

**OBAFEMI AWOLowo UNIVERSITY, ILE-IFE, NIGERIA.**

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**PRIVATIZATION IN NIGERIA:  
REGULATION, DEREGULATION,  
CORRUPTION AND THE WAY FORWARD**

**By**

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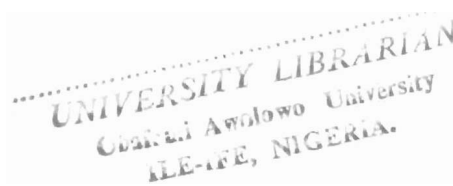


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# **PRIVATIZATION IN NIGERIA: REGULATION, DEREGULATION, CORRUPTION AND THE WAY FORWARD**

**An Inaugural Lecture Delivered at Oduduwa Hall,  
Obafemi Awolowo University, Ile-Ife  
On Tuesday, 27<sup>th</sup> October, 2015**



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# **PRIVATIZATION IN NIGERIA: REGULATION, DEREGULATION, CORRUPTION AND THE WAY FORWARD**

## **PREAMBLE**

The Vice-Chancellor, the Registrar, distinguished Scholars and Colleagues, Students of this great University, Ladies and Gentlemen, it is with humility, pleasure and honour that I stand before you this evening to deliver this Inaugural Lecture from the Department of Management and Accounting, Faculty of Administration. The topic of the lecture is "Privatization in Nigeria: Regulation, Deregulation, Corruption and the way forward".

Mr. Vice-Chancellor Sir, my sojourn at Obafemi Awolowo University started in May, 1989 when I was employed as an Internal Auditor II at the Internal Audit Department of the University. By 1990, the Department of Management and Accounting contracted me as an Associate Lecturer in the Department. By November 1992 when I qualified as a Chartered Accountant, the Department started discussing the possibility of my engagement as a full-time academic staff member of the Department.

The transfer to the Department of Management and Accounting was effected on the 3<sup>rd</sup> of January, 1994 when I assumed duty in the Department as a Lecturer I. The mantra then was that Accounting is a non-researchable discipline, and that beyond debit and credit of transactions, what else can the discipline offer? The fact that was lost then is the realization that Accounting is a broad and lively discipline that covers so many areas like Auditing and Assurance, Financial Management, Ethics and Public Sector Accounting, Corporate Governance, Financial Accounting, Cost and Management Accounting and a host of others.

Mr. Vice-Chancellor Sir, this inaugural lecturer did not only break this jinx but also went ahead to conduct researches in all these areas culminating in the conferment on me of a Ph.D. in 2004 and equally earned a promotion to the status of Professor of

Accounting in 2008 being the first Professor of Accounting to be so appointed by the authorities of Obafemi Awolowo University. The issue of corruption and ethics in our national institutions has gotten to a worrisome state, and incidentally, it is one of the areas that this inaugural lecturer has focused on, hence the topic of the lecture, "Privatization in Nigeria: Regulation, Deregulation, Corruption and the way forward".

## **INTRODUCTION: THE CONCEPT OF PUBLIC ENTERPRISES**

A public enterprise is a business organization wholly or partly established, owned and controlled by the state. Such public enterprises may be established for several reasons including the idea that certain service or product should be provided by a state monopoly. Such services or products may include gas, electricity, broadcasting, telecommunications and certain forms of transport. Most public enterprises are created by law which defines their powers, management structure and relationship with government bodies. The law also gives them legal entity and provides funds to meet their capital requirements though it is expected that they should or would be able to meet their recurrent expenses from their normal commercial operations and activities. Some public enterprises may be ordinary joint-stock companies having their shares owned wholly or partly owned by the state.

Public enterprises may operate side by side with private corporations as in a mixed economic system of the European Union and most other countries. Where the major industries and firms in the economy are owned and managed by the government, the economy is said to be a socialist economy. This was the economic system that dominated Eastern Europe before the fall of the Soviet Union in 1990. In a capitalist system it is the other way round, i.e. where the major industries and firms are privately owned and operated. The early 20th century witnessed increased or widening role of the state in economic activities with the result that even in many countries, industries and sectors such as the post office and public transportation were deprivatized or nationalized to become public enterprises. For example in Britain, under the

1946–50 Labour Government, a massive nationalization programme was effected embracing coal mining, the iron and steel industry, the gas industry, railways, and long-distance road transport. The Conservative government of Prime Minister Margaret Thatcher reversed this process by denationalizing or privatizing many public enterprises. France also went through this nationalization and privatization or denationalization processes. Private enterprises have always dominated economic scene in the United States.

A lot of issues do arise from ownership, management and control of Public enterprises being operated in the public interest. These include political interference, misallocation of resources, loss of revenue, corruption, lack of management autonomy, etc. The 1980s witnessed steady economic deterioration and seemingly dented economic policies. Scarcity of foreign exchange had set in and retrenchment of workers was rampant in both private and public sectors. Inflation and high levels of unemployment affecting both skilled and unskilled workers were the realities Nigeria and many countries had to face.

The origin of these economic difficulties was generally traced to the global economic recession which opened with the decade of the 1980s. Towards the end of the 1980s, the public enterprises, which had grown too large, began to suffer from fundamental problems of defective capital structures, excessive bureaucratic control and intervention, inappropriate technologies, gross incompetence, and overwhelming corruption. Nigeria and other African countries were advised strongly by the Bretton Woods institutions (International Monetary Fund; (IMF) and the World Bank; (WB) to divest from their public enterprises as one of the conditions for economic assistance, and were advised to embrace privatization as an economic reform policy that would help cut the inefficiencies of the public sector, provide greater scope to the private sector, attract more investments, and also revive the failing economy. Nigeria and many other countries had no choice than to embark on privatization and other reforms to pull them out of the imbalances. Since then, the need for privatization

has been emphasized by various countries and has continued to feature in the economic reform policies of various governments.

## **THE CONCEPT OF PRIVATIZATION**

In explaining what privatization is, it is necessary to first explain what nationalization is, even though Ibie (1986) argues that privatization is not denationalization of nationalized business but a process by which the size of an ineffective public sector is reduced by transferring some of its functions to a positively more efficient private sector. Nationalization is the process of transferring the ownership, control and management of a private industry or private assets into public ownership, control and management by a national, central or federal government of a country (Leslie, 1973). In a unitary system of government, such industries or assets may also mean assets owned by lower levels of government, such as municipalities, being transferred to the central government to be operated and owned at the national level. Industries that are usually subjected to nationalization include transport, communications, energy, banking and natural resources and they become State-Owned Enterprises (SOEs). An industry does not have to go through the process of nationalization before it becomes a state-owned enterprise. Such industries include those that are from the onset established by the government to achieve social, political and economic objectives which government believed cannot be realized through government ministries and departments as well as private sector particularly when the provision of essential services to the public is considered more important than making profits.

According to Okorodudu –Fubara (1988), nationalization is a term which describes the broad- scale or selective take - overs of property by government with or without adequate compensation, by the national government as part of its social and economic reform policies for the improvement of the life of the citizens.

Many countries have at one time or the other embarked upon nationalization programmes particularly in the 1960s and 1970s. However, starting from the 1980s the world underwent revolutionary change triggered by the collapse of the communist



regimes of Eastern Europe and the Soviet Union. Privatization swept the world, undoing many of the nationalization of the 1960s and 1970s. Many of the then nationalized corporations went through a process of privatization or denationalization.

Some of the reasons for this are that many state owned enterprises were being run at a loss by the government. They are characterized by low productivity, inefficiency, corruption and nepotism. Most of them have only managed to survive because they depend on government for patronage and subsidies. A time came when government could no longer sustain them due to dwindling resources and other challenges. The only option left for the government is to privatize most of the enterprises so as to make them more productive. Privatization, therefore, is one of the strategies for economic re-engineering embarked upon by governments to remedy or correct the problems associated with state owned enterprises. There are other measures for dealing with the problems of state owned enterprises such as joint venture and commercialization. Privatization is, however, the most common strategy adopted by governments to improve the delivery of services by state owned enterprises. In the opinion of Okorodudu-Fubara, privatization, in a nutshell, is a term or art which may best be described as that component of the government's strategy to restructure the economy by relinquishing fully or partially its ownership of some corporations, parastatals and public owned companies through the sale of its equity shares or ownership of these organizations to private interests, thus reducing the size of an overburdened public sector economy.

While one may be tempted to define privatization simply as the transfer of shares ownership or sale of shares owned by the government in public enterprises to the private business concerns, it is important to note that the term "privatization" has many but related meaning. At one level it refers to the privatization of a public enterprise, whether through divestiture or other techniques. In a narrow sense, privatization implies permanent transfer of control, whether as a consequence of a transfer of ownership right from a public agency to one or more private parties or, for

example, of a capital increase of which the public-sector shareholder has waived her right to subscribe.

While Oladoyin and Asaolu (2004) consider privatization to be the transfer of government owned shareholding in designated enterprises to private shareholders as individuals and corporate bodies, Itheme (1997) defines privatization as any of a variety of measures adopted by government to expose public enterprises to competition or to bring in private ownership or control or management into a public enterprise and accordingly to reduce the usual weight of public ownership, control or management. However, in a strict sense, privatization means the transfer of the ownership (all the incidence of ownership, including management) of a public enterprise to private investors. The latter meaning has the advantage of helping to distinguish between privatization and other types of public enterprise reform. This is the sense in which the term has been statutorily defined in the Nigerian privatization law.

The import of the above definitions is that privatization is not limited to parastatals alone but can be viewed from a broader perspective of deregulation or reduction of state intervention on entire industries. Privatization in essence implies the transfer of ownership and management of public enterprises from state control to private hands for the purpose of achieving economic efficiency. The idea of privatization programme thus presupposes the existence of state owned enterprises (SOES) i.e. enterprises owned by the government in which the government for various reasons is either no longer interested in its ownership and control or in its management (Adamolekun, 2002).

From the above definitions it is also clear that transfer of ownership involves government divesting from a given enterprise by selling its equity or other interests to the private sector. This divestment may be full or partial. Where it is full, it is known as full privatization and where it is partial it is known as partial privatization because the government still retains part of its interest. Where government totally divests from an enterprise, it ceases to have control of the enterprise. Therefore, full privatization involves transfer of ownership and control.

Government's control of a partially privatized enterprise continues, however little.

