

9

The Privatisation Experience in Uganda: Prospects and Challenges in its Implementation*

Muriisa Roberts

The profound disillusionment in the North with the record of state involvement in economic and social life has led to a simplistic and rather naïve belief in the magic of the market as the most efficient economic regulator. Globalisation has also fuelled the already growing privatisation drive, bringing a mobile economy in which new direct foreign investments (DFI) have transcended nation-state boundaries and integrated markets. National firms are giving way to multinationals, which produce goods and services in several countries, transforming the 'national' economy. With the breaking of investment barriers, private capital seeks new markets in what had once been the special preserve of state investment: energy, communications, and infrastructure. And governments, anxious to reduce deficits and shift spending to social needs, increasingly welcome this investment.

Privatisation is also part of the new policy agenda, a global export to the South, in part aimed at making the Southern countries become able to pay the debts owed to the Northern donors. Other components of the agenda are liberalisation and democratisation. The assumptions of this ideology are that by cutting their expenditure and allowing private initiatives, the governments would be able to pay back its debts and efficient performance would be enhanced (Hulme and Edwards 1997).

In Uganda, privatisation was largely fuelled by the continued poor performance of the public enterprises (PEs). Like elsewhere, public enterprises at the time of independence were widely seen as the wave of the future (Hood 1994). While these enterprises were created in the early 1960s with a view that they would lead

* The privatisation exercise has been ongoing. Data presented in the chapter is for the period up to late 2003.

to growth and development whose benefits would be distributed equally to all Ugandans, by the 1980s they had rather become like punched holes, draining away resources in the form of subsidies from the government budget. Privatising these enterprises under Museveni's regime since the early 1990s has thus become a central feature of the general reform programme of Uganda's economy. Putting government enterprises on the market for sale (privatising these enterprises) has become one of the main strategies for promoting a fundamental change in Uganda.

In the context of development debates, privatisation is seen as one form of governance (a minimal state) where government's major public spending is reduced. If we are to understand Uganda as a potential nascent developmental state, the country has embarked on a reform agenda in which privatisation forms a key component. Privatisation is seen as a means through which government resources can interplay with private resources to bring efficiency and effectiveness, especially in the industrial sector.

The role of a developmental state in promoting industrial growth

In developmental states, the state is seen as a vanguard of economic prosperity through state-supported private industrial investments. The state provides financial support for capital investments and fosters long-term entrepreneurial perspectives among private elites by increasing incentives to engage in investments. In post-war Japan for example, the state acted as the source of missing capital for industrial investment. The role of government structures was central to the Japanese industrial growth. Evans (1995) notes that 'the willingness of state financial institutions to back industrial debt/equity ratios at levels unheard of in the West was a critical ingredient in the expansion of new industries'. Japan's Ministry of International Trade and Industry (MITI), had the role of approving investment loans from Japan's development bank. MITI's authority over foreign currency allocations for industrial purposes and licences to import foreign technology, its ability to provide tax breaks, and its capacity to articulate administrative guidance cartels that would regulate competition in an industry, put it in a perfect position to maximise induced decision-making.

Another role of the state is the provision of a powerful and competent bureaucracy in implementing and negotiating investment decisions. Both Japan's and Korea's industrial growth owe much of their success to the bureaucracy, recruited from the best institutions and universities; recruited on merit and whose professionalism made it possible to implement investment decisions without delay.

In Uganda, the creation of the Uganda Investment Authority (UIA) was a step forward in the creation of a body that would handle all investment matters, by providing advice and at the same time regulating the flow of investments to follow the national investment plans. Although the state has played a minimal role in the provision of financial capital for industrial growth, it has been

instrumental in providing investment incentives and concessions, which are important for attracting foreign investments. At the same time, the state has been instrumental in negotiating with international financial institutions like the World Bank and IMF so as to provide financial support to prospective investors. Where the state has provided *direct* financial support to industrial investment, performance has been inefficient.

