PRIVATIZATION COMMISSION

Enhancing Kenya's Productive Capacity

"Dealing With Resistance to Privatization"

Paper by

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PRIVATIZATION COMMISSION

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Abstract

As the Privatization Commission executes its mandate of formulating, managing and implementing the Privatization Programme, it is likely to encounter resistance from different stakeholders. This is not unique to Kenya as every country that has pursued privatization as a Government policy has had to deal with resistance to privatization at one time or the other. A survey carried out by the Center for Global Development in 2002, concluded that "privatization remains widely unpopular, largely because of the perception that it is fundamentally unfair, both in conception and execution".

Opposition to privatization can come from different stakeholders and groups that include trade unions - including workers and management, consumers, professionals, environmentalists, political groupings and politicians, and community organizations. Resistance to privatization has taken place in countries at varying levels of national incomes so that the resistance to privatization is not limited to developing countries. Resistance has the potential to delay, dilute or sabotage public enterprise reform in general and privatization in particular (Nellis, 2003).

Despite the resistance, the economic benefits associated with privatization are widely accepted and can include: improving enterprise efficiency and performance; developing competitive industry which serves consumers well; accessing the capital, know-how and markets which permit growth; achieving effective corporate governance, broadening and deepening capital markets and securing best price possible for the sale.

In light of the above, this paper seeks to identify the possible reasons for resistance to privatization and the mitigation measures that can be put in place to deal with the resistance. The specific

objectives of the paper are: identifying the benefits associated with privatization based on numerous studies that have been conducted; identifying possible reasons for stakeholder resistance to privatization; identifying some of the mitigation measure that can be put in place to deal with resistance to privatizations; and proposing recommendations on how to mitigate possible resistance as the Privatization Commission implements the Privatization Programme. The paper has extensively reviewed literature on privatization most of which has been downloaded from the internet.

Recommendations from the paper include:

(i) Need for a communication strategy for the Privatization Programme through which stakeholder expectations for privatization can be managed.

(ii) Need for enhanced stakeholder consultations during the design of the Privatization Programme and prior to and during the entire process of implementing privatization transactions.

(iii) Inclusion of employee ownership schemes in the privatization proposals to offer interested employees an ownership in privatized enterprise.

(iv) Publicizing major activities can enhance public acceptance.

(v) The proposed methods of privatization could as much as possible encourage broad based ownership to gain public and political support.

(vi) There may be need to ensure that the Commission is underpinned by a strong law that empowers it to overcome opposition from vested interests – this may call for strict enforcement of the existing law or amendment. Such a law could accord the Commission administrative authority that requires entities to be privatized and government ministries to comply with its requirements.

(vii) The Commission may consider developing a mechanism to monitor institutions post-privatization that will provide feedback on closed transactions – this will build stakeholder confidence and marshal support to ongoing privatizations.

(viii) Government may be encouraged to plough back privatization proceeds into social infrastructure such as hospitals and schools to build public support for privatization.

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Acronyms

CGB	Center for Global Development
CSOs	Civil Society Organizations
ESOP	Employee Stock-Ownership Plan
FDI	Foreign Direct Investment
IFC	International Finance Corporation
IPO	Initial Public Offering
NGOs	Non-Government Organizations
PC	Privatization Commission
PE	Public Enterprise
PESOP	Public Employee Stock-Ownership Plan
PP	Privatization Programme
PPPs	Public-Private-Partnerships
Senelec	Société nationale sénégalaise d'électricité (), the State Electricity Company
SOE	State Owned Enterprises
WB	World Bank

1:0 INTRODUCTION

There has been strong public resistance to privatizations worldwide. The extent of this opposition is much greater and more widespread than is usually acknowledged, involving a general rejection of privatizations across countries and has not been limited to utilities or traditional public services. A survey carried out by the Center for Global Development in 2002, concluded that "privatization remains widely unpopular, largely because of the perception that it is fundamentally unfair, both in conception and execution". The resistance to privatization has in some instances resulted in delays or eventual policy reversal.

It has been observed that the growing political opposition to privatization in emerging markets has been due to widespread perception that it does not serve the interests of the population at large. This has been related to the various features associated with most privatizations that include: pressures to increase tariffs and cut off non-payers, loss of jobs and believe that privatizations serve the affluent and politically connected people in society and foreign interests that profit at the expense of the country.

Opposition to privatization can come from different stakeholders and groups that include trade unions - including workers and management, consumers, professionals, environmentalists, political groupings and politicians, and community organizations. In Brazil for example, in the early 2000 the opposition to water sector privatization was spearheaded by the National Front for Environmental Sanitation which brought together seventeen (17) Civil Society Organizations (CSOs), managers, and professional associations, NGOs involved in urban reform, consumer groups, and social movements.

