PRIVATISATION OF PUBLIC SECTOR UNDERTAKING REMEDIES AND CHALLENGES

INTRODUCTION

The role of economic arrangements in the promotion of a free society is twofold. On the one hand, freedom in economic arrangements is in itself a component of freedom, in its broad sense. So, economic freedom is an end in itself. In the second place, economic freedom is also an indispensable means toward the achievement of political freedom. By relying primarily on voluntary co-operation and private enterprise, in both economic and other activities, we can ensure that the private sector is a check on the powers of the government and acts as a bulwark against attack on freedom of speech, of religion, and of thought. Government can never duplicate the variety and diversity of individual action. At any moment in time, by imposing uniform standards in housing, or nutrition, or clothing, government could undoubtedly improve the level of living of many individuals; by imposing uniform standards in schooling, road construction, or sanitation, central government could undoubtedly improve the level of performance in many local areas and perhaps even on the average of all communities. But in the process, government would replace progress by stagnation, it would substitute uniform mediocrity for the variety essential for that experimentation which can bring tomorrow's laggards above today's mean.

There are only two ways of co-ordinating the economic activities of millions. One is central direction involving the use of coercion - the technique of the army and of the modern totalitarian state. The other is voluntary co-operation of individuals - the technique of the market place. The possibility of co-ordination through voluntary co-operation rests on the elementary - yet frequently denied – proposition that both parties to an economic transaction benefit from it, provided the transaction is bi-laterally voluntary and informed. Exchange can therefore bring about co-ordination without coercion. A working model of a society organized through voluntary exchange is a free private enterprise exchange economy. In its simplest form, such a society consists of a number of independent households, with each household using the resources it controls to produce goods and services that it exchanges for goods and services produced by other households, on terms mutually acceptable to the two parties. This arrangement enables the satisfaction of one’s wants indirectly by producing goods and services for others, rather than directly by producing goods for one’s own use. The incentive for adopting this indirect route is, of course, the increased product made possible by division of labour and specialization of tasks. Since the household always has the alternative of producing directly for itself, it need not enter into any exchange unless it benefits from it. Hence, no exchange will take place unless both parties do benefit from it. Co-operation is thereby achieved without coercion. The socialistic pattern of organization of society has a certain texture to it. It is marked by the sacrifice of individual liberty and initiative for the purported grater good.

The limited success of central planning (or its outright failure to achieve stated objectives) was made evident since the fall of the USSR towards the end of the 20th century. The centralised planning is inevitably in conflict with individual freedoms. The fundamental threat to freedom is power to coerce, be it in the hands of a monarch, a dictator, an oligarchy, or a momentary majority. The preservation of freedom requires the elimination of such concentration of power to the fullest possible extent and the dispersal and distribution of whatever power cannot be eliminated - a system of checks and balances. By removing the organization of economic activity from the control of political authority, the market eliminates this source of coercive power. It enables economic strength to be a check to political power rather than a reinforcement.

The government consists of the temporary executive, elected for a few years, as well as the permanent bureaucratic set up. The bureaucratic set up is inefficient, and at times incompetent and corrupt. This is the case in most countries. A bureaucracy tasked with an enterprise isn't successful because the is a dynamic place. Entrepreneurs have to take risks and innovate their businesses. This is the only way they survive and grow. But individuals who are part of government bureaucracy up are inept at doing this. They do not have the entrepreneurial spirit of the businessman. Bureaucrats from the government who are appointed at the head of many of the PSEs do not have a personal stake in the enterprise. If the enterprise is run badly, and incurs losses, it's the tax payers money which is being wated. The bureaucrat does not suffer any personal loss. If the enterprise is run successfully, the government official appointed as the head of the enterprise won't get any great acclaim. So he doesn't have the same stake as the private entrepreneur who runs a business and does so not only with the aim of making money, but also has the aim of creating a legacy of his own.