Although several government parastatals/enterprises had completely been run down before privatisation, a good number that have gradually been privatised are now functioning well. Cases in point include Uganda Telecom, Nile Hotel, Uganda Electricity Distribution Company Ltd, Sheraton Hotel (Formerly Apollo Hotel under Uganda Hotels Ltd) etc. All these examples are evidence enough to show that Uganda should surely leave the economy to the private sector and provide only a steering and regulatory role to allow a conducive environment for the business sector to thrive.

Based on these guidelines, it is important to note that the state as an originator of all public policies is central to the success of their implementation. Taken broadly, implementation of any policy is concerned with transforming the policy into action. According to Van Meter and Van Horn (1975: 447), policy implementation encompasses those actions by public and private individuals or groups that are directed at the achievement of objectives set forth in prior policy decisions. This includes both one-time efforts to transform decisions into operational terms as well as continuing efforts to achieve the large and small changes mandated by policy decisions. Implementation of policy determines the nature and success of the policy initiative.

To understand the need for privatisation policy in the Ugandan context and what the experiences have been, one needs to understand the way public enterprises were created in the past and why.

The growth of public enterprises in Africa

Public Enterprises (PEs) are essentially state-controlled enterprises. The government has either full i.e. 100 percent ownership, or a majority of shares (normally above 50 percent). Various theories explain the growth of public enterprises. According to Hood (1994), it can be explained as a functional response to market failure, a product of nationalism and the development of the modern sovereign state, and a product of domestic politics. It is assumed that private markets as allocation mechanisms created unequal distributions of economic benefits in society and as such public enterprises appeared in response to this market failure.

As a product of nationalism, public enterprises were created to ward off foreign competition and create state sovereignty. It was a way forward to creating economic independence. Many public enterprises in African countries were a

response to this consideration. The nationalisation policy was seen as an extension of nationalism in the economic sector. Having got political independence, it was imperative that economic independence also be gained. Therefore, the nationalisation of existing private enterprises and creation of new public enterprises was the answer. African leaders also recognised that there were shortages in the supply of the factors of production necessary for broad-based private sector development. Technical skills, both industrial and entrepreneur, were seen to be in short supply whilst the scale of investment necessary for modern technology exceeded the ability of the indigenous private sector. Domestic private investors lacked the required capital and had no international borrowing power, given their economic position during the colonial days. As such, public enterprises were seen as the only feasible way forward.

The establishment of PEs in Uganda followed the trend that was sweeping the African continent in the 1960s. After independence, countries undertook extensive public investment to ostensibly augment their economic growth (Katz 1992). It was hoped that the nationalised enterprises would lead to equitable distribution of incomes, increased employment and the consolidation of economic independence. The choice of the policy was conditioned by their previous colonial status, resentment of multinational influence, observed market failures and income inequalities within developing countries. Thus the concern was to create an egalitarian style of development. By 1986, there were around 3000 PEs across Africa. In Uganda alone there were about 130 public enterprises (Katz et al 1992:3).

Throughout the ensuing years, however PEs proved to be poor performers. These enterprises were marred by corruption and staffed by bureaucrats who were incapable of taking decisions that required quick responses to commercial opportunities. In addition, decisions are always affected by political concerns whereas the decisions ought to be grounded and driven by commercial factors (Ratnakar and Kamalesh 2000). Additionally, PEs were found to be economically inefficient; they had incurred heavy losses and were heavily indebted to international lending agencies. By the late 1970s and early 1980s, PEs accounted for nearly one-third of all international borrowing by developing countries. Consequently, the World Bank and the IMF decided that privatisation was the most viable option as a policy instrument to reduce the drain of the PE sector on the fiscal budget. In the late 1980s therefore, privatisation became part of the World Bank's lending conditionality.

Privatisation in Uganda

Privatisation implies a move towards divestment of total ownership from the government (the public) to the private sector. It is defined as the transfer of a function, activity, or organisation from the public to the private sector (Cowan 1990: 6). Gayle and Goodrich (1990) define privatisation as the process of reducing

the role of the government while increasing that of the private sector, in activities or asset ownership. It may include divestiture, the replacement of budgeted public activity by private market mechanisms, consumer co-operatives, co-production, state management contracts and user charges, just to mention but a few. In broader terms, privatisation refers to the introduction of the market mechanisms into the economy.