A significant feature of resistance to privatizations is that they have taken place in countries at varying levels of national incomes so that the resistance to privatization is not limited to developing countries (Hall, Lobina et al. 2005). In their paper Hall, Lobina et al. note that countries that have recently experienced resistance to privatization for example in the energy sector include high income countries like France, Germany and the USA; transition countries such as Hungary and Poland; middle income countries such as Mexico, South Africa and Thailand and low income countries like Ghana, Honduras and India.

Nellis (2006) notes that few sustained privatization protests have centered on the privatization of manufacturing, industrial or non-infrastructure services. Kikeri et al (2005) affirms Nellis sentiments and notes that despite recent evidence of declining public support for privatizations, the evidence shows resounding success in competitive sectors. In infrastructure the experience is more mixed, with positive outcomes achieved when private participation is combined with proper market structure, regulatory frameworks, and sound contract design. Resistance has however got potential to delay, dilute or sabotage public enterprise reform in general and privatization in particular (Nellis, 2003)

The resistance not-with-standing, the economic benefits of privatization are now widely accepted and can include: improving enterprise efficiency and performance; developing competitive industry which serves consumers well; accessing the capital, know-how and markets which permit growth; achieving effective corporate governance, broadening and deepening capital markets and securing best price possible for the sale.

1.1 Objectives of the study

Although there are inherent benefits that are associated with privatization, different stakeholders that include politicians, trade unions (workers and managers) and different Civil Society Organizations continue to oppose privatization. As indicated above and based on numerous studies that have been undertaken, privatization remains widely unpopular, largely because of the perception that it is fundamentally unfair, both in conception and execution.

This phenomenon is common in all countries at different levels of development including Kenya. In this respect, the general objective of this study is to identify different forms of resistance to privatization and the mitigation measure that can be put in place to deal with the resistance.

The specific objectives are:

(i) identify the benefits associated with privatization based on numerous studies that have been conducted;
(ii) identify possible reasons for stakeholder resistance to privatization;
(iii) identify some of the mitigation measure that can be put in place to deal with resistance to privatizations; and
(iv) provide recommendations on how to mitigate possible resistance as the Privatization Commission implements the Privatization Programme.

1.2 Methodology

The study uses secondary data and information collected through an intensive desk review of literature on privatization. Most of the literature is downloaded from the internet.

This paper is organized as follows: Section 1:0 provides background information; the general and specific objectives of the study and the methodology adopted in the study; Section 2:0 discusses the potential benefits associated with privatization; Section 3:0 discusses the possible causes of resistance to privatization; Section

4.0 outlines and discusses the possible ways of mitigating resistance to privatization and outlines some key factors to be considered in undertaking privatizations to reduce the instances of resistance. Section 5.0 and Section 6.0 provides the conclusion and recommendations respectively.

2.0 POTENTIAL BENEFITS OF PRIVATIZATION

Various studies by the World Bank have shown that to a large extent, the benefits from properly executed privatization have proved considerable (Kikeri et al. 1997). In various instances, privatization significantly improved welfare, productivity, enterprise performance and increased performance. In 1998, Peter Young of The Adam Smith Institute, in an article entitled *"The Lessons of Privatization"* summarized the findings of an earlier study conducted by the Institute with the objective of identifying *"The Impact of Privatization in Post-Communist and Developing Countries"*. The article summarized the findings of the study which reviewed the impact of privatization in these countries by pulling together synthesis of existing research. Below is an overview of the key benefits of privatization.

2.1 Improving enterprise performance and operational efficiency

Similar to the World Bank findings in earlier studies, in almost all cases studied by the Institute, company performance improved after privatization. A World Bank study by Galal et al. (1994) and quoted by Pamacheche et al. (2007) discovered a performance improvement in eight out of nine developing country cases studied. A sample of sixty company cases studied by Megginson et al. (1994) revealed a substantially improved performance in 75% of the cases. Generally, company profitability improved in a majority of cases and privatization removed existing constraints on new investment and access to capital. Also, through output growth outpacing the growth of labour and other inputs, privatization has the effect of raising productivity and efficiency. This is the situation in a number of cases such as Togo, where performance was observed to have dramatically improved following privatization. In situations like this, enterprises were able to adapt their production to meet real demand.

However, cases in other countries such as Mali did not yield similar results. The lack of improvement in efficiency and productivity was explained by the poor handling of the privatization process itself. Companies were sold to buyers who lacked the ability to run such enterprises or the ability to pay the purchase price, payable in installments. Another source of difficulty in some countries was continued government interference in the aftermath of privatization.

In this age of globalization, organizations and nations outperform each other when they are able to provide goods and services more efficiently. Such efficiency implies greater competitiveness than rivals. Privatization has the potential of efficiency impacts on companies due to the need to become globally more competitive in the world market.

2.2 Reducing government debt and government spending on public enterprises

The studies revealed that a number of governments have been able to raise huge sums of money from privatization transactions. These financial resources have enabled the governments to sustain macroeconomic stability and repay huge portions of government debts. As a result of privatization, many governments have also reduced the need for huge subsidies to public enterprises with the consequent impact of strengthening their fiscal positions. In some countries, privatization of unprofitable public enterprises did not only lead to the receipt of large amounts of cash from transactions but also increased government revenues through the cancellation of income tax concessions to those enterprises.

