Despite taking thirteen per cent of the enterprises through this method, the government was only able to realize a share of zero point zero nine two per cent of the total proceeds.

The distribution of privatized enterprises indicated that thirty nine per cent were in the manufacturing sector, of which 14 (thirty one per cent) were in the textile industry. The services sector shared forty three point four per cent of the total enterprise with a high proportion (thirty-eight per cent) in the hotel and tourism sector and only five point two per cent in the financial sector. Although the government has set objectives for the different sectors of the economy, the same is not implied by the case by case approach to privatization adopted instead of a sectoral approach. It reflects the ad hoc method that was used before 1992, and leaves a lot to be desired especially in meeting the sectoral objectives at the general development level. It also reflects weaknesses in terms of government commitment and strength in paving the development path.

Kenya adopted a case-by-case approach to privatization, starting with the loss making, indebted, or the already closed enterprises, alongside a heavy concentration on small enterprises, many of which had existing private shareholders with pre- emptive rights. As a result, minimal proceedings were realized. While efforts to capture comparative advantage across the broad categories of enterprises were made, little was made across non-strategic enterprises. The adopted case-by-case method proved inadequate particularly with respect to how the objectives of specific sectors were to be achieved, for example, in the textile and tourism sectors. Besides, although the methods selected attempted to cover all the objectives set for the programme this can only be done to a minimum level, especially in the efforts to develop the capital markets, and raise government revenues, particularly because of the importance of the relationship between privatization and overall adjustment policies such as establishment of a market economy before privatization.[2]

Formulation of Privatization Programme

Privatization was not a new idea in Kenya's development policy at the time parastatal reforms were introduced at the beginning of the 1990s. On the contrary privatization had been envisaged during the formulation of the post-independence national economic policy of the mid-1960s. Specifically, Sessional Paper No. 10 of 1965 provided for the establishment of public enterprises that could later be divested to the public. Anyang' Nyong'o has noted also that:

> The genesis of Privatization programmes and policies can be traced to policies and programmes pursued in the period immediately after independence. ...in *Sessional paper No.10 on African Socialism* the government expressly argued its case for rejecting both the laissez-faire and the doctrinaire command economy approaches. ...the vision was one of a benevolent guiding hand from the government enabling the private sector to

[2] Anyang' Nyong'o P., G.K. Ikiara, S. M. Mwale, R. W. Ngugi and Oyugi Aseto, The Context of Privatization in Kenya, Academy Science Publisher, Nairobi, *op cit* (2000: pp 98-109)

rapidly stimulate economic growth while providing economic opportunities and space for indigenous Kenyans.[3]

The moment for privatization that the sessional paper anticipated came at the beginning of 1990s, although the timing of the exercise was imposed upon the Kenya government from external forces of neo-liberalism. The first policy step that the government of Kenya took towards privatization was the preparation of a policy paper.

The Policy Paper on Public Enterprises Reforms and Privatization that was issued in 1993 defined the scope of the privatization programme, the institutional framework and the guidelines and procedures to be applied in privatizing public enterprises in Kenya. The objectives of the Public Enterprise Reform Programme (PERP) are: to enhance the efficiency and performance of the PE sector; to reduce the financial burden of the sector on Government; and to achieve these objectives through the introduction of reforms that will enforce financial discipline, mobilize managerial and financial autonomy and set up adequate accountability and appropriate incentives, all towards having PEs operate on commercial principles.[4] For the PERP to attain its objectives, a broad range of actions needed to be undertaken. Non-strategic parastatals had to undergo a process of divestiture or liquidation. This included management contracts with private enterprises with an initial risk sharing; part-divestiture, that is, retaining substantial government ownership or reducing it to a minority; dilution of government ownership through floating new equity; full divestiture; or, part minority divestiture of government ownership accompanied by a partial privatization of management, including board representation.

Changes also needed to be made in the enabling environment for the remaining parastatals. Changes could range from restructuring the organizational structure; contracting out commercial activities to the private sector; having management contracts with minority private sector ownership; permitting private sector competition for existing state monopolies; and removing potential conflicting objectives. Improvements in the regulatory process needed to be made. These included separating the regulatory role, market intervention and commercial functions; transferring commercial functions to a corporate entity from a statutory board; divesting commercial functions; performing the

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[3] Ibid p 57
[4] Republic of Kenya: Policy Paper on Public Enterprises Reform and Privatisation *op cit* (1993: 5)

regulatory function through ex post enforcement rather than ex ante administrative controls; and eliminating legislative, policy or financial support and preferential treatment of parastatals undertaking commercial activities to enable the private sector to compete on a more equal footing.[5]

The main objective of parastatal reform is to improve productive efficiency throughout the economy, in both the public and private sectors. Other objectives include: reducing the financial and administrative burdens that parastatals impose on the Government; raising revenues from the sale of state-owned assets; dispersing capital markets; attracting foreign investments, management skills and technology; eliminating preferential treatment to allow a level playing field for parastatals and the private sector; and improving the enabling environment for the private sector.[6] The process has already started and is expected to gain momentum after the enactment of the privatization bill currently in parliament.[7] Typical of economistic arguments advanced by proponents of privatization, political considerations that inform the reforms were not alluded to.

An evaluation of the privatization programme in Kenya, implemented since 1992, however reveals that most of the privatized enterprises were relatively small and self sufficient. As a result their privatization had no significant impact on the budget and the economy, although the exercise has continued. Most of the enterprises in infrastructure services, which were regarded as a drain to the Treasury, have not been privatized. In the *Economic Recovery Strategy for Wealth and Employment Creation, 2003 – 2007*, the Government, again, underlined privatization as a key component of its policy/strategy to spur economic recovery.

According to the Investment Promotion Commission, significant progress has been made in the area of concessioning of Kenya Railways, leading to agreement between Kenya and Uganda for joint concession of the Kenya/Uganda Railways. This was expected to offer many attractions to interested investors. The joint effort is expected to result in seamless and more efficient operations of the railway system serving the Northern Corridor. Most of the preparatory work in privatization of the rail has been

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[5] United Nations: Department for Development Support and Management Services: Methods and Practices of Privatization Workshop held in Kenya and Bangladesh, New York (1992: 130)
[6] World Bank: Kenya – Reinvesting in Stabilization and Growth through Public Sector Adjustment, Washington D.C. (1992: 92)
[7] Kenya Gazette Supplement Bills, 2004, Nairobi (31 March 2004)17)

completed and a joint marketing effort is expected to take place in the year 2004. It is a major investment opportunity with the potential to increase the railway traffic from the current tonnage of about 2.2 million tones per year, to over 6 million tones per year in the next few years.

The Kenyan Government advertised in early 2004 for expressions of interests for award of independent concessions for the Build, Operate and Transfer (BOT) scheme for the Northern Corridor Roads, for a period of not less than 25 years.[8] The concession is expected to promote sustainable financing, development and improvement of this important Corridor.

Substantial progress has already been made in the area of telecommunications. The government issued "Safaricom" and the "Kencell," now "Celtel" cellular licenses to private investors, a measure that increased the countrywide mobile telephone network from 20,000 connections in 1999 to over 2.2 million connections in the year 2004. Bidding for issuing a third cellular license was conducted in 2003. The arrival of the third cellular operator in the market is expected to lead to improvement in the quality, quantity and pricing of telephone services. Furthermore, bidding for a license for the second national operator to construct, install and operate fixed telecommunications systems and services in Kenya is in progress. The short-listing process has already been completed and a bidders' conference was held in May 2004.

Meanwhile, privatization of Telkom Kenya, is underway. Government-stated goal is to make Kenya an efficient gateway and regional hub for telecommunications services in East and Central Africa. Public/private partnership is planned for the extension of the oil pipeline from Eldoret to Uganda with potential for further extensions in future. In this respect, the private sector will be invited to take up 51% of the shareholding while the rest will be taken up by the Governments of Kenya and Uganda. The private sector will also have an opportunity to participate in the ownership of the Kenya Pipeline Company when it is privatized. It is the government's hope that this extension will provide the launching pad for improved services to land-locked countries of Central Africa, and more importantly, to Southern Sudan. In addition the Government of Kenya has formulated a strategy that is intended to open the door to private sector

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[8] Respondent eight

investments in different sub-sectors of the economy, including sugar, coffee, rice, pyrethrum, banking, insurance, electricity, oil, tourism and ports.[9]

In Kenya the final policy decision to reform and privatize public enterprises is the result of several monitoring and evaluation exercises carried out by the Government since 1978. Several task forces were constituted to deal with the poor performance of parastatals that had begun to impact negatively on the national budget.

The "Review of Statutory Boards Report" of 1978 disclosed that the enormous level of public investment in parastatals contrasted with the negative average rate of returns on investment, which they generated. The "Report of the Working Party on Government Expenditure" of 1982 highlighted the problem of gross mismanagement of resources under the disposal of public enterprises and the total lack of accountability and transparency in their operations, not to mention the arrears in their audited final accounts. The Report advocated for divestiture of run-down parastatals as the logical policy decision. The "Divestiture Task Force" followed a year later, recommending immediate reforms and divestiture in the textile industry. However, the detailed findings were never published.

The "State Corporations Act" stipulated radical measures to control and monitor the performance of parastatals. The Act achieved little but it brought into public focus the urgent need to end government involvement in commerce and industry. Sessional Paper No. I of 1986 on "Economic Management for Renewed Growth" constituted a bold step by the government to restructure and reform the whole economy including the public sector. The private sector was now to be the "engine of growth." Together with the SAPs initiated in the mid-1980s the policies elaborated in the Sessional Paper No. 1 of 1986 were meant to stimulate economic growth through improved efficiency, creation of employment and development of entrepreneurship, especially among the indigenous population. Finally the "Policy Paper on Public Enterprise Reform and Privatization" of 1992 laid the policy and institutional framework for privatization in Kenya.[10]

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[9] Respondent eight

[10] Kenya Institute of Management: Report on the Proceedings "the Chief Executives Forum". Impact of Economic Reforms and Privatization of Corporate Management in Kenya. Nairobi,(August 26-27 1993: 32-33)

Principles of Public Enterprise Reform

The Public Enterprise Reform and Privatization Programme policy paper that the Kenya government drafted in 1992 also stipulated the principles of parastatal reforms. The paper stated that operations of PEs would be limited to viable commercial activities unless directed by the Government to undertake non-commercial activities; PEs would operate on a self-sustaining basis and subsidies will be phased out except for non-commercial activities which will be given by the government; PEs would move to market pricing whenever competition is possible; PEs that operated under monopolistic conditions would be regulated through autonomous, specialized bodies operating independently from the government line structure and thereby, insulated them from political interference; the Companies Act would be made applicable to PEs; political interference in PE management would be cut off through a transparent manner of operations carried out by the management, gave them freedom to achieve their objectives and appointed them through a transparent process; and PE business would be performed in a commercial and transparent manner with no exemptions from taxes or fiscal charges[11].

The 1993/94 national budget also outlined several policy actions to be undertaken by strategic parastatals. A programme was to be put in place for reforming and monitoring investment, debt service, and revenue generation in strategic parastatals such as Kenya Posts and Telecommunications, Kenya Railways, Kenya Power and Lighting, and the National Cereals and Produce Board. The debt reconciliation exercise was to be completed by the newly established Department of Government Investments and Public Enterprises (DGIPE) for loans and grants made by the Treasury in these parastatals. Finally, a study identifying direct and indirect subsidies and other financial assistance leading to an action plan to gradually mitigate the subsidies by commercializing the strategic parastatals operations was to be completed.[12]

The report of the proceedings of the Chief Executive Forums on economic reforms and privatization has cited the principles that were to guide privatization. The report states that enterprises would be divested into competitive markets; purchasers

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[11] Republic of Kenya – Policy Paper on Public Enterprises Reform and Privatisation *op cit*: (1994: 5-6)
[12] Anyang' Nyong'o, P. Ikiara, S.M. Mwale, R.W. Ngugi and Oyugi Aseto The Context of Privatization in Kenya. Academy Science Publishers, Nairobi : *op cit* (2000:76).

would not obtain an intact an unregulated monopoly; purchasers would not be accorded special protection or access to credit on concessionary terms and in cases where the Government retains a minority shareholding, enterprises would not exercise any special or extraordinary voting rights, except in a limited, predetermined and well-defined policy area; and, there will be a moratorium on new government investments in enterprises that are to be privatized, except for financial and operational (but not physical) restructuring that are necessary to prepare state enterprises for sale.