From the beginning, privatisation in Uganda was part of Museveni's development agenda. For this reason, the state became highly committed to the privatisation drive. The successes registered in the privatisation exercise in Uganda are attributed to this strong political commitment, especially by the presidency. When the NRM took over power in 1986, Museveni announced that there was going to be a 'fundamental change' (Mugerwa 1998). Privatisation became part of the economic recovery programme that was launched to bring this change. The programme got support from the World Bank and the IMF. In 1989, the government was credited by the Bank for its efforts to rehabilitate the economy. A pre-appraisal mission had undertaken a review of the economy in preparation for this credit. Five issues were raised, namely: incentives and regulatory structures; civil service and related institutional matters; revenue generation; public expenditure; and the coffee sector.

Groups comprising of the World Bank and government officials discussed these issues. Although privatisation was not rejected outright, it was considered to be necessary only in the case of poorly performing and non-strategic sectors. The belief then was that PEs making money or others of strategic interest like the Uganda Electricity Board (UEB) and Uganda Airlines would not be privatised. The World Bank argued that it was necessary to put some 'cash cows' on the market to interested buyers and to signal policy change (Mugerwa 1998: 19).

By putting up such enterprises for sale, it would be proof of the government's commitment to the policy of privatisation. As Obbo (1995) argued in the early years of the privatisation process in Uganda, in reference to the imminent sale of Uganda Commercial Bank (UCB), 'putting on the market the UCB which is one institution from which the political class has fattened, the government will demonstrate that it is willing to cut its own pocket'. If the government had backed away from the sale of UCB, the privatisation programme would have stalled and the credibility of the past sales of PEs would have suffered. UCB was eventually sold off to Stanbic, a South African company.

In general, privatisation in Uganda has been difficult to implement despite the many successes witnessed. Initially the government was only willing to sell off loss-making enterprises, not those which interested the private sector the most. The politicians were opposed to privatisation because political leaders considered public enterprises as important vehicles of state patronage. Privatisation posed a threat to the patronage opportunities of those in power whose capacity

to consolidate their position would be undermined. 'Over the years, politicians had been using public enterprises as centres of patronage to reward or appease relatives, friends, political supporters or as sources of profit in one way or another' (Tangri 1999).

Although privatisation was seen as a necessity for Uganda's economic recovery in 1989, it was not until 1993 that a law to guide privatisation was put into place. The 1993 government statute number 9 (Public Enterprises Reform and Divestiture statute), divided parastatal companies into four groups (a) those in which the government would have 100 percent ownership (b) those in which the state would require majority shareholding (c) those to be fully divested (d) those to be liquidated.

Together with the need to sell off PEs came the need to open up the economy to private local and foreign investment. To speed up the process, a clearing agency and one-stop information centre (the Uganda Investment Authority) was created. Its role in the privatisation and investment process was to issue permits, incentives and other regulations, including tax rebates and tax relief and tax holidays, to investors. By 1996 about 2000 investment licences had been issued to domestic and foreign firms. To attract foreign investors, Uganda adopted a generous tax holiday regime: up to 6 years for investments of at least US\$ 50,000. This offer however, attracted criticisms because tax holidays were not related to the potential value-added or employment to be generated by the firms. It merely considered the size of the investment. Tax holidays also tended to favour companies with short lead-time, as opposed to long-term investments such as mining.

