

Bureaucracy and Privatisation in Nigeria: a Critical Assessment of Bureau of Public Enterprises, 1999-2007

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Abstract

The paper seeks to critically assess the impact of bureaucracy in Bureau of Public Enterprises (BPE) in the privatization of Nigerian public enterprises between 1999 and 2007. The BPE was established basically to privatize Nigerian public enterprises. Since the enactment of the BPE Act which is officially known as Public Enterprises (Privatization and Commercialization) Act no. 28 of 1999 and the subsequent inauguration of the agency's parent body-National Council on Privatization (NCP). The bureau has been faced with many challenges over bureaucratization (red tapism) been one of them. To achieve this objective, data was sourced by using a mixed-method approach which is basically a combination of primary and secondary methods. The primary data was sourced through interviews and personal observations whereas the secondary data was textbooks, journals, magazines and government/official publications. Analytical method was used to analyze data. The paper therefore, contend that despite the BPE Act, the performance of BPE have continued not to match with the public expectations and therefore replete with various contradictions because of over bureaucratization.

Keywords:

Bureau of public enterprises,
Bureaucracy, Public enterprises,
Privatization and Nigeria

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Background to the Study

After decades of proliferation of state owned enterprises or public enterprises in all sectors of the economy and operated virtually as a monopolist with the no clear competition from outside, the Nigeria government in response to the worsening economic situation, altered some of the basic structure of the economy. The Economic Stabilization Act meant to 'revamp' the economy was introduced in April 1982. This was done through the imposition of austerity measures and measures to control smuggling (FGN, 1982). In 1984, the government introduced more drastic measures to prune expenditures, including a wage freeze and banning certain imports and changing the colour of various denominations of Nigerian currency (Naira). The essence of the currency issue was indeed an attempt to demonetize notes smuggled out of the country and used in black market (Abdulkadir, 2011, p.7).

By the late 1980s, it became apparent that Federal Government of Nigeria needed to build and establish private sector driven economy to ensure provision of efficient and quality services, improve infrastructure, local manpower development and free government revenue from the active financing of public corporation.

But a search for solutions to the problem of public enterprises began well before the 1970s, in that successive Nigerian governments had recognized the problem and commissioned numerous studies, starting as far back as 1969 (the Adebo Commission) and continuing in 1973 (the Udoji Commission), in 1981 (the Onosode Commission), and in 1984 (the Al-Hakim Commission). All the studies came to the same conclusion: that the public enterprises were inefficient, corrupt, and a burden on the Treasury, and radical measures were needed to deal with them. The result was the promulgation of Privatization and Commercialization Decree No. 25 in 1988, and subsequently Act No. 28 of 1999. These provided the basis for a radically different approach to the public enterprises (Okonjo-Iweala, 2012, pp.38/9).

Despite the consensus on the need for action, privatization got off to a slow start, not least because of emotional and political issues related to the sale of national assets. In 1986-87, some agricultural commodity boards and several units of the Nigerian Livestock Production Company were liquidated. In August of 1989, a Technical Committee on Privatization and Commercialization was created to facilitate the privatization process. A total of 111 enterprises were slated for privatization, but only 55 had been sold by 1993. The privatization programme was suspended during the Abacha/Abubakar respectively administrations (from 1994 to early 1999) (Jacob, 2009, p. 441).

In 1999, the democratically elected government of President Obasanjo launched and reinvigorated the privatization and commercialization programme, including the modification of Decree 25 on privatization and its enactment as the Privatization Act. In a July 1999 speech at the inauguration of the National Council on Privatization, Obasanjo accused public enterprises of gross incompetence and mismanagement, blatant corruption, and crippling complacency. The Bureau of Public Enterprises, under the leadership of Mallam Nasir El Rufai and later (2005-2007) Irene Chigbue, was strengthened, and a methodology and an institutional framework were put in place to guide the privatization,

commercialization, and liberalization programmes (Okonjo-Iweala, 2012, p. 39). It appears therefore that BPE main aim of privatization has failed because it was unable to meet public expectations. In fact, the fundamental component or basics of privatization are discarded because of bureaucracy in the conduct of the exercise.