Further, all privatized sales would be on a cash-only basis, with the possible exception of shares sold to the workforce of the affected firms and no specific class of potential purchasers would be excluded from participating in the process. Indeed all transactions would be conducted in an open, transparent manner, consistent with normal standards of commercial discretion. To promote and ensure the competitiveness of the markets in which privatized companies would operate, the Government would continue to build upon existing anti-monopoly legislation and the institutional capacity to implement it in a transparent manner. Moreover, the sale of a PE or portion thereof to another PE or public institution would not be considered as privatization. And no new parastatals would be established in the productive sector, except for investments made purely for venture capital assistance through the restructured Development Financial Institutions [DFIs].[13]

The World Bank, on the other hand states that, the lack of an overall policy framework for the parastatal sector, efforts to improve efficiency tended to follow a case-by-case approach, many times in response to a deteriorating situation in an individual enterprise or the emergence of a crisis which focused the public's attention or began to impact negatively on the Government's budget. In such circumstances, the government generally responded by changing management and issuing a set of instructions to deal with the immediate problem. Progress in parastatal reform was therefore slow and *ad hoc*. Moreover, the failure of government corrective measures to deal adequately with the underlying causes of parastatal inefficiency caused, reforms to remain inherently short term in nature; and constantly in danger of being reversed. Privatization is a viable

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[13] Kenya Institute of Management: Report on the Proceedings of the Chief Executives Forum: *op cit* (1993:33)

element of a parastatal reform programme but it should not be viewed as an end in itself. Instead, privatization should be seen as a broader effort to promote productive efficiency, strengthen competitive forces of the economy, and support entrepreneurial developrnent.[14]

Programme Implementation

The Government of Kenya specified a variety of objectives of its privatization programme. The objectives aim to: free government resources from economic and social development support services; encourage private sector growth and thereby reduce the burden of economic development on the Treasury; increase economic efficiency through effective utilization of resources guided by market forces and competition; stimulate the development of the capital market; broaden the base of enterprises ownership; provide urban and rural employment; reduce the external debt burden; attract foreign investment; build public confidence and support in the reform and privatization process and create the necessary enabling environment and institutional framework for transparency and accountability in the process of transfer of goods into private hands.[15]

The government subsequently established an institutional infrastructure for the implementation of the privatization programme. The institutions include the Department of Government Investments and Public Enterprises [DGIPE] and the Parastatal Reform Programme Committee (PRPC). The DGIPE, is located within the Ministry of Finance and charged with execution of public enterprise reforms. The DGIPE is also charged with the responsibility of initiating reforms in strategic parastatals that are not due for privatization and to oversee the activities of non-strategic enterprises prior to privatization.

The DGIPE is headed by a person of Permanent Secretary rank, who reports to the Permanent Secretary in the Ministry of Finance, but has adequate authority to enable it to carry out effective oversight and leadership of the public enterprise reform. The

[14] World Bank: Kenya Reinvesting in Stabilization and Growth through Public Sector Adjustment. *op cit* (1992:91)

[15] Kenya Institute of Management: Report on the Proceedings of the "Chief Executives Forum". Impact of Economic Reforms and Privatization of Corporate Management in Kenya: Nairobi (1993, August 26-27 p 33)

functions of the sectoral ministries are limited to developing sector-wide policies and programmes for privatization. PE boards of directors are responsible for setting corporate operational policies and to ensure that executive management implement the policies. The DGIPE represents the Government of Kenya's ownership function in regard to PEs and other investments in all sectors and, exercises oversight and leadership functions in setting majority-owned PE strategic objectives and ensures the realization of the objectives. The major tasks of the DGIPE's fall into two categories: the temporary task of designing and implementing the PE reform process and the permanent tasks of centrally monitoring and supervising the performance of majority owned PEs and monitoring all investments; carrying out effective PE debt management; and, controlling and ensuring PEs' accountability for all allocations to PEs as well as funds by PEs to GOK.

The DGIPE administers the substantive and institutional scheme for social safety net arrangements that addresses labor redundancies resulting not only from privatization but also from rationalization of the remaining PE sector activities. The arrangements largely consist of various forms of cash benefits to protect the minimum consumption levels of the workers.

Sector ministries also develop sectoral policies and programmes in their respective sectors. In the context of such policies and programmes, the ministries provide critical reviews of PE reform measures introduced and implemented by DGIPE and receive corporate plans and other key documents of PEs operating in the respective sectoral subject area. This enables sector ministries to contribute to the initiation and implementation of the Public Enterprise Reform Programme [PERP] and its component parts. Sector ministries send to DGIPE any comments that they may have that have a bearing on such consistency and if necessary make any relevant suggestions towards enhancing such consistency.

PERP introduced changes in corporate governance so as to achieve separation between ownership and management functions and enhanced management autonomy and accountability. PE boards' functions and composition reflect their character as the top organ of the PE that also provides the interface with its owners. Boards are actively and closely committed to and involved with supervision of management and its operations;

individual board members are limited as to the number of boards they may serve on. Boards are expected to participate in the design of reform measures so as to make them effective in corporate practice; and cause executive management to introduce relevant reform measures into day-to-day operations in a smooth and expeditious manner so as to produce the corresponding benefits as early as possible. It is 'up to the boards to have the right PE managers in place' to produce improved performance. [16]

In addition, a high-level policy-making body was appointed by the President, the Parastatal Reform Programme Committee [PRPC], under the Chairmanship of the Vice-president and the Minister for Finance. The executing arm of the PRPC, the Executive Secretariat and its technical unit, the ESTU, acts as the secretariat of the PRPC and has been established as an autonomous executing agency and will be insulated from any Government or political interference.

The PRPC is charged with the task of policy formulation, supervision, monitoring and evaluation of the programme. In addition, the PRPC prioritizes and determines the timing of the sale for each non-strategic PE; approves the operational guidelines for privatization to be followed by the ESTU, including the criteria and procedures to be followed in divestiture decisions; gives final approval or rejection for the sale of public assets. In the event of rejection, the reasons justifying the action be recorded; and provides political impetus for privatization by participating in building public awareness and the national consensus in support of the government programme.

The ESTU is charged with the management, coordination and implementation of the divestiture programme. Other functions include formulating and recommending policies, procedures, programmes and operation guidelines for divestiture; preparing, with the collaboration of the holding companies where applicable, target lists of candidates for privatization for approval by the PRPC; and preparing, with the collaboration of the holding companies where applicable, PEs for privatization. Other institutions include the Capital Market Authority (CMA), charged with the task of developing the capital market to increase its absorptive capacity and advising and authorizing public issue of shares for enterprises due for privatization, and the Nairobi

[16] Republic of Kenya: Policy Paper on Public enterprises Reform and Privatization Ministry of Finance : Department of Government Investments and Public Enterprises together with the Executive Secretariat and Technical Unit (October 1994:6-9)

Stock Exchange (NSE), which provides the institutional framework for share floatation, purchases and sales. The privatization of each public enterprise is preceded by the formation of a Privatization Implementation Team (PIT). This consists of a group of short-term consultants such as financial analysts, valuers, accountants, lawyers, engineers, technical officers nominated by holding companies, and industry specialists as required. The PITs are responsible for managing the detailed aspects of the divestiture operations.[17]

The policy paper on privatization and parastatal reform, on the other hand, prepared guidelines for a divestiture process involving two processes: preparation and execution. The preparation phase largely involves the Privatisation Implementation Team (PIT) but also draws from the Department of Government Investments and Public Enterprises (DGIPE) and the Developmental Financial Institutions (DFIS). This phase prepares for divestiture by conducting an analysis of the public enterprise in question, so as to determine a realistic range of values for the targeted enterprise and develop a credible sales strategy. This phase would result in a number of written reports that would serve both as a guideline for future action and as documentation verifying to the Executive Secretarial & Technical Committee (ESTU) and Parastatal Reform Programme Committee (PRPC) that the analysis is thorough and complete. [18] The key document presented to the ESTU by the PIT is the Privatization Action Plan, which constitutes the original blueprint to be followed during the execution phase.

The execution phase entail the implementation of the transactions. Key decision makers including ESTU, PRPC, Treasury and others, have to approve the Privatization Action Plan prepared during the preparation phase. The following tasks should have been completed: the sales documentation, any financial and operation restructuring required prior to divestiture, resolution of all outstanding legal issues affecting the sale, and the design and implementation of a public relations campaign to inform the public of the impending sale. Several key reports would be produced during this stage such as the information memorandum, bidding documents, government permits, agreements related

[17] Anyang' Nyong'o, G K Ikirara, S.M Mwale, R.W. Ngugi, and Oyugi Aseto, The Context of Privatization in Kenya Academy Science Publishers Nairobi *op cit* (2000: 73)

[18] The reports include Financial Issues Memorandum, Asset Valuation Report, Legal Issues Memorandum, Valuation Memorandum and Marketing Memorandum

to the transfer of ownership, and public relations documents. Detailed documents were also to be provided for the sale, which was to be executed by the tender evaluation committee whose members included the Executive Director, ESTU (chair), the Treasury, the parent Ministry of the enterprise, the holding company of the enterprise, and any other professionals ESTU may have deemed necessary to co-opt.

The ESTU was allowed to use any of the known methods of privatization such as public offering of shares on the Nairobi Stock Exchange, sales of shares by private placement, negotiated sales in case of pre-emptive rights exercised, sale of enterprise assets (including liquidation), new private investments in enterprises, employee/management buy-out, and leasing or award of management contract. (see chapter one)

The public enterprise reform and privatization paper had stipulated the criteria for selection of public enterprises that were to be privatized. The policy paper classified the 240 commercial public enterprises, that existed at that time, into two categories. Category one consisted of non-strategic firms earmarked for privatization or restructuring. Out of this number, 169 enterprises were either fully or partially privatized while 33 were restructured. A total of Kshs.10.38 billion was raised through privatization out of which some Kshs.8.13 billion accrued to the exchequer.

The second category of firms earmarked for privatization consisted of 33 enterprises, which were considered as strategic. Strategic enterprises were to be retained, although some were to be restructured or reformed. The enterprises included the Kenya Power and Lighting Company (KP&LC), Kenya Railways Corporations (KRC), Kenya Posts and Telecommunications Corporation (KP&TC) and Kenya Pipeline company (KPC) However the position was subsequently reviewed and the current policy is that strategic public corporations also need to be privatized either directly or through concessioning.

The implementation of the privatization programme was riddled with obstacles. It was carried out amidst debate as to whether the programme should continue and as to which specific enterprises were to be privatized. The membership of the institutions charged with privatization and the manner of appointment to those offices reflected a strong involvement by the government. This confirms the critical role played by the political leadership during the decision-making and implementation of the privatization programme; and the influence of political patronage in the exercise.

Weaknesses and Political Interference in Privatization

The government established policy guidelines and an institutional structure to facilitate privatization of public enterprises. Nevertheless the process of privatization has not been accountable. Anyang' Nyong'o *et al* attribute such problems to the failed economic trusteeship project where the state claims to own economic resources on behalf of its citizens (nationalization) and a similar claim to dispose of these economic resources on behalf of the same citizens (privatization), in almost all cases without the participation of those same citizens. They argue that:

> There has been much public disquiet about how many of the smaller public enterprises were disposed off, and unease with how the ongoing privatization of large strategic parastatals such as the telecommunications and ports are being undertaken. The claim can be made that the current privatization programme and its problems are the problematic child of the failed economic trusteeship project[19]

Ethnic and partisan interest and considerations deviated the original public economic trusteeship from development of a proper state sector investing for the public good; and undermined the capacity of the state to implement an open and accountable disposal of the investments made on behalf of the public.

The Ndegwa Commission recommendations, on the other hand, led to subtle and then increasingly overt use of the economic trusteeship for personal and partisan use since the mid 1970s. Nyong'o *et al* demonstrate political patronage by arguing that the combination of economic trusteeship and straddling led to the construction of a patron – client; state a state that had the power to reward its partisans with economic largesse generated either by the parastatals or by allowing them access to economic opportunities it controlled. They assert that by 1986, it was however becoming clear that the economic costs of this system required changes in the way the state intervened in the economy.[20]

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[19] Anyang' Nyong'o P., G. K. Ikiara, S M Mwale, R. W. Ngugi & Oyugi Aseto; The Context of Privatization in Kenya, Academy Science Publishers, Nairobi *op cit* (2000)
[20] Ibid (2000:78)

This demonstrates political interference in operations of public enterprises and raises the question as to whether the same political leadership would now oversee a transparent privatization process.

Nyong'o *et al* also point to the lack of transparency in privatizing strategic parastatals. Kenya's privatization programme isolated 33 strategic parastatals, which control close to seventy per centre investment in the public sector. Privatizing these would have substantial impact on the economy yet they are the most difficult to privatize since the bureaucratic bourgeoisie is likely to have more vested interests here. Procurements, contracts, over-invoicing and various rent-seeking activities have been observed by the Auditor-General (Corporations) to characterize the lack of transparency in these parastatals. Complicated ownership structures, particularly in the power and telecommunications sector, make for a difficult process of restructuring before privatization can be undertaken.[21] Between 1992 and December 2002 however, the first batch of 169 enterprises were fully or partially privatized raising Kshs.10,3809 billion; Kshs.8,129,663,443.50 of which accrued to the exchequer, while the balance accrued to holding companies paying off creditors or getting re-invested in new projects.[22]

There has been concern however that foreign interests could be favored at the expense of domestic interests, especially when they tend to be in a better position to raise the capital necessary for buying some of the lucrative enterprises being privatized. This is also because those enterprises have the ability to negotiate with governments as a result of the backing from their mother countries, as is usually the case with western multinational corporations.

The Executive Secretariat and Technical Unit (ESTU) experienced resistance to the privatization process from sector ministries, DFIs, and enterprise managers. The institutions often make the work of the ESTU difficult and do not observe the established procedures for privatization. Since there is no law giving ESTU specific powers to override any resistance, the process has been subjected to unnecessary bureaucratic delays and bottlenecks. The government has also been accused of variously favoring

[21] Ibid p 69
[22] Anyang' Nyong'o P, G.K. Ikiara, S. M. Mwale, R. W. Ngugi, Oyugi Aseto; The Context of Privatization in Kenya. Academy Science Publishers, Nairobi, *op cit* (2000: 14)

some interest groups in the process of privatization.[23] The groups were expected, in return , to provide political support to the regime of the day.