Some enterprises which were considered to be strategic and therefore to be preserved under the control of the government have now also been put on the market and privatised. These include the Uganda Electricity Board (UEB), Uganda Commercial Bank (UCB) as well as Uganda Posts and Telecommunications. UEB was divided into two companies, one responsible for distribution of electricity in the country and the other for its generation. In addition talks have been opened up to allow a joint venture between the Madhvani group and a Canadian group to build a dam further down the Nile. It is hoped that the dam will be able to generate about 350 MW of energy. This will ease the power problems which the country is currently facing. Uganda Posts and Telecommunications, was partially privatised in 1998, with the government retaining the postal system under a new name Uganda Posts Limited, while allowing telecommunications to be operated privately as Uganda Telecom Limited (UTL). In addition, the sector was opened up for other telecommunication companies to operate. There are two companies, Celtel and Mobile Telephone Network (MTN), offering private communication services. To compete with the mobile networks a new mobile network, UTL-Telcel (MANGO), was introduced by Uganda Telecom. This has eased communication problems in the country since

customers are no longer tied up to one telephone service provider. All in all, by December 1997, 78 percent of the total 102 PE companies targeted for privatisation by the PERD statute had been privatised, 20 enterprises had been struck off the company register, while 12, were retained by the government, including Uganda Railways Corporation (URC).

Challenges to privatisation in Uganda

In spite of the marked speed in which the privatisation policy was being implemented, the policy met a lot of challenges. In the first place there was little regard made to involve the people that would be affected—in particular the business community and the elite. Successful policy implementation requires an interactive environment in which government and the private sector keeps on interacting and co-operating with one another. However, this has been lacking in the case of Uganda. There were no consultations with the representatives of the private sector when introducing certain aspects of the policy. This dialogue and consultation gap led to government-private sector conflicts. The problems associated with the introduction of the Value Added Tax (VAT) for example, represent one such instance. The business community was ignored and no efforts were made initially to first educate them about the merits of the tax and the details of its implementation. Although the Ministry of Finance invited a few business associates to a 'briefing session' on VAT, the policy itself had already been determined by the Ministry and the IMF (Tangri 1999: 93). Considering the fact that taxes affect investment decisions, it was important that the business community should have been involved from the on-set. This was not taken positively hence the massive resistance from the business community initially, until modifications were made and more sensitisation carried out.

Dialogue between the political leaders and local businessmen, on the other hand, is limited partly because so many government economic decisions are actually determined by the international financial institutions. They constitute important parts of the policy conditionality of the international donors and therefore, not considered subject for local discussions (Tangri 1999). It should be noted however, that although, the dialogue gap existed, the president recognised the urgent need to include the business and private sector in public discourse. To him, government and private enterprises are partners in economic development and their roles are complementary. Thus in 1995, the Private Sector Foundation (PSF) was created with the support of the World Bank. This is an umbrella organisation bringing together private sector organisations. It is supposed to act as a voice for the private sector. Since its inception, the organisation has presented to the government issues concerning fiscal and tax measures, business licensing, tariff protection, and access to industrial land with recommendations from the private sector. The creation of such organisations has eased the tension between government and

the private sector while increasing chances for dialogue and open communication, which are important for successful policy implementation (Van Meter and Van Horn 1975).

To ease the conflicts, private sector organisations have been allowed to evolve. The most influential is the Uganda Manufacturers' Association (UMA). This organisation has members from all regions of the country and is a representative of the manufacturers' interests. On several occasions, the organisation has demanded changes in the tax policy and other decisions. Another influential organisation is the National Chamber of Commerce. This is concerned with trade and business relations both at home and abroad.

The two organisations have had both negative and positive influence on the privatisation policy in Uganda. Although the organisations have been influential in voicing the interests of the groups they represent, the two have exhibited conflicts of interests and have presented an investment dilemma. For example, while UMA advocates for tax increases especially on imports, so as to protect their industries, the National Chamber of Commerce advocates for tax reductions on imports. This has led to conflicts of objectives and the government has at times been divided. On the one hand, it has to satisfy the Chamber of Commerce since it is a body that provides a forum for private businessmen who contribute a lot to the tax base. On the other UMA also has to be satisfied since the government is interested in promoting the local manufacturing sector.

Despite the move to bridge the dialogue gap between the business sector and the government, there still exists a large dialogue gap between the government and civil society, particularly about the overall benefits of the whole privatisation exercise to the Ugandan community at large. The major concern for civil society is that the government did not create avenues in which the public would be educated about the whole exercise and the processes involved. As a result, the public still considers that the whole exercise was meant to enrich the president's family, relatives and political favourites. However, on several occasions, the government has put out radio and newspaper programmes to educate the public about the benefits of privatisation.