At the time of Independence, we opted the strategy of planned economic model for development. Leaders of Independent India were mistrustful of the free market capitalist system. The British government had used the principles of free trade to its advantage during its rule over the country. This had led to the drain of wealth from India due to the fact that trade was happening between a well developed industrialised nation and a non industrialised underdeveloped country. The British government during its over 2 century rule in India, had set up the system of the governance, laws, the structure of bureaucracy in a fashion that suited the interest of the British Raj. It was believed that nationalisation and PSEs in general would provide governments access to much needed revenues. PSEs would generate large profits surpluses, which could be channelized to develop the priority sectors of the economy. The private sector would not help in the rapid and sustained development of the economy if left to its own. There was a need to control the strategic industries. If the government controlled these industries, it would be able to steer the economy in the right direction and overcome critical bottlenecks. Thus, for example, in India, while TISCO continued to exist as a major producer of steel for a long time, other private investment was discouraged. National security reasons were sometimes given as justifications, particularly in the context of heavy industries. In India private entrepreneurs may not have been as empowered as entrepreneurs in well developed industrialised countries, due to widespread poverty and lack of basic education amongst a major portion of the population. Many entrepreneurs didn’t have access to adequate capital, partly because stock markets were not well developed.

For a nation, in which had a significant portion of its populace was disempowered at the time, the decision to opt for a planned economic model of development may have been justified. However, we have run the experiment and the results are evident. In the decades since Independence, although the system of centralised planning has been able to protect India’s interest in terms of sustaining certain key industries. The performance of PSEs has been, by and large, unsatisfactory. They incurred losses, or did not make as much profit as they should have, given that they had privileged access to capital, various subsidies and protection from domestic and foreign competition. The entire economy was being mismanaged until 1991. There were huge inefficiencies at each level of administration of Public Sector Enterprises(PSEs). Every loss making enterprise was being run afloat at the expense of the tax payer money.

A lot has changed since the reforms of 1991. The opening up of markets to the world economy has not only made Indian firms more competitive, in terms of innovation, thus providing Indian consumers with better products but also, flow of foreign capital to India has allowed Indian business enabled entrepreneurs to set up their own ventures. This has in turn created jobs for millions. The laws are being reformed in order to support private initiative in business, seeing the great results since the deregulation of industries in 1991. India is one of the biggest economies in the world. We have great prospects for the future. The thrust on equity has created a fairer society in many respects. Now that we have empowered individuals with bargaining power and better negotiating capabilities, we can move towards a private ownership model. This is the most efficient system and it creates the most number of opportunities for the best utilisation of people and resources.

As per a Confederation of Indian Industry analysis, the cumulative losses of the 55 non-strategic central PSEs (listed and unlisted) in the three years from 2016-17 to 2018-19 stood at a staggering ₹ 45,748 crore.[1] An exploration of the merits of privatization in the Economic Survey 2019-20 also affirmed better performance by privatized central PSEs, on an average, than their peers in terms of their net worth, net profit, Return On Assets (ROA), Return On Equity (ROE), gross revenue, net profit margin, sales growth and gross profit per employee.

There is considerable enthusiasm surrounding the privatisation drive, as the discourse this time has not just been limited to the budget document. In fact, government officials have been at work in collaboration with the NITI Aayog for months now, drawing up a privatization strategy. Going by publicly available information, 31 PSEs have so far got the Union cabinet's 'in-principle approval' for privatization. Many notable names feature on this list, such as BPCL, Air India, Shipping Corp of India, Container Corp of India, IDBI Bank, BEML, Pawan Hans and Neelachal Ispat Nigam Ltd, among others, that are expected to go under the hammer in 2021-22. In addition, the ball has been set rolling for the initial public offering of Life Insurance Corp of India (LIC) by the introduction of necessary legislative amendments through the Finance Bill, 2021.