These arguments are examined in five sections including introduction. Section two outlined the theoretical framework. Conceptual framework is section three while section four examines bureaucratic constraints in BPE in the privatization of Nigerian public enterprises. Concluding remarks ends the paper in section five.

Theoretical Framework

The administrative theory that suits and explain privatization in Nigeria is New Public Management (NPM) or what the Minnowbrook Conference refers to as “New Romanticism” (Waldo in Sapru, 2011, p. 447), which was part of rebellion, shift and counterculture of the inadequacies of the traditional arts of public administration linked with poor performance, waste, inefficiency and ineffectiveness. The old and orthodox government administration, unable to deal with rapidly changing social, economic and social orders, in that government bureaucrats are more considered to be self-interested more individuals that are set to maximized their own welfare without considering the interest of the society. They pursue objectives that differ from the state-owned enterprises, hence faceless monitoring as a result of self-seeking motivation attributes of individuals.

The degree of bureaucracy within the organization has more to do with the cultural norms and type of enterprises. In view of the incompetence of regulating large utilities, the old public administration lacked the explicit ideological philosophical framework and support of an activist role for the administrator in the pursuit of social equity. That is why Solanke (2012) see the essence of New Public administration/management as a paradigm shift from orthodox rigidity, excessive rule domination, and hierarchical constraints that led to delays and misplacement hence lack of innovation, intuitive and corruption among others in the bureaucracy.

These do not enhance the realization of the desired result of effectiveness, efficiency and positive demand of a rapidly globalizing world confronted by diversified competitive consumer goods as a result of scarcity of challenges in resource mobilization and allocation. It was felt that NPM regenerated would become relevant to an agitated globalizing society and serve as the instrument for guiding social changes. More consideration would be given to the external relationship of public organizations and to the effects of their actions of public administrations and to the effects of their actions of public administration was to be less insular. Thus, says Savage in Sapru (2011), “there is growing evidence that the institution of public administration has failed to finish what they set out to do and, worse are now suspected of aggravating or intensifying the very problems they were designed to solve” (p. 448).

Therefore, the tenets of NPM stresses four themes namely- relevance, values, equity and change. The NPM was normative, rejecting the fundamental tenets of behaviorism and

procedural neutrality of orthodox public administration and validly supporting an activist role of the administrator in the pursuit of social equity. Waldo in Sapru (2011) supported “organizational participation”, “decentralization”, and representative bureaucracy as part of the NPM movement. Organizational participation was to be a means of promoting changes and dispersing power within the organization. Like participation, decentralization was intended to diverse power and increase citizen involvement in governmental and organizational processes. Whereas, representative bureaucracy was meant to, produce client-centred administration and representation of clientele interests by administrators (p. 449).

For NPM to thrive in Nigeria and the developing world in general, there is need for organizational participation as to reduce government expenditure; decentralization as to balance and avoiding fiscal shortfall and representative bureaucracy as to minimize public bureaucracy and regulation, and enhance the attainment of the goals of designing maximum scope for private sector and getting resources at its disposal. Hence the manifestation and the desire of NPM policy tool is privatization.

Conceptual Framework

The concepts that are central to this course are bureaucracy and privatization. The concept of bureaucracy has been broadened in the popular parlance as there are authors. That was why Martin Albrow contribution in Idode (1989) did not attempt to harmonize the different opinions of the concept but accepted the fact that there is no consensus among scholars on what the concept of bureaucracy definitely means:

Several alternative and modes present themselves. If one wished to highlight the fragmentation of the literature, it would be sufficient to present concepts of bureaucracy according to the disciplinary affiliation of the authors. Historians, political scientists, sociologists and social psychologist have in general preferred to discuss differing concepts of bureaucracy within their own discipline rather than to seek for similar concepts in other discipline (p. 11).