In situations where public enterprises had ceased to operate prior to privatization, or were performing poorly, governments benefited fiscally by removing such enterprises from their books and therefore eliminating any form of contingent liabilities related to such enterprises. As a result of the sale, the liabilities that existed in the name of these enterprises at the time of privatization were written off and potential future losses were prevented from growing larger.

Privatization further implies that governments no longer spend public finances on supporting poor performing public enterprises. Such savings, coupled with the cash inflows in respect of privatization proceeds provide opportunities for governments to spend adequately towards education and health as well as other development and job-creating investment areas. All other things remaining equal, Sub-Saharan African countries are able to reduce poverty as a result of the privatization-related savings in public expenditures.

2.3 Consumers benefit

The majority of cases studied show that consumers benefit from privatization. This is as a result of lower prices emanating from the efficiency improvements following privatization. For example, privatized energy firms in a number of countries studied were able to reduce prices sharply as a result of their ability to limit the amount of stolen or unbilled electricity. Also, because investment constraints were removed, privatized firms were in a better position to avail their products to the public.

Evidence suggests that privatized firms seek more aggressively to improve quality and introduce new products to satisfy the consumer.

2.4 Employing workers

Evidence suggests that privatization is in the interest of employees, although there are a few exceptions to this. Such benefits take three forms: (a) employment levels tended to increase after privatization; (b) remuneration packages tended to improve after privatization, and; (c) many employees bought shares at discounted prices in the privatized firms and these benefited when share prices eventually rose. In cases where employees lost their jobs as a result of privatization, such employees tended to receive generous severance packages. Severance and retirement incentives buy labour support and allow privatization and its benefits to happen and, where unemployment insurance systems are not in place, mitigate the social impact of layoffs (Kikeri, 1999). It should be noted that in some cases, the reduction in the level of employment took place prior to privatization and as such, could be attributed to the need for greater efficiency, and not just privatization. In cases where shut down enterprises were re-opened by private investors, employees benefited directly.

2.5 Strengthening capital markets and broader ownership of capital

The study by Peter Young revealed that depending on the type of privatization method used by countries, privatization has led to the strengthening of capital markets and the widening of ownership of capital. Many developing countries have devised schemes for selling shares to employees and these yielded immense benefits. In many cases, shares would be reserved for citizens of the country, with the objective of widening local ownership of the capital.

In the privatization of Senegal's Sonatel, for example, two-thirds of the total shares were reserved for Senegalese nationals and institutions. All of these shares were quickly bought up. In Nigeria, flotation of shares on the local stock markets was seen as an effective tool for greater local ownership of privatized firms. Regional quotas achieved an equitable geographic distribution of shares. Usually, floatation of a certain percentage of shares through the stock market accompanies sale of part of a large enterprise to strategic investors. The same process was used in the case of Kenya Airways as well as Ashanti Goldfields in Ghana. This can however be constrained by weak stock markets are weak and low savings/incomes. However, where such flotation takes place, it tends to have a huge impact on capitalization of the stock exchange.

In many countries, the implementation of privatization programmes led to the strengthening of capital markets as well as increased financial sector activity. The natural consequence of such strengthening is the greater availability of financing for major projects such as infrastructure.

Given that poor infrastructure is one of the greatest challenges Sub-Saharan Africa faces today, the creation of avenues for developing these through such capital market strengthening will have a more or less direct impact on creating jobs, increasing growth and reducing poverty. For example in 1994, the government of Ghana offered shares in Ashanti Goldfields Corporation for sale. It offered 30% of its 55% stake in the Corporation on the Ghana and London Stock Exchanges. This deal transformed the Ghana Stock Exchange overnight in that the corporation's $1.8 billion accounted for 90% of total capitalization, making it Africa's third biggest stock market (Souris, 1998).

2.6 More competition

Privatization encourages competition and hence leads to all the benefits associated with it such as improved customer service and reduced prices. In practice, privatization is accompanied by competition and in some cases, privatized firms are given a period of protection while competition is introduced afterwards. Privatization has given impetus to market reforms in many countries. To have an impact, it is important to coordinate the activities of the bodies responsible for privatization and those responsible for competition.

2.7 Increasing investment and greater inflows of foreign direct investment

Through privatization, many countries have been able to attract significant amounts of foreign investment. This is the case in many Latin American countries. In some African countries, however, privatization accounts for a minimal share of foreign investment due to restrictions placed on such investments.

An indirect benefit is that privatization signals the level of a government's commitment to freer markets and as such, encourages greater greenfield investment and other forms of investment not directly related to privatization. A World Bank study (1993) suggests that privatization has a huge impact on investment decisions and further states that an extra 38 cents in new investments is generated for every dollar of privatization revenue. It further documents that financial and infrastructure privatizations have the greatest impact on foreign direct investment. The findings of the study by Adam Smith Institute support privatization efforts and emphasize the need to pursue privatization more rigorously in the years ahead.