Kenya did not have a legislation to control privatization of PEs. A privatization bill has now been published for debate in parliament. The proposed legislation seeks to provide a comprehensive legal framework for all privatization activities that would ensure that privatization of public sector companies did not lead to dispossession of indigenous Kenyans, many of whom have neither the resources nor the awareness to invest in shares.[24]

Lack of consensus in decisions on privatization within government departments involved in the process was observed, while the law on privatization is not yet enacted. The law in force is inconsistent regarding privatization in that the parties involved operate under different Acts of Parliament. For example, each PE is under an Act which dictates how it should be sold, yet there exists a Treasury Incorporated Act, allowed to sell parastatal shares. The process of synchronizing both Acts in Parliament is time consuming and difficult. In many sectors, the present structures do not allow for privatization. Legal impediments also arise, for example, in the selling of shares in cases of pre-emptive rights. Loss making companies cannot be floated on the Nairobi Stock Exchange [NSE].[25] Besides, the DGIPE has no institutional framework and operates under no legal backing. The privatization process therefore lacks autonomy and legal force, and is accordingly open to political manipulation and abuse.

The laws of pre-emptive rights have on the other hand been used in some cases, to undersell government investments. For example, the Kenya Tourist Development Corporation sold its shares in 1991, by pre-emptive rights, to Ms Sololo Investments Limited, for a value way below the market value and what other bidders offered in what seemed to indicate that the state had not earned needed revenue from the deal. The public Investments Committee of Parliament subsequently recommended, in two consecutive reports, the nullification of this sale and that the Attorney General take appropriate measures to institute criminal proceedings against the persons involved in any fraudulent

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[23] Respondent one

[24] Anyang' Nyong'o P, G.K. Ikiara, S. M. Mwale, R. W. Ngugi, Oyugi Aseto; The Context of Privatization in Kenya. Academy of Science Publishers, Nairobi, *op cit* (2000: 17)

[25] Respondent three

activities during the sale of shares of the state owned enterprise.[26] This undermined confidence in the privatization process.

Corruption through undervaluing of public enterprises due for privatization and favoring of groups politically attached to the ruling elite is also rampant. Nyong'o *et al* state that the government had been accused of favouring some interest groups in the process of privatization and that there were fears that foreign interests could be favoured at the expense of domestic interests.[27] The Milling Corporation of Kenya a case in point. The case involved an outright sale of a wholly state owned enterprise through competitive bidding. Although the bidding was apparently carried out, the Auditor General (Corporations) noted irregularities in the deal. A special audit was conducted which revealed that the enterprise was not sold to the highest bidder, nor did the purchaser - Premier Flour Mills (PFM) - pay the 10% down payment on time. Even after a series of hearings and recommendations made by the Public Investment Committee, PFM continued to be in possession of the enterprise.[28]

The privatization process requires the cooperation of parastatals, Holding companies, and Government ministries. The World Bank notes however that in practice, DFIs and the ESTU have avoided the thorough approach and little has been done in the preparation of enterprises for privatization. For example, Kenya Airways and Housing Finance Corporation of Kenya (HFCK) undertook their preparatory work for privatization, work that entailed a risk of conflict of interest. For example, in 1992, it was realized that Kenya Airways had been accumulating losses since its establishment in 1977 and had a negative net worth of 11 billion shillings.[29] It had defaulted on debt to external lenders amounting to 4.5 billion shillings and 1.6 billion to the government. A government proposal to the National Assembly to absorb the 4.5 billion shillings received stiff resistance from parliamentarians. The latter felt strongly that Kenya Airways should continue to operate profitably and pay its own debt before privatization.

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[26] Public Investment Committee, Kenya National Assembly Report of Public Investments Committee, Government Printers, Nairobi (1994: pp 208-211)
[27] Anyang' Nyong'o P., G.K. Ikiara, S. M. Mwale, R. W. Ngugi and Oyugi Aseto: The Context of Privatization in Kenya, Academy Science Publishers, Nairobi, *op cit* (2000:30)
[28] Ibid (2000:32)
[29] Lewis Kamau: The Kenya Airways Experience: Are we on Course?, Institute of Economic Affairs (November 1998)

The government, however, went ahead to convert the government debt (1.6 billion) into equity and to take over the external debt of 4.5 billion shillings. The restructuring process also involved the appointment of a new board of directors with the mandate to commercialize the airline, the strengthening of the management team, reduction in aircraft and an increase in the utilization of the remaining aircraft. Profitability and efficiency were emphasized, with staff being given proper training to be conscious of customer needs and prompt efficient delivery of services.

The airline was by 1993/94, already showing signs of being turned around, and operated profitably. Kamau points out that in the period March 1994 to March 1998, the company's total cumulative net profits amounted to Kenya shillings 7.8 billion, a sum way above the 4.5 billion the government had to pay as "sunk in cost" to turn the airline around. This having been achieved, privatization followed in the 1994-96 period. Through strategic investment with KLM purchasing 26 percent of the shares, the airline proceeded to offload 51 percent of its shares on the Nairobi Stock Exchange to individual Kenyans (twenty two per cent), institutional investors (twelve per cent), foreign investors (fourteen per cent), and employees of the company (three per cent), while the government continued to retain 23 per cent.

The ESTU and PRPC have also, been in certain cases drawn in lengthy battles with prospective purchasers even after sales have been apparently completed. Some of the problems arise as a result of legal complexities while others arise as a result of failure to follow formal procedures. The World Bank has taken issue with the ESTU over its lackluster compliance with its own regulations: It observes that holding companies, including DFIS, have influenced the pace of privatization. Some have even resisted the process. In certain cases, holding companies have not taken the boards of directors seriously, and have even missed crucial meetings to discuss the future of the affected firms. In other cases, agreements reached regarding privatization have been left to lapse, presenting awkward situations in which the government has lost money due to the underselling of its shares. This was the case with the Industrial Commercial Development

Corporation (ICDC) in the sale of government shares in Firestone (E.A) Ltd., to Sameer Investments Ltd in 1994.[30]

Kenya does not have a sophisticated market, with solid financial borrowings which includes key decision makers, investors and the public. The market does not understand that privatization does not only involve disposal of an asset but changing who controls the asset. The players in the market fail to understand the process hence the investment environment is not yet conducive enough for privatization.[31] The legal framework remains inadequate. Privatization of Kenya Airways, is generally reputed to be a success story. However, many people lost jobs. The safety nets provided by the Government were not sufficient. Many of them were against the process because of employment insecurity. One senior government official argues however, that the lost jobs are re-created through spillovers from a now more efficient, privatized Kenya Airways, that contributes in turn to better performance in other sectors such as agriculture and tourism. There was no compensation scheme for the laid of employees and no law to protect them.

In the absence of a law the present guidelines and procedures need enforcement. By the time Kenya Airways was being privatized, it was hoped that the privatization law would be already enacted to give force to a more transparent system and that the people managing the process would have legitimate power separate from the shareholder, which is the Government. This has not happened although privatization of key enterprises such as Telkom and Kenya Railways are underway.[32]

The location of privatization in the hands of the Government, deprives local economic policy analysis institutions information for assessment, especially information on offers in the buying of parastatals. Moreover, the process is slowed down because it is solely in the hands of the Government. In the case of Kenya Re Insurance Corporation, there was lack of policy in its privatization. The Government was reluctant to privatize despite the fact that it was categorized as non-strategic. The Corporation was often rushed

[30] Anyang' Nyong'o P., G.K. Ikiara, S. M. Mwale, R. W. Ngugi and Oyugi Aseto: The Context of Privatization in Kenya. *op cit* (2000: pp 126-131)
[31] Respondent four
[32] Respondent five

and put through the rigorous and expensive process of due diligence when pressure was put on the Government by the World Bank to privatize, making the process very costly.[33]

Weaknesses in privatization have been immense. The absence of a specific law on privatization has resulted in abuse and manipulation of the process. The lack of a clear ownership of the process has also contributed to a lack of consensus in decisions made regarding privatization. While absence of a compensatory scheme for laid offs workers and subsequent unemployment has made the exercise unpopular and contributed to instability in the country. The weaknesses have opened a window for political interference in the process.

Aseto and Okelo argued that privatization in Kenya has been donor-driven. The government's forward and backward retreat on the decision to privatize is seen not only in the casual way in which the relevant agencies were set up, but also in the sequencing of parastatals to be privatized. The delay in restructuring and privatizing strategic enterprises has not endeared the government to the Breton Woods institutions. In spite of the volume - in terms of sheer numbers - of privatization already accomplished, the donor community does not seem to be impressed by the quality and the likely positive impact of the process so far.[34]

Political interests were visible in parastatals whereby politicians would like to control PEs and may thus be opposed to privatization. The process has also been done in an ad hoc, and non transparent manner, suggesting that the Government has not been committed to privatization. Each privatization case has been treated exclusively with no clear law governing the process.[35] High profile jobs in PEs have traditionally been used as rewarding tokens. Politicians would like to reward those who are politically inclined to them. The system for appointment in PEs is also closed, that is, it has no open mechanism for appointment. As a result, government is caught up in a dilemma and those who have been appointed on political grounds oppose the process. Others have contracts with PEs and oppose privatization, as this would deprive them of their contracts.[36] As Oyugi Aseto and Okelo state, "parastatals perform many political functions. For the party in power,

[33] Respondent two
[34] Aseto Oyugi and Jasper A Okelo: Privatization in Kenya. Basic Books (Kenya) Limited, Nairobi (1997: 43-44)
[35] Respondent one
[36] Respondent five

parastatals provide strong instruments of political and economic pressures, as well as ready resources of both private and especially public funds."[37]

Kenya's past experience in privatization has shown that political interests have played a key role in determining what would happen in the privatization process. For example, political interests informed attempts at privatizing the Kenya Post and Telecommunications Corporation [Telkom Kenya]. The environment for selling was right, the interests expressed sufficient, but the sale was stopped because some MPs argued that the selling price was too low: Key figures in the government had attempted to sale the parastatal to political cronies. In the case of Kenya Re Insurance Corporation, there were political interests in the corporation. The Corporation was not open to tender and it was later discovered that it would be sold to a few politically connected individuals. It was the interference of politicians opposed to the regime of the day that stopped the sale of the corporation.[38]

The privatization of some key PEs such as Kenya Airways and the failure to privatize others like Telkom Kenya and Kenya Re Insurance Corporation has been explained as an attempt at a carefully studied privatization exercise, relegating corruption and personal interests in the exercise to isolated cases or simply lack of commitment to the process. The government was reluctant to privatize some PE such as the Kenya Commercial Bank [KCB]. Political interests in PEs have interfered in the process of privatization. Political interference in the process may be a negative or a positive attempt to influence the process. The forward and backward retreat on privatization, shown by the Government, to privatize some PEs already designated for privatization for example, suggests a lack of commitment, despite the recorded success stories of privatization. Resistance to privatization could however also be due to the fear of loss of opportunity for patronage that public enterprises have provided since independence. For example, employment for cronies as well as revenue for politically motivated ventures. A privatization law would entrench the process in the law and possibly reduce political interference. However, such interference is difficult to stop due to the political and socio-economic motives that underpin the establishment of PEs.

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[37] Oyugi Aseto and Jasper A. Okelo: Privatization in Kenya. Basic Books (Kenya) Limited, Nairobi, (1997:209)
[38] Respondent six

Privatization has witnessed both successful and unsuccessful cases. The most successful cases have occurred through public floatation of shares, such as the Bamburi Portland Cement (1991), Uchumi Supermarkets (1992) and East African Oxygen (1993). The sale by competitive bidding and through pre-emptive rights have had mixed results. In certain cases, such as the sale of cotton ginneries, the prices at which the factories have been sold to buyers have always been contentious.[39] The political and social objectives in privatization are pursued simultaneously with the pursuit of economic objectives. However, the proportion of each influence varies from case to case.

The Case for a Law on Privatization

Privatization can only be implemented with minimal political interference within a suitable legal framework. The Government has therefore drafted, published, and tabled before parliament a Privatization bill that is expected to play a positive role in the privatization exercise. Among the key features of the bill are attempts to create an accountable privatization commission; ensure transparency and fairness in the privatization of public enterprises; create a mechanism for those aggrieved by the decision of the Privatization Commission to channel their grievances for resolution within a clearly defined period; signify the country's consensus on the privatization of public enterprises and the procedures to be followed in privatizing them; and entrench reporting and accountability to the Kenyan people of the privatization of public assets.

Issues such as an inadequate legal framework for privatization and lack of ownership of the privatization process are intertwined in the process of decision-making and are located in the hands of politicians. Political interests cannot, therefore, be easily extrapolated in privatization.[40] A law that would address the issues that make privatization unsuccessful would go a long way in bringing order to the process. The law would give a legal framework to the process, eliminating issues such as lack of transparency and accountability and reducing the chances of abuse, thus standardizing the

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[39] Anyang' Nyong'o P., G.K. Ikiara, S.M. Mwale, R.W. Ngugi and Oyugi Aseto: Context of Privatization in Kenya. Academy Science Publishers, Nairobi, *op cit* (2000:33)
[40] Respondent seven

process. With a legal framework, politicians may not get an excuse to interfere in the process as such abuse would be controlled.[41]

A privatization law is likely to entrench the process of privatization in the national laws, making it a legal process, reducing interferences that are enjoyed outside the law. The substance of privatization, for example in the case of Kenya Railways, is addressed through the concession agreement and through the amendment of the Kenya Railways Act.[42]

Various organs and acts were however established to facilitate privatization; although the exercise was conducted against the background of a weak legal framework. These include the privatization policy and public enterprise reforms, the state corporation act, the inspector of state corporations and the state advisory committee. The process was initiated without a proper legal framework though the Government and the World Bank argued that the existing laws were adequate to provide the necessary framework. The *State Corporations Act* [*Cap. 446]* under which all public corporations were set up. Stipulates how corporations are established, their powers, their governance and what happens when dissolved.