It is further clear that privatization in its broad form also includes arrangements that lead to a temporary transfer of activities carried out by public agency to the private sector without any need for government divestment. Such arrangements include subcontracting, management contract, franchising contract, leases and the Public Private Partnership (PPP) schemes. Though there are many types of PPP, these have been categorized into three. The first is the design – build- finance and operate scheme in which the private sector designs, builds, operates and manages an asset without any intention of transferring it to the government. Examples of this include the build- own –operate (BOO), build-develop-operate (BDO), and design- construct- manage- finance (DCMF). The second variants are the ones where operators in the private sector buy or lease government assets, renovate and operate them without any obligation to return them to the government. These include: buy –build-operate (BBO), lease – develop-operate (LDO) and wrap- around- addition (WAA). The third type is where the private sector designs, builds an asset, operates and transfers it to the government when the agreement expires. These include build-operate- transfer (BOT), build-own-operate-transfer (BOOT), build-lease-operate-transfer (BLOT), build-transfer-operate (BTO), and design-build-operate and transfer (DBOT) (Odeleye, 2006). A common feature of PPP in the less- developed countries is where the government builds the assets and the private sector is allowed to manage them. In a case where the private sector combines management with maintenance, this is referred to as concession, (Uga, 2000).

Public Private Partnership is based on involving different actors or stakeholders, who may be divided into the following groups:

1. The public sector, whose principal role should increasingly be to create competitive pressures for more effective and efficient service delivery and enable, facilitate, regulate, and monitor partnership arrangements;

2. The formal private sector, which because of its access to financial resources and its potential ability to operate more efficiently, can play a role in financing and providing certain infrastructure services and in construction, operations and maintenance;
3. The informal private sector, which is actively involved in many aspects of services, particularly in low-income areas and whose potential role in partnerships should increasingly be recognized; and
4. The community and its representatives who have direct interest as service users, but who can also be involved in awareness raising advocacy, decision –making and in actual provision of services, including operation and maintenance and even in construction of facilities (Asaolu and Oladele, 2005).

Bearing the above in mind, privatization can be approached from three levels namely: the level of an enterprise within a sector; the level of a sector within an economy and the level of an entire economy. Enterprise level privatization involves the permanent transfer of control, whether as a result of transfer of ownership or management of an enterprise from a public or government agency to one or more private organizations, (Ayodele, 2000).

Sectoral level privatization is a form of liberalization which involves the introduction of competition into a sector formerly monopolized by a governmental agency through the removal of such barriers and obstacles originally erected by Law and other governmental instruments. This can be achieved in two ways. The first is to simply remove entry barriers so as to allow privately owned business entities to operate side by side the government agency which was before then the sole operator. A good example of this scenario is the postal service sector in Nigeria, where private postal firms now compete with NIPOST in the business of mail delivery. The second situation involves, in addition to removing entry barriers, government divestment from an existing monopoly and selling it to private agencies, though such government divestment need not be total. The Telecommunication

sector in Nigeria is a good example of this wherein the government intends to sell NITEL to private actors who would then operate not as a monopoly but as part of the several players in that sector alongside others like MTN and Globacom. Government's effort in this regard has not succeeded because of Government failure to privatize NITEL before liberalizing the sector through competition. And by the time NITEL was still going through the privatization rigour, its value depreciated while the new competitors had taken a larger chunk of the market. The lesson here is that government ought to have privatized NITEL before introducing competition into the telecommunication sector. The economy wide privatization process is that which covers several sectors of the economy. The intensity of this programme in any country is determined by the type of economic system in operation before embarking on the exercise as well as the scope of the reform programme. The programme will be more intense in a mixed economy than in a pure capitalist economy where most means of production, exchange and consumption of goods and services are already owned, controlled and managed by private firms. The most intense and broad privatization and reform programmes have by necessity been embarked upon by the former socialist and communist countries such as Russia and Czech in their respective transition programmes from centrally controlled economy to decentralized capitalist economy.

## **THE CONCEPT OF COMMERCIALIZATION**

Though privatization and commercialization are twin concepts, one is different from the other. Commercialization as a concept refers to the reorganization of an enterprise wholly or partly owned by the Federal Government whereby such commercialized enterprises would operate as profit making commercial venture and without subventions from the government. Like privatization, commercialization can also be full or partial. Full commercialization means that enterprises so designated will be expected to operate profitably on a commercial basis and be able to raise funds from the capital market without government

guarantee. Such enterprises are expected to use private sector procedures in the running of their businesses.

Partial commercialization means that such enterprises so designated will be expected to generate enough revenue to cover their operating expenditures. The government may consider giving them capital grants to finance their capital projects.

Commercialization is the process of running a public corporation or enterprise for a profit. It involves a change in the objectives of public corporations from being a mere social service provider to a profit earning organization. Commercialization implies the management of a government – owned enterprise for profit involving the re- organization of enterprises wholly or partly owned by the government in such a way that they would operate as profit- making commercial ventures without subvention from the government. This means that government parastatals which receive subvention or subsidies from the government are to become self- supporting and break even in their operations. Such public corporations would not expect subventions from the government anymore.

There are certain similarities and differences between privatization and commercialization. Privatization and commercialization are both aimed at improving the economy and making it attractive to local and foreign investments. But the objectives of commercialization are more limited than those of privatization. While the central objective of commercialization is to improve the performance of public corporations, privatization aims at selling off or doing away with unviable state enterprises (Akinbade, 2012).

Secondly in privatization, the government completely gives up its ownership and control of public corporations while in commercialization; the government does not relinquish its ownership and control. But such commercialized enterprises may no longer enjoy subvention from the government. The commercialized and privatized corporations will, however, compete for addition of capital requirement in the financial market.

Thirdly, both the privatized and commercialized enterprises charge appropriate fees for their services but all proposals for

increases in prices of commercialization of public corporations have to be approved by the government.

Fourthly, commercialization requires that the public corporation should break even or pay its bills whereas a privatized enterprise is required to make profit or else fold up.

Fifthly, members of the Board of Directors of a privatized company are appointed by the shareholders. The government appoints the Board of a public corporation which has been commercialized. Decision – making is the responsibility of the Board in both cases but the Board of a privatized company enjoys more freedom in decision – making than that of a commercialized enterprise.

Sixthly, the government exercises direct control over the management and operations of commercialized public corporations but, it does not have any direct control over private companies.

Again, both commercialization and privatization have positive and negative effects on the economy. They promote efficient allocation of resources, at least in the short run but they tend to widen the gap between the poor and the rich in the society.

Under the Nigerian Privatization programme in both full and partial commercialization, no divestment of the Federal Government's shareholding will be involved, and subject to the general regulatory powers of the Federal Government, the enterprises shall:

- (i) Fix rate, prices and charges for goods produced and services rendered;
- (ii) Capitalize assets; and
- (iii) Sue and be sued in their corporate names.

## **METHODS OF PRIVATIZATION**

### **i) Strategic core investors**

Going by the guidelines of the exercise in Nigeria, it is clear that strategic core investors are very crucial. At the center of privatization of large state enterprises are the strategic core investors, particularly where the objective of government is to enhance technology flow, raise immediate proceeds for other projects and encourage foreign direct investments (FDI). Care

must, however, be taken to ensure that the investor does not engage in post-privatization assets stripping as this would defeat the very essence of the programme. Uganda is a good example where this option was adopted, although the Nigerian law requires the National Council on Privatization to encourage staff participation in the privatization of any enterprise, with 1% of the shares to be offered to Nigerians being reserved for this purpose and to prohibit any individual shareholder from owning more than a prescribed percentage (0.1%) of the privatized enterprise. Where there is an over-subscription for the shares on offer, it remains fair to suggest that the motive of wider shareholding is secondary to that of attracting a suitable core investor. It is the core investor, and not the mass of small shareholders, that will satisfy the reasons for privatization, i.e. reviving the financial base of the enterprise and reorganizing the administration of the company. One thing that is common to almost all shareholders is that they seek to derive financial benefits from their shareholding, whether by way of dividend or the increase in value of their shareholding (Austen-Peters, 2001).

In the case of the typical small shareholder, he/she would have made his/her decision on which company to invest in and thereafter subscribe to its shares trusting in the management of the company to perform well in meeting its targets. His role in the management and general administration of the company is essentially passive. In practice, he entrusts the day-to-day management of the company to the tiers of managers, and the strategic vision of the board of directors.

A core investor takes a more proactive role in the enterprise he is investing in. The core investor will typically buy a majority or a significant percentage of the equity of the target company in order to secure either control or a significant voice in the company. His objective is to influence the way in which the company is run. The choice of which company to invest in is usually based on the belief that the target company has potentials that can be unlocked by the application of particular qualities; typically funds from new capital, particular management skills and access to markets that the core investor has access to. Thus, a core investor takes on a much



more interventionist role than a small investor does. In so doing, he merges the role of the shareholders with that of management; he wears two hats.

## **ii) Initial public offer and/or multiple listings**

This option is favoured if the objective is to achieve widespread ownership as well as to broaden and deepen the capital market. The success of this option however depends on the liquidity constraints in the economy at the time of privatization.

## **iii) Tenured lease by management contract**

Here government negotiates with and hands over the utility to a specific technical investor for a period ranging from 10 to 25 years. The investor is expected to restructure the utility, improve its income-generating capacity by injecting new technology and make block or piecemeal lease payments to government. It implies that a public partner (federal, state, or local government agency or authority) contracts with a private partner to operate, maintain, and manage a facility or system providing a service. Under this contract option, the public partner retains ownership of the facility or system, but the private partner may invest its own capital in the facility or system. Any private investment is carefully calculated in relation to its contributions to operational efficiencies and savings over the term of the contract. Generally, the longer the contract term, the greater the opportunity for increased private investment because there is more time available to recoup any investment and earn a reasonable return.

## **iv) Unbundling of large utilities into separate operating entities**

Unbundling of large utilities into separate operating entities for subsequent sale, or initial public offering/ listing is favoured where the utility involved is a large corporation. In Egypt and Nigeria, electricity corporations were unbundled into three units, i.e. generation, transmission and distribution. It is important to note that one or more of the above mentioned options could be employed in the privatization of the Nigerian utilities. It must, however, be appreciated that the more transparent the exercise is,

the easier it is for observers (local and foreign) to assess the seriousness of government, and be reassured as to the reasonableness of the price. This may have informed the style adopted by the BPE in calling for open international bids for some of the target utilities in Nigeria.

## **PUBLIC PRIVATE PARTNERSHIP**

As an alternative to the full privatization of state owned enterprises another approach towards re-engineering state owned enterprises for optimum productivity is through the mechanism of public private partnership. Public- Private Partnership (PPP) describes a government service or private business venture which is funded and operated through a partnership of government and one or more private sector companies. These schemes are sometimes referred to as PPP or P<sup>3</sup>.

In some types of PPP (notably the private finance initiative), capital investment is made by the private sector on the strength of a contract with government to provide agreed services. Government contributions to a PPP may also be in kind (notably the transfer of existing assets). In projects that are aimed at creating public goods like in the infrastructure sector, the government may provide a capital subsidy in the form of a one-time grant, so as to make it more attractive to the private investors. In some other cases, the government may support the project by providing revenue subsidies, including tax breaks or by providing guaranteed annual revenue for a fixed period.