Privatized firms benefit from massive investments by the new owners in the aftermath of privatization. In addition to this, the result of the "signaling effect" of a government's privatization policy is to create more confidence in the economy. This is likely to lead to higher inflows of foreign direct investment. As these investments come, jobs are created, the economy grows and the higher incomes mean reduced levels of poverty in the country. For example, Ghana's privatization in the 1990's attracted substantial foreign direct investments. The World Bank's Global Development Finance (1997) puts net FDI for 1995 and 1996 at $233 and $230 million, respectively.

2.8 Technology and skills transfer

Through privatization, especially in the case of sale to foreign investors, previously publicly owned firms benefit from the much needed technologies and skills of more competitive entities abroad. Many countries such as Nigeria, embrace the "core investor" concept whereby at least 51% of the shares are sold to a core investor who must meet certain minimum requirements, among them, the ability to bring in advanced technological and managerial know-how. This leads to better performance in the form of greater productivity which eventually means more job creation, higher individual incomes and reduced poverty.

3.0 RESISTANCE TO PRIVATIZATION

3.1 Reasons for stakeholder resistance

Privatization proposals in key public service sectors such as water and electricity in many cases meet with strong resistance from politicians, civil society groups, workers and consumers as they regard them as natural monopolies. Campaigns typically involve demonstrations and democratic political activities. Opposition is often strongly supported by trade unions and is usually strongest to water privatization with recent examples including Haiti, Ghana and Uruguay (2004). In the latter case a civil-society-initiated referendum banning water privatization was passed in October 2004.

Privatization is generally viewed with much skepticism in many countries by all segments of society. Pamacheche et al (2007) in their paper in the *African Integration Review* Journal identify the following as some reasons for opposition to privatization by different groups of people:

(i) academicians/professionals and public officials often view the public sector as the promoter and defender of indigenous interests and believe that privatization will empower and enrich foreigners at the expense of indigenous people.

(ii) trade unions and workers' representatives equally despise privatization, citing the possibility of job losses or worsening terms of service. A case in point was the protest marches organized by the Zambian Congress of Trade Unions calling on government to rescind its decision to privatize the Zambian National Commercial Bank. In Senegal, the government announced in 1997 its plans to sell majority of shares in Société nationale sénégalaise d'électricité (Senelec), the state electricity company. The company's unions strongly denounced the move and launched a series of strikes and go slow actions which contributed to severe power blackouts country-wide. As a result of such resistance, many governments are now paying more attention to job concerns. Usually, in the process of sale, retention of existing staff is either an explicit criterion or a major consideration. In Burkina Faso, for example, the government received four offers for its sugar complex in Banfora in 1998. It sold the complex to the bidder that offered the lowest price but pledged to maintain the entire workforce while making significant new investments (Harsch, 2000).

(iii) politicians and public officials who derive huge material and prestige benefits from public enterprises, in the form of loans, gifts, housing, board memberships, future jobs for themselves, procurement kick-backs and so on are likely to oppose any form of privatization. All these may no longer be within reach following privatization, hence the resistance.

(iv) the domestic private sector also usually has lucrative supply relationships with public enterprises. These tend to be threatened by privatization, given the more aggressive, quality-conscious, cost-cutting tendencies of private owners.

(v) Civil Society Organizations argue that privatization and other neoliberalism ideologies greatly diminish the welfare and rights of ordinary citizens, particularly low income people, and other disadvantaged groups such as immigrants, racial minorities and single mothers (Adalberto et al. 2006). They single out the perils associated with water, security and housing privatization especially in Urban areas. They argue that neoliberal policies are a guise for the use of the political state by wealthy individuals and corporations to increase their share of valued resources in a global society.

A 1999-2000 World Development Report attributes reluctance to implement reforms such as privatization to at least three factors:

i) The perceived uncertainty of the outcome of reform which impedes the creation of a strong constituency for reforms and raises concerns that the immediate response maybe social unrest, while the benefits are only realized later – fear of the unknown;

ii) The fact that private operators typically have to make changes that are detrimental to certain groups in order for the efficiency gains to materialize;

iii) The fact that different groups may hold conflicting views about the role of the state, for instance, in many countries that have previously relied entirely on state utilities, many groups continue to resist privatization on ideological grounds.

Danielie (2008) identifies the top five constraints to Sub-Saharan Africa privatization as:

i) Lack of consensus: this is caused by lack of information and political will; ideological beliefs and vested interest. It results in weak government commitment, slow process of privatization and reluctance to sell enterprises;

ii) Political uncertainty: this has a bearing on the historical political setting and leads to delays and investor uncertainty;

iii) Inadequate management capacity: this can be caused by weak institutional and human resource capacity and lack of commitment and fragmentation of the process of privatization. It results in lack of transparency, distrust of valuation methods, poor design and preparation and incomplete transactions;

iv) Legal constraints: this is caused by old legislations, lack of commitment and weak judicial systems that results in insufficient authority given to the privatization agency and slow privatization process;

v) Lack of program ownership: this may be caused by institutional jealousness, government interference and lack of involvement of indigenous private sector. It results in lack of consensus and perception that the program is driven by external agencies and interests.