Another challenge to the privatisation process in Uganda was the opposition from the bureaucrats. The enterprises as already noted were considered to be cash cows; privatising them meant loss of resources for the bureaucrats. Therefore, despite the fact that privatisation was seen as a necessary step for Uganda's economic recovery in 1989, it was not until 1993 that the law was put into place to make privatisation possible. It thus took long to change the minds of and compel the bureaucrats to act.

Political interference has also limited the implementation of the policy. In 1998, the *New Vision* (Uganda's National Newspaper) presented a report of the parliamentary select committee on privatisation. The report argued that political

interference has undermined the privatisation process. The newspaper highlighted the following anomalies. Although the law requires that the privatisation unit keeps the payments from sales of public enterprises on interest bearing accounts pending the conclusion of the sale agreement, this was not generally done. The law stipulates that successful bidders should pay not less than 50 percent of the full purchase price on settlement, and the balance must be payable within 12 months, but again, this has not been done.

There has also been a lot of political peddling affecting the quick privatisation of some companies, for example, Uganda Air Cargo, the Coffee Marketing Board, Uganda Airlines and Sheraton Kampala to mention but a few. The sale of Sheraton Kampala hotel is worth highlighting, as the deal failed to conclude because of political interference. Facts of the case indicate that, initially, 80 percent of the shares were awarded to Mr. Karim Hirji, a Kampala hotel tycoon, whose bid for US\$ 21 million beat three other bidders. However, MIDROC, an Asian Ethiopian-based company that had bid US\$ 19 million (second to Karim) complained that the whole deal involved foul play. After an investigation by the Inspector General of Government (IGG), the decision to sell to Karim was reversed and the tender awarded to MIDROC. The investigations revealed three Ministers having talked to Karim before the bids were opened. Karim conceded to the reversal but allegedly insisted in private that the trio pay him back the bribe amounting to \$2 million, which he had paid to them so as to influence the award. This incident however, did not end the controversies surrounding the sale of the Sheraton Kampala Hotel.

In May 1998, MIDROC made a down payment of US\$ 2 million as commitment fee but in August 1998 the sale contract was terminated after MIDROC failed to honour up to four extensions granted to pay the remaining US\$ 17 million. MIDROC revealed that three ministers and one top army official failed them because of the continued insistence that they be paid US\$ 2.5 million before the deal was concluded. The four wanted to pay back Karim's initial US\$ 2 million bribe and make a profit of US\$ 0.5 million. In 1999, a parliamentary probe team named the three ministers as Mr. Mayanja Nkangi (Minister of Justice and Former Minister of Finance), Mr. Matthew Rukikaire (Minister of State for Privatisation and a close member of the President's family) and Sam Kutesa (Minister of State for Investment and Planning and also married to a sister of Janet, the wife of the President). The army officer named in the deal was revealed to be Salim Saleh (a brother to the president) (*The Monitor Independent Newspaper*, 3 November 1999). Amidst this revelation, MIDROC was allowed to pay the remaining US\$ 17 million. However, parliament insisted that MIDROC should first declare publicly the names of those demanding the bribe. MIDROC opted to pull out of the deal instead. To date the hotel has not been privatised. This case is a clear manifestation of the kinds of controversies involved in Uganda's privatisation process. One important point to note however is that despite this

revelation of gross corruption by top government officials, they went unpunished, as if nothing wrong has happened.

The other major controversy surrounding Uganda's privatisation policy concerns the money received from the sale of the privatised assets. Members of Parliament (Legislators) felt that they have had little influence on the privatisation process. They also felt that there had been little transparency in the activities of the Privatisation Unit. Thus in 1999, despite the president's insistence that PEs be sold instead of keeping them in the hands of thieving bureaucrats, the parliament directed to suspend the sale. Although the process was resumed in 2000, this evidently shows how different interests can hinder implementation of a policy. One of the most controversial issues was the valuation of assets to be privatised. With considerable expenditure by government on the rehabilitation of these enterprises before they were ready for privatisation, one would imagine the value should have been higher than was being paid. There was considerable public outcry therefore, when it was discovered that the PEs had been sold at give-away prices.