But Max Webber in Guy Peters (1989) see bureaucracy as large-scale organizations with a pyramidal structure of authority, which utilizes the enforcement of universal and impersonal rules to maintain that structure of authority and which emphasized the non-discretionary aspects of administration (p. 3). While to Ekong (2003), bureaucracy are large complex organizations where rules which individuals must follow in carrying out tasks exists, high level of specialization or division of labour. Positions are arranged hierarchically i.e. one is subordinate to the other in a vertical manner. These offices are impersonal and are filled with persons with stipulated qualification (p. 127).

On his own part, Karl Marx sees bureaucracy as an instrument of class domination, exploitation and oppression. But more importantly, it sees a bureaucracy as an instrument used by the ruling class to accumulate capital. This fundamental motive or driving force of

bureaucracy is usually not projected by the ruling class as efforts are consistently made to project it as a developmental instrument. It is in this respect that Ganain Obasi(2005, p. 56) rightly pointed out that the bureaucracy usually marks its domination by interposing itself as the general interest smoke screen between the exploiters and the exploited.

For purposive point of view, bureaucracy can be regarded as an organization that maximizes efficiency in administration or an institutionalized method of organized social conduct in the interests of administrative efficiency whose its influence in the implementation process consist in the fact that the bureaucracy can interpret, alter, delay, promote, reevaluate and otherwise slope much of the substance of a policy while implement it (Rosenbanm in Eminne, 2005, p. 96).

Privatization is not new and means different things to people and schools of thought or scholars. That is why Florida House of Representatives Committee on Governmental Operations in Uzochukwu (2003) refers to privatization as engaging the private sector to provide services or facilities that are usually regarded as public sector responsibilities; shifting from publicly to privately produced goods and services; transferring government functions or assets, or shifting government management and service delivery to the private sector; attempting to alleviate the disincentives towards efficiency in public organizations by subjecting them to the incentives of the private market and using the private sector in government management and delivery of public services. Summarily, it can be seen from all definitions that privatization involves ownership change from public to private (p. 52)

Bureaucratic Constraints in Bureau of Public Enterprises

A major bureaucratic constraint encountered by BPE is reflected in the status report of the Bureau. The Status Report identifies the following cumbersome stages privatization passes through: (i) advertisement of expression of interest (EOI), (ii) submission of expression of interest, (iii) evaluation of EOIs, (iv) bidding documents, (v) due diligence exercise, (vi) submission of bids, (vii) evaluation of technical bids, (viii) financial bidding round, (ix) signing of final documents, (x) financial close, and (xi) transfer of management control (BPE, 2007, p. 23).

A legal officer in the office of the DG, as well as other respondents, expressed the view that these numerous stages of privatization are susceptible and part of impediments to smooth move of and achievement of the agency' goal. In his remarks, 'these prolonged stages give room for more bureaucratic influence in that the staff of the Bureau may be interested in adhering to due process and may not set aside the rule of law because of the existing law'. In the area of manpower, some staff of the BPE interviewed revealed that the Bureau lacks proper manpower planning as the organization is not only under-staffed but neglects regular staff training and development. This explains why a schedule officer in the office of the Vice-President (NCP matters) said the BPE relies essentially on consultants sourced locally and internationally such as USAID and World Bank technical assistants. An observation of the Status Report of the BPE shows that the staff strength of the Bureau was only 174 at 2007. Even the recruitment process, staff training and development as indicated by a former DG,

Dr. Bala, are characterized by nepotism, excessive politics and other extraneous factors (Odunuga 2011, p. 8).

The Bureau, as revealed by the pioneer DG of BPE, Malam El-Rufai is grossly underfunded. For instance, El-Rufai said that in the 2001 budget, the NCP/BPE made a budget proposal of 1.4 billion naira, but only the sum of 520 million naira was approved for it. This 61% cut grossly affected the work of the committee and the conclusion of some of its sector reform activities (El-Rufai in Adeyemo, and Adeleke, 2008, p. 414). These submissions represent the summary of the views of most respondents that the BPE is mostly constraint by bureaucratic factors.

Another is the issue of monitoring of privatized companies in all sectors, some interviewees from the BPE as well as civil society organizations revealed that post-privatization monitoring became effective only from 2007 when a separate unit (post-privatization monitoring) was established. This shows that between 1999 and 2006 little or no form of monitoring was exercised over privatized firms. This contravened a key aspect of privatization guideline/rules that required the BPE to carry out periodic monitoring of privatized firms in order to ascertain their level of performance and compliance with privatization agreement. The BPE staff interviewed admitted that since post-monitoring unit was non-existent, they were not detailed to visit privatized firms for the purposes of monitoring performance. The former Secretary to Federal Government (SFG), who was also a member of NCP, in a telephone interview with us affirmed that the BPE was not effective in post-Privatization monitoring, due mainly to a structural deficiency in the BPE (Onagoruwa 2011, p. 70).

Also, an erstwhile DG of BPE, Dr. Bala, attributed non-monitoring of privatized firms to lack of funds and adequate manpower. In his words: “we woefully failed to carryout the post-privatization monitoring due to paucity of funds and manpower” (Odunuga, 2011, p. 8). The successor to Dr. Bala, Mrs. Chigbue, revealed that the problem of non-monitoring of privatized firms stems from the unwillingness of privatized firms to grant access to the BPE. She said most privatized firms were hostile and unco-operating to the BPE personnel on monitoring duties (Okara, 2011, p. 19).

Furthermore, according to the Director of Services in the BPE, the operating environment is not conducive to regulating and monitoring privatized companies. The national president of Academic Staff Union of Universities (ASUU) shares the same sentiment with the director. From their views, there is the absence of sector regulators and the anti-competition laws and commissions. In addition, the BPE is handicapped with appropriate manpower hence the BPE is overwhelmed by several regulatory responsibilities. Above all, the current DG, Bola Onagoruwa, averred that they were not given access to monitor privatized companies as soon as the new management takes over the companies. She further asserted that before now no fiscal and physical facilities for post-monitoring was put in place by BPE to assess the impact of privatization resulting in little idea of the expected or actual outcome of the privatization programme (Onagoruwa, 2011, p. 8). From the foregoing, the general views of our respondents is that the BPE failed in its responsibility to monitor privatized companies due mainly to absence of post-privatization monitoring directorate to carry out routine

monitoring of privatized enterprises and failure of the core investors and concessionaires to comply with the covenants of Share Purchase Agreements (SPAs) and Post Acquisition Plans (PAPs).

On the level of exchange programmes or institutional interface between the BPE and similar agencies in the United Kingdom, United States and other countries, some staff of the BPE affirmed that there were pockets of exchange programmes with similar agencies but that such exchange programmes were not intensive enough to improve corporate governance practice in the BPE. Our respondents among whom are members of the academia and research institutes gave paucity of funds and poor policy direction (lack of administrative will) as some of the reasons for minimal exchange programmes. A human resource officer specifically said that less than 8% of the staff has been involved in such exchange programmes since the establishment of the Bureau in 1999 (BPE Status Report, February, 2007, p. 18).

It was further revealed that the said minimal exchange programme between the BPE and similar agencies was due to the fact that the operations and governance practice of BPE revolves around successive leadership rather than systems. The pioneer DG of BPE, Mallam El-Rufai attested to this in his submission before the Senate Ad-hoc committee probing BPE. In his views, the BPE was characterized by leadership rather than institutional rules. This, he said, explains why Obasanjo rejected his advice and recommendation on the appointment of his successor and went ahead to appoint an “incompetent person who did not have any knowledge of privatization to succeed him”. According to El-Rufai, the former President appointed someone who was literally dismissed from the Bureau on corruption charges. In his words, 'that was the beginning of discarding rules, doing things capriciously, promoting people from one level to three levels, and the institution has suffered from it since then (Umoru, 2011:5).

The organizational structure of the BPE, in the views of the Director of Infrastructural Networks as well as members of the media is defective. While responding to questions on the effectiveness of the Bureau's organizational structure in service delivery, the Director noted that BPE encounters severe administrative challenges that have impeded its effectiveness. He said the central location of the BPE in Abuja with no regional offices constitute a major constraint in its operation, as the Bureau is not able to monitor several privatization transactions effectively. The organizational structure of the BPE is over-centralized. It was observed personally that BPE have only one corporate office in Abuja. The pioneer chairman of the House of Representatives Committee on Privatization also aligned with the Director of Infrastructural Networks when he said in an interview with us that 'over centralization of BPE and its operation in Abuja makes it incapable of evaluating performance of privatization programme on a large-scale'.

The failure of the BPE to fulfill its part of the privatization agreement in terms of counter-part funding, provision of infrastructure and creating enabling environment was revealed by members of the organized private sectors and the Director of Oil and Gas in the BPE in one of our interview sessions in Abuja respectively. In the area of provision of infrastructure and

creating enabling environment, the Director, however, emphasized specifically, that they are responsibilities of the government and not the BPE, even if the latter entered the agreement with privatized firms on behalf of the federal government. A member of the NCP between 2003 and 2007 who earlier served as Chairman House of Representatives Committee on Privatization between 1999 and 2003 acknowledged that infrastructural deficit in terms of poor road networks; unstable power supply, dysfunctional transport system as well as high level of insecurity have adversely affected operations of privatized companies.

Post-Privatization monitoring by the BPE shows that the agency recorded zero percent between 1999 and 2006. However, from 2007 to 2010 the Bureau has monitored the performance of sixty four (64) privatized and concessioned enterprises. Out of the 64, 38 constituting 57% of the privatized enterprises are performing satisfactorily, 10 of the privatized enterprises (constituting 15%) are performing fairly satisfactorily and 16 (constituting 28%) are performing poorly (Onagoruwa 2011, p. 70). But the Senate Ad-hoc Committee report contradicted these claims as only 21 out of 64 post privatized monitored firms are performing satisfactorily while 34 are performing poorly (Senate Ad-hoc Report on BPE, 2011, pp. 140-142).

Another important bureaucratic constraints found in the BPE are mainly associated with the cumbersome processes involved in the privatization programme ranging from advertisement for expression of interest, submission of expression of interest, evaluation of expression of interest, bidding documents, submission of bids, evaluation of technical bids, financial bidding rounds to transfer of management control, among others. These processes lead to considerable delays in the processing of application forms and in determining preferred bidders (Otobo, 2002).

Furthermore, the organizational structure of the BPE is also found to be over-centralized. The BPE is located in Abuja and has no regional or state offices. This makes it difficult for the agency to effectively monitor or appraise several privatized firms in line with its mandate. As Adoga (2008, p. 7) remarked, 'several of the BPE staff are so enclosed in their offices that they hardly interact with their colleagues or evaluate developments in the industry or public opinion'. As part of bureaucratic challenges, our study also showed that the BPE is grossly underfunded. El-Rufai in Okutaolube (2002) laments that:

The National Assembly appropriated only N406,056,000 to the BPE in the 2002 budget as against the N1.6 billion proposed. A breakdown of the BPE proposal showed that out of No.6 billion proposed as personnel budget only N116 million was appropriated. In the recurrent expenditure, N240 million was appropriated out of the N329 million proposed while no approval were received in capital expenditure, NCP committee, advertisement, Bilateral commissions and counterpart funding (p. 21).

Due to paucity of funds, the BPE seeks financial assistance from World Bank and International Donor Agencies, which in most cases are not easily accessed (BPE, 2001, p. 31).

In addition, large scale financial mismanagement also manifested in the BPE. A former DG of the BPE, Julius Bala, revealed to the Senate Ad-hoc committee probing the BPE that the management of the Bureau under El-Rufai was indicted by World Bank mid-term report. According to the report, there were no proper internal audit arrangements. Manual financial system was used. There were major lapses in the retirement of advances; inadequate transparency income transaction, fiduciary oversight and accountability of Privatization Proceeds Account (PPA) were inadequate. (Ehikioya 2011, p. 4).

Leadership recruitment process in the BPE was found to be defective as due process and institutional guidelines were not adhered to in the appointment of the management of the agency. In his submission to the Ad-hoc Senate committee probing BPE, Malam El-Rufai, the pioneer DG of BPE, said incompetent persons were appointed as DGs and Directors in BPE. He cited an example 'where somebody who was literally fired from the Bureau was appointed to succeed him'. He adds thus, 'they came as bigmen because they saw the BPE as a 'Cash Cow', thus, the BPE and the Privatization exercise became awash with charges of excessive Presidential interference' (Imobo-Tswan 2011, p. 4). It is the lack of adherence to transparency and excessive Presidential fiat in appointment of persons to the management of BPE that gave rise to incessant 'hiring and firing' of DGs by the Presidency. Apart from the pioneer DG who completed his term of office, no other DG has successfully served out his or her term of office from 2003 to date (Orluwene, 2013).

Apart from the over the years, the BPE was found to have failed in honoring its contractual agreements and obligations necessary for the full realization of the goals. In the areas of Ajaokwuta Steel Company Limited (ASCL), National Iron Ore Mining Company (NIMOC) and Delta Steel Company (DSC), BPE, through the federal government, failed to dredge portions of the Escravos bar to Warri relevant to the companies' operations. The BPE through the federal government also failed to construct rail lines and lower oil pipe lines. These facilities are intended to facilitate the operations of these privatized firms. The implications of the failure of the BPE through the federal government, to meet these contracted agreements are captured by Okereocha (2011, p. 36) in the following words:

Had the rail line been completed and terminated in DSC, it would have made the supply of iron ore to the plant easier and also opened the way for the required bulk raw materials and finished products to be moved up north. If ASCL must produce as per the original design, experts say that loads of cooking coal would be required and that can only come in by ship via the DSC harbour. This is the original design. Tied to the rail and shipment issue is the failure of government to dredge the Escravos Bar to accommodate big vessels of up to 50 tonnes (p. 36).

This is similar to the case of Aluminium Smelter Company of Nigeria (ALSCON) where the BPE entered an agreement with the core investor that Imo River should be dredged before commencing of post-privatization activities. The federal government and the BPE also failed to ensure reliable gas supply which has not only hindered effective implementation of the company's strategic business plan but has resulted in the suspension of operations on six

occasions. These disruptions cost millions of Dollar in remedial work and lost production (Akpan and Akpan-Nsoh, 2011, p. 65).

Beyond the gas challenges the company has witnessed two militant attacks, which resulted in the kidnap of the pioneer managing director and six other expatriates. Above all, Nigeria does not have the technology and basic infrastructure like constant electricity; good road network, rail way system, water, and high industrialization, thus, privatization might not work easily in the economy (Adeolu, 2011, p. 19).

The subsisting organizational structure of BPE was found to be defective and impaired proper operations of the agency. This is the basis for recommending a decentralized BPE in a manner that will see offices of the agency established in six geo-political zones. The merit of a decentralized BPE is that the agency will effectively carry out post-privatization monitoring of firms that are outside the Federal Capital Territory. As a matter of fact, most privatized firms have their operational bases outside Abuja. The establishment of zonal offices of BPE will ensure effective, regular, organized and detailed post-privatization monitoring in every nook and cranny of the country. It is also believed that proper coordination between the headquarters and the zonal offices will reduce both the time and cost required to carry out monitoring of privatized firm as well as improves feedback mechanism.

Concluding Remarks

The study conceptualized main concepts that are very critical to the study and equally evaluate BPE and established some bureaucratic constraint or challenges that affected the agency's growth. It was discovered that the bureau was under funded, lacks manpower and made no effort in area of manpower training and development (capacity building) among others. The paper therefore recommends that the subsisting organogram of BPE is over centralized and therefore defective, hence should be decentralized to enhance effectiveness in carrying out its pre and post privatization monitoring etc. The agency should be properly funded to minimize tampering with privatization proceeds, honour contractual agreements and reduce dependence on foreign donors.

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