A state advisory committee that advises and performs any functions it is required to by the state corporation act was also established. In addition it has other duties to perform: with the assistance of experts where necessary, it reviews and investigates the affairs of state corporations and makes such recommendations to the President, as it may deem necessary. In consultation with the Attorney General and the Treasury, the Committee advises the President on the establishment, reorganization or dissolution of state corporations. Where necessary, it advises on the appointment, removal or transfer of officers and staff of state corporations, the secondment of public officers to state corporations and the terms and conditions of any appointment, removal, transfer or secondment. The Committee examines any management or consultancy agreement made or proposed to be made by a state corporation with any other party or person and advise thereon. Finally, the Committee examines proposals by state corporations to acquire interests in any business or to enter into joint ventures with other bodies or persons or to

[41] Respondent seven
[42] Respondent five

undertake new business or otherwise expand the scope of the activities and advise thereon.

The Act gives the President the powers to assign responsibilities for any of the business of the government, including the administration of any of the departments of Government, to the Vice President and Ministries as the President may, by directions or writing, determine.[43]

The government later submitted certain amendments to Parliament on the *State Corporation Act, the Exchequer and Audit Act, and The Permanent Secretary to the Treasury (Incorporation) Act* in June 1994 presumably upon realizing the inadequacy of the law earlier submitted.[44] The gist of the amendments to the *State Corporation Act* was to establish the Department of Government Investment and Public Enterprises (DGIPE), charged with the responsibility of monitoring and supervising the performance of state corporations as well as all other Government investments. The department was also to carry out effective debt management of state corporations and ensure that state corporations are accountable for all budgetary allocations.

The Bill further established the office of the Investment Secretary as Head of the DGIPE, appointed by the President, and with the responsibility of formulating plans, and advising the government on the restructuring of state corporations and other public enterprises. The Bill also abolished the office of the Inspector of State Corporations, giving the functions to the Investment Secretary who was now directly answerable to the Minister of Finance as the Permanent Secretary in charge of parastatals and the privatization/reform programme. Upon whose advice, the Minster could from now exempt state corporations from any or all provisions of this Act. The Bill further abolished the position of executive chairman in state corporations, as they tend to interfere politically. The extent to which the boards of parastatals would make decisions for the disposal of state assets without a central coordinating machinery was also limited.

The Exchequer and Audit (Amendment) Bill of 1994 sought to provide for the powers of the Auditor-General (Corporations) to audit the accounts of corporations which are owned or controlled directly or indirectly by the Government and specified by notice

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[43] Anyang'Nyongo, G.K Ikiara, S.M.Mwale, R.W. Ngugi and Oyugi Aseto, The Context of Privatization in Kenya, Academy Science Publishers, Nairobi, *op cit* (2000: 16)
[44] Government of Kenya: Kenya Gazette Supplement No 37 Bills No.6 (1994)

in the gazette by the Minister. The Bill further sought to enable the Investment Secretary to direct the Auditor-General (Corporations) to appoint a person nominated by him to audit the accounts of a state corporation without the Minister's approval. This would make it much easier, and faster to prepare public corporations for privatization.

The amendment to the Act related to the incorporation functions of the Permanent Secretary to the Treasury was intended to enable the Minister for Finance to give directions to the Permanent secretary to the Treasury on the recommendations of the Investment Secretary regarding voting rights on behalf of the government in relation to shares held in any company by the Government. Further, the amendment gave express powers to the public corporations to dispose of their assets under terms deemed fit by the corporation. These proposals were, however, withdrawn as the amendments to the Exchequer and Audit Act were being debated. The government gave no reasons for the withdrawal of the bills but privatization went ahead, with the assumption that the Policy Paper on reform provided an adequate guideline for implementation. However, the consequences for the failure of the amendment bill have been adverse for privatization. Political patronage again took precedence over legal and economic rationality.

The PRPC and the ESTU have in effect coordinated the programme. The strength of the Planning of the process and the manner of choosing which enterprises to divest have been contested. The PRPC and ESTU have not been given a sound legal basis and have bargained therefore from a position of weakness vis a vis other government departments and agencies. The ESTU, in situations where receiver managers have been appointed to liquidate parastatals, have had little power to influence the cause of events. The PRPC and ESTU have no legal authority to prepare and execute privatization transactions because they cannot sue and be sued in a court of law, nor is there any legal remedy if the privatization agency fails to adhere to transparent processes. Indeed, even the World Bank which had earlier argued, along with the government, that the existing laws were adequate to provide the framework necessary for privatization now recommended specific additional legislation to empower the privatization agency, citing institutional untidiness in implementing privatization and the unfortunate consequences for not having passed the amendments to the acts. [45]

According to Anyang' Nyongó *et al* "The government avoided tabling a privatization law in Parliament for the fear that this would delay the process. Since prior approval of Parliament is required in the case of privatizing those Corporations subject to the State Corporation Act, the World Bank sees no problem with the absence of a privatization law. In any case, the Act gives the President the power to exempt a state corporation from the provisions of the Act, and this would always be used to speed up privatization. Parliament has however argued that this exemption power has tended to be abused by the executive branch." For example, "...although Kenya Airways was subsequently privatized successfully, the original process involved acrimony between Parliament and the executive precisely as a result of the lack of clarity in law."[46]

The 2003 privatization Bill that is currently in parliament is an Act of parliament to provide for the privatization of state corporations, divestiture of other government investments, public–private partnerships and the establishment and powers of the privatization commission. It provides for the objectives of the privatization programme, the scope of the programme, and the procedures for privatization.

A deliberate attempt to ensure effective participation of indigenous Kenyans in the privatization of public enterprises through the Bill to enable implementation of affirmative action policies has a has also been made also been made.[47]

The State Corporations Act contains in it both the legislative and institutional guidelines for the running of parastatals, and was the operational document before the introduction of parastatal reforms. It still is, however, the legal document that governs the operations of PEs. It is an Act of Parliament, which commenced on Ist November 1986. It makes provision for the establishment of state corporations, for control and regulation of state corporations, and for connected purposes.

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[45]World Bank study (1998) cited in Anyang' Nyongó, G.K. Ikiara, S.M. Mwale, R.W. Ngugi, -,and Oyugi Aseto. The Context of Privation in Kenya. Academy Science Publishers, Nairobi. *op cit* (2001:119)

[46] Anyang' Nyong'o, G.K Ikiara, S.M .Mwale, R.W Ngugi, and Oyugi Aseto. The Context of Privatization in Kenya Academy Science Publishers, Nairobi, o*p cit* (2000:116-119)
[47] Republic of Kenya: Kenya Privatization Bill (2003)

According to the State Corporations Act the President may, by order, establish a state corporation as a body corporate to perform the functions specified in the order. A state corporation established by presidential order shall have perpetual succession; shall in its corporate name be capable of suing and being sued; and shall, subject to this Act, be capable of holding and alienating movable and immovable property. The President shall assign ministerial responsibility for any state corporation and matters relating thereto to the Vice-President and the several Ministers as the President may determine.

The President may give directions of a general or specific nature to a Board with regard to the better exercise and performance of the functions of the state corporation and the Board shall give effect to these directions. Notwithstanding the provisions of any other written law or the articles of association establishing and governing a Board, the President may, if at any time it appears to him that a Board has failed to carry out its functions in the national interest, revoke the appointment of any member of the Board, and may himself nominate a new member for the remainder of the period of office of that member or, he may constitute a new Board for such a period as he shall, in consultation with the State Corporations Advisory Committee, determine.

The Act provides that there shall be an Inspector of State Corporations whose office shall be an office in the public service and whose duties shall be to advise the Government on all matters affecting the effective running of state corporations; to report periodically to the Minister on management practices within any state corporation; and to report to the Controller and Auditor-General and the Auditor- General (Corporations) any cases where monies appropriated by Parliament are not being applied by state corporations for the purposes for which they are appropriated. There is a Tribunal, known as the State Corporations Appeal Tribunal, which deals with appeals against decisions of the Inspector.

Anyang' Nyongo *et al* note that the privatization process has continued without a specific privatization law passed by parliament and that the issue could have been sorted out were the government to have successfully amended key laws in the financial sector proposed in 1994. The State Corporations and Public Assets Reform and Divestiture Act, cited by Anyang' Nyong'o *et al*, is an appended draft bill on privatization. The proposed Act intended to create a framework that brings about the transfer in ownership in assets organizations, commercial enterprises institutions or bodies corporate presently vested wholly or partially in the sovereign state of Kenya. The Act gave in detail the proposed process of divestiture and the bodies that would take part in it. The Act contains a section for the establishment of a consumer Complaints Tribunal with jurisdiction and powers conferred on it by the proposed Act with powers equivalent to the High Court. Also proposed is a Privatization Reform and Divestiture Commission, approved by the National Assembly.[48] Presently, a revised copy of the proposed bill has been presented to parliament for debate and finally for the establishment of a privatization bill. The enactment of the law and creation of organs such as establishment of the complaints tribunal would have helped to control patronage, which remains critical in the process.

Conclusions

The formulation of the privatization programme in Kenya and its implementation were characterized by a convergence of political interests by the ruling elite and western donor countries and agencies. The exercise was therefore undertaken hurriedly, without a guiding legislation. The absence of a legislation has resulted in rampant irregularity and widespread corruption in the exercise.

The evaluation of implementation of the programme demonstrates that its impact on economic growth has been negligible.

[48] Anyang' Nyong'o, G.M Ikiara, S.M Mwale, R.W Ngugi and Oyugi Aseto The Context of Privatization in Kenya Science Publishers, Nairobi, *op cit* (2000: 30,60, 181-197)

CHAPTER FOUR

Privatization of Public Enterprises in Rwanda

Introduction

Chapter three examined the impact of political patronage on the formulation and implementation of the programme for privatization of PEs in Kenya. It discussed the interaction of political expediency and economic exigency in the process of privatization in the country; investigating the differentiated interests and the cascading nature of the process since its inception with a focus on the socio-economic and political factors that inform reforms. The present chapter seeks to similarly examine the privatization process in Rwanda, paying special attention to the objectives, framework, strategies and utilization of the proceeds from privatization, with a view to determining the interaction of political and economic considerations in the decision and implementation of privatization in Rwanda. The central argument of the present chapter is that the decision and implementation of agreed upon objectives in privatization is largely a function of the convergence of interests of the country's political leadership and developmental partners. The analysis in the chapter will provide opportunity for a comparison of the Kenya and Rwanda experience that will come in chapter five.

Preparations for Privatization

Rwanda, like Kenya, pursued state interventionist strategy for economic development, especially during 1970s and 1980s. The neo-liberal criticism of the interventionist strategy that began to appear from the late 1970s was therefore directed at Rwanda as well. The dominant state enterprise sector had supposedly suffered setbacks from weak institutional and policy-induced distortions in the markets and the economy grew slowly. Political interference in the management of PEs was also rampant. The claims and criticisms laid the ground for structural reforms. Unlike in Kenya however, the parastatals privatization programme that began in 1996 was not preceded by comprehensive studies of public enterprises performance and detailed preparations for parastatal reforms. Rwanda had faced many years of economic mismanagement that were followed by a four year civil war that all disrupted the economy.

Once each public enterprise slated for privatisation has had its legal and financial audits, as well as valuation, done the next step involves determining government objectives to be achieved through its privatisation and the available strategies for achieving the objectives. The objectives can be general such as achieving participation by Rwanda nationals in the privatisation process, or sector specific such as Rwanda's tea industry development or, enterprise specific such as restructuring and strengthening "Electrogaz" (a utility public enterprise); and its operations in order to give Rwandans quality affordable energy.

The government argued that in order to identify its objectives for the enterprise concerned, there must be broad participation from the line ministry experts and enterprise management who are believed to have the best quality information about the activities of the enterprises such as the tea farmers who would like to be active participants in the future life of the enterprise. The position of the government was that through broad based consultation, the strategies that it devised were capable of producing measurable results and had to based on clear and understandable guidelines for the prospective bidders.

According to a consultant's report prepared for the Ministry of Finance and Economic Planning, the government of Rwanda set up the Central Accounts Organization (CAO); to help build capacity in preparation for reforms. The CAO was directly linked to the Office of the President and was responsible for supporting public enterprises to improve their accountability through training and advice as well as effecting audits and proposing reforms. In addition, the president personally highlighted the need for good management practices in public enterprises, including the need to review the public companies' legal and administrative framework so as to enable them to operate in tandem with the market logic and to transfer non-strategic activities to the private sector.

The Ministry of Finance launched, in 1989 a general study aimed at reviewing the performance of at least eleven companies, analyzing the legal and institutional framework governing the companies and examining the impact of macroeconomic policies on the performance of the public sector. Following the findings of this study, the government decided to set up a reform project for public enterprises. The public enterprises reform project received support from the International Association for Development. The first objective of the project was to reformulate the legal framework for the operation of public enterprises and to restructure the public enterprises sector by creating two new categories of companies – public companies with a public service commission; and industrial and commercial national companies. The companies in both categories would immediately own capital power that would permit them access to the private sector.

The state would retain responsibility for the reorganization of the enterprises so as to improve their efficiency and minimize negative impact on the budget. The second objective of the project was to minimize state intervention in the market and instead confine its efforts around other priorities. In this regard, the public enterprises reform project received support from the International Association for Development.