From the foregoing, it is apparent that several powerful groups exist that have material reasons to delay, dilute or sabotage public enterprise reform in general and privatization in particular (Nellis, 2003). They put forward their case by pointing to perceived economic, financial and social shortcomings. It is therefore incumbent upon the Privatization Agency in any country to devise ways that will minimize the resistance to privatization by identifying specific stakeholder interest and taking account of them early in the privatization process.

3.2 Country experiences – Case for privatization

In the case of Zambia, a country which ran a privatization programme described by the World Bank in 1998 as the most successful in Africa, many Zambians perceived privatizations as very negative, hence putting pressure on the government to rethink its policy. The case against privatization was based on the following perceptions:

i) The programme had been imposed and micromanaged by international financial institutions, without sufficient attention to requisite policy and regulatory frameworks and without adequate involvement of Zambian citizens;

ii) It would result in the closure of many firms previously run by Zambians;

iii) It would exacerbate the problem of unemployment;

iv) It would increase the incidence of corruption; and

v) It would benefit the rich, foreigners and those politically well connected.

In 2001 the Zambian Privatization Agency commissioned a study to assess the impact of privatization. The study showed that 235 of the 254 firms privatized over the period 1991-2001 had continued in operation; 57% of buyers were Zambians and an additional 13% were joint ventures between Zambians and foreigners; post-privatization capital expenditures in the non-mining sector totaled $400 million; 19 firms closed following privatization but 7 of them resumed operations after being resold and efforts were underway to resell an additional 5; employment declined in the privatized non-mining sector from 28,000 at the time of privatization to 20,000 in 2001 but the workforce expanded in several firms (Nellis, 2003).

A study in 1998 by Jones, Jamal and Gokgur (1998) reviewed 81 privatizations in electricity, agriculture, agro-business and service sectors in Cote d'Ivoire. Their findings were that: firms performed better after privatization; they performed better than they would had they not been privatized, and; privatization contributed positively to economic welfare.

Another study in 2001 by Appiah-Kubi (2001) reviewed 212 privatizations in Ghana. The study showed that privatization had the effect of easing pressure on balance of payments, increasing efficiency, stimulating local capital markets, enhancing the inflow of FDI, creating quality gains for consumers and increasing employment and remuneration post-privatization.

A study in 1998 by Andreasson (1998) assessed the impact of privatization in Mozambique and Tanzania and revealed positive changes in operating and financial performance of the divested firms: three-quarters of firms which had ceased operations before divestiture was contemplated, resumed productive operations following privatization, and; investment, production, sales and value-addition increased significantly following privatization.

Based on the findings of the above studies across Africa, it is evident that privatization of public enterprises yields positive benefits. However, in terms of specific sectors, the limited evidence available suggests that firms producing tradeables do much better in private hands than in state control. The process of privatizing such firms is relatively less complex (Kikeri et al. 2005).

On the other hand, successful privatization of utilities and other infrastructure are much more complex. Privatization of water companies has faced problems in several countries in Africa, including Guinea and Ghana. According to Hall et al. (2005), privatization of water and energy is seen as making prices higher than they would otherwise be, and salaries for senior management higher than is justified while at the same time cutting jobs and making remaining workers less secure. In developing countries in particular, opposition is also based on a strong sense that these sectors should be subject to local decision making, taking account of all public interests, and not left to global, commercial operators and market forces.

4:0 DEALING WITH RESISTANCE TO PRIVATIZATION

4.1 Overview

The wrong approach to privatization can lead to overall performance levels worse than pre-privatization. The issue of overall design and implementation of privatization programmes is therefore vital for any country pursuing a privatization policy. Hence, it is important that critical success factors are identified and an ideal programme designed to achieve the potential positive benefits of privatization and minimize resistance.

In a publication on lessons of experience, Privatization Principles and Practice (1995), the International Finance Corporation (IFC), underscores the need for early sales in privatization to succeed for a privatization programme to gain momentum. This may suggest privatizing the easy candidates first. The IFC however observe that the pressures on governments mean that they are often tempted to pass on the headaches first: the loss makers, the indebted, the already closed down and so on. IFC agues that privatization of small and medium sized firms in the competitive sectors is simple and quick as they require little prior restructuring and institutional capacity and entail minimum political risk.

IFC acknowledges that privatization of large enterprises that require for example the development of a competitive environment and regulatory framework, sophisticated financial engineering and sensitive labour restructuring could however be pursued up front due to compelling reasons such as: First, the window of political opportunity may be briefly open and the most difficult cases are best handled then. Secondly, this is a source of instant policy credibility and a signal of Government commitment to reforms. Third, the potential economic and financial benefits may be worth the risks.

