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Privatization, Public Choice and Public Administration

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Privatization or the transfer of responsibility, functions and resources for supplying goods and services from the public to the private sector is believed to be the answer to many ills of government. Presidential Proclamation No. 50 of the Aquino government declared the policy of privatization. However, the implementation of the policy has encountered a number of problems. These include: 1)legal impediments to the disposal of non-performing assets (NPAs); 2) these NPAs are in financial form, making them harder to dispose of; 3) some buyers are unable to meet cash or service requirements; 4) unattractiveness of the sectors or locations of the assets for sale; and 5) resistance on the part of present managers and workers.

Introduction

Since December 1986, the Aquino Administration has sought to implement the policy of transferring public enterprises and assets worth hundreds of billions of pesos to the private sector. Together with other measures such as deregulation and trade liberalization, privatization forms part of its strategy to promote economic recovery and sustained growth by giving private enterprise a greater role in development, reducing state intervention and recouping funds for urgent public programs. A policy that could extend to other public services such as health and education, privatization raises significant administrative and political issues as well as economic and social ones. It also brings up interesting questions of a practical and theoretical nature for public administration.

Privatization is a fashionable policy prescription enjoying a "boom" abroad and in the Philippines. It is claimed to have many virtues. It could relieve government of its fiscal burdens, rationalize its role in development, and improve the administration of programs appropriate to the public sector. By decentralizing power through the reduced scope of the government, it may be said to contribute to the redemocratization in a nation that has otherwise been inured to dictatorship. If privatization is indiscriminately applied, however, it may instead impair necessary services and help erode public confidence in government, for this kind of policy is based on theoretical premises that cast serious doubts on the competence of government to provide goods and services in an efficient and effective manner. Moreover, while privatization may enhance the freedom and power of dominant forces, it need not strengthen democracy in the sense of broader popular participation in the processes of development and governance.

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This paper describes privatization policy and explores its implications for public administration in terms of the theory of "public choice," which seeks to explain why government tends to be wasteful. The next section begins with why and how the public sector has expanded.

Reasons for State Intervention

Privatization has been a reaction to the increasing interventions of the state in economic and social activities in many countries and to their poor economic performance in recent decades. There are various reasons why governments should, regardless of ideology, actively regulate and participate in the provision of a growing range of goods and services. In industrialized countries, they may be called upon to deal with the vicissitudes of economic processes, supply goods that the market cannot provide, and otherwise correct "market imperfections." In poorer countries, governments may be viewed as the only social institution that could effectively spur and lead national development processes, produce new industrial and commercial goods as well as infrastructure, and develop private markets to begin with.

An otherwise normally operating market may fail to provide certain socially necessary goods at all, in an equitable manner, or at the right price, quality, or quantity. These include public or collective goods whose consumption by one consumer cannot preclude consumption by others. Once a beacon or a street light is installed, it would be hard to exclude anybody from enjoying its benefits. Such "excludability" is necessary for a private good: to elicit the necessary market signals and to be profitably supplied. The production or consumption of some goods, while privately supplied, may have significant external costs or benefits ("externalities" such as pollution) which cannot be compensated for in the market. For technical reasons, other goods can be supplied only by monopolies (e.g., utilities like water and power) which, just to stay in business, may control their price or quantity in socially undesirable ways. Still others may be deemed beneficial but under-supplied ("merit goods" like museums), or harmful but over-supplied ("demerit goods" like gambling) by the private market. Finally, natural resources such as water, minerals, and forests may be vulnerable to overexploitation ("common pool goods") by an unregulated market.[1]

Thus, government may take it upon itself to supply public goods, provide ways by which externalities could be compensated for, regulate or take over monopolies, supplement meritorious goods or restrict demerit goods, and conserve as well as develop natural resources. In poor countries, the state has even greater scope for intervening. The private market may be under- or unevenly developed to begin with. The state would have to provide the physical and social infrastructure needed to support "directly productive" investments.

Private investors may not have enough capital to undertake large or risky ventures without government guarantees, incentives, or leadership. Uncertainties may be exacerbated by sheer lack of information about, or insecurity in, rural hinterlands. Macro-economic objectives also justify state intervention to control credit, money and inflation, spur foreign trade, regulate business cycles, prime a sluggish economy, etc., through public spending, taxation and other policies.

Political and social objectives also motivate state intervention in many areas of national life. Governments may invest in basic industries such as steel and high-profile services like airlines in efforts to effectively direct the development process and to project their countries' image as sovereign nations. For the sake of social justice and equity, they may seek to reddress disparities in income, wealth, and status, to which aggregate growth and market efficiency are blind, through progressive taxation, social security and welfare measures, anti-poverty economic enterprises and public services, and asset redistribution measures such as land reform.