The changes in the PEs sector became a part of the Structural Adjustment Programmes that foreign donors and the government had agreed upon. The disengagement of the state from the market was set to occur through tendering for advice on possible privatization techniques, role of national and foreign investors, possible constraining factors and the economic environment as well as for sale of PEs; launched in 1991.[1]

Meanwhile, the Rwandan economy was in a crisis. Per Capita income growth was negative and the country was faced with excessive borrowing of the past. At the same time the economy faced external shocks as a result of the global oil crisis and declining demand for her exports. She had trouble contracting import growth in the face of declining export growth. Michael noted that the restructuring of the agricultural system precipitated the population into abject poverty and destitution and that the:

> Deterioration of the economic environment which immediately followed the collapse of the International Coffee market and the imposition of sweeping macro economic reforms by Bretton Woods institutions exacerbated simmering ethnic tensions and accelerated the process of political collapse. In 1987, the systems of quotas established under the International Coffee Agreement (ICA) started to fall apart; world prices plummeted and the *Fonds*

[1] Dr. Victor Shingro (Senior Consultant); Ministry of Finance & Economic Planning Private Sector, Final Report; Privatization Process in Rwanda (Feb 2001)

d'e'galisation (the state-coffee stabilization fund) which purchased coffee from Rwandan farmers at a fixed price started to accumulate a sizeable debt.[2]

The economic situation deteriorated further in June 1989. The ICA reached a deadlock in 1991 as a result of political pressures from Washington on behalf of the large US coffee traders. Rwanda's export earnings declined by fifty per cent between 1987 and 1991. The demise of state institutions unfolded thereafter and the growth of GDP per capita declined from zero point four per cent in 1981 – 1986, to minus five point five per cent in the period immediately following the slump of the coffee market – 1987 – 1997.[3] There was a very weak and fragile financial sector – few new Commercial Banks and no savings. There was no stock exchange. Insurance companies were fragile due to mismanagement and looting during the war. The nation had negative savings that continued up to about 1999 when a positive trend began to appear. According to the Ministry of Finance, National Gross Savings as a percentage of GDP was minus eight per cent in the year 1995, minus five point four per cent in 1996, minus three point four per cent in 1997; minus zero point two per cent in 1998, plus zero point five per cent in 1999 and plus zero point five per cent in the year 2000.[4] The economic crisis complicated the PE reform project that the government of Rwanda had initiated. The reforms were also interrupted by the civil war that broke out in 1990.

The economic climate in the country was largely unfavourable and investor confidence low. The country had to deal with the problem that a large number of internally and externally displaced persons posed. Some provinces still experienced armed insurgency. External support for the country was dismal and domestic and foreign investors needed political stability and security before investment could resume. In addition, the State administrative machinery was still under rehabilitation. Specifically, the legal and institutional frameworks that could ensure the success of the policy of privatization had first to be established. The frameworks included a scheme to ensure deregulation, sector regulation, property rights and good corporate governance. Indeed

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[2] Michel Clossudovsky: The Globalisation of Poverty: Impacts of IMF and World Bank Reforms, Zed Books Ltd, London and New Jersey (1998:III)
[3] Ibid p. 111
[4] Republic of Rwanda: MINECOFIN, Department of Statistics, Rwanda Development Indicators Government Printers Kigali (2002)

many of the policy frameworks began to operate some years after privatization had already commenced. The Multi-Sector Regulatory Agency that was only established in 2003; yet experience elsewhere had revealed that the foregoing reforms are important prerequisites for successful privatization.

The genocide and war had produced a shortfall of skilled personnel, for entrepreneurial tasks as well as the administration of the privatization exercise since over one million people had been killed in the genocide. The country faced pressure to hire foreign expertise despite the implications of the option. Furthermore, the 1990 war in Rwanda devastated the socio-economic and political structure of society including institutions like PEs. The Rwanda Patriotic Front (RPF) - led government (The Government of National Unity), that was formed in July 1994 departed from the state dominant regulatory policies of the previous administration, in favour of liberalization as a strategy to contain economic decline and stimulate growth. Specifically, the new policy was intended to promote investment and create suitable conditions, infrastructure, legal framework, and a human resource base for foreign investment. Privatization of PEs became an integral part of the policy of liberalization. The government established the Rwanda Investment Promotion Agency (RIPA), the Rwanda Bureau of Standards, and the Rwanda Privatization Secretariat to attract foreign direct investment, liberalize the economy but also continue to monitor economic development in the country.[5] Commercialization of the PEs, social and commercial interests of PEs, transfer of non strategic function to the private sector and abandonment of new shareholding in mixed enterprises had however been contemplated as early as 1980s. Michel Choussudovsky noted that:

> A World Bank mission traveled to Rwanda in November 1988 to review Rwanda's public expenditure programme. The World Bank mission presented the country's policy option to the government as consisting of two "scenarios"... After careful economic simulations of likely policy outcomes, the World Bank concluded with some grain of optimism that if Rwanda adopted Scenario II ("with strategy change") levels of consumption would increase markedly over 1989-1993, alongside a recovery of investment and an improved balance of trade. The "Simulations" also pointed to added export performance and substantially lower levels of external indebtedness. The outcomes depended on the usual recipe of trade liberalization and currency devaluation, alongside the lifting of subsidies to agriculture, the phasing out of the *fonds d*

[5] Front Pariotique Rwandais – Inkotanyi: Imigambi Y'umuryango. 2003-2010, Kigali (2003: pp 65-66)

> *egalisation*, the privatization of state enterprises, and the retrenchment of civil servants.[6]

The performance enhancing measures failed to yield the expected results. Huge subsidies continued to flow to the PEs with mounting fiscal deficits. The Government subsequently undertook a study to examine the situation. The study recommended that Rwanda, like any other developing country that benefits from financial and technical support, from bilateral and multilateral donors had to commence fundamental public sector reforms as a prerequisite for continued donor aid. The Government therefore produced a policy framework for PE reforms with the assistance of the World Bank. The reforms were reflected in the Structural Adjustment Policy framework that was signed between Rwanda and the Breton Woods Institutions in 1988.

The Government sought advice on how to deal with the declining economy and a strategy for privatization and under what conditions it could be effected. Another study was launched in 1991; during the civil war that had started in October 1990. The war continued up to 1994 ending with massive destruction of property and a genocide. The PE restructuring programme had been halted during that period and the economy was in anarchy. Michel observed that the economic crisis reached its climax in 1992 when Rwandan farmers in desperation uprooted some 300,000 coffee trees. Despite soaring domestic prices, the government had frozen the farmgate price of coffee at its 1989 level, in accordance with the terms of its agreement with the Bretton Woods Institutions. The government was not allowed (under the World Bank loan) to transfer state resources to the *Fonds d'egalisation.*

> He points out that the austerity measures imposed on the country destabilized it further; "under the "free market" system imposed on Rwanda, neither cash crops nor food crops were economically viable. The entire agricultural system was pushed into a crisis. The state administrative apparatus was in disarray due not only to the civil war but also as a result of the austerity measures and sinking civil service salaries…." [7]

[6] Michel Choussudovsky: The Globalisation of Poverty. Impacts of IMF and World Bank Reforms; Zed Books Ltd, *op cit* (1998: 115-117)

[7] Michael Choussudovsky: The Globalisation of Poverty. *op cit* (1998: 117-119)

The post-genocide period was very chaotic. There were a lot of internally and externally displaced people, no proper administration, empty state coffers among others. Humanitarian organizations and the international community provided basic services though in an uncoordinated fashion. Slowly, the RPF Government started to take charge. The National assembly enacted the enabling statute in 1996 that empowered the government to designate enterprises to be sold and those to be retained by the government; and to establish a mechanism to implement the privatization programme. Unlike Kenya, therefore, Rwanda enacted a law to regulate the privatization programme; at the inception.

Rwanda's economic policy changed in favour of the free market system. The major aspects of the policy reform initiated included liberalization of domestic trade and price controls; restructuring of the tax system and reduction of subsidies. Liberalization of trade and payments was meant to initiate and encourage growth in private rather than public sector. Imports of intermediate and capital goods has indeed increased; suggesting higher capacity utilization and increased economic activity in the small-scale private sector. The reforms had however also changed ownership of these assets from public to private hands.

The privatization of PEs was officially announced in 1996; a time of acute economic problems inherited from the genocide of 1994, the 1990–1994 war of liberation, and the enterprises poor performance of the 1970s and 1980s. Privatization did not however really get underway until 1997. Privatization of small and medium enterprises started effectively in 1998. Both the World Bank and IMF continued to agitate for privatization of certain Rwandan state enterprises. For example, the International Finance Corporation (IFC), an affiliate of the World Bank formed a joint venture with a private international group to "take over and modernize a previously government owned match factory".[8] The World Bank's argument was that such reforms would reduce the PEs drain on the central government budget by reducing their losses through restructuring. The reforms would lead to increased efficiency, lower costs and reduced prices of goods and services in line with long run marginal costs. The repercussions of

[8] M. Shirley "The experience with Privatization", Finance and Development, Vol. 25(3) (1988:35).

the four year civil war and the 1994 destruction of human and material capital were disregarded.

The government of Rwanda declared intentions to privatize the economy rapidly. Thus the process of privatization spread quickly to all sectors of the economy industry, agriculture and services. The exercise of privatization still continues to-date however and the pace of implementation was much slower than had been anticipated. Did the government backtrack upon a realization that the cost of privatization was high or did the process simply turn out to be more cumbersome than government had anticipated? Had some of the objectives that led government to commit itself to liberalization been attained, particularly with respect to the relationship with development partners? Was the process hampered by the challenges of reconstruction of the economy? These are some of the questions that need to be answered in relation to the undertaking in 1996 to liberalize the Rwandan economy.

The World Bank and IMF assisted the government in undertaking some of the enterprise level restructuring in order to prepare designated PEs for sale. Negotiations to secure funding for the restructuring of enterprises that remain within the portfolio of the state have continued. Sponsorship was to vary according to the nature and performance of the enterprise, continued availability of financial resources and the proposed techniques of privatization.[9] Financial restructuring was designed to include settlement of liabilities, equity injections and promotion of financial discipline through elimination of direct subsidies and cheap credit in order to enhance privatization prospects.

It should be noted however that in many instances the IMF & World Bank pushed the government to privatize without having to restructure the enterprises; concerned more with the speed of privatization than the value of the assets to be privatized. The World Bank had always pushed for privatization. It had even demanded privatization of PEs much earlier than this. It for example, had as early as 1992, "ordered the privatization of Rwanda's state enterprise electrogaz"[10] According to a senior government official, in the Finance Ministry, there has also been major disagreements between the government of

[9] Charles Vuylsteke: Techniques of Privatization of state owned enterprises: Vol 1 Methods and Implementation, World Ban Technical paper No 88, World Bank (1988)
[10] Michel Chossudovsky: The Globalisation of Poverty. Impacts of IMF and World Bank Reforms, Zed Books Ltd, *op cit* (1998:119)

Rwanda and the World Bank/IMF over the sequencing of privatization of PEs as well as over the need to recapitalize the enterprises before privatizing them;[11] the agreement to privatize PEs notwithstanding.

The Case for a Law on Privatization

A legal framework is necessary for a patronage-free, successful implementation of privatization policy. The framework facilitates fairness and competition for the enterprises. In addition the administration of the exercise of privatization has to be regulated by legally constituted structures.

The government of National Unity in Rwanda, began to enact a framework for a privatization law intended to provide incentives for enterprises to enhance both productive and allocative efficiency. In order to develop a competitive environment in Rwanda, and create a strong regulatory body to control monopoly mergers and restrictive business practice through price surveillance and abuse of market power in the private sector.[12]

Public enterprises in Rwanda fell into a relatively tight legal structure that defined categories of PEs. These categories included Government-owned commercial operations, that are not legal entities in their own right, such as OCIR THE (Tea enterprise), OPROVIA (State whole sale shops), OVIBAR (Local brewing company); statutory government corporations in which only the government was the exclusive shareholder; and legal entities in which liability is limited either as limited liability (s.a.r.l- societe's a'responsabilite'limite'e) or public liability companies (s.a- societes anonyms). These may be wholly owned by the government or mixed enterprises in which the government and the private sector are both shareholders.

In the case of Private Enterprises which are not legal entities, the government transferred them into limited or public liability companies so that the general public could own shares. In other enterprises the legal instrument, that had been created had to be repealed and their business assets sold to the highest bidder.[13] Business enterprises whose

[11] Respondent seven
[12] Privatization Secretariat: The Privatizations procedures manual for Rwanda; Kigali (1997)
[13] Privatization Secretariat: The Privatizations procedures manual for Rwanda; Kigali (1997)

commercial operations are deemed viable but which are not operating profitably had to be, restructured and then offered for sale in order to attract potential investors and fetch a higher price. The exercise had to be carried out on a case-by-case basis. Restructurization involved either alteration of the legal of the enterprise, streamlining operations of the enterprise through reduction status of operations and size, injection of fresh capital into the enterprise and /waiven part of the company's debt so that it can service the remainder from its income.

The Law on companies, Law No. 06/1988 of 12th Feb 1988 that deals with organization of commercial companies states that transfer of shares in companies to limited responsibility are subordinate to the preemption rights of associates or, to the company. General prescription of a preemption right which is applied to anonymous companies is absent, but the status of companies often integrate a preemption right. Potential difficulties for the process of privatisation come to light, not by the preemption right in itself, but with the absence of legal lines on the manner in which shares should be evaluated, or on the manner of resolving conflicts that concern evaluators. The state is obliged to offer preemption right on shares which it desires to sell to private sector shareholders. In cases where it is impossible to agree on a price, privatisation is effectively hindered, yet government shares in mergers are often of interest to buyers.

The government was under pressure therefore to adopt texts which specify how disagreements on evaluations can be resolved. However, codification of a precise method of evaluation is not practicable, because this has to depend on the conditions of the company which could vary widely. Law No 06/1988 on Companies has created another problem, by prohibiting publicity for the sale of shares in a company to a limited responsibility which would make it difficult for government to sell shares using a transparent method and would translate into acquisition of minimum values for the state. This also called for modification.