Typically, a private sector consortium forms a special company called a "Special Purpose Vehicle" (SPV) to develop, build, maintain and operate the asset for the contracted period. In cases where the government has invested in the project, it is typically (but not always) allotted an equity share in the SPV. The consortium is usually made up of a building contractor, a maintenance company and bank lender(s). It is the SPV that signs the contract with the government and with subcontractors to build the facility and then maintain it. In the infrastructure sector, complex arrangement and contracts that guarantee and secure the

cash flows, make PPP projects prime candidates for project financing.

## **JUSTIFICATION FOR THE ESTABLISHMENT OF PUBLIC ENTERPRISES**

In a free market, it is argued, the consumer is king. If producers are unwilling to meet people's needs, or if they do so inefficiently, then others will come to take their place. No producers have the power, as of right, to do what they want; they must respond to the customer or perish. In this way, it can be argued that free markets are much more efficient than any planned economy. They avoid the abuses of power and coercion inherent in any socialist or fascist economy. Privatization presupposes the existence of State-Owned Enterprises (SOEs) which the government is no longer interested in, either in its ownership, management or control.

Generally, many reasons have been adduced as the justification for creating public enterprises. The first of these, especially in the context of developing countries such as Nigeria, is the need by the State to take active role in matters relating to economic development considering the absence or non-existence of strong private sector. In many developing countries, the resources available to the private sector are not adequate for the provision of certain goods and services. For example, the investments required in the construction of a hydroelectricity-generating plant or a water scheme for a large urban center is enormous and the returns on such investments will take a very long time to realize.

Secondly, since development is associated with the provision of social services, post-independent African governments realized the need to be involved in the provision of certain social and economic services particularly after attaining political independence to prove that they are capable or more capable of such services than their colonial governments. The establishment of public utilities to provide different types of public services in areas where such services do not exist became the yardstick for

measuring the performance of the government in many of these countries.

Government also needs to protect the consumers, which may not be of interest to the private sector. For example, government intervenes in the provision of education in many countries to protect children, who are incapable of making important decisions for themselves, by making education up to a certain age compulsory and free.

The indivisibility that characterizes certain facilities, goods and services produced or rendered by a particular sector may be the reason for government involvement in the sector. Some of which include bridges, tunnels, roads, streetlights, waste disposal facilities. These cannot be divided or partially provided. These facilities, it is reasoned, can only be provided to the public through public taxation.

Security, national pride and the essential nature of some goods and services are other reasons for governmental involvement in economic and business ventures through public enterprises since the thinking then was that certain facilities, like the National Ports Authority and the Police Service were thought to be too vital to be left at the mercy of private citizens.

## **JUSTIFICATION FOR PRIVATIZATION**

It is pertinent at this point to ask: Why privatization? The simple answer is that running of enterprises have proved to be too challenging for the government. Most of the SOEs are being run at a loss (Moran and Prosser, 1994). This loss is either due to corruption, lack of transparency or the fact that government and its officials lack the necessary skills, expertise and even time to successfully run them. Continued sustenance of these loss-making enterprises by the government is draining the resources of the government which is desperately needed to provide good governance, security, defence and other essential services to the people.

As far back as 1981, the Gamaliel Onosode led *Presidential Commission on Parastatals* has revealed that the problems confronting public enterprises in Nigeria include: (1) defective

capital structures resulting in heavy reliance on the national treasury for financial operations; (2) mismanagement of funds and operations; (3) corruption; (4) misuse of monopoly powers; and (5) bureaucratic bottlenecks within SOEs on the one hand and between them and their supervising Ministries on the other. Appointment of management team based on political considerations and political interference in management also contributed to the dismal failures of SOEs in Nigeria. As a result of all these, SOEs were unprofitable and maintained a consistent record of increasing losses and dependence on government subsidy for survival. Most of these enterprises also suffer from managerial ineptitude (Oshionebo, 2000).

Loss-making apart, the enterprises were a great disappointment to the people they were meant to serve in terms of goods and services delivery. And of course, the forces of globalization and technological breakthrough have rendered the practice of government involvement in business concerns to be obsolete. Again, traditional economic reasons for justifying state involvement in economic activities no longer exist. Technological and other developments have made it possible to introduce competition into activities formerly thought to be natural monopolies, thus negating the justification for the existence and survival of large public monopolies. Again most African countries embarked upon measures aimed at reduction in public expenditures and governance cost as a matter of dictates from international donors and creditors (Barbara and Mukandla, 1994).

Considering all the above factors, privatization became imperative. Moreover, various studies conducted in foreign jurisdictions have shown that privatization in broadly competitive markets has, in a large number of cases across all types of countries, yielded better results than the alternative of state ownership. Most of these studies examined the financial and operational performance of enterprises before and after privatization and found that, in many instances, privatization has improved performance in terms of productivity and profitability of firms.

And where privatization has, in a number of cases, fallen short of hopes placed on it, it is because the programme was not accompanied by effective deregulation of entry and effective competition. Even in such cases, it seems that on the average, privatized firms have not performed worse than state- owned ones, apparently because of the so- called agency problems of state – owned firms.

However, while one of the objectives of privatization programme will normally be to achieve efficiency and development of the economy, in reality other considerations of political, social or financial benefit could also influence the government when embarking on the programme and these objectives to a large extent would determine the method or methods to be applied. Objectives of privatization therefore could be efficiency and development of the economy, efficiency and development of an enterprise, budgetary and financial improvements, income distribution or redistribution and finally, political considerations. In developing economies, justification for privatization includes the need to accelerate economic development.

## **GENERAL OBJECTIVES OF PRIVATIZATION**

The general objectives of privatizing government enterprises include:

- i. to ensure positive returns of investment in public enterprises.
- ii. to permit efficient management of such enterprises and maximum utilization of resources.
- iii. to generate funds for financing socio- economic development in education, health and improve the infrastructures
- iv. to re-orientate the enterprises slated for privatization towards a new horizon of performance improvement, viability and overall efficiency;
- v. to re-organize and rationalize the public sector of the economy in order to reduce the impact of unproductive investments in the sector;

- vi. to reduce the financial dependency or reliance of the government enterprises on government for grants and inculcate the habits of accessing funds from the capital market for their operations ;
- vii. to create new and more employment opportunities ;
- viii. to serve as a means of gaining new knowledge and technical know- how and capabilities and expose a country to a competitive world.

Anya (2011) stated the overall objectives of privatization to include:

- i. to improve on the operational efficiency and reliability for public enterprises
- ii. to minimize their dependence on the national treasury for the funding of their operations
- iii. to roll back the frontiers of state capitalism and emphasize private sector initiative as the engine of growth.
- iv. to encourage share ownership by Nigerian citizens in productive investments hitherto owned wholly or partially by the Nigerian government and, in the process, broaden and deepen the Nigerian market.

## **ARGUMENTS AGAINST PRIVATIZATION PROGRAMME**

Though a number of arguments have been made and have continued to be made in support of privatization, most developing countries particularly have come to embrace the idea having realized that there is no economic sense in continually allocating substantial part of their scarce resources to sustain few SOE's whose performances do not in any way justify the investment on them. Critics have, however, pointed out that privatization could lead to high prices of goods and services produced or provided by privatized enterprises particularly where such a programme only translates to transfer of monopoly from the public to the private sector or where private firms are very few compared to the demand for their products. This could escalate poverty level of the great majority of the people because of its negative effect on wealth distribution. Again, because most privatized programmes

are always accompanied by downsizing of labour force by the new operators, unemployment rate is also escalated and this has been viewed by critics as amounting to injustice against labour since the poor performances of the SOEs are caused by government appointed bureaucrats and top managers of the SOE's and not the workers. These critics argued that privatization is not really the solution to non-performance of public enterprises and that public enterprises need not be counter-productive. Public enterprises need also not run at a loss. What they require are good managers, less political interference, competent boards of directors, and especially more rational pricing policies.

Generally, privatization programmes have been opposed on the following grounds namely: profiteering, corruption, absence of public accountability, cut in essential services, inefficiency, natural monopolies, concentration of wealth in the hand of few, downsizing, waste of risk capital and the fact that not all good things are profitable.

## **CRITICAL ISSUES OF PRIVATIZATION**

Anya (2011) also identified what he termed critical issues associated with the implementation of the privatization exercise in so far as government policy is concerned.

- i. Whether to privatize as "it is" or rehabilitate before privatization.
- ii. Whether to relieve the enterprises managers of their duties before or after privatization.
- iii. Which type of regulatory framework should be in place?
- iv. Whether the sale should be to both foreigners and Nigerians.
- v. Which valuation methods should be used?
- vi. What should be the role of foreign core investors in the ownership and management of the national economy?
- vii. How to handle labour issues resulting from the privatization as well as income inequality arising from the ownership of privatized assets.
- viii. Whether to deregulate before or after privatization.



- ix. How to utilize privatization proceeds.
- x. Whether government should go ahead and own any "golden shares".
- xi. Ensuring transparency in the programme.

## **THE IMPLEMENTATION OF THE NIGERIAN PRIVATIZATION PROGRAMME**

It was obvious to developing countries that it is no longer a sound economic policy to continue to allocate substantial proportion of national resources to a few State Owned Enterprises (SOEs), where performances have not justified the heavy investment in them. Upon independence, the decision of many former colonies to occupy the commanding heights of their economies led to a virtual public sector domination of the markets. Unfortunately, the companies were poorly managed and thus became a drain on the governments' purses.

Apart from the low revenue yield, government had to grapple with the interest charges and principal on the huge loans which it had guaranteed for these enterprises. The government could no longer cope with the dual role of ensuring governance and at the same time engaging in commerce. Consequently, government realized the need for it to divest its interest in some of the moribund commercial enterprises and leave them in the hands of the private sector. In essence, government needed to reduce its role in the management of the economy, and in turn encourage increased private sector role and share in the economy. Instead of being the prime economic agent, government decided to facilitate private economic activities with the hope that participation would become the rule rather than the exception and State intervention justified only when it would help the smooth operation of commerce.

Nigeria like many other developing countries also embarked on privatization programme and the reasons for this are not different from what are obtainable in other countries as justification for embarking on the programme. As a result of corruption and inefficiency characterized by SOEs and the fact that their continued existence constitutes drain on the available scarce

resources, Nigerian government had no choice than to divest from them and encourage private investment and management.