Out of their own desire and partly also at the behest of development economists, postwar governments nearly everywhere sought to hasten or stabilize economic progress through public enterprises, services, regulation, and other measures. Even in countries committed to free enterprise, government has been usually "the biggest buyer of goods and services, it employs the most people, and it hogs available resources."[2] In the Philippines, a legatee of the Western conservative doctrine of minimum government, the state assumed increasingly commanding scope over the economy and society. This was particularly so during the Marcos dictatorship, whose technocrats had imbibed French-style *estatisme*. The Marcos regime sacrificed free enterprise and liberal democracy on the argument that this was necessary to advance the material prosperity and social well-being of the Filipino people and thus achieve greater freedom and justice for them.[3]

The Presidential Commission on Government Reorganization (PCGR) created by President Aquino recalls the preceding regime thus: "Policy-wise, the Marcos administration was interventionist.... In theory, government was supposed to provide nothing less than a womb-to-tomb range of services, especially to the poor. Land reform, livelihood, and employment, as well as culture, education, and the 'upliftment of the human spirit' became objects of concern for the government."[4] "Womb-to-tomb" exaggerates the actual extent of the Marcos regime's solitude and activities, for these hardly amounted to a benign welfare state, but "interventionist" is apt enough.

State investments have admittedly contributed to postwar economic growth and development, but recent experience has raised serious doubts

about the "unbridled expansion" of the public sector. According to a World Bank official, public provision of goods and services during the last three decades has been disappointing. It has led to inefficiency in public enterprises and services, marked by high production costs, inability to innovate, and delays in service delivery; ineffectiveness in achieving objectives, diversion of benefits to elites, and political meddling in bussiness management; and bloated and bumbling bureaucracies, overburdened budgets, and strained labor relations in the public sector.[5]

In the Philippines, Marcosian policy "put the government in direct competition with the private sector....," the PCGR noted, "and committed it to a wide range and incongruous assortment of activities... In many cases of interventionism, especially those initiated by the so-called 'cronies,' whole industries were brought under their control in government monopolies."[6]

The *estatist* regime under Marcos cost far more than inefficiency in government, characterized as it was by systematic plunder of the treasury, "crony" monopolies, bureaucratic and political corruption, mounting public debt, and foreign control of the economy. Bland as these terms seem to be, however, ineptitude, ineffectiveness, and equity in the public sector form an integral part of the decline from which the country is now trying to recover. There were saving graces and extenuating circumstances, such as the efforts of many professionals in the public service to improve and innovate on policies and administrative systems amid the worldwide and domestic crises that visited the Philippines during the 1970s and 1980s. But the experience with the Marcos state was nonetheless traumatic.

Poor Performance of Public Enterprises

The rapid proliferation and dismal performance of public enterprises provided ample justification for privatization. Despite the long-standing policy of the Philippine government to participate in enterprise only where and when the private sector was unwilling to venture, the number of government-owned or controlled corporations (GOCCs) increased from 75 in 1970 to nearly 250 in 1985. These firms have been numerically prominent in the service, manufacturing, finance, and transport and communication sectors, although they also have a significant presence in agriculture and trade. They account for a substantial share of assets and outputs in the economy. Non-financial firms (214) had combined assets of ₱260 billion, the biggest five having ₱167 billion.[7] The top 15 among them made up more than 15% of gross domestic capital formation between 1978 and 1984.[8] The state corporate sector grew faster than the rest of the economy in terms of gross value added during 1975-1984, and contributed 5.6% to GDP in 1983 and 3.66% in 1984.[9]

Public enterprises, however, have contributed little to labor employment, have done poorly in financial terms, have been a heavy drain on government coffers, and are responsible for much of the country's foreign and domestic debt. They have contributed less than one percent, 108,000 or 0.66% in 1984[10] to total employment, although the government generally had about one million employees in all by the mid-1980s, 960,000 regular and 80,000 casual employees today. Later, PCGR figures showed that there were in all 296 financial and non-financial GOCCs as of January 1987, of which 291 had combined resources of ₱781.8 billion and 138.732 employees.[11]

While government financial institutions (GFIs) posted net operating surpluses of ₱19.3 billion during 1975-1983, non-financial GOCCs incurred losses of ₱3.2 billion. The financial rates of return of GOCCs were generally low, although state firms in some sectors like water supply, housing and real estate showed positive returns.[12] By 1984, GOCCs had incurred large deficits estimated at over 5% of the GNP in the preceding five years. The top 15 non-financial firms had combined deficits of about 3.2% of the GNP.[13] The 291 GOCCs surveyed by PCGR earned gross revenues of ₱131.6 billion in 1985, but incurred a net loss of ₱6.4 billion, with those recommended for privatization suffering an even greater net loss of ₱7.2 billion or 11% of the total government budget and 29% of the budget deficit.[14]

As a result, the national government has had to bail out GOCCs and assume their financial burdens. Between 1974 and 1985, it gave them direct budgetary contributions amounting to ₱50.9 billion or 13.5% of national budget expenditures.[15] In 1986, it allotted ₱12.3 billion or 10.7% of the national obligation budget for corporate equity.