The president of Rwanda on the other hand issued decree No.08/14 of May 1996 that set up the privatisation commission to manage the privatisation programme. The decree designated the Ministry of Finance and Economic planning to be in charge of supervising the programme and the institutions that would be set up to manage the day-to-day operations of the exercise. The 1996 statute sets up the technical commission and the inter-ministerial privatisation commission is set up to, supervise the work of the privatisation secretariat. It is responsible for the running of the divestiture programme.

The decree asserted that the Rwandan privatisation programme would be managed in a manner geared to produce efficiency, transparency and public accountability. However, the decreed did not mention any political motives underpinning the decision; neither did it allude to the pressures from the World Bank and donor countries. Similarly, the programme implementers did not mention "effectiveness," by omission or commission; which is one of the most important aspects of the reform objectives. Thus the thinking was from the onset quantitative in approach. This has the effect of limiting the gains of the programme especially in its objective of broadening ownership and creating a viable local entrepreneurship that would effectively be the partners to government.

The institutional framework set up to manage, oversee , implement and/or follow up post- privatisation is constituted of three organs: The Cabinet, which has the final authority to sale PEs; all sales except in special circumstances being by competitive tender; the National Privatization Commission which is charged with overseeing the programme and its political management and the Technical Committee that draws up the policy and carry out the strategy management of the programme. It also has a Privatization Secretariat charged with carrying out the day to day management and coordination of the activities of the commission in the implementation of the privatization exercise.

The manner which the privatization programme was enacted, through a presidential decree; the composition of the organs charged with managing the process, with a huge presence of political appointees and the continuing central role of the cabinet in decisions pertaining to privatization demonstrate the extent to which political considerations play a key role in the process.

Along with the privatization programme, the government of Rwanda enacted a number of other pieces of legislation aimed at reviving and promoting economic activities in the country. These include the tax act of 1996, the investment code of 1998 and the foreign exchange regulation measures, which were put in place in 1996 and 1997.

The government has argued that when the initiatives are added to privatisation, they constitute a formidable set of tools that will bring to bear on the struggle to revive the public sector and accelerate the growth of entrepreneurship in the country.[14]

This argument appears to concur with Mosley's argument that privatisation alone is unable to produce freer competition unless the exercise is accompanied with some legal and policy reforms. [15] Commander and Killick argued that the restoration of reasonable prospects of profitability depends on the implementation of a whole package of adjustment measures and on the scale of external support which this attracts.[16]

Important matters that relate to tax incentives, capital market development, labour displacement problems and a regulatory body to guard against abuses from monopolies and mergers were also addressed. Tax incentives were introduced to enhance and make share issue more attractive. The incentives include withdrawal in January 1997, of granting or renewing investment incentives under the investment code and special conventions with individual companies; and the introduction of the tax code instead of investment incentives being provided by the investment code, they were to be provided under the tax code.

These and other measures were taken to attract foreign direct investment, and to generate revenue. The incentives were however to cost Government revenue; and could not guarantee that the population would not be subjected to increased prices for the commodities.

The framework for privatization in Rwanda requires also a strong capital market. The capital market in Rwanda is weak and practically non-existent. This inhibits the transfer of PEs into the private sector. The absence of a stock market in Rwanda inhibits large investments in equity and privatization has to take place through outright sales of assets. A stock exchange needs to be established as a prerequisite for meaningful

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[14] Rwanda Privatization Secretariat: Privatization Manual *op cit* 1997.
[15] P Mosley: "Privatization Policy-based lending and World Bank behaviour" in P. Cook and C. Kirkpatrick (eds) Privatization in less Developing Countries. Hemel Hempstead; Harvester Wheatsheaf (1998)
[16] S. Commander and T. Killick: Privatization in developing countries: a survey of the issues" in P. Cook and C Kirkpatrick (eds), Privatization in less developed countries, Hemel Hempstead, Harvester Wheatsheaf

reforms; in the same way that government move to establish the bureau of standards, the investment promotion agency and the privatization secretariat.

The ownership of transfer in developed countries has largely been through the sale of equity, of developing countries like Kenya and Rwanda, have low level of equity financing because local markets are unable to provide satisfactory long-term investment resources and , debt financing is therefore the common method of raising capital. The development of a capital market is therefore crucial in making possible sales of enterprise through public offering of shares in such countries although it remains hard to implement. In an attempt to come to grips with this reality in Rwanda, the government enacted ; a revised central bank law extending its authority over the conduct of monetary policy which was adopted in March 1997; and a revised legislation providing for more effective prudential regulation of commercial banks was adopted in the same year.

Most PEs were heavily overstaffed, sizeable employee lay offs, both before and after privatization of public enterprises in Rwanda as was the case in Kenya. To minimise the social implications that would accompany such reductions, a severance package was proposed. This has not been enforced legally although the labour displacement problem and the measures taken to address it demonstrate the aspect of political considerations in the exercise of privatization.

Selection of Public Enterprises for Privatization

The actual privatization exercise in Rwanda began with a categorization of all PEs in the country into five groups: public enterprises that the state would retain but required restructuring in order to streamline their operations, public enterprises in which the state would retain shareholding, either as majority or minority shareholder, enterprises in which the state would fully divest its shareholding, enterprises in which the state would dispose its equity holding, and public enterprises that did not have commercial viability and were to be liquidated.

The enterprises were also categorized according to size: small enterprises that would be sold "as is" to the highest bidder, medium-sized enterprises whose assets had to be valued prior disposal, large enterprises that required expert studies to determine their value and best options to privatize them; enterprises like utilities and the Telecommunication Company. The government categorises public enterprises also according to two criteria: Geographical location that is important for the organization and expedition of valuation, and economic contribution, based on the field of activity.

Sectoral classification of PEs produced four lots of enterprises. The first lot comprised of enterprises in agro-industry. The enterprises in agro-industry sector that necessitated a simple valuation would be disposed of through invitations for bids within the country. These enterprises lacked high value assets and therefore the simple assessment to determine their fair value would be carried out by technocrats in the parent ministry. Enterprises in this category included; the Mukanura Maize factory in Ruhengeri, OVAPAM in Mutara, Lake KIVU fisheries in Cyangugs, Kigembe fisheries in Butare and Lake Ilema fisheries in Kibungo. The second lot of enterprises comprise of firms in agro-industry that required professional valuation. The invitation for bids for enterprises in this category would not be limited to Rwanda. Rather, the sale would be advertised both inside and outside the country in order to attract enough competition for purchase. Enterprises in this category included the Couvoir Nationale de Rubirizi; Centre Nationale de Petit'elevage in Kigali, OPROVIA butchery in Kigali, Rice mills in Butare, Cyangugu and Kibungo, OPYRWA in Ruhengeri, All the nine tea factories in seven prefectures namely; Gisakwa, Pfunda, Nyabihu, Mulindi, Mata, Kitabi, Shagasha and Gisovu, Coffee cleaning factories in Gikondo, Masaka and Nkora and OPROVIA warehouses in all the eleven prefectures.

The third lot of enterprises comprised public firms in the manufacturing sector. Enterprises in this sector were small and it was decided that they needed a simple valuation, but either the parent ministry or a designate of that ministry. Two enterprises fell in this category: the Nyanza metal works in Butare and Papeteries du Rwanda in Kibungo. The fourth of firms comprised of enterprises in mining and extracting sector namely the mines under REDEMI and the lime project in Ruhengeri. The mines under REDEMI required professional valuation while the lime project needed a simple valuation. The fifth lot of enterprises comprised of Joint Venture firms.

Joint ventures would be privatized through the sale of government shares. Firms in this category included: The Boucherie Charcuterie de Kigali, Socie'te' de Rwandaise d'allumettes (SORWAL) in Butare; Socie'te de production d'aliment pour betail (SPAB) in Kigali, RWANTEXCO in Kigali, PETRORWANDA in Kigali and SONAFRUITS in Cyangugu.

The share value of these firms and others to be added would be determined; and the high value of the assets involved legal and financial expert advice. Categorization of the enterprises was followed by privatizing them; itself conduct simultaneous with monitoring and evaluation of the privatized entities. The hand of the government remaining very eminent in all these stages.

The final lot of public enterprises comprised of firms that had been created by legal instruments. Firms in this category would be subject of a legal instrument of the same nature (law, decree, presidential decree, ministerial decree) to repeal the original instrument that created them; terminate their existence and thereby pave the way for their sale of liquidation. Enterprises in this category included; the Caisse d'Epargne du Rwanda created by decree law of 28th April 1981. (Liquidation); Bureau National d' etudes des project (BUNEP) created by decree law of 5th May 1979, Credit Inter Communal de Development (CID) created by law of 24th December 1974 – (Liquidation); OVAPAM created by the law of 5th December 1980 – (Sale of shares), Papeteries du Rwanda created by decree law of 8th August 1974 – (Liquidation) and INR created by the law of 26th January 1976, Electrogaz created by the law of 29th April 1976. (Management Contract), OVIBAR created by the law of 8th May 1978. (sale of shares), OPYRWA created by the law of 8th May 1978. (sale of shares), OPROVIA created by decree law No. 24/75. (sale of shares or change to other commercial use).

The government decided, due to the laborious exercise that a repeal of the law relating to each enterprise would involve for statutory enterprises, to enact a law that would repeal all the laws that created such enterprises so that they could be either liquidated or slated for sale. Accordingly, the privatization secretariat has established a transparent mechanism and procedures for transacting their business and selling of or liquidating public enterprises. This is elaborated in a "Manual of Procedures". The manual provides for open tendering and evaluation of bids based on both financial and technical submissions. The technical submission details the Business Plan that the bidder would like to follow for the next 3 to 5 years of running the privatized entity. The Business Plan form a core element in the transactions. The tender document normally recommends continuity of the activity the enterprise has been involved in. However, the Secretariat has the discretion to accept another activity if it is likely to provide economic gains comparable to the existing one. For instance, a hotel could be exchanged with executive apartments.

In Rwanda, just like in Kenya; the winning bidder in a sale transaction is contractually bound to respect the submitted Business Plan. The privatization Secretariat monitors and evaluates privatized entities based on the Business Plans. Evaluation considers what is reflected in the Business Plans and is reflected in the following elements: capital investment (for new equipment, rehabilitation or working capital), job creation and profitability. The elements are to be reflected in the Business Plans. Data and information for the monitoring and evaluation is obtained from the Profit and Loss accounts as well as the Balance Sheets of the enterprises. The privatized enterprises are required to submit the documents regularly to the Privatization Secretariat. In addition, the officials of the Secretariat physically visit the enterprises to review progress on performance.

Implementation of the Privatization Programme

In 1996, privatization was declared to be a government policy prescription intended to reduce the budgetary burden of PEs and improve efficiency and general performance. Privatization was linked to the macroeconomic burden of the PEs. Privatization of public enterprises sort therefore to achieve six objectives. First the reform aimed to reduce the government equity holding in the public enterprises and thereby relieve the state of the financial drain on its resources and the burden of their administration, and; raise revenue through divestiture, promote and strengthen private sector. The privatization programme was also intended to ensure improved and more efficient management, financial, accounting and budgetary discipline of state enterprises; ensure separation of ownership and management functions; ensure more accountability;

facilitate rehabilitation and restructuring of public enterprises, and stimulate Rwandans to participate in private ownership and enhance entrepreneurship among Rwandans.[17]

Privatization was, overall, expected to enhance economic efficiency and by extension lower consumer prices and improve product quality. Secondly, privatization was expected to reduce fiscal deficits through increased tax revenues on enterprise output, reduction in central government transfers to the enterprise sector and receipts from privatisation sales. Thirdly, privatization was expected to shift the balance between the public and private sectors and promoting market forces within the economy. Political objectives do not appear anywhere in the process. However, pressure from the World Bank, the IMF and donor countries on Rwanda since the 1980s; and the composition and powers of the organs established in 1996 to manage privatization, suggest that there were political motives underpinned the exercise.

The PE reform programme identified, in 1977 a total of 77 PEs for privatization. To date 49 PEs have been privatized 11 of which are food stores under a food chain called OPROVIA. The proceeds from the privatization programme amounted to 4.5 billion Rwandese Francs and about $ 2.6 million, which represents 81 per cent and 96 per cent of the total proceeds respectively. The remaining amount of 860 million Rwanda Francs and $ 70,000 are either divested enterprises that are non-functional and have to be repossessed by the state, food stores (enterprises) that belong to the food chain – OPROVIA, whose outstanding dues are to be paid upon delivery of title deeds or leasing arrears due form the Kigembe fishery. The exercise of privatization is however continuing and the number of privatized state owned enterprises is bound to rise.

The government has also taken keen interest in the performance of privatized public firms. Specifically the government conducts assessment of the firms based on the conformity to the Business Plans submitted at the time of the sale; full settlement of sale price and full commercial operation. The assessment has produced four categories of these firms whose placement includes: enterprises due for repossession by the state became completely non functional; poorly performing debtor enterprises, not respecting the business plans. The poor performance being an evaluation of targets as set in the business plans, in terms of capital investment, job creation and profitability, fully paid up,

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[17] Privatization Secretariat: The Privatizations procedures manual for Rwanda; Kigali *op cit* (1997)

well performing enterprises but not respecting the business plans. In such cases, new or adapted Business Plans have been made and enterprises performing well as per business plans.

The first and second categories together constitute the bulk (53.3%) of privatized enterprises that are performing below expected levels.