Privatization is thus necessary to enable government to concentrate resources on its core functions and responsibilities while enforcing rules and policies so that markets can work efficiently. The objective was to make government leaner and more efficient, reduce waste and corruption, and free up resources tied down by public enterprises and consequently improve service delivery to the people. In Nigeria, privatization was therefore supposed to introduce new capital, technical and managerial efficiency in the privatized enterprises thereby reviving them, creating new jobs and adding value to the Nigerian economy.

The first attempt at privatizing SOEs in Nigeria was between 1989 and 1993 when the federal government divested itself of some of its investments in some SOEs through public offering. The legislative instrument under which this was done was the *Privatization and Commercialization Act of 1988* which established the *Technical Committee on Privatization and Commercialization* (TCPC) as the institution to privatize 111 SOEs and commercialize 35 others. The first category of enterprises consisted of some 67 state-owned enterprises, such as hotels, breweries, insurance companies, and other similar light industries; the second category consisted of 43 enterprises including oil marketing companies, the steel rolling mills, Nigeria Airways, fertilizer companies, the paper mills, sugar companies and cement companies. The third category consisted of 11 parastatals, including the Nigerian National Petroleum Corporation (NNPC), the Nigerian Telecommunication PLC (NITEL), and National Electric Power Authority (NEPA), later transformed to Power Holding Company of Nigeria (PHCN) and the last category consisted of 14 other parastatals including the Nigerian Railways, the Delta and Ajaokuta Steel Rolling Mills.

By 1993, when the *Bureau of Public Enterprises Act* was enacted, repealing the 1988 Act, the TCPC has already privatized 88 of the 111 SOEs.

The 1993 Act established the *Bureau of Public Enterprises* (BPE) to replace the TCPC. The 1993 Act was repealed by the 1999 Act

which recreated the BPE in addition to the National Council on Privatization (NCP) as the two main organs for the programme. The Council is the legislative arm while the BPE is the executive arm. The BPE prepares public enterprises for privatization and carries out activities required for the successful privatization of public enterprises. Various methods of privatization have been adopted in Nigeria to effect the programme such as Initial Public Offer, Sale by Competitive Bid, Sale Through Direct Negotiation to core investors, etc.

Under section 13 (1), the functions of the Bureau of Public Enterprises include: (1) To implement the Council's policies on privatization and commercialization; (2) Prepare public enterprises approved by the Council for privatization and commercialization; (3) Advise the Council on capital restructuring needs of enterprises to be privatized; (4) Ensure financial discipline and accountability of commercialized enterprises ; (5) Make recommendations to the Council on the appointment of consultants, advisers, investment bankers, issuing house, stockbrokers, solicitors, trustees, accountants, and other professionals required for the purpose of either privatization or commercialization; and (6) Ensure the success of privatization and commercialization implementation through monitoring and evaluation. Under Section 9 of the 1999 Act, the Council is headed by the Vice President and its functions include: (1) Making policies on privatization and commercialization and determining the modalities for privatization and advising the government accordingly; (2) Determining the timing of privatization for particular enterprises and approving the prices for shares and the appointment of privatization advisers; (3) Ensuring that commercialized public enterprises are managed in accordance with sound commercial principles and prudent financial practices; and (4) Interfacing between the public enterprises and the supervising ministries in order to ensure effective monitoring and safeguarding of the managerial autonomy of the public enterprise. According to the guidelines prepared by the Council, core investors are expected to take over public enterprises and they are supposed to meet three important criteria. They must possess the technical know-how in

relation to the activities of the enterprises they wish to invest in. Core investors are also expected to have the financial muscle to pay a competitive price for the enterprises they wish to buy into and also to use their own resources to turn around the financial fortune of the enterprise without relying on government for funds. They are expected to draw up a development plan for the enterprise; indicating how such a development plan will be financed. Core investors are expected to apply their management know-how to run the enterprise profitably in a competitive environment controlled by market forces. Essentially, the extant law and guidelines anticipate transfers of public assets to private entities, with the requisite capacity to run the enterprises.

In continuation of the regime of deregulation, the past government of Olusegun Obasanjo, upon assumption of office in May 29, 1999, left no one in doubt of its intention to pursue with vigour the policy of private sector driven economy. In a policy paper titled ' *Our Economic Agenda 1999- 2003*, the government noted that in line with its guiding principles, private enterprise, private effort and non- governmental actions shall play the major role in achieving the goals of the society and the derived targets of the government. Based on these agenda, the government would operate an economy, which is *inter alia*, market oriented, and private sector driven and one of the instruments to be used in achieving this goal is the process of privatization. Consequently, the government through the BPE further privatized a number of state- owned enterprises while the exercise is still on- going.

In furtherance of its privatization policy, the government in 2005 came up with the *Electric Power Sector Reform Act* which not only sought to privatize the sector but also to deregulate it by opening the sector for private sector participation in the area of electric power generation and distribution. The expectation behind this is that such a strategy would make the sector to be efficient as far as power supply is concerned bearing in mind that the sector has been very inefficient and disappointing in that regard due mainly to the monopoly enjoyed by the state-owned NEPA and then PHCN. A lengthy period of state ownership, without the forces of competition or the incentives of the profit motive to

improve performance eventually resulted in excessive costs, low services quality, poor investment decisions and lack of sensitivity in supplying electricity to customers both corporate and individual. Again NEPA/PHCN became too slow in adapting and adopting modern technological development in generation, transmission and distribution of power.

### **CRITICAL ASSESSMENT OF THE NIGERIAN PRIVATIZATION PROGRAMME**

Like many other developing countries, Nigeria too has accepted in principle the need for extensive deregulation of the economy and the privatization of most of the state-owned enterprises. As it has become clear, the implementation of the Nigerian privatization programme has encountered some difficulties owing to local socio-economic conditions. While the privatization of the smaller SOEs went on relatively smoothly, serious difficulties were encountered in the efforts to privatize most of the large state-owned enterprises which, from the point of view of a potential investor, both local and foreign, were not attractive. Since the introduction of the privatization programme in 1987, a number of barriers and constraints emerged and these have tended to retard progress in the government's privatization programme.

These according to Idornigie (2008) include small markets, high cost of tariff, weak regulatory regime, non-commercial risks, limited access to finance, unavailability of risk mitigation instruments, high level of illiteracy, corruption, lack of infrastructures, failure on the part of government to embark upon certain reforms such as enterprise reforms, institutional reforms, financial system reform, etc. Other constraints include lack of man power, non-reduction of government role, lack of due process and policy inconsistency.

Furthermore, Nigeria has no competition law, and her regulatory mechanisms are weak. The country also lacks a good policy environment and a good capacity to design and implement regulatory frameworks.

The Nigerian privatization exercise is not accompanied or preceded by an articulated and properly phased public sector reform. Therefore it cannot result in more efficient production of public goods nor will it make any significant positive impact to fiscal balance.

It is for the reasons stated above, and the several challenges of the entire programme that it suggested that policy-makers should consider the wider use of non-traditional privatization methods such as deregulation, leasing, management contracting and franchising of monopoly rights at least in the short run rather than relying heavily on full divestiture as the primary mode of privatization in Nigeria.

In Nigeria, the weakness of capital market regulatory institutions makes it possible in most cases for few elites to buy up these SOEs, thus resulting in widening the gap between the wealthy few and the many poor. The question then is: Has the privatization programme made any impact on the economic development of Nigeria? To answer this question, we need to look at whether the programme has made any impact on the profitability of the privatized firms in Nigeria. We also need to know whether or not privatization has made them more efficient and how that efficiency has translated to reduction in the prices of goods and services offered by these firms as well as how far the firms have contributed to employment, income redistribution, reduction in poverty level, etc. Studies on the impact of privatization on the Nigerian economy are emerging and the conclusion from some of the studies on the impact of privatization on the profitability of firms in Nigeria is largely ambivalent. For instance, Jerome in 2002 evaluated the performance of three newly privatized enterprises in Nigeria namely, *United Bank for Africa*, *Unipetrol* and *Ashaka Cement*, by comparing several performance indicators in the pre and post-privatization using t- statistic to test for differences between means. Indicators used were profitability, operating efficiency, capital investment base, output and dividends.

The result, though mixed, shows significant increases in these indicators. The National Centre for Economic Management and Administration (NACEMA), Ibadan in 2003 carried out a

rapid assessment of the current state of enterprises privatized under the first round of privatization, i.e (1988- 1993) by appraising the financial and operational conditions of the selected enterprises. For a change in any given indicator, performance is measured by comparing its mean values three years before and three years after privatization, using t- tests for equality of means, the ANOVA F- statistic and Wilcoxon Z- sign test of median differences. The result shows that most privatized enterprises improved appreciably. Achugbu (2010) also evaluated the pre- privatization (1997- 2000) and post – privatization (2001- 2008) performances of seven privatized enterprises in 2001. Four key profitability variables were used for the analysis, namely: Return on Capital Employed, Net Profit Margin, Return on Assets, and Return on Equity. The t- statistics was used to test the difference in means before and after privatization. The result showed that there were no significant changes in the profitability of firms after privatization in Nigeria.

Studies apart, the report of the 2011 *Senate Committee Investigating the Privatization of Public Enterprises* since the return of civil rule in 1999 shows that the programme was more or less a total mess brought about by corruption-inspired undervaluation of enterprises privatized, sale of the undervalued enterprises to cronies and political associates, assets stripping, clear breaches of due process, willful refusal of regulatory organs (the National Council on Privatization (NCP) and Bureau of Public Enterprises (BPE) to adopt the guidelines of the *Public Enterprises (Privatization and Commercialization) Act* of 1999 which is the extant law and economic sabotage by the operators of the system.

## **FAILURE OF THE PRIVATIZATION PROGRAMME**

The following are the some of the causes of the failure of the Nigerian privatization programme:

### **i) Undervaluation, questionable sales and lack of due process**

Apart from the fact that the assets of the privatized enterprises were deliberately undervalued, there was failure to follow due process and the BPE did not play by the rules set by the Council and the extant laws. There was also collusion between the

authorities and the companies that bought the privatized enterprises, leading to failure to pay over the appropriate sums. The BPE also failed to exercise their oversight role on the privatization process; while the anti-corruption agencies blatantly refused to prosecute violators of the law. Over 28 years since privatization commenced, Nigeria still has a bloated, inefficient and wasteful government where corruption is the order of the day.