Another problem was the fact that the system of competitive bidding, which was used to sale the enterprises, could not be met by Ugandan businessmen who lacked enough capital base. Many Ugandans were confined to small businesses, service sectors and hotels, while big enterprises like manufacturing were the exclusive domain of Ugandan-Asians. Consequently it was mainly Asians and foreigners (those having connections with state officials) that ended up successfully bidding for and owning the privatised enterprises. This caused further resentment from the already disgruntled (elite) Ugandans. To many Ugandans, this new form of ownership of privatised enterprises was a new form of 'foreignisation' (Mamdani 1993, speaking at a seminar, cited by Mugerwa 1996: 26). It further created a situation in which the president's relatives and political favourites came to run key businesses due to the flawed privatisation exercise. For example, the sale of UCB involved not only shoddy deals with Salim Saleh, but allegations also pointed to the president's son Captain Muhozi Kainerugaba and Ms. Jovia Akandwanaho (the president's brother's wife), as having been involved.

In spite of the weaknesses and challenges cited above, the privatisation policy gained popular support from the elite. Right from the beginning, many urban people had expressed their resentment to state owned enterprises, being clanged on by politicians for political and personal reasons. The urban public expressed their view that state enterprises were inefficient and their divestiture was seen as necessary and beneficial to the economy (*The Market Place*, December 1995: 1).

It should be noted too that there was little resistance from the trade unions and the workers towards the privatisation process in Uganda. This was arguably because workers were getting low pay from state companies put forward to be

privatised. The move to create a strong private sector looked promising with more pay, if production could be boosted.

The challenges mentioned above in the privatisation process in Uganda indicate that the policy has only been relatively successful. Privatisation has brought about few economic benefits to the country, like considerable improvements in both increased output and employment generation. Hima cement industry, for example, which, was privatised in 1994, has increased production to about 600 metric tones per day, an increase of about 500 percent since its privatisation. Employment has also more than doubled to about 800 employees (Mugerwa 1996). Today, the policy is almost near completion, with over 80 percent of the PEs already divested. With continued exposure by the press, the corruption tendencies are slowly giving way to transparent divestiture as evidenced by the eventual sale of UCB to Stanbic.

Conclusion

The main argument in this chapter is that Uganda has had marked success in the implementation of the privatisation process. The chapter has tried to show that in spite of the challenges of implementing the privatisation policy, privatisation has brought marked contributions to the development of the country. There has been considerable improvement in employment sector. The chapter has also shown that there was a strong political commitment to privatise, especially the strong commitment of the president to let go of public enterprises. There was strong commitment (at least initially) on the part of the government to remove the enterprises from the hands of 'thieving bureaucrats' so as to avoid plunging the economy further down the road to retrogression.

The chapter has shown that there were steps made to bridge the dialogue gap between state and society through the creation of institutions representing different stakeholders. With the formation of Uganda Manufacturers Association (UMA) and Uganda Chamber of Commerce (UCC), the dialogue between the government and the business community was restored. The establishment of the Uganda Investment Authority, the enactment of the Investment Code and the putting into place of the PERD statute all made investing in Uganda an attractive venture. It is the creation of this institutional framework that largely explains the success of Uganda's privatisation programme.

Finally, it is important to note that in spite of the challenges depicted above, the economic benefits that have accrued to Uganda from its privatisation initiative provide Uganda as one example from which lessons can be drawn to understand the role of the state in industrial development. Although a state can be handicapped by its lack of finance to facilitate industrial development, it can play other roles to facilitate industrial growth as presented for example in the negotiations for financial capital from abroad and the creation of suitable institutional structures to stimulate investment. I would say that these offer tentative lessons for other African countries.