Table 1: Debtor enterprises (poorly performing and not respecting Business Plans)

Enterprise	Owner	Business plan Remarks	Sale date	Price	Part Payment
1. Nyagatare Milk plant (agro-industry)	KOABAMU cooperative	-long delay in starting due to management problems -90% progress	18/8/98	15,000,000 FRW	9,000,000 FRW
2.CNPE Kabuye, poultry (agro-industry)	Oleg Stenbock	40% progress	18/9/98	35,000,000 FRW	13,000,000 FRW
3. CNPE Kabuye, piggery (agro-industry)	Oleg Stenbock	30% progress	18/9/98	10,000,000 FRW	5,000,000 FRW
4. Nyabugogo Butchery (agro-industry)	SABAN Ltd	95% progress	18/9/98	200,000,000 FRW	160,000,000 FRW
5.Sonafruits (agro-industry)	Bashaija Leonard	50% progress	11/4/2001	16,500,000 FRW	8,250.000 FRW
6. Washing station Masaka (agro-industry)	Seven lakes Trading	75% progress	27/2/2002	40,115,000 FRW	20,057,000 FRW
7.CNPE Ruhengeri (agro-industry)	Coodaf	30% progress	12/2001	15,587,838 FRW	7,793,000 FRW
8.Wheat Factory, Gatare (agro-industry)	Kabandana Venant	30% progress	12/2001	35,000,000 FRW	19,250,000 FRW
9.Maize Plant, ukamira (agro-industry)	Ruhengeri Diocese +ADR	20% progress	09/2002	20,000,000 FRW	5,000,000 FRW
10.Lake Ihema fishery (agro-industry)	SOPEM	0% progress	12/2001	62,000,000 FRW	0 FRW
11.Hotel Regina (Hotel & Tourism)	Murashi Caritas	60% progress	13/2/1998	50,000,000 FRW	25,000,000 FRW
12.Sorwal	DEPUPRO	95% progress	28/4/2000	100,000 USD	90,000 USD

(Source: Privatization Secretariat, October 2003)

Table 2 : Enterprises for repossession by the state

Enterprise	Owner	Remarks on Business plan	Sale Date	Price	Amount Paid	Amount Remaining
1. Kigembe Fishery (agro-industry)	Gone Fishing Ltd	-cash flow problems -bank loan non-performing-60% attainment	18/9/98	USD 20,000 annual lease	USD 20,000 only	USD 20,000*3
2. Nkora Factory (agro-industry)	UPROCA	0% progress	05/3/99	108,862,000 FRW	10,000,000 FRW	98,862,000 FRW
3.Cyangugu fishery (agro-industry)	Mselem Nassor	50% progress	15/2/2000	20,000,000 FRW	8,000,000 FRW	12,000,000 FRW
4. Ruhengeri "chaux"..(mining & industry)	PVC	0% progress	29/5/98	110,000,000 FRW	15,000,000 FRW	95,000,000 FRW

(Source: Privatisation Secretariat, October, 2003)

Table 3: Enterprises fully paid up, well performing but not respecting Business Plans

Enterprise	Owner	Business Plan Remarks	Sale Date	Price	Paid	Remaining
1. Ovibar (agro-industry)	RICO	80% progress	29/05/1998	200,000,000 FRW	200,000,000 FRW	0 FRW
2.Kabuye Sugar Factory (agro-industry)	Madhvani Group	55% progress	13/09/1997	448,175,200 FRW	448,175,200 FRW	0 FRW
3.Hotel Kiyovu (Hotel & Tourism)	Miko Rwayitare	5% progress	03/08/2001	80,000,000 FRW	80,000,000 FRW	0 FRW
4.Karuruma Meat Processing plant (mining)	NMC Metallurgie Ltd	30% progress	12/2001	300,000 USD	300,000 USD	0 USD
5. National printery (industry)	Intersec	60% progress	04/12/1998	420,000,000 FRW	420,000,000 FRW	0 FRW

(Source: Privatization Secretariat, October, 2003)

Table 4 : Enterprises well performing as per business plans

Enterprise	Owner	Business Plan Remarks	Sale Date	Price	Paid	Remaining
1. Kivu Fishery, Gisenyi (agro-industry	COOPILAC Cooperative	100% progress	19/09/1998	29,400,000 FRW	29,400,000 FRW	0 FRW
2.Ocir-Café, (agro-industry)	Rwacof Ltd	100% progress	04/12/1998	190,500,000 FRW	190,500,000 FRW	0 FRW
3.Opyrwa (agro-industry)	Sopyrwa	100% progress	03/11/200	550,000,000 FRW	275,000,000 FRW	275,000,000 FRW
4. BCK (agro-industry)	Othmar Oberlander	100% progress	14/05/1999	38,000,000	38,000,000 FRW	0 FRW
5.Tabarwanda (agro-industry)	Tabacofina Vanderest	100% progress	24/09/2001	1,500,000 USD	1,500,000 USD	0 USD
6. Guest House Kibuye, (hotel and tourism)	Asoferwa	100% progress	15/02/2000	10,200,000 FRW	10,200,000 FRW	0 FRW
7.Hotel Akagera (hotel and tourism)	Akagera Game Lodge	100% progress	10/06/2003	2% of net profit/year	-	-
8.Guest House Kabuye (Hotel and Tourism)	Munyampirwa Pascal	90% progress	29/05/1998	75,000,000 FRW	75,000,000 FRW	0 FRW
9. Ruliba Brick factory (construction industry)	Jean Murenzi	100% progress	09/2002	122,000,000 FRW	122,000,000 FRW	0 FRW

(Source: Privatization Secretariat, October, 2003)

Post-Privatization Survey

Rwanda has conducted a post-privatization survey of the affected firms. The results of the survey are helpful in the attempt to assess the effect of the priority programme in the country. About 13 per cent of the enterprises privatized are now proposed for government repossession; about forty per cent are defaulting on payment and are poorly performing and do not therefore not respecting the Business Plans; while about thirty per cent of the privatized enterprises are performing well.

The factors underlying the enterprises that are either performing poorly or categorized as non-performing; which constitute about 53 per cent of privatized enterprises and those that underlie the 47 per cent or so, that are categorized as performing well will be discussed later in this chapter. The privatization secretariat surveyed 16 of the privatised enterprises to establish the cause of poor performance. One enterprise had demanded from government that an environmental impact study be conducted by government before commencing its operations. The assessment was not done; and so the investor rescinded his bid bond making the sale contract null and void. A new contract between the government now has to enter into a new buyer contract. The enterprises that ere categorized as non-performing therefore are a total of 15.

The secretariat found examined factors that include management capacity; operator sector track record; environmental constraints such as finance, effective demand, poor privatization expertise and corruption, policy framework including deregulation, regulatory framework, commercial dispute resolution and property rights protection. The problem of lack of effective demand within the country featured highest while the problem of corruption featured least; followed by inadequate property rights protection and lack of a regulatory framework. None of the enterprises reported political interference as an obstacle to their performance.

The enterprise performance survey also revealed that proceeds from privatization began to flow from about the third year of privatization. Most enterprises were non functional at the time of privatization and hence the influence of the cost of rehabilitation and acquisition of equipment on the return on investment and similarly the time lapse before realization of profits. The survey however demonstrated a high inventory turnover and overall asset turnover; both of which indicate acceptability of the quality and pricing of the products as well as more efficient utilization of assets and hence good management practices.

The post-privatization survey demonstrates governments continued interest in the welfare of the population as well as the need to continuously monitor and influence economic developments in the country. This political will is also demonstrated in the decision to repossess enterprises that have not honoured the contracts entered into during privatization. The process is both economic and political.

Conclusions

The formulation and implementation of privatization programme in Rwanda were characterized by a convergence of political interest by the leadership and western donor countries and agencies. The RPF-led government that came to power in 1994 espoused a liberalized economy as part of its political programme since 1990; at the same time public enterprises inherited in 1994 had suffered extreme destruction as had much of the economy following years of mismanagement and the four year of liberation and the 1994 genocide committed in Rwanda. The World Bank and donor countries on the other hand put pressure on government to liberalize the economy. This pressure had been on since the 1980s. Coupled with internal pressures from a non performing economy, what appears to have been a hasty privatization programme was embarked on in 1996 following a presidential decree.

The evaluation of implementation of the programme indicates that the bulk of privatized enterprises are either performing poorly or indeed performing below the expected levels largely as a result of lack of effective demand as well as the high cost of rehabilitation and acquisition of equipments. The institutional and regulatory framework to guard against abuses were appropriately established. Privatization proceeds have however been minimized and slow to realize. Privatization in Rwanda was a result of both economic and political considerations.

CHAPTER FIVE

Conclusions: Politics, Economics and Privatization in Two Countries

The Crisis of Public Enterprises

This study is a comparative analysis of the privatization process in Kenya and Rwanda. The study has argued that the process of privatization in both countries was based on the neo–liberal paradigm, which advocates for free markets where the state is expected to limit its role to creation of the enabling environment and allow market forces to operate freely. State ownership and operation of enterprises and state regulation of the market are together an anathema to neo-liberal paradigm. Neo-liberalists who insist therefore on the transfer of state enterprises from public to private ownership. Leading proponents of neo-liberalism such as the IMF, World Bank, World Trade Organization, Western donor governments and the international investment community, all put pressure on most Third World countries including Kenya and Rwanda to liberalize the national economy. The central argument in the neo-liberal movement is that public enterprises suffer from chronic inefficiency, wasteful use of resources and mismanagement that result from the peculiarity of ownership, management, motivation and market structures on the part of public enterprises. The argument presumes that in private enterprises all aspects shareholders monitor the performance of the enterprise and possess the ultimate means for control – the power to sell under-performing firms. Kenya and Rwanda came under pressure from a high rate of non-performing enterprises as well as from multilateral and bilateral donors to initiate the privatization programme.

The reasons for privatization have been debated widely and they range from economic to political. Many studies show that by the beginning of the 1980s, Public Enterprises in Kenya and Rwanda had become a burden to the national economies and drained the national treasury since governments had to continually subsidize PEs in order to keep the firms operational. This study has assessed the exercise of privatization once the process began in order to establish the balance between economic reasoning and political patronage vis-à-vis the objectives of the programme as a whole. The study shows that at certain points in time, the decision to privatize PE exhibited elements of patronage (regime survival) and subsequently, the process of privatization is influenced by political patronage in the same way political considerations had influenced the operations of public enterprises.

Nevertheless, privatization in Kenya and Rwanda has in some cases produced benefits for the economy. Public enterprises have been, at the same time, able to deliver both economic and social benefits, especially where political interference is low and managerial weaknesses are few. This chapter makes inferences from the relationship between and among patronage, economic reasoning and privatization of public enterprises from two perspectives: from the perspective of the origins and process of privatization, the obstacles to privatization; programme implementation, performance and the outcome of privatization in the two countries.

Origins and Process of Privatization

The review of the past performance record of the public enterprise sector in Kenya and Rwanda indicates that the large amount of resources invested in PEs yielded a very low rate of return for the government; and that public enterprises generally failed to achieve the objectives assigned to them by planners and politicians, and in many cases worsened other than resolve economic problems. This was due to poor management of the enterprises but also a result of political interferences in the running of PEs. With PEs everywhere suffering from managerial and institutional constraints, particularly acute in Rwanda after the genocide; and in the absence of guarantee that political interferences will be brought to a halt altogether; in Kenya and Rwanda; the way to reduce public enterprise problems was seen as expansion of the role of markets, increased competition, clarification of the relation between government and public enterprises, improved managerial capability through management contracts and managerial autonomy at the level of the firm, and thus increased efficiency public enterprises. This view was advanced by western donor countries, lending agencies and international financial institutions (the IMF and World Bank), and embraced by governments. Kierans observed that this situation of economic decay might call for outright divestiture-privatization or liquidation of state enterprises in some cases; but in other cases, allocative efficiencies arising from enhancement of the role of markets ought to be obtainable irrespective of ownership. The path followed by both Kenya and Rwanda was outright privatization.

The exercise of privatization in Kenya was a result of many studies on the performance of parastatals and public enterprises that the government of Kenya and the International Financial Institutions (IFC) initiated. On the other hand, the background to the privatization experience in Rwanda makes difficult to assess its significance. What is clear however is that the privatization phenomenon did not have its origins in any basic shifts over the last eight years, in the nature of Rwandan regimes or the social forces on which they are based, but rather derived its initial impetus from the increasingly poor performance of public enterprises, along with pressures from the Breton Woods Institutions and donor countries in the 1970s and 1980; as was the case with Kenya, as well as difficult economic circumstances which beset the country after a four-year civil war that culminated in the Genocide of 1994 and left the infrastructure destroyed.

This was further exacerbated by a significant policy re-orientation by influential western powers and multilateral financial institutions regarding the economic role of the state. This re-orientation was accompanied by a shift in the conceptual parameters guiding western aid deemed extremely urgent for post-genocide Rwanda's reconstruction. Indeed, it is asserted that the appearance of privatization on the development agenda is largely due to external pressures from international aid donors and banking agencies. The Rwandese Patriotic Front leadership and later the Rwandese Government of unity had however pledged to pursue private sector promotion as part of their economic development strategy as early as 1990. The international monetary fund that urges for privatization as a precondition for reducing public debt when negotiating debt-rescheduling deals; imposed it on Kenya and Rwanda as is the case with poor countries in general.

While public enterprise (PE) reforms were an economic necessity for Kenya, their eventual implementation and the privatization methods adopted were a result of external pressure coupled with the political interests of the government. Divestiture is an economic necessity because the Government lacks resources to service state corporations. The government's desire to operate state corporations as commercial entities may not work because it has interests that it tends to convert into bureaucratic and political processes, thereby minimizing the efficiency of the firm. The problem of political interference and mismanagement did not however have to be resolved through transfer of ownership from public to private hands, but could have been solved through improvement of management or management contracts.