Examples of SOEs where these happened include, Ajaokuta Steel Company, Volkswagen of Nigeria Ltd (VON), Daily Times of Nigeria (DTN), Aluminium Smelter Company of Nigeria, Delta Steel Company Limited, Nigerian Re-Insurance, NICON Insurance, Kaduna and Port-Harcourt Refineries, etc. The giant Ajaokuta Steel Company was sold to an Indian consortium sponsored by well-connected Nigerians. The Indians, rather than turnaround the ailing company as expected; proceeded on a frenzied asset-stripping of valuables to India. The country, in an irony of fate, is today importing steel products from India at the same time as Ajaokuta lies fallow and despicably moribund. The Ajaokuta Steel Project was established in September 1979 by the Federal Government to serve as a base for Nigeria's industrialization. The project was designed as an integrated iron and steel complex, based on the conventional Blast Furnace (BF) route Iron making and Basic Oxygen Furnace (BOF) for steel making. Apart from the foreign exchange and economic growth objective, the steel complex was designed to generate socio-economic benefits to Nigeria, such as increase in the production capacity of the nation through its linkage effects and supportive roles to industries. In addition, it was expected that the project would greatly contribute to the achievement of other socio-economic goals of the nation, such as provision of materials for infrastructure development, technology acquisition, employment generation, training of labour, income distribution and regional development.

The Ajaokuta Integrated Steel Complex was conceived and steadily developed with the vision of erecting a metallurgical process plant and engineering complex that could be used to generate important upstream and downstream industrial and



economic activities that were critical to the diversification of the economy into an industrial one. The thermal power plant of the company is capable of generating 110MW of electricity per day which can service three states in the country. When the plant was in operation, the company was selling in excess to the national grid. Lack of focus on the part of successive government, mismanagement, corruption and above all, external forces like the World Bank and other super powers, who wanted to make Nigeria a perpetual dumping ground for their steel products were some of the challenges of the company. A former Nigerian Head of State, threw caution to the wind by even appointing a military man to head the Ajaokuta Steel Company. The period witnessed the collapse of production in the completed rolling mills and the fund of the project went down the drains. The steel company did not fare any better during the regime of succeeding administrations. Today, the company is in a dilemma. Workers are owed months and years of accumulated salary arrears and allowances. Business activities have paled to insignificance, with very little attention from the Federal Government. If Nigeria's Vision 2020 is to be realized, the steel sector must be properly taken care of. The Federal Government must come out with definite plans and policy on what it wanted to do with the project particularly in the area of funding the Ajaokuta steel project.

Another example is the sale of the iconic but loss-making Daily Times of Nigeria (DTN). The new buyers were apparently more interested in selling off DTN's properties in London than in revamping the fortunes of the newspaper. These are just few of the scandals that have epitomized the story of privatization in Nigeria. Some companies were sold at prices markedly below their market value. For some, the due process was not followed at all.

The privatization of the Aluminium Smelter Company of Nigeria, built at the cost of \$3.3bn but transferred to Rusal, a Russian company at the cost of \$250m, is also another scandal. Only \$130m of the said \$250m has been paid, leaving a balance of \$120m which was supposed to be used to dredge the Imo River, as stated in the Share Purchase Agreement. Ten years after the sale, the dredging is yet to start and government has not been paid the

balance of the money. Surprisingly, no one has queried Rusal for failing to fulfill its legal obligations. Even if the cost of building the smelter was inflated through the procurement process, can any reasonable person justify selling a \$3.2bn asset for \$250m?

Delta Steel Company Limited presents another dimension where a company, Global Steel Infrastructure Limited, which did not participate in the bidding process, was declared the winner. Global Steel merely submitted an expression of interest and did not follow up with a technical bid. BUA, which actually won the bid, was denied the opportunity of reaping the fruits of the bid. Delta Steel was valued by BPE at N225bn but was sold for a paltry N4.5bn.

The Kaduna and Port-Harcourt refineries for example, were enmeshed in management and production crisis leading to unending maintenance and under-utilization which made government through NCP and BPE to sell 59% of its equities at the price of \$721m, even when the government had not quite long spent \$1.1b to refurbish the refineries. This price differential is evidence that the two refineries were grossly undervalued when they were sold. This made a lot of people to criticize the sale such that the sale was subsequently revoked by the Yar'Adua government that succeeded the Olusegun Obasanjo's regime which hurriedly concluded the sale at the twilight of the regime. Some critics even questioned the wisdom in selling the refineries and other public assets by the government instead of retaining them and at the same time encouraging the building of private ones. In Venezuela, there are more than 125 refineries owned by the state and several others in Europe and America. Critics have, therefore, queried why Nigeria would be selling its refineries whereas other countries were busy building more.

The underutilized state of the refineries in Nigeria accounted for the \$18b refined oil import between 1999 and 2007. The cost of refined oil import is enough to build nine hi-tech refineries at \$2b each. The attempted sale of the refineries to drone capitalists only led to a 'new local hegemonic class' of capitalists who are not building on capital accumulation, but acquiring publicly-owned assets at greatly undervalued prices.

## **ii) Policy inconsistency and reversals**

Policy, as a deliberate plan of action that guides decisions and achieve rational outcome, is an indispensable element in socio-economic and political developments. Specifically, policy covers the process of making important organization decisions, including the identification of different alternatives such as programmes or spending priorities, and choosing among them on the basis of the impact they will have. Policies can also be understood in terms of political, management, financial, and administrative mechanisms arranged to achieve explicit goals. Broadly, as a veritable instrument for development, policies are typically instituted in order to avoid some negative effects that have been noticed in an organization, or to seek some positive benefits. These may include how a country relates with the outside world, allocation of social and economic values, justice system, the military among others.

For corporate organizations, it may include such issues as research and development and accomplishment of set goals. Because of its indispensable nature, there is no country or any organization anywhere in the world that does not have a policy that guides its decisions as absence of it will be suicidal. Also, because of its volatile nature, policy articulation and implementation are handled with utmost care in order to ensure that the desired objectives are attained as implementation gap could result if policy-makers fail to take into consideration the social, political, economic and administrative variables in the policy formulation process. Policy reversals and inconsistencies as well as lack of transparency also contributed to the privatization challenge in Nigeria. These two factors manifest more in the case of the sale of Nigeria Telecommunications Limited (NITEL). The NITEL privatization dilemma and that of Egbin power station are easily the best examples of how policy inconsistency of government coupled with corruption and abuse of due process could negatively affect the outcome of privatization exercise. NITEL is the dominant fixed line operator, which controls about 77 per cent of fixed line telecom services in Nigeria and operates in all 36 states of the country and the Federal Capital Territory. M- Tel, its fully owned subsidiary, is the number four mobile telephony operator,

with approximately one million subscribers as at the end of 2005. NITEL has the most extensive network in Nigeria with the ability to provide telecom services to its customers throughout the country. In addition, NITEL has shares in several companies including the South Atlantic Telecommunication/ West African Submarine Cable Organization (SAT3 / WASC), (7.33%); Regional African Satellite Organization (RASCOM), (6.91%); International Maritime Satellite Organization (INMARSAT), (0.21%), International Telecommunication Satellite Organization-liquidated in 2005 as a result of Intelsat privatization (INTELSAT) (0.60%); as well as ICO Global Communications Ltd (I-Co) (0.07%).

Even as a government-owned enterprise, NITEL was bugged down by internal overload. NITEL was bound to crumble like a pack of cards, as it actually did, once its monopoly was broken with the licensing of private operators. With its backbone cracked, coupled with its not too satisfactory services, the foremost telecommunication company became relegated; it barely managed to sustain itself, as it failed to fully exploit its former monopoly. BPE's controversial sale of NITEL to Transcorp, in which a former President of the country has some shares valued \$750million was alleged not to have followed due process. More so, the buyer failed to achieve the objectives of the privatization exercise, which is to put the firm back to profitable path. The privatization process of NITEL actually started in 2001 when the International Investors of London Limited (IILL) won the bid for it with an offer of \$1.317 billion but failed to meet up with the February 12, 2002 deadline for the outstanding percentage payment of the bid price. The privatization law requires the owner of the winning bid to pay 10 per cent deposit within 14 days of being informed as the winner. IILL was able to raise the money the bulk of which was loaned from First Bank of Nigeria Plc., but later defaulted in making complete payment. In the group are the KPN, a consulting company owned by KPN Royal Dutch Telecom, Holland. The second exercise involving Pentascope failed to meet the contractual obligations, resulting in its cancellation, while the third attempt collapsed as Orascom Telecom's bid of \$256.53

million was rejected for being unacceptably below the reserve price.

In that sale exercise, Transnational Corporation (Transcorp) led two other partners, British Telecom (BT) and Etisalat, to offer the sum of \$750 million as a bid price to clinch the NITEL deal. But Transcorp would only commence the process of full ownership after the initial payment of \$500 million within the next seven days to the BPE as required by the terms of sales. A breach of this term could lead to the loss of the offer by Transcorp. Similarly, the balance of \$250 million must be paid within 90 days from the date of offer. According to the terms of the transaction also, all liabilities and debts of the ailing national carrier will remain its responsibility with the exception of human resources related issues, such as pension liabilities and cost associated with downsizing, which the government will assume. This deal by the Bureau of Public Enterprises (BPE), was then seen as a feat indeed, given the fast deteriorating value of NITEL. In fact, it was in a bid to avoid further deterioration of the company's value that the BPE decided to abandon the conventional procedures of competitive bidding for the negotiated sales method. Government's choice of a negotiated sales strategy became necessary, following three failed attempts to privatize the firm using the conventional procedures of competitive bidding.

A fourth round of competitive bidding would have taken 12 months or longer, during which time NITEL's value would have further declined as liabilities increase, market shares decrease and investors grow cautious with the approach of Nigeria's general elections then. This will, in turn, lead to less interest, less competition, and lower prices bid for many reasons. It was also noted that Nigeria's bargaining position regarding NITEL's sale could only decline over time, adding that the choice to close a transaction, while it can still negotiate from a position of strength and qualified investors remain interested, was the best way out of the NITEL sale. Again the negotiated sale method was said to meet all BPE's original transaction objectives of investors based on the same criteria used to evaluate prospective investors during the competitive bidding phase, which are to attract a world class

strategic investor with a proven capacity in both fixed and mobile communications; to maximize the transaction value, and reverse those telecommunications constraints impeding Nigeria's economic growth. NITEL's equity offered for sale had to be increased from 51 per cent to 75 per cent in the fourth exercise because of the need to have a core investor with controlling powers as well as the need to raise the huge capital needed by the federal government in fulfilling its last minute obligations to the firm and its employees.

President Umaru Yar'Adua later reversed the sale of NITEL and its subsidiary, M-Tel to Transnational Corporation (Transcorp). Transcorp was also accused of breaching Labour laws that provided that workers' probationary period should be six months but placed all categories of NITEL workers on a one- year probationary period. Transcorp is also accused of having breached the Memorandum of Understanding (MOU) that compelled it not to cede any part of NITEL to a third party as it tried to give part of SAT-3 to a consortium of three foreign companies –Dimension Data, Cisco, and Cable and Wireless. The company also scrapped the medical facility of NITEL without making any alternative provision for the workers to the chagrin of government officials and NITEL staff, Transcorp is alleged to have left NITEL worse than it met it. When it acquired NITEL, the national carrier had 200, 000 fixed lines, but now has less than 80, 000. Its market shares have dipped from 10 percent to the current dismal level of less than 3 percent.