On top of poor performance on the part of state-created GOCCs, the government has acquired 365 foreclosed "non-performing assets" (NPAs) and sequestered 260 private firms suspected of harboring ill-gotten wealth from the Marcos regime. Subsequent reports showed a total of 386 NPAs turned over by the Development Bank of the Philippines (DBP) and the Philippine National Bank (PNB) for privatization; these had a total book value of ₱108 billion (₱153 billion including guarantees and other contingent accounts), but their sale value was estimated to be only ₱22 billion.[16] About 50 of the NPAs were distressed private companies with substantial financial exposures to government banks; these were rescued and converted to state firms to "avert imminent layoffs and, more importantly, to bail out cronies...."[17] Other NPAs and sequestered firms have been similarly tainted with "behest" loans and others allegedly illicit favors from the previous dispensation.

Due to the disappointing performance of public enterprises, repeated calls had been made to "rationalize" the corporate sector of the government even

before the February 1986 Revolution. Academic critics, however, advised the Aquino Administration to adopt more drastic measures to reorganize the government machinery "so that enterprises that are more properly managed privately are transferred to the private sector; those that are outright wasteful or extravagant are abolished; those whose functions are by nature public activities are made regular government agencies; and those that duplicate activities elsewhere are merged and consolidated."[18]

Concepts and Modes of Privatization

Simply defined, privatization is the transfer of responsibility, functions, and resources for supplying goods and services from the public to the private sector. The concept turns out to be broader and more complex upon closer scrutiny, so that some authors would rather analyze it in terms of the specific measures that comprise the policy. Government may privatize in three basic ways:

1) Government may divest itself of both the "provision" (e.g., financing) and "production" functions through the sale of whole enterprises, assets, or equities to private buyers, or simply reduce or stop supplying some goods and services. Divestiture has been popular in Great Britain and developing countries, including the Philippines, where some "load-shedding" may also be said to be occasionally done, oftentimes by default.

2) While retaining the responsibility for provision, government may privatize the production function only by contracting out certain services to private parties, such as research and public works jobs, and by otherwise buying goods produced by the private market. It may also finance consumer purchase of privately produced goods through educational vouchers, housing rent certificates, food stamps, and the like. Both private consumers and suppliers are thus giving greater freedom to transact business, though government pre-determines at the least the kind and quantity of goods to be consumed.

3) Government may retain production and privatize only the provision function. It may continue to produce some goods and services, but instead of giving them away, government may sell them to private entities and end-users. Government-built housing sold or rented out to consumers provide an example. The financing of "free" public services may thus be shifted to the consumer through user charges imposed at or near market rates. The reduction of any public subsidies, such as dormitory rents and tuition fee increases in a state-supported university, is privatization of provision.

The transfers involved, even in the case of divestiture or load-shedding, need not be complete. Private management contracts for and leases of publicly financed, built or acquired facilities, and the granting of franchises for private operation of utilities, would keep government in the picture while shifting most of the provision and production responsibilities to private suppliers and consumers. Private administration of government hotels, leases of public lands and market sites, and franchising of electricity, telephone, and public transport services provide examples.

Some authors would further broaden the concept of privatization to embrace deregulation and trade liberalization.[19] Although such measures are in line with the basic "liberalizing" logic of privatization, one may ask if they should invariably accompany the latter, when government usually retains important residual responsibilities, including precisely more effective regulation to, say, enforced private competition. Others see no analytic point and theoretical interest in such expansive views of privatization that extend beyond the transfer of public production activities to the private sector.[20] As we shall see, however, even such a narrower concept has meaningful implications for public administration.

The Philippine Privatization Policy

Privatization was officially proposed by the Presidential Commission on Government Reorganization (PCGR) as one of the guiding "postulates" of reorganization and major dispositive actions for GOCCs. It was based on "the principle of promoting private initiative (which) means that the government should withdraw from those areas where the private sector is sufficiently capable of providing the service or product."[21] Presidential Proclamation No. 50, which enunciated and launched the policy and program for privatization and provided for its administrative organization, was focused on the disposition and rationalization of public enterprises and assets, but it was also generally premised on giving primacy to the private sector and only a "supplemental role" to the government in entrepreneural endeavors. Section I states that:

> It shall be the policy of the State to promote privatization through an orderly coordinated and efficient program for the prompt disposition of the large number of non-performing assets of the government financial institutions, and certain government-owned or controlled corporations which have been found unnecessary or inappropriate for the government sector to maintain.[22]

Similarly, the cabinet-level body charged with recommending dispositive action to the President—the Committee on Privatization (COP) — defines privatization primarily in terms of sale or divestment but recognizes its broader and diverse meanings to embrace not only GOCCs, NPAs, and se-

questered assets, but also "even regular government services such as health or social security."[23] Other public policies or measures have been linked to privatization, such as those designed to convert foreign debt into equity and to finance the government's agrarian reform program.