Likewise, the performance of Public Enterprises (PEs) in Rwanda has been poor. Many of these PEs incurred massive deficits from the 1980s and continued to drain the meager national budget and waste scarce resources required for economic growth after the civil war. For example, Electrogaz, a public utility enjoying monopoly of energy and water business, received up to about seven billion Rwandan francs alone, in 1994 in form of subsidies. Many of the PEs enjoyed substantial market power that shielded the firms from the pressures of market discipline, as is typically the case with PEs. Mismanagement continued to hinder the enterprises' performance as the government appointed management teams that continued to wreck one enterprise after another. The 1994 genocide witnessed the destruction of the already poorly performing PEs. Except for Electorgaz in which management has been contracted out, privatization has largely been through outright sale of the assets. The problem of performance of the enterprises arose from political interferences and mismanagement over the years, and ultimately the four-year civil war. Since the poor performance of PEs had nothing to do with ownership contracting out management as was done in the case of Electrogaz would have been the appropriate way of dealing with managerial problems that hampered the PEs performance.

Hurdles in Privatization

The process of privatization in Kenya and Rwanda faced immense setbacks. Prior to privatization, public enterprises in the two countries performed poorly and failed to meet the social demands justifying existence, partly because of managerial problems in the enterprises, structural constraints in the economy and immense political interference. The objectives underlying the establishment of PEs had not however, been obtained at the time of privatization; and no alternative remedies were provided. The proceeds of privatization have not trickled to the population and the decision to privatize the PEs were imposed on the population in the two countries. The decision to privatize PEs in the two countries was a function of the convergence of economic and political interests of the leadership in the two countries as well as the interests of donor countries and agencies.

Privatization was not conducted alongside structural transformations. Privatization was perceived as an end in itself, rather than a means to enhance market efficiency and economic gains. Other policy options for public enterprise performance such as corporatisation and commercialization were not fully exploited. Steps undertaken to make PEs viable, before privatization, were inadequate. There was no appropriate mix of internal enterprise governance and favourable institutional external environment to improve enterprise performance.

Kenya and Rwanda are not able to resist pressure from both bilateral and multilateral donors to privatize public enterprises; including the most critical enterprises. Kenya's capital market that is better developed than Rwanda's. Rwanda privatized its PEs through outright private placement as a result of the weak capital market this that makes it harder to find buyers with sufficient capital. Kenya has to improve its stock exchange in order to improve its capital market; while Rwanda has to build one; for a meaningful privatization.

The distributional, political and social costs of privatization, particularly with respect to vulnerable groups, was not seriously considered before privatization of public enterprises in the two countries. The governments are obligated to make significant transfers of the proceeds from privatization, to economically vulnerable groups that have been depending on state owned enterprises and are now the most affected by privatization.

The privatization process in Kenya faced political patronage, lack of transparency, and other forms of corruption. First, privatization in Kenya was carried out amidst an unclear institutional and legislative framework. The Privatization Programme Committee and its Secretariat, the Executive Secretariat and Privatization Unit, were not institutionalized. The exercise relied heavily on administrative support from other ministries, which was not forthcoming. In the absence of procedures and guidelines entrenched in the law, there was interference in the process, resulting in delays in the preparation process due to lack of cooperation from other actors. Secondly, the number of times transactions would be referred to the Cabinet became a source of delays. The absence of a privatization law also contributed to the weakness of the programme. The key weakness was that the Policy Paper on *Public Enterprise Reform and Privatization*, which provided policy guidelines including the procedures and the institutional framework, was not entrenched within any law. In addition, auditing of the privatization process was not entrenched within the law. Consequently, in many cases procedures, were overlooked and after some time the Privatization Reform and Privatization Committee (PRPC), which was a subcommittee of parliament, became dormant.

In Rwanda on the other hand, the process of privatisation has largely been smooth. The presidential decree on privatisation was quickly presented to parliament and became law; with clearly laid out procedures for the process. Organs to oversee the process were established. The cabinet is the highest authority over matters of privatisation, reserving the final authority to sell PEs. A national privatisation commission chaired by the minister of Finance, composed of at least four other cabinet ministers and three permanent secretaries changed with overseeing the process and with political management was established. The cases of disagreement over the process have been reported between the cabinet and parliament. Huge influence of the political leadership in the process is however obvious. The World Bank, IMF and donor countries also inserted on losing the economy liberalized since the 80s; and made it a precondition for assistance to reconstruction in the 80s and 90s.

The evaluation of the performance of the privatized enterprises in Kenya and Rwanda was not possible owing to the nascent state of the programme. In the case of Rwanda, this was aggravated by lack of statistical data on the state of the enterprises prior to their transfer to the private sector and failure to undertake pre-privatization studies. Kenya on the other hand conducted studies before the decision to privatize PEs but personal interests by certain politicians rendered them irrelevant. Given that the Rwandese economy had practically came to a halt at the end of the war, it became difficult to attribute post privatization successes or failures to privatization and private enterprise ownership. Going by Reid's argument, that broad-based economic reforms cannot be performed in a vacuum, and that they are constrained by a country' institutional legacies, its policy instruments and the co-ordination mechanisms chosen to see the reform through, the exercise of privatization in these countries was futile. In Rwanda, the implementation of the programme has been beset by a combination of problems including lack of a developed private sector, an underdeveloped financial market and to some extent poor inter agency coordination. Kenya on the other hand has relatively well developed private sector and capital market but much of the economy lies in the hands of non-Kenyans; and the programme was stalled by poor inter agency coordination; poor legal and institutional framework and high levels of corruption.

The critics of the programme argue that the two governments have to sell PEs at a bargain price. Absence of open valuation and firm sales procedures led to irregularities. Political interference was therefore ever present. The government had to rely on public auctions to correct the anomalies associated with the implementation of the privatization process

The mechanisms for a competitive environment in Kenya and Rwanda are inadequate and as a result, the benefits of privatization have been negligible or non-existent. In certain circumstances, privatization become the prerequisite for other reforms; but in other cases, liberalization tends to make subsequent privatization redundant. In yet other cases, privatization are not effective until liberalization measures are implemented. In the absence of other policy reforms that increase competition in the economy, the impact of privatization on economic efficiency will continue to be modest is likely to be modest. Thus privatization can only succeed in the context of reforms that create more open and competitive markets.

The privatization programme in Rwanda was controversial and aroused political opposition at its inception because it was a new idea to most Rwandese and carried numerous costs that the private sector was not willing to bear. In Kenya, the programme received resistance from political opposition with parliamentarians citing gross political manipulation and abuse by the ruling elite. The programme led to employee redundancy in some of the privatized enterprises in the two countries. The problem of unemployment was further aggravated by lack of adequate severance packages, employee training facilities to allow for the transition to other employment opportunities, credit facilities to facilitate laid off employees start their own small businesses and lack of alternative employment opportunities.

Inappropriate timing of privatization as a policy option led to non-performance of the majority of the enterprises in Kenya and Rwanda. In Kenya, privatization was accorded more attention than was accorded to performance enhancement. Privatization was further undertaken before the institutional and legal frameworks, to enhance deregulation and liberalization, were established and before they were tested in the case of Rwanda. Rwanda has relatively more appropriate institutional legal framework but much of it was established after the decision to privatize was taken and after implementation of the exercise commenced. Institutional frameworks in Kenya and Rwanda have now been largely established. Certain government departments in each of the two countries however, still have overlapping responsibilities. This together with continued government control of the public sector have hampered the process and speed of privatization.

Privatization programme in Kenya and Rwanda continues and therefore the observed scenarios of performance and non-performance serves as lessons for future efforts. The socio-economic impact of privatization was not adequately studied before the decision to privatize was made. The extent to which non-performance of the privatized enterprises is a result of hasty privatization consequent to external pressures and internal political pressures was not adequately appraised, and the choice and method of privatization made based on this knowledge.

The incidence of corruption in Kenya is high. On the other hand, Rwanda is a divided society recovering from the effects of Genocide and the civil of war of 1994. The challenge facing the policy makers in the face of these problems, was to make the process an informed one.

Studies explaining the problems of public enterprises, the objectives of the sales, the cost of keeping the enterprises public in terms of both implicit and explicit subsidies and the prices of the enterprises being privatized, as well demonstrating that the exercise is for the public good, were not made. The programme did not succinctly clarify the governments' objectives and priorities in order to focus attention of the population on the fundamental goals of the programme.

Outcome of Privatization

The short-term fiscal impact of privatization in Kenya and Rwanda is negligible. The two governments incurred considerable costs in settling PEs liabilities and redundancy payments. The government of Kenya invested heavily in parastatal reforms before privatisation, and yet post privatization results showed no economic gains to the country. Rwanda's post privatization evaluation exercise on the other hand categorized that over 53 per cent of the privatized enterprises performing poorly or non performing. As Mansoor argued, privatization will have the greatest positive impact when it leads to efficiency gains in privatized enterprises, coupled with improvements in returns from public expenditure. In that respect, significant improvements in the budgetary position would most likely result from a pragmatic privatization exercise of major monopolies coupled with increased exposure of these monopolies to competition in a well regulated environment. The transfer of a public monopoly to the private sector with its monopoly power left intact could lead, to worsening of the budgetary position, given the losses in public sector wealth that may be involved and the absence of any offsetting efficiency gains, while at the same time imposing high consumer prices on the population.

In Kenya and Rwanda; privatization was not carried out in tandem with any other significant structural changes. This created the risk of turning public monopolies into private monopolies and tended to address largely the question of ownership; which provides no guarantee for improved performance. It indeed raises the question of the political interests underlying the process. Cook, Schawrtz and Kirkpatrick pointed out that efficiency gains that are needed for improving a country's fiscal stance would only materialize if privatization is accompanied by massive industrial restructuring. Thus restructuring of both privatized enterprises and those that remain in the government saddle is crucial if long term growth and fiscal impact are to be realised. This was neither the case in Kenya nor in Rwanda.

The majority of privatized entities have not contributed to improved economic efficiency, in Kenya and Rwanda. This has led to some of the privatized PEs in Rwanda being repossessed. The factors explaining this scenario of non- performance include, among others, poor management and lack of sector experience, lack of an appropriate and supportive financial sector as well as inadequate institutional and legal frameworks. Privatization was therefore not a panacea for the poor performance of PEs. The repossession of some of the privatized PEs on the other hand shows that the government was able to monitor and evaluate post-privatization performance and that it was prepared to take a firm stand against enterprises that do not honour the contracts entered into at the time of bidding. The government remained preoccupied with the role of the enterprises for the well-being of the population. Political interest in the performance of public enterprises that were privatized continued throughout the exercise. Kenya showed no post privatization interests in and monitoring the performance of the privatized PEs.

Post privatization proceeds have not benefited the societies in these countries. The post privatization era in Kenya and Rwanda has been characterized by massive unemployment and increase in the cost of social services. The governments in the two countries did not provide severance packages for redundant employees, retraining and redeployment programmes, and special lines of credit to assist laid off workers in starting their own small businesses. The Bretton Woods institutions that have been pushing for privatization in Kenya and in Rwanda did not help in this regard. The governments did not use the proceeds from the privatization exercise to mitigate these adjustment costs or to address pressing problems such as land reforms.

Some of the PE privatized in Kenya and Rwanda have however improved their performance. The performing group of enterprises attributes their positive indicators to internal elements of good management as well as a favorable external institutional environment. Good governance, legal frameworks to ensure deregulation, protection of property rights and resolution of commercial disputes are seen as prerequisites for successful privatization. The performing group of enterprises confirm and that the privatization can contribute to economic efficiency once the right conditions are in place. Focus in privatization was in the ease of the non-performing enterprises not adequately directed.

Programme Implementation

Kenya and Rwanda in many instances made a poor bargain during the process of public enterprise sales. Managing the privatization programme is a complex exercise that calls for skill and administrative infrastructure to handle such a programme. The privatization offices that oversee the privatization process and keeps the decision-makers informed were not strengthened. Expertise was lacking in many cases and the coordinating mechanisms not strong enough. In the absence of the skills they should be contracted. The cost of poorly planned privatization is higher than contracting the skills that were required.

The disillusionment with the performance of PEs in Kenya and Rwanda led to reforms through different modes of organization, governance and operation and a range of divestiture as well as non-divestiture options. Kenya and Rwanda mainly followed divestiture options of privatization through either public auctions or liquidation. The non-divestiture options, which are often seen as an intermediate step towards privatization, include such measures as organizational, financial and operational restructuring, together with commercialization and corporatisation. These forms have not been traditionally exploited, as the countries did not venture into these other options of privatization. The privatization of management in the case of Electrogaz of Rwanda is one such example that could have been extended to other high utility enterprises in Kenya and Rwanda. Measures to curb abuse in the exercise of privatization in Kenya and to some extent in Rwanda are inadequate.

Kenya does not have a public utility regulatory framework. Rwanda on the other hand has just established a multi-sector regulatory framework, and a privatization fund to assist in the broadening of share ownership is underway. This did not precede the privatization programme and was not incorporated in the process from the beginning in the case of Rwanda; and remained absent in the case of Kenya over the entire period of privatization; hence the inadequacy of dealing with abuse.

Performance

The study found that contrary to neo-liberal assertions private enterprises do not necessarily perform better than public enterprises Some Public enterprises perform well, while others perform poorly. In fact, public enterprises in both Kenya and Rwanda had mixed performance. While some failed to deliver the expected economic and social benefits others successfully did. Likewise privatized enterprises have had mixed results; while some have improved in their performance others had a worse performance after privatization.

Where governments undertook pragmatic privatization established regulatory mechanisms and continued to monitor and evaluate performance of privatized enterprises the performance of the enterprises improved. Likewise, where political interference in public enterprises was low and focus placed on managerial capability; performance of the PEs was high.

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