He also ordered an investigation of the contract awarded to Pentascope to manage NITEL and Mtel. The government was said to have taken the decision as part of its efforts in ensuring that due process and the rule of law are followed at all times. The government also considered various complaints of impropriety arising out of the sale of NITEL/Mtel to Transcorp. Transcorp also faced several challenges in meeting the payment terms, as it could only pay 10 percent of the bid price (\$75 million) in a week, as against 50 percent. It, however, paid N63 billion through a loan from 10 banks by the end of August 2006. Transcorp Technical Partner, British Telecom, also severed its relationship with the

company. It later collapsed after the reversal of NITEL sale. Since then the Federal government has been looking for a financially and technically sound partner to run **NITEL/ Mtel.**

The Sale of Egbin Power Plant was another privatization exercise affected by policy inconsistency and reversal on government. Commissioned in 1985, at 1,320MW, Egbin is the largest power plant in the country. It comprises six 220MW independent gas-fired steam turbine units that can also run in heavy oil, also known as low pour fuel oil (LPFO) in the petroleum industry. Like several industrial facilities, in which the Federal Government invested considerable resources in the 1970s and 1980, Egbin by the late 90s was performing epileptically. Lack of regular maintenance programmes meant that the plant operated at sub-optimal levels and was unable to generate sufficient electricity for the national grid. The situation was made worse by disagreements between NEPA and the combined forces of Shell and the Nigeria Gas Company, over the price of gas supplied to the plant. Shell and NGC were often compelled to shut out gas supply or limit the amount of gas to Egbin. Where it was available, the quality of gas and build up condensates in the Escravos – Lagos Gas Pipeline to Egbin could also impede its performance.

By 2006, the Olusegun Obasanjo administration chose to contract the services of Marubeni to rehabilitate some of the plant's boiler units. Marubeni was believed to have submitted a quotation of \$547 million to repair two boiler units. But before the contract could be awarded, Korea Electric Power Corporation (KEPCO), which owned an identical plant in Seoul, South Korea, made representations to the federal government to repair the same units at a significantly lower cost of \$24 million. KEPCO had been brought to the country by a local energy company, Energy Resources Limited, the power subsidiary of Sahara Energy which also served as its Nigerian partners. KEPCO's entry into the Nigerian market coincided with mounting interests by Asian economic powers, led by China, in Nigeria hydrocarbon resources. Countries like China, South Korea and India reckoned that if they invested in badly needed infrastructure projects, this would pave access to Nigerian oil concessions which have stalled since former

President Olusegun Obasanjo's exit from office. Convinced that KEPCO could get the job done at a cheaper cost, Obasanjo awarded the contract to the Koreans and their Nigerian partners Energy Resources. The consortium was said to have delivered the repaired boiler unit on time and helped to increase output from Egbin to some 800 MW. Buoyed by the successful completion of the job, KEPCO and Energy Resource formed a joint venture, KERL- KEPCO/ERL consortium- in which the Koreans held a 30 percent stake and Energy Resources, 70 percent. The consortium then approached the Federal Government through the Bureau of Public Enterprises to acquire controlling interest of 51 percent in Egbin under the negotiated willing buyer-willing seller basis. Having obtained the president's approval to hold negotiations with KERL, the Egbin power station was carved off, the six generation companies and 11 distribution companies that had been created from NEPA's unbundling and had been slated for privatization early in 2007. During negotiation, a valuation of \$560 million was established for Egbin by BPE and KERL asked to pay \$280 million for 51 percent of the power utility. Under the terms of the transaction, KERL was asked to pay 10 percent of the bid price and escrow a further 50 percent of the bid price (totaling \$ 168 million), in accordance with the terms of the agreement. KERL complied, leaving an outstanding balance of \$112 million. KERL also committed to double Egbin's output with the construction of an additional 1,350MW combined cycle power plant under the terms of the agreement reached with BPE. When built, the plant will consist of three 450MW combined cycle power blocks.

However, the transaction was not concluded before Obasanjo left the office and his successor, late President Umaru Yar'Adua, stopped everything relating to privatization in the power sector, including suspension of projects under the National Integrated Power Programme. Given the negotiations that had taken place and funds committed by KERL, this explains why Egbin was not included in the list of electricity utilities that were advertised by BPE when the power privatization programme was resuscitated. But with the resumption of asset sales in the power sector, BPE and the power ministry have informed KERL that the



Federal Government will no longer be willing to part with Egbin under the same terms negotiated then. They contend that in the lapsed period, the Federal Government has committed additional resources in Egbin to increase output at the plant, making it impossible for BPE to accept \$280 million for 51 percent of the company any longer. KERL has countered that it cannot be made to bear the brunt for the federal government's indecisiveness and policy flip-flops with respect to the power privatization. The consortium believes there is no justification for an upward revision of the valuation on Egbin and by extension the bid price, because the valuation undertaken in 2007 took into consideration the cost of building a Greenfield thermal station of the same capacity at \$1 million per megawatt. By KERL's estimates, if a brand new power station of the same capacity in 2007, that is, before the global financial crisis cost \$1.32 billion, it will be difficult to justify a revision of the prices now that similar plants are being constructed at approximately \$500,000 per megawatt as a result of reduced demand caused by the global economic recession. Of greater significance, the BPE may have failed to factor the depreciation of the plant. No plant appreciates in value, instead they depreciate.

Typically, a power plant of Egbin's capacity is amortized over 25 years which is the estimated life span of the plant. So if Egbin was built in 1985, it has outlived its book value. But should the BPE elect to add another 10 years to its life span, in recognition of the Federal Government's investment over the years, will Egbin still attract a valuation exceeding \$560 million? Its valuation aside, BPE would also have to factor the interest charges on the \$168 million, which KERL may have been paying banks since the amount was escrowed four years ago. Using an annual rate of, say 12 percent charged by an overseas bank as interest charges, the consortium would have paid nothing less than \$580 million in interest alone for delays that were not of its making. Indeed, if BPE insists on driving a hard bargain, a shrewd investor might ask the privatization agency to net off the accumulated interest against its revised price for Egbin. Also of consideration is the opportunity cost of capital that could have been deployed to other projects and could have yielded returns to repay the bank loan(s). The

privatization of Egbin generated considerable interest from labour, the legislature and the public.

### **iii) Insincere and unrealistic targets**

This manifest more in the case of the electric power sector privatization which in spite of the 2005 Act and the 2010 Roadmap, is still in a deplorable situation, so bad that it delivers very little power and reportedly suffered systems collapse 14 times in less than six months. Between January 2012 and mid of June 2012, the power transmission system collapsed fully at a staggering 8 times and suffered partial collapse, a further 5 times. Information obtained from the National Control Centre, Oshogbo reported that there were two occasions of systems collapse in March 2012, one in April, five in May and one as of June 13, 2012. There were also two partial break downs, one each in March and April. The breakdowns translated into total blackout nationwide that plunged homes and public places into darkness and crippled business with the attendant losses to the economy. Total and partial system failures are situations where electricity generation from the national power grid is lost completely or partially.

What baffled Nigerians and the business community was the excruciating delay in meeting the time lines spelt out in the Roadmap for power sector reform inaugurated by the government in August 2010. The plan (falsely) estimated the capacity of the sole national transmission power grid at 4,500 MW and projected that improvement and upgrades would raise this to about 5,000 MW by April 2011. Experts say the grid delivers less than that. It also set out December 2010 as target date for the receipt of bids by firms to manage Transco, the sole transmission firm among the 18 successor firms that the Power Holding Company of Nigeria was broken into. The bids were received many months later just as the bids for the six Generating companies are just being received when the sale of the companies was to have been concluded by March 11, 2010. It is a shame that all the timelines for the privatization of the 18 companies were missed. Even the Egbin Thermal Power plant that was partly sold some years before was not finalized on

time because the government was raising new issues with the core investors, KEPCO. Despite the 2005 Act and the 2010 Roadmap, Nigeria still remains the largest importer of standby diesel generators in Africa, spending \$103.1 million on them between January 2010 and June 2010. According to a report by the London based Africa Review of Business and Technology magazine, the country spends \$ 8 billion each year running diesel generators. The Lagos Chamber of Commerce and Industry in its first quarter report (January to March 2012) deplored the evident deterioration in power supply nationwide which it said had caused higher operating costs, erosion of profit margins, sub-optimal capacity utilization and competitive disadvantage for Nigerian producers.

#### **iv) Corruption and non-accountability of BPE**

For any national privatization exercise to be deemed credible and honest, it must of necessity in its entirety be based on and backed by appropriate and technical valuation methodologies, modalities, systems and approaches. As such, any national privatization exercise not meaningfully based on nor backed by appropriate and technical valuation methodologies, modalities, systems and approaches should prima facie be regarded as being dubious and questionable. There have been allegations that portrayed the Bureau for Public Enterprises (BPE), the agency responsible for the exercise as being wasteful and deficient in transparency and accountability. In 2007, for instance, it allegedly spent a whopping ₦56.1 billion out of ₦117.216 billion it realized from sale of public enterprises that year. Reports showed that it incurred ₦2.019 billion as transaction cost on ₦98.084 bn sale proceeds in 2005. But that moved up to ₦39.59 billion on ₦132.58 billion realized in 2006 and ₦56.1 billion on ₦117.22 billion in 2010. The BPE compromised on due process in the sale of public enterprises. This cast doubts on the integrity of the BPE and by extension the entire exercise.

Apparently there was to be only one account to lodge the proceeds of privatization. In the aftermath, eight different accounts have been found. More disturbing, of the ₦301 billion that was realized, less than 50 percent of the money actually reached the

Privatization Proceeds Account. This clearly shows that something had gone wrong with the privatization policy of the Federal Government. The Senate's Adhoc Committee set up, in response to the odious scheme to investigate the entire privatization programme from 1999 till now found the entire exercise reeking of "executive recklessness". Several members of the public have called for the prosecution of the officials involved for their alleged part in the privatization saga.

The present dilemma over the current national privatization and commercialization exercise greatly bordering on the highly questionable sale, concessioning and transfer of the various public enterprises and public assets in the country is greatly very unfortunate. The nationwide hue and cry over the sale, concessioning and transfer of the various public enterprises and public assets such as the Nigerian Telecommunications Company, the Nigerian Ports Authority, the Airports, the National Arts Theatre, the Cement companies, the Steel mills, the Refineries etc. at give-away prices is largely to be traced to the simple fact that the sale, concessioning and transfer of the public enterprises and public assets were in the main neither based on nor backed by any credible and appropriate technical valuation of the entities.