In its June 1986 report, the PCGR proposed that 87 of 214 non-financial GOCCs be privatized through "sale or transfer of government ownership to the private sector." In addition, of the remainder, 8 should be converted into private corporations through SEC registration without changing their management, and 38 should be abolished. The rest should be retained (46) as government corporations with no or only slight modification; regularized (14) or transformed from corporate to integral units of regular departments or agencies; or consolidated (21) into fewer corporations.[24] Most of those to be privatized through sale were in the manufacturing (32), transport, communications and storage (19), agriculture, forestry, and fishery (8) sectors. Those proposed for abolition were mostly in the services (13) and manufacturing (9) sectors, and those for conversion were almost all in the services sector(7).

PCGR later submitted an amended list of 125 GOCCs for privatization, including GFIs. For its part, the COP, which is composed of the Finance Secretary as chairman and four other Department heads as members, submitted a list of 121 for privatization to the President one year later, in mid-July 1987. Apparently, the composition of the lists had changed from the original proposed by PCGR. Aside from the inclusion of GFIs, there were many in the later lists that had not been in the PCGR June 1986 proposal or that had been recommended for other kinds of disposition. Other changes soon followed.

After a review by the President's staff, President Aquino approved 86 GOCCs for immediate privatization, 10 for privatization subject to certain terms and conditions, and 7 for "further study before a decision could be made." Of the 86, 9 had been turned over to the Asset Privatization Trust (APT), which was to actually sell off the GOCCs and the NPAs. Presidential action on the remaining 18 was indefinitely deferred.[25] The 121 GOCCs had combined assets of ₱90.1 billion, 40,011 employees, gross revenues of ₱50.1 billion, and net incomes of ₱205 million.

There seemed to be some Presidential reluctance to sell the profitable firms. While those "OK'd" for immediate or conditional privatization had most of the assets, employees, and *negative* net incomes (548 million), the GOCCs marked for further study and "action deferred" had most of the gross revenues (42.5 billion) and *positive* net incomes (₱753 million).[26] The fourth group included several subsidiaries of the Philippine National Oil Company (PNOC).

Progress and Problems of the Program

Privatization policy has been pushed by its proponents as a way to recover losses, provide budgetary relief, and generate substantial revenues for priority government programs as well as attract foreign and domestic private investment. Together with sequestered assets, the sale of GOCCs and NPAs was expected to supply a large part of the funds required by other programs of the government, the Comprehensive Agrarian Reform Program (CARP), for example.

The Program has generated keen interest on the part of foreign and local investors, and the Aquino Administration tried to move fast on privatization through divestment. Prior to the formation of the Assest Privatization Trust, a dozen NPAs had been sold by their parent companies. The COP had approved divestment of other NPAs by the end of June 1987, and four more NPAs sold by the APT were pending COP approval.

However, the program has encountered problems, delays, and criticisms from different quarters. By mid-1987, COP had approved divestment of only a few NPAs through the APT. The latter had also sold four NPAs but these were still pending COP approval. Seven more were being bidded out by the APT. In recent months, the program has slowed down so that it has drawn fire from interested parties, particularly foreign investors.

The COP and APT have attributed the delays to several factors. The slow rate of NPA disposal has been due to legal impediments, such as the suits filed by previous owners and the fact that many NPAs are in financial, rather than physical and thus readily saleable form; buyers' inability to pay cash or secure guarantees; unattractiveness of the sectors or locations of assets for sale; and lack of adequate information about disposable assets.[27]

Resistance on the part of the present managers and workers has been a major impediment to the sale of GOCCs.[28] Such big and "high-profile" state firms as the PNOC and its subsidiaries, Philippine Airlines, and Manila Hotel have strongly opposed divestment or interposed certain conditions for privatization. Although its previous board of directors had commited the oil firms to privatization, present members have reversed the board's position, although it has expressed willingness to sell some of its subsidiaries.

The institutional framework of the program seems to have been a source of these difficulties. While there are central bodies to direct and implement the program, the process is not entirely within their control. The COP, which includes the Secretaries of Budget and Management, Trade and Industry, and Economic Planning, sets the policies and guidelines for privatization and

recommends