The announcement of strategic disinvestment by the Union government in BPCL led to an increase in valuation of BPCL. As stock markets reflect the current value of future cash flows of a firm, the increase in value reflected anticipated gains from improvements in the efficiency of BPCL when compared to HPCL, which will continue to be under Government control. Strategic disinvestment is guided by the basic economic principle that Government should discontinue its engagement in manufacturing/ producing goods and services in sectors where competitive markets have come of age. Such entities would most likely perform better

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"A privatization plan that heralds the rise of the Indian elephant" by Chandrajit Banerjee, livemint in the private hands due to various factors e.g. technology up-gradation and efficient management practices; and would thus create wealth and add to the economic growth of the country. Therefore, the increase in BPCL’s value when compared to HPCL reflects these anticipated gains

When a PSE is sold off to the private sector, the government gets the sales proceeds. Further, if the PSE had been making losses and was being subsidised, then these subsidies come to an end, which further helps the government. Thus the immediate generation of revenues is supplemented by reduction in recurrent expenditures. But does the government really gain? In the simplest case, the buyer will be willing to pay only so much as the PSE is expected to bring in the future. The PSE is expected to generate a future stream of reruns. The sum of the returns (after being discounted to reflect the fact that a rupee today is more valuable than a rupee tomorrow) is what a buyer will pay. The government would have got the same revenue had it not sold the PSE. Therefore, it would seem that privatisation does not have any real impact on the government's finances. There are two reasons why privatisation might still make a difference. First, a privatised firm might be expected to be more efficient than a PSE. Hence, the sum of discounted returns will be higher than that under government ownership. Secondly, the government, while it privatises, is getting funds immediately. This added liquidity might be desirable for a number of reasons, for example, because the government might want to spend on education or infrastructure.

It is interesting to note that in theory, for a loss-making PSE the price might be negative. This is not very far-fetched. Governments have sometimes given so many concessions to the buyer to induce them to buy loss-making concerns, that in effect the price has turned out to be negative. Proponents of privatisation who focus on efficiency have argued that it can have an important effect on economic efficiency. Two types of efficiency gains are possible: gains in allocative efficiency, and gains in productive efficiency:

Proper allocation of the resources of the economy depends on the prices reflecting correctly relative scarcities of resources. A resource that is more scarce should have a higher price and this would lead to it being used more sparingly. In PSEs, prices sometimes does not reflect scarcities properly. For example, if the government gives a subsidy for an input used by a PSE, the PSE would tend to 'over-use that resource. Or, if a PSE is a monopoly, then it can set its own price. Thus, if kerosene is sold at a very low price, this would encourage adulteration of diesel with kerosene (i.e., over-use of kerosene). It is evident that for PSEs operating in competitive markets, prices would better reflect scarcities and therefore **allocative inefficiency** would be less. Then the gains from privatisation would also be less.

Transforming a public sector monopoly into a private sector monopoly would not automatically guarantee an increase in allocative efficiency.[2] We can expect large increases in allocative efficiency to be achieved when a public sector monopoly is privatised and the market opened up to **productive efficiency**. Productive efficiency relates to the optimal use of inputs in the production process. It has been argued that PSEs are likely to exhibit greater internal inefficiencies than private firms for various reasons. Public managers are given numerous and inconsistent objectives. Instead of control by shareholders who are interested in profit-maximisation, there is bureaucratic control which puts more emphasis on "playing it safe". If productive efficiency requires use of an input that is not available in a competitive market. The manager of a PSE who is required to obtain competitive quotations for almost everything may have no way of obtaining this particular input because there is only one seller.

Worldwide experience shows that implementation privatisation has lagged well behind stated intentions. Barring a few countries, privatisation has been limited to small PSEs of the manufacturing and the services sector. Two kinds of obstacles to privatisation can be identified - implementation issues and political constraints.

Implementation Issues Technical constraints to privatisation are related to both managerial deficiencies and weaknesses within the economy. First, privatisation requires a high level of administrative capacity. In some developing. countries, there is a lack of well-established, competent, management consulting groups, accounting firms and investment bankers. These are needed to provide technical advice and valuation of PSEs. As a result, in some instances, foreign experts have been brought in. Secondly, a valuation of the PSE has to be carried out before it can be offered for sale and the valuation exercise has faced severe problems. Valuation is a sensitive subject politically, because governments want to get high sales price and at the same time the valuation process might raise questions about past public

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[2] "Public Sector: The Good, The Bad, The Ugly" **by** KR Sudhaman

management and investment decisions. There have been inordinate delays in valuation. The problem is aggravated when poor records are maintained by PSEs.