## **WAY FORWARD**

As things stand now, regrettably, it is too late to reverse the entire process as far as the privatization exercise is concerned though the exercise has not been quite successful. Unless requisite remedial measures are urgently and meaningfully put in place, the entire privatization exercise will before long hit the rocks. Very urgent corrective and remedial measures need to be urgently put in place and in sufficient dosage to save the nation from the greatly threatening calamity. Such measures should include the following:

### **i) Amendment of the privatization law**

In particular, the Privatization and Commercialization Act of 1999 should urgently be amended to give the National Assembly requisite power to oversee, review, approve, vet, veto and monitor all major issues touching and relating to the

privatization, sale concessioning and transfer of public enterprises and public assets in the country. All major decisions, dealings and transactions on or over the public enterprises and public assets shortlisted for privatization greatly need to be approved by the National Assembly before they could be implemented.

In this regard and direction, the National Assembly would appropriately be given requisite power of reviewing, scrutinizing, vetting, approving or vetoing the pricing, privatization, sale, concessioning and transfer of the public enterprises and public assets as well as other major decisions, dealings and transactions over them. This would be as the National Assembly has the prerogative of scrutinizing, vetting, approving and vetoing the annual budget of the federation before it is signed into law by the President. Empowering the National Assembly to have power of reviewing, scrutinizing, vetting and approving all major decisions, dealings and transactions on and over the public enterprises and public assets shortlisted for privatization and other corrective and remedial measures will greatly assist in infusing requisite national acceptance for the privatization exercise which is very pivotal for the success of any national privatization exercise.

#### **ii) Conducive business environment**

The government must ensure conducive business environment since this is one of the factors responsible for the failure of privatization. The country has no good roads, no railways, no security, no reliable electricity or water. These factors would normally militate against development and industrialization. If the cost of doing business in Nigeria is so high we can expect that some new ventures will flounder. Providing good environment becomes imperative if such reform programmes being implemented for instance at the electric power sector is to be successful. Good environment in addition to the above ingredients also include peace and security.

#### **iii) Implementation of Senate recommendations**

The Senate's recommendations must be implemented by the executive. It would be recalled that as a result of the criticisms

against the entire exercise, the Senate mandated its ad-hoc committee on privatization to investigate the privatization activities since 1999 to date. The seven man committee which was then chaired by Senator Ahmad Lawan came up with 45 recommendations which were all approved by the Senate. Going by the findings of the Senate, it is clear that the privatization programme embarked upon was merely a leap from frying pan to fire as the privatized companies have shown neither promise nor profit and have indeed increased the unemployment burden of Nigeria. This outcome is contrary to the widely held belief that badly run state enterprises would perform better when its ownership and management is passed on to private sector who are expected to manage them better and turn losses into profits. Privatization was seen as a rescue plan for these State Owned Enterprises in Nigeria, government having failed in its running of Railways, Airways, Tele communications and many other endeavours.

In recent years, the executive has been criticized for not implementing the outcome of most probes even when there are manifest indications that implementing such reports would lead to the sanitization of the affected organizations. Executive reluctance in implementing the resolutions of the probes has also been linked to the fact most of the probes are often tainted, biased and targeted to settle scores. Indeed, Section 88 of the 1999 Constitution gives both Chambers of the National Assembly express powers of enquiry into any sector; with a view to correcting anomalies and making appropriate recommendations for remedy. The section states in part that: "each House of the National Assembly shall have power by resolution published in its journal or in the official gazette of the government of the Federation to direct or cause to be directed an investigation into ( a) any matter or thing with respect to which it has power to make laws". Section 89 (2) even empowers each House to issue a warrant of arrest on anybody. The section states: "A summon or warrant issued under this section may be served or executed by any member of the Nigerian Police Force or by any person authorized in that behalf by the President

of the Senate or the Speaker of the House of Representatives, as the case may require”.

Ideally when members of the National Assembly institute probes or oversights to supervise any of the other arms of government, the underlining reasons are to sanitize the system and expose corruption and ultimately bring about good governance. But whether or not the oversights and probes have always achieved their ideal ends is one issue that is debatable. Between 1999 and July 2012, the National Assembly has carried out about 23 major probes aside from some other probes which were held “in camera”. This is as hundreds of millions of tax payers’ money were spent in such exercise, arguably without much to show for such investigations. Nigerians have seen the lawmakers divert the good intentions of most of the probes into opportunities to settle personal scores or witch-hunt the executives, individuals and political opponents. Allegations also abound about these probes being used as money-making avenues and self-enrichment activities by members of the National Assembly.

It is also not uncommon that the lawmakers have often diverted the good opportunities of most of these probes they conduct into avenues for self-glorification and image laundering. The result is that often, even when some of these probes are well intended and carried out with utmost sense of patriotism, they end up being treated with disdain, particularly by the executive arm of government, which is constitutionally empowered to implement such outcomes. The situation is not made any better by the constitution, which denies the legislature the statutory power of enforcement but domiciles same with the executive arm of government. However, as a way of redressing this situation, the House of Representatives passed a motion calling on the executive to always ensure that it (executive) respects and implements the resolutions passed by any arm of the National Assembly. Even though the Senate is yet to take a similar action, political observers believe that the action of the House is only how far the lawmakers can go on the matter at the moment, particularly in the face of the constitutional restraints inherent in the 1999 constitution as amended.

#### **iv) Intensive prosecution of corruption cases**

At the root of Nigeria's messy privatization programme is corruption, greed, lack of patriotism, political interference, indiscipline, lack of respect for law and due process, impunity, etc. The state owned enterprises in Nigeria failed in the first place basically as a result of corruption on the part of the management. It is this same virus called corruption that manifested again in the exercise intended to sell the utilities. The undervaluation, compromise, asset stripping, non-accountability and wastefulness can only be explained and understood on the basis of corruption which has not only been institutionalized but also eaten deep into the fabric of the Nigerian society. It manifests itself in all areas of the Nigerian society, whether private or public. It is responsible for the failures of all systems in the country including family life, education, socio-relations, etc. Though several attempts have been made to tackle this menace, such efforts have not been successful notwithstanding the establishment of such bodies like the Independent Corrupt Practices Commission (ICPC), Code of Conduct Bureau (CCB) and Economic and Financial Crimes Commission (EFCC) to tackle it. But if Nigeria must succeed as a nation it must be more honestly committed to the war against corruption. Part of this commitment should be the establishment of a special court to try corruption cases so as to achieve speedy trials devoid of the unnecessary technicalities and delays of the normal court. It is, however, my view that if special courts are in place, the officials of the agency, including their cronies and other collaborators in the privatization scandals can be quickly be made to face justice. It is also required that a law should be passed by the National Assembly detailing offences relating to privatization of public enterprises in Nigeria and the necessary punishment prescribed.

#### **v) Partial privatization of sensitive public enterprises**

To achieve equitable distribution of Nigeria's wealth so that the majority of the people could benefit from the programme, sensitive State enterprises such as the Nigeria Ports Authority, Nigerian Airways, Oil Refineries, etc. should only be partially



privatized under Joint Venture Agreement between government and private investors where investments and profits earned by the enterprise could be shared under an agreed formula. The state may also enter into a Service Contract with private investors, whereby the state holds title to these public enterprises while the private investors manage the enterprise.

**vi) Body of experts**

Government should set up a body of experts in relevant fields to assess and value the various public enterprises listed for sale and fix a commensurate price. Government should also establish an agency staffed with reputable experts in relevant field and persons of high integrity to monitor the performance or operations of the privatized enterprises to avoid sharp practices that will be detrimental to the economic welfare of the nation. The promulgation of a fair trading legislation that would usher in healthy competition among the privatized is imperative.

**vii) Corporate social responsibility**

Government should emphasize the social responsibilities of privatized corporations as an instrument to bridge the gap between the rich and the poor. Generally, the corporate interests of business enterprises (large corporation in particular) are not identical with the public interest. The Constitution enjoins the state to ensure that the economic system is not operated in such a manner as to permit the concentration of production and exchange in the hands of a few individuals or a group. Since the corporate interest of business enterprises is not identical with the public interest, privatization may create an economic system which permits the concentration of wealth in a few hands. Since privatization may widen inequality in society, government may still bridge the gap and avoid the inevitable clash between the 'haves' and 'have-nots' by applying the concept of corporate social responsibility. Privatization should combine with corporate social responsibility. In other words, the government should insert a 'corporate social responsibility clause in contracts for the sale or lease of public enterprises, or any concession agreement which focuses the attention of private

corporations to social needs such as the provision of hospitals, schools, roads, medicines, etc. to socio-economically disadvantaged Nigerians. Since such a policy works well in Guyana, I do not understand why it should not be adopted by the Bureau of Public Enterprises in Nigeria.

#### **viii) Implementation of the 2011 Senate report on privatization**

The government must be bold enough to implement the 2011 report of the recommendations of the Senate Adhoc Committee on Privatization. Among the adopted recommendations were the removal of a former Director General of BPE, for “gross incompetence and for the illegal and fraudulent sale of the Federal Government’s residual shares in Eleme Petrochemicals Company Limited,” as well as the indictment of former heads of the Bureau for seeking approval directly from the President instead of the National Council on Privatization as stipulated in the Public Enterprise (Privatization and Commercialization) Act, 1999. For the failure of respective core investors to deliver on the fundamental provisions of Share Purchase Agreement/Post Acquisition plans, the Senate without due consideration of the legal ramifications and statute of limitation governing the agreements, also asked the NCP to rescind the sale of Abuja International Hotels Limited, NICON Luxury Hotel, Abuja; Sheraton Hotel and Towers, Abuja; the Aluminum Smelter Company of Nigeria (ALSCON); the Delta Steel Company and re-advertise the affected companies for sale to new investors. The upper chamber also called on the NPC to rescind the sale of Daily Times of Nigeria to Folio Communications Limited in keeping with the court judgments. The Senators advised the Federal Government to implement the Inter-Ministerial Technical Audit Report on Ajaokuta Steel Complex dated July 2011, which recommended the completion and inauguration of the plant by the Federal Government.