Discussed below are some of the critical success factors that can mitigate resistance to privatization as discussed by Pamacheche et al. (2007) and other writers:

4.1.1 Social-political dynamics:

It is important to recognize that as privatization take root, governments may have different objectives that may determine how the privatization is structured. Some of the objectives maybe non-economic such as in the former Soviet Union and Eastern Europe where the swift transfer of assets to private hands was not necessarily aimed at turning around the enterprises. Political objectives include achieving a wide shareholder distribution, targeting certain classes of buyers (and excluding others, particularly foreigners) and ensuring that enterprises do not close.

Accommodating political objectives and overcoming political impediments have economic costs in lower purchase prices, reduced competition for the sale; lost access to markets; and in continued inefficiency after privatization. Each stage of privatization therefore should involve balancing economic and political goals.

Given the amount of resistance privatization tends to face, there has to be great commitment/political will if the programme is to succeed in any country. This can be achieved through for example placing the Privatization implementing agency under a high profile political office. This will ensure that, political leaders will be prepared to defend their position on the need to privatize, irrespective of the amount of criticism they face from the different stakeholders. The Privatization Administration should therefore be placed in a high political office which in some way is an indication of the importance the government attaches to the programme.

4.1.2 Strategic Communication

For privatization programs to be sustainable and acceptable, they need to be properly understood, taking into account the interests and perceptions of all stakeholders. This necessitates using strategic communication as policy design tool, rather than something added on once a policy has already been found.

Daniele (2008) notes that in the past, a number of privatization programs in developing countries have proceeded slowly or aborted because of significant misconceptions and opposition among the general public. Whether opposition was voiced by political leaders, labour unions, media, specific stakeholder groups, or the public at large, these programs failed or damaged because steps were not taken to secure the necessary political and social support. Daniele argues that privatization programmes require a carefully conceived and systematically applied approach to communication – one that integrates communication analysis and planning at each stage of the design and implementation. When used effectively, strategic communication can significantly increase political and social sustainability by creating space for dialog and stakeholder participation in the decision making process.

Communication programs create mechanisms for dialog with stakeholders through which expectations for privatization can be managed. The consensus building process needs to be considered at every stage, from initial conception and strategic planning through the implementation. When preparing for privatization initiatives, a government should make effort to engage political parties, managers of publicly owned enterprises, unions, workers, civil servants, business leaders and potential investors, CSOs and consumers about the program's operations and benefits. General consensus may not be possible, but information flow and awareness raising among all stakeholders are often key for success in the program.

A strategic communication programme for privatization serves two broad purposes:

i) It helps to avert failure by identifying current and potential sources of both support and opposition; this information is crucial not only in setting priorities for communication objectives, developing sound messages, and selecting the best possible communication channels, but also in using those channels effectively and creating new ones if needed;

ii) A systematic approach to communication helps to achieve a well-tailored privatization and private sector participation program, serving as a two way check and feedback mechanism at every stage, from planning through execution. Public communication programs offer managers in public institutions and SOEs tools for the privatization process that coordinate well with national economic programs and fit political and social needs.

A sustained government effort to explain the expected benefits of privatization and the reasons for choosing specific approaches and techniques can help build a broad consensus.

4.1.3 Transparency as key element of reform

The sale of a nation's assets by governments is a source of discomfort for those in the political opposition, CSOs, and the general public. The political nature of privatization requires that it must be conducted with integrity and transparency. Transparency is a critical ingredient of improved governance, and good governance. Lack of information and misinformation fuels stakeholders' fears.

Governments can take many steps to lessen fears and to promote an open process that fosters trust. One is being transparent about the condition of the SOE so as to allow the public internalize the ailment. Another measure to build trust is for government to select privatization processes that are simple and foster clarity and transparency. Making all the privatization documents public and publicizing major activities can also enhance public acceptance.

Many privatizations face difficulties due to the lack of transparency in the whole process. Many see such transactions as a way of making money for a few government and other powerful officials and hence, making the process more transparent ensures that it is more or less acceptable to the general public. This implies that a framework must be put in place with a view to ensuring that the principles of good governance and accountability guide the entire process. The decision to pay more attention to garnering information on stakeholders' views and getting them to participate in policy formulation may slow down the process. However, it is worth the while in the end, given that the chances of success are much higher, following such a participatory approach.

4.1.4 Clear objectives

Privatization can be done for different reasons. The benefits that could be attained in the short term could be quite different from the long term potential benefits. This means governments must be very clear on the objectives of privatization in order to be able to put in place the necessary conditions for their successful achievement.

Clarity in the objectives and benefits of the privatization of any entity coupled with timely and clear articulation of the objectives and benefits will marshal support for the programme and mitigate or reduce possible resistance.

4.1.5 Allocating shares

Foreign investors and government aside, the allotment of shares for sale has to reflect political leverage. Government's commonly have an eye to three main groups of domestic political constituents: existing domestic entrepreneurs, the management and workers of the enterprise in question and the general public. Different classes of privatization involve different power balances which have to be brokered in advising in privatization design.

In this respect, selling a controlling stake to a majority investor can be combined with employee share ownership plans (ESOPs), wherein small number of shares is allocated to employees, usually at a discount. The government can also hold onto shares for future sale to small-scale investors - warehousing.

4.1.6 Solid institutional and regulatory framework

Many privatizations fail to achieve their objectives, not because they were improperly executed, but because the institutional and regulatory framework is lacking. Privatizing a hitherto public monopoly could change the status of a firm to a private monopoly. Without the introduction of a regulatory framework to enhance competition, consumers could be in a worse off situation than prior to the privatization. As such, putting in place an appropriate institutional and regulatory framework is vital to the success of any privatization, more so for areas such as telecommunication and air transport.

Where strong and effective regulatory authorities exist, stakeholder interests are accommodated in critical decisions touching on the specific sectors. This coupled with stakeholder (in particular, consumer) education that can be carried out by the regulator will ensure ease in acceptability of privatization efforts.

4.1.7 Stakeholder consultation

Stakeholders of privatization include trade unions, employees, consumers, managers and employees of public enterprises, government ministers and so on. Each of these groups has a different interest in public enterprises and their privatization is, therefore, of concern to all. Given the influence of these different groups and their capability to disrupt any proposed privatization, it is of paramount importance that they are adequately consulted prior to and during the entire process of implementing privatization transactions.

4.1.8 Social safety net issues

Usually, privatizations will involve some form of retrenchment or layoff of employees. It is therefore important to put in place adequate safety net measures to reduce the potential impact of any negative social impacts. Labour fears can be overcome by a variety of measures and incentives such as outplacement assistance, transitional training and educational programmes, earmarked unemployment benefits. These can help raise the level of acceptability of privatizations. Given the importance of each of the above issues in ensuring the success of any privatization, it is necessary to seriously consider them at the planning stage of any privatization programme and adequate measures put in place to address them.

Nonetheless, it is unlikely that any approach will greatly diminish the strong opposition of public employee union leadership to privatization. The strategies outlined above, however, can significantly decrease the resistance to privatization among public workers.

Some of the approaches that could also minimize displacement of Public Employees during a privatization process include:

i) **Working within the Attrition Rate**; given that the strongest resistance to privatization results partly from the mistaken notion that privatization entails massive layoffs, one method to reduce the negative impact on public employees is to schedule the privatization of functions within the normal rate of attrition. Workers on a given function targeted for privatization are simply shifted to other government work, avoiding any need for layoffs.

ii) **First Consideration by Private Contractors**; another common strategy to reduce the impact on current employees involves encouraging or requiring contractors who get contracts with the privatized enterprise to offer first consideration for employment openings to all qualified public workers. Private contractors are usually quite happy to have access to an experienced labor pool. In adopting this policy, however, government officials should be careful not to constrain contractors with burdensome mandates.

iii) **Early Retirement Incentives**; given that privatization often entails a reduction in the overall labor force, another strategy to avoid layoffs is to entice public workers to leave government employment voluntarily by offering them early retirement incentives.

iv) **Letting Public Departments Bid on Contracts**; allowing public employee units to compete for contracts makes good political sense because it reduces opposition to privatization. It also makes good economic sense. Cost savings from privatization arise from the efficient operating practices that a competitive market promotes.

In Indianapolis, for example, local public employee unions were geared to battle newly elected Mayor Stephen Goldsmith in 1992 after he repeatedly pledged during the election campaign to increase privatization. The expected confrontation never materialized, however, because Goldsmith switched the emphasis from privatization to competition shortly after taking office.

(v) **Training Assistance**; one strategy that enhances the chances of successful bidding by public departments is to train the managers and workers in productivity, cost-saving strategies, and customer service. Workers and managers may require new skills to excel in a competitive environment. Training allows them to gain the knowledge and skills they need to make the transition as painlessly as possible and can increase their awareness of the need for continuous improvement and productive efficiency.

(vi) **Structural Incentives;** in many instances, incentives for public-sector managers fail to promote the efficient allocation of resources. There are a number of strategies that government executives can pursue to change these incentives such as:

- Gain Sharing where the governments may consider sharing part of the savings from implementing privatization with department employees. One option is to set up a public employee stock-ownership plan (PESOP). With a PESOP, each time the department secures a privatization savings for its intracapital fund (a quasi-independent entity), a certain percentage is issued as stock in the entity to the employees.

- Employee Ownership is another technique used to ease employees' transition from public to private employment. In this case a privatization is structured to offer employees an ownership interest in the privatized enterprise. The term "employee ownership" embraces a number of strategies that result in employee stock ownership. Such arrangements are typically structured through Employee Stock Ownership Plans (ESOPs), which give workers a stake in performance.

5.0 CONCLUSION AND RECOMMENDATIONS

5.1 CONCLUSION

Privatization has been proven, through various studies as a cost-effective technique for delivering public services. Nevertheless, because of resistance from various stakeholders including politicians, public employees and their unions, many state and local governments fail to pursue privatization opportunities. The result: taxpayers are forced to pay more for services than they would in a more competitive market.

This dilemma need not occur. By developing comprehensive employee adjustment and incentive programs before pursuing privatization, governments can substantially reduce the negative impact for current employees, thus reducing their resistance to privatization. Winning the support of employees is essential to successful privatizations. Some countries have given shares to employees or privatized through employee and management buyouts. Others have offered generous severance packages. Privatization becomes easier as countries develop programs to protect the vulnerable.

In dealing with public perception the process matters, Privatization must be based on transparent and competitive bidding, with the criteria for selecting buyers carefully specified in advance. The entire process should be done in the open, in full view of the media and the public. On the other hand, where citizens believe that the exercise will result in transfer of assets to foreigners, privatization methods that encourage broad-based ownership can help win popular support for privatization. One approach for example adopted in Russia, Czech Republic and Mongolia is to distribute privatization vouchers to citizens to be redeemed for shares. Another approach adopted in a number of countries is to make an Initial Public Offering of shares to citizens at attractive prices. Both approaches can be designed to make room for a strong strategic partner with the incentive and expertise to effectively restructure the enterprise.

In dealing with the fear of private monopoly and protecting consumer welfare, regulatory reform is another important accompaniment to privatization. Deregulation to remove artificial monopoly privileges and development of a regulatory system that credibly restrains the abuse of economic power in non-competitive markets is essential. Efforts to reduce problems encountered in the process of privatization and increase the benefits have led many to focus on some key issues: These include:

i) Greater attention to social and political concerns

ii) Encouraging prospective buyers to outline future investment plans

iii) Linking privatization programmes with broader development and private-sector promotion strategies

iv) Broadening company ownership to include employees and the general public

v) Ensuring better follow up and monitoring.

It is also important to note that privatization must not be done in an ill-prepared and hasty manner. There must be adequate assessment of the information needs, constraints, resources and time required to carry out effective transactions. Emphasis should not be on numerical targets, but should be on the quality with which a privatization is conducted. In addition, a sustained government effort to explain the expected benefits of privatization and the reasons for choosing specific approaches and techniques can help build a broad consensus.

5.2 RECOMMENDATIONS

From the foregoing, and in order to minimize resistance to the implementation of Privatization Programme in Kenya, this paper recommends the following:

(i) The Commission may consider designing and implementing a communication strategy for the Privatization Programme. This will create mechanisms for dialog with stakeholders through which expectations for privatization can be managed. It will also serve to educate the stakeholders of the objectives and benefits of the privatization exercise.

The strategy should enable the Commission identify current and potential sources of both support and opposition to the privatization and prepare adequately on mitigation measures. It will also serve as a two way check and feedback mechanism at every stage, from planning to implementation.

(ii) Stakeholder consultations – given the importance of stakeholders in the privatization process, the Commission may consider stepping up consultations with stakeholders during the design of the Privatization Programme and prior to and during the entire process of implementing privatization transactions.

(iii) Inclusion of employee ownership schemes in the privatization proposals - in this case, there may be need to structure privatizations to offer interested employees an ownership in privatized enterprise.

(iv) During the implementation phase of any privatization, the Commission may consider ensuring that privatization is based on competitive bidding with the criteria for selecting buyers carefully specified in advance. The Commission may consider undertaking the entire process in the open, in full view of the media and the public. Publicizing major activities can enhance public acceptance.

(v) The proposed methods of privatization could as much as possible encourage broad based ownership to gain public and political support. This should however include incentives to accommodate a strong strategic partner, where necessary, to bring on board technical and financial resources to strengthen the entity.

(vi) There may be need to ensure that the Commission is underpinned by a strong law that empowers it to overcome opposition from vested interests. Such a law could accord the Commission administrative authority that requires entities to be privatized and government ministries to comply with its requirements.

(vii) In all cases, the Commission may consider ensuring that proposals for privatization identify all the different stakeholders and their interests, analyse the impact of the privatization on the stakeholders and include in the privatization proposals measures that will address any adverse impact on the stakeholders. In this case, transaction advisors could be required to identify all stakeholders and their interests, and to propose ways of dealing with the interests during the preparatory work of any privatization.

(viii) The Commission may consider developing a mechanism to monitor institutions post-privatization so as to ensure that the privatized institutions operate within the objectives of the privatization. This will also ensure that challenges faced post-privatization are identified early and corrected while at the same time building public confidence through ensuring stakeholder interests are not ignored. The success of concluded transactions post-privatization has a major bearing on public perception as far is current privatizations are concerned and it should be to the Commission interest to ensure that concluded transactions are evaluated and monitored for corrective action to be taken at an appropriate time.

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