Thirdly, once the valuation has taken place, administrative capacity is needed to assess buyers' bids, arrange finance and insurance and deal with a host of complex legal issues. Sometimes, a comprehensive rehabilitation plan for the PSE has to be designed, evaluated and financed before privatisation is possible. Moreover, appropriate regulatory structures may not exist and have to be set up, particularly when privatisation leads to the creation of a monopoly. Fourthly, capital markets in many developing countries are typically weak and poorly regulated. Large investments in equity are quite unusual. PSEs are some of the largest firms in the country and the private sector may not be in a position to find the purchase of large assets. The private sector may also be suspicious about the government's intentions, given the record of nationalisation in the past. On the other hand, the government may not be willing to sell assets to foreign investors.

SOME CRITICAL ISSUES

Governments considering privatisation of PSEs must first decide on a number of critical issues. Should Restructuring Occur Before or After Sale of the Unit? Most PSEs will not fetch a good price if they are sold in their current condition. For historical reasons, many have excess workers, are burdened with obsolete machinery and technology and are often run bureaucratically. Such un-restructured enterprises will fetch lower prices. One option before the Government is to restructure these enterprises before placing them on the market, e.g., by laying off excess workers, by inducting new workers with appropriate skills, by selling off non-strategic parts of the business, computerisation of operations, etc. These enterprises will then become attractive to private investors who would be willing to pay high prices for them. On the other hand, proponents of speedy privatisation viewpoint argue that the attempt to restructure these enterprises before sales will inevitably lead to delays and the entire momentum for privatisation will be lost. Further, it is doubtful whether the Governments are at all adept at restructuring.

- *How to Deal with the Problem of Laying Off Workers ?*

The overstaffing in PSEs means that the restructuring process would generally involve laying off part of the workforce. Usually, forced dismissals are politically infeasible and only generate more opposition to privatisation. Governments therefore try to adopt some kind of voluntary approach. Components of voluntary approaches that, have been tried out include Monetary compensation (e.g. through voluntary retirement schemes) and Retraining/Redeployment of employees.[3]

Sometimes the Government agrees to accepting a lower price for the enterprise in return for an assurance firm the new owner that employees will be retained even after privatisation. In the East German privatisation programme[4], there is an instance where an enterprise was sold for one deutschmark, because the bidder promised to retain all the workers. Retraining can refer to giving workers training in skills that would help them to become productive members of the PSE itself. Or the aim may be to enable them to find alternative jobs in the private sector. Redeployment can be from one government PSE or Department to another, or it can be to the private sector. The process of laying off workers poses a lot of difficulties. The total cost of laying off workers can be quite high and may pose a problem to cash-strapped governments. The problem has been eased to a certain extent because multilateral agencies are now prepared to lend for severance pay packages. In many industries, salaries in the public sector are higher than in the private sector except for highly skilled employees. Moreover, it might take a long time for a laid off worker to find an alternative employment and their earnings might be close to zero in the intervening period. Further, in most developing countries, the public sector provides health coverage as well as old age pension. The greater job security in the public sector also makes employment in this sector more attractive. If all these factors are to be taken into account, then the required compensation becomes sizeable.

It might also be argued that in developing countries, where job opportunities are so limited, one employee in the public sector might have to support a large number of unemployed members of the family. Loss of this one person's income can affect many more individuals.[5] There is also another subtle problem involved here. Once a severance package has been formulated, only the high-productivity or the superior workers may accept the package and leave, because they are certain of getting jobs elsewhere. The PSE is left with the low-

[3] "Privatization and Labor: What Happens to Workers when Governments Divest?" by Sunita Kikeri

[4] "The Politics of Privatization, Quality of Governance, and Financial Development in Eastern Europe" by Jana Grittersová

[5] "Impact of privatization on employment and earnings" by John S. Earle & Solomiya Shpak

productivity workers. This is called the problem of adverse selection: since the package offered is not tailored to individual needs or characteristics, any employee gets to consider the same package. But only the high-productivity workers find the package attractive and accept it.

- *Should the Assets be Given Away or Sold?*

One way of attempting privatisation is to give vouchers to a group of people who can then use these vouchers to get stakes in enterprises of their choice. The free distribution of vouchers, perhaps to all the citizens of the country, is seen to satisfy the goal of equality and to create stakes in the privatisation process for everybody. The latter could then help to overcome opposition to the privatisation process. However, this method is difficult to implement in large economies. Moreover, dispersed ownership can lead to corporate governance problems. Therefore, many countries have opted for selling of the PSEs rather than giving them away. Those who have money or access to it are usually foreigners or people who have enriched themselves under the old system, and political opposition to the sales to these two groups of people can be quite strong. One easy way of giving away an enterprise is to give stakes to the "insiders", i.e. managers and workers of the enterprise. But this is considered to be inherently unfair to the populace at large, since it is their tax payments, which helped in the setting up of the enterprise in the first place. Further, since valuation of the PSEs is a tricky business, there have been allegations that insiders often manage to grab hold of PSEs at throwaway prices by deliberately presenting a sick picture of the PSEs to the outside world and undervaluing the assets. This is particularly important in transition economies with no experience in putting market values on land, buildings or other assets.

Political constraints

Generally, the costs of privatisation are borne by a small group of people, e.g. the workers of the enterprise who may lose their jobs or the suppliers who may lose favoured contracts. The benefits, however, are spread out over a large number of people, sometimes a very large section of the population. Public choice theory suggests that in such situations, it will be easier to organise opposition to the privatisation programme than support. Experience tells us that in many countries, privatisation programmes fail to mobilise popular support and in fact gives rise to strong opposition. Trade unions, in particular, tend to react strongly against privatisation. Trade union power is often concentrated in the public sector and the public sector provides a base for such power. Unions oppose privatisation, not only because of the direct effect on employment, but also because of a fear that trade union power will be reduced in the private sector.

Enabling Environment

There is a tendency to support privatization with a selective and isolated approach, and to ignore the need to introduce privatization as an integral part of economic reforms and strategy for implementation. Related to the need for policy reforms is the finding that reforms pertaining to public and corporate governance, commercial redressal, and credit recovery are, in practice, difficult to implement and enforce. These findings point to the need for programs at Early Reform Stage.

To enable better monitoring of India's privatization/disinvestment targets, it is advisable that apart from these 31 PSEs, the government draws up a list of other PSEs in which it intends to bring down its share of ownership below 51%, or disinvest fully, in advance. This will also help to improve their valuations before the actual process of selling equity begins. The privatization of non-strategic PSEs listed on the bourses could be given priority, as they are relatively easy to offload, thanks to their publicly-known valuations.
There is also a need to improve the quality of receipts from disinvestment by going in for genuine stake sales, rather than resorting to moves that have one PSE buying another. On the lines of strict regulations in place for third-party transactions, the government should also define principles of corporate governance for PSEs, especially for those which are not listed.

Sequencing

The need for political commitment and the right institutional framework is of paramount importance to avoid delays and implementation constraints. Economic stabilization and trade liberalization programs are essential for success.[6] Deregulation of the banking sector; legal reform; judicial reform; enforcement reform; public governance reforms; capital market development and restructuring to induce competition are needed for best privatization results. Significant too is the need to carry out public governance reforms before corporate governance reforms.

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[6] "Privatization in Developing Countries: A Review of the Issues", World Development, Vol. 17, No. 5 by Nicolas Van de Walle

Regulation

Its vital that unnecessary regulations be removed considering the scope for competition and its potential for unleashing innovation in business. The actions by the regulator may create major conflict, which detracts from the effectiveness of privatization. The larger regulatory authorities are typically structured with a mandate to approve prices, operating expenditure, accounts, quality of output and investments, and to monitor compliance with concessionaire agreements. Where competition has been established, small regulatory authorities consisting of no more than an appointed commissioner and secretarial staff (often covering several sectors) seem to work best. Some merit is seen in transferring the responsibility of regulators for consumer interests to a separate anticompetition trust authority. This limits the role of the regulator to monitoring and ensuring compliance with agreed operational and investment contracts. Overregulation reduces profit and the incentive to invest.

Rapid Privatization

The idea of rapid privatization runs counter to the caution of political leaders and government administrators. While there still remains the need for comprehensive preparation, not readily appreciated is the windfall capital that is raised and available for alternative investment. Enterprise and national efficiency, as well as economic growth, are enhanced on a major scale. Output is expanded, range and quality improved, and prices generally reduced. Industry capacity to export and compete with imports is also found to expand faster following rapid privatization.

Public-Private Partnerships and Welfare Transfer

Some types of PPPs have proven difficult. They are typically structured so that the government retains ownership of the land and fixed assets. Problems that arise relate largely to overregulation and an emphasis on maintaining tariff levels without timely adjustment for variations in factor prices, force majeure circumstances, physical contingencies, and restructuring to create competition. Sometimes, PPPs are unnecessary, and a reflection of opposition to privatization. The example of privatizing, as a lease operation, the plantation estates in Sri Lanka demonstrates the lesser effectiveness of PPPs. Total privatization—as is generally the case—would have been more effective. PPPs are particularly appropriate where the capital costs of new projects are high relative to operating returns.

The tendency of governments to foist, with the sale of PSEs, welfare activities that are not core to PSE operations also enters the politics of privatization. Typical welfare attachments include hospitals, theatres, sports facilities, sponsorship programs, community residences, and schooling. If welfare services are to be provided, then the additional operation and maintenance costs should be factored in as a subsidy. The practice of privatizing without appropriate pricing, adjustment, or subsidy is unrealistic, and the prime cause of public-private conflict.

Social Barriers

There are marked differences over which government assets and services should be retained. The global experience on the matter can be a guide for the way forward. Countries such as Singapore supports the interplay of competitive market forces and the government. In Bhutan, government enterprises function in an environment where the incomes of beneficiaries are so low that the supply of services can be provided only with a subsidy. resistance to privatizing represents an aversion to transferring assets and services to society members who would be enriched by the transfer. These differences emphasize the need for extensive public awareness programs for leaders, constituents, government agencies, and PSE staff on the benefits of privatization.

Tacit agreement for privatization often goes with a lack of commitment within government. This situation arises from misconceptions of the consequences of selling too cheaply, without adequate rehabilitation, without retaining a vested interest, without regulatory controls, and without appropriate due diligence.[7] Prominent staff often defend the capacity of management to operate PSEs efficiently and are not interested in the wider benefits of privatization. These factors point to the need for vesting decision-making powers in an autonomous institution and ensuring that privatisation.

CONCLUSION

The privatization of PSEs has been a recurrent theme on the international development agenda since the early 1980s. Assistance for this purpose from international agencies has been provided through stabilization programs and by improving existing operational efficiencies. Assistance has also taken the form of technical and financial support for

[7] "Disinvestment of Public Sector Enterprise Shares", Mid-year Review of the Economy 1994-95 by KS. Parikh

institutional strengthening, enhancing autonomy, and price reforms. The efforts from governments since 1991 has invest in as few enterprises as possible. However, the process of privatisation has been a slow process. There are many enterprises which are beyond the pale. The government can no longer hold on to such loss making enterprises. At a time when there is an urgent need to raise resources to fund spending on an economy that is recuperating from the COVID pandemic, the money garnered from the privatization process would come in handy. It would also free up government capital and management bandwidth for more productive deployment. Specifically, the revenue intake will prove useful in financing the 34.5% rise that has been budgeted for capital expenditure in 2021-22, which has been targeted mainly at major infrastructure expansion initiatives. This would have a multiplier effect on other sectors of the economy too. Central PSEs were initially created to fill gaps in the economy where the private sector was not willing to invest. Given that the prevailing business environment in India is largely characterized by a dynamic market economy and vibrant private sector, this approach may no longer be required. Privatization is expected to play a significant role in improving competencies within enterprises, along with the building of resource efficiency among units at a time when PSEs have been incurring losses.

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