Furthermore, it recommended that the BPE should discontinue the use of privatization proceeds to settle staff terminal benefits, consultancy fees, transaction expenses and execution of

capital projects and direct that it should approach the National Assembly for appropriation as provided for in Section 80 of the 1999 Constitution of the Federal Republic of Nigeria as amended. The report recommended, directing the Bureau to close all Privatization Proceed Accounts in money deposit banks and henceforth put all proceeds in the Privatization Proceeds Account with the Central Bank of Nigeria in compliance with Section 19(1) of the Public Enterprises (Privatization and Commercialization) Act, 1999. Thank God that the Treasury Single Account of the Buhari regime would compulsorily ensure compliance now. The lawmakers also recommended that the EFCC should be immediately drafted to investigate the economic crimes being perpetrated against the nation at the premises of VON Automobile Nigeria Limited in Lagos by Barbedos Ventures Limited (BVL), while the taxes and import duties accruable to the Federal Government on all goods smuggled into the warehouse of VON Automobile Nigeria Limited be computed and recovered by the Nigerian Customs Service and Federal Inland Revenue Service, respectively. The Senate had exposed shoddiness and corruption that characterized the exercise since 1999 and had also submitted its recommendations to the executive. It is left for the executive to implement them.

#### **ix) Intensity of legislative oversight function**

Since the panel's report, the executive had not deemed the recommendations fit for implementation. The executive's uncompromising attitude is, however, not surprising considering the fact that the executive has often treated with levity most resolutions of the National Assembly, particularly on issues the former does not feel strongly about. The Senate's BPE Probe report would have little or no impact due to the indictment of the handlers of the privatization exercise and the call for the revocation of some of the privatized enterprises. Fear of litany of lawsuits by aggrieved investors and the effect on all the important power sector reform programmes and the sale of electricity assets which commenced in the first quarter of 2012 may be some of the reasons why the executive may not implement the probe and do nothing

against the investors who failed to turn around the enterprises they acquired. Considering the shoddy manner in which privatization has been handled even by legitimate governments of Nigeria, Nigerians should insist that all those who abused legal provisions of the privatization programme be brought to book. Going forward, there is the need for the National Assembly to take its oversight responsibilities more seriously and to ensure that corruption is not just exposed but punished.

The Attorney-General of the Federation has his job clearly cut out, and this involves prosecuting all those who contributed to the economic adversity of Nigeria through the subversion of laws and guidelines on the privatization exercise. He is also to ensure the full recovery of monies due to the treasury. The civil society needs to shout from the rooftops to ensure that the committee's report is not buried in controversy like many of the past probes carried out by the National Assembly. The National Assembly, particularly the Senate must continue to exert pressure on the executive arm of government to implement its recommendations.

#### **x) Appropriate valuation methodologies**

For any national privatization exercise to be deemed credible and honest, it must of necessity in its entirety be based on and backed by appropriate and optimal technical valuation methodologies, modalities, systems and approaches. As such, any national privatization exercise not meaningfully based on nor backed by appropriate and optimal technical valuation methodologies, modalities, systems and approaches should prima facie be regarded as being dubious and questionable.

As things stand now, as far as the current national privatization exercise is concerned, we are already heading towards the rocks. And unless requisite remedial measures are urgently and meaningfully put in place, the entire national privatization exercise will before long hit the rocks. Corrective and remedial measures need to be urgently put in place and in sufficient dosage to save the nation from the impending doom.

In view of the fact that proper valuation of public enterprises and public assets being privatized is strategic and

pivotal for the success of any privatization programme, the National Council on Privatization Programme in the country greatly needs to take appropriate steps towards the articulation, systematization and structuring of appropriate and optimal technical valuation methodologies, modalities, systems and approaches for the proper, effective, transparent and meaningful valuation of the various public enterprises and public assets billed for privatization.

The first step towards the articulation, systematization and structuring of appropriate and optimal technical valuation methodologies, modalities, systems and approaches would be establishing a virile Technical Valuation Sub- Committee (TVSC) and Valuation and Pricing Monitoring Unit (VPMU). The 1999 privatization programme should be amended to duly provide for this. Both the TVSC and the VPMU should converge top-flight appraisal and valuation professionals from the fields of valuation economics, estate surveying and valuation, engineering, accounting, finance and investment, project evaluation and appraisal, etc.

The TVSC will be in charge of articulating, planning, coordinating, supervising and monitoring the valuation of the various public enterprises and assets billed for privatization, including monitoring the performance and works of valuation consultants. The VPMU will be in charge of monitoring the valuation, pricing and sale of the various public enterprises and assets. It will report directly to the National Council on Privatization and the National Assembly periodically or as situations demand. This arrangement will greatly infuse requisite checks and balances that are very essential and pivotal for optimal performance, accountability and transparency into the current national privatization exercise. Furthermore, it will go a long way in bringing about needed national and international confidence, credibility and acceptance for the privatization exercise.

#### **xi) Promotion of competition**

Nigeria can learn from the experience in mobile telecommunications as we seek to overcome our most significant

economic challenge- infrastructure, particularly power and transportation. The success in the GSM network has been nothing short of phenomenal, even though as we shall later see challenges remain. But the current state of the telecommunications sector in Nigeria was frankly inconceivable as recently as 2001.

What are the lessons from all this? First, market liberalization and deregulation drive infrastructural growth. No amount of money pumped into NITEL would have delivered this growth. Indeed while the private telecommunications operators were growing in leaps and bounds, NITEL was dying in government hands. Second, private capital and management are critical. For the managers of the power sector who seem to prefer to delay privatization in favour of more government spending, it is a shocking failure to learn from experience including recent revelations about the NIPPs. Third, Government of course has a role to play in providing strong and competent regulation, creating the right investment climate (incentives, laws, transparent licensing, concessioning or privatization regimes, security and law enforcement, etc.), and supporting social investment such as education to provide skills and consumer protection. Finally, government must ensure competition and an appropriate and sustainable industry framework dependent on market pricing and not subsidies or price control.

## **CONCLUSION**

In practical terms, there are many pitfalls to privatization. Privatization has rarely worked out ideally because it is so intertwined with turbulent political upheavals, especially in developing nations where corruption is endemic. Even in nations with advanced market economies where privatization has been popular with governments, problems center on the fact that privatization programmes are very politically sensitive, raising many legitimate political debates. Who decides how to set value on state enterprises? Does the state accept cash or the enterprise gain control over their own workplace? Should the state allow foreigners to buy privatized enterprises? Which levels of government can privatize specific assets and in what quantities?

In the short- term, privatization can potentially cause tremendous social upheaval if accompanied by large layoffs. If a small firm is privatized in a large economy, the effect may be negligible. If a single large firm or many small firms are privatized at once without following due process, then upheaval will result, particularly if the state mishandles the privatization in the absence of a transparent market system which could lead to assets being held by a few very wealthy people, a so- called oligarchy, at the expense of the general population. This may discredit the process of economic reform in the opinion of the public and outside observers.

It has been argued that economic reform can take place in the absence of large- scale privatization through corporatization. As an alternative to privatization, corporatization converts the state departments into public companies and interposes commercial boards between the shareholding ministries and management of the enterprises. This model could enable efficiencies to be gained without ownership of strategic organization being transferred.

That privatization is growing in popularity does not mean that it is easy. Firstly, there are numerous perspectives to consider and interests to be accommodated. How these perspectives, interest, fears and questions are dealt with differ from country to country.

Secondly, privatization involves a complex interplay of politics and economics. The tendency is greater in favour of politics than economics, especially when it is considered that the utilities being considered for privatization are products of political expediency (i.e. fulfilled campaign promises).

Thirdly, privatization is not an end in itself as there is no guarantee that it will achieve all its desired goals. Privatization is desirable only to the extent that it is complemented by other political and economic activities leading to overall good governance and improved socio – economic situation of the citizenry. Privatization should therefore, be viewed as a part of an all- encompassing liberalization programme.

Privatization can only be delayed but not avoided. For as much as the world is moving towards (or has become) a global

village, Nigeria must move with the rest of the world or be left behind.

Mr. Vice-Chancellor Sir, I have not only contributed to academic knowledge, I have also assisted in building human capacity. I have successfully supervised more than 15 Ph.D. holders in Obafemi Awolowo University. One of my Ph.D. supervisees in Obafemi Awolowo University is now a Professor in the Department of Management and Accounting. I have served as external examiner to the University of Jos, University of Lagos, Ekiti State University, Ladoke Akintola University of Technology, Federal University of Agriculture, Abeokuta, Babcock University, Oduduwa University, University of Nigeria, Enugu Campus, University of Benin, Igbinedion University, Benson Idahosa University, Lead City University, Lagos State University, University of Cape Coast, Ghana, and a host of others Institutions.

I am a Consultant to the National Universities Commission on Accreditation of regular undergraduate programmes, postgraduate programmes and open and distance learning programmes.

As a fellow of the Institute of Chartered Accountants of Nigeria, I have served and still serving in the following Committees: Students Affairs, Professional Examinations and Research and Technical. I currently serve as a member of the Governing Council of the following bodies: Chartered Institute of Stockbrokers (CIS), Financial Institution Training Centre (FITC) and the Administrative Staff College of Nigeria (ASCON).

Mr. Vice-Chancellor Sir, before I end this lecture, please permit me to give honour and glory to God Almighty who has given me the grace to stand before this wonderful audience to deliver the 278th inaugural lecture of Obafemi Awolowo University, Ile-Ife. Whatever I have been able to achieve has been made possible because Obafemi Awolowo University offered me the platform and the necessary impetus.

I am grateful to my mother, Mrs. Stella Idowu Oremule for her care and the upbringing she gave me, my late uncle, Dr. S. O. Ayoola for setting my feet on the right path and my aunty, Mrs. Nike Adubiobi for her love towards me.



I am also grateful to the current Vice-Chancellor, Obafemi Awolowo University, Prof. Tale Omole who has always given me the encouragement to make a mark in academics and administration.

My special gratitude goes to the Institute of Chartered Accountants of Nigeria (ICAN) for the huge moral and financial support provided for this lecture and for the continued belief in my ability.

I appreciate the contributions of my colleagues (both academic and non-teaching) and students in the Department of Management and Accounting and the Faculty of Administration in general.

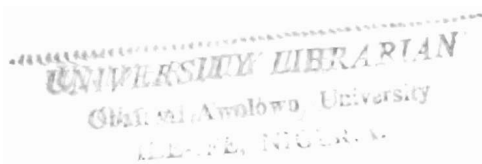
I want to thank Engineer Lanre and Professor Funmi Togonu-Bickersteth for their parental care over my family. I equally appreciate my academic mentor, Professor Lanre Nassar.

My sincere appreciation to my friends, Professor Olajide Oladele, Professor Ifedayo Akomolede, Professor Chris Ajila and Professor Abel Toriola.

I equally appreciate my spiritual parents, Reverend (Prof.) Greg and Pastor (Mrs.) Ayodele Ehrabor of the Sanctuary of Hope.

My unquantifiable appreciation to the love of my life, Simisola Asaolu and my children, Tobi, Timi, Tomi, Jimi, Gbemi and Mosimi.

Mr. Vice-Chancellor Sir, Principal Officers of the University, Colleagues, invited guests, ladies and gentlemen; I sincerely thank you all for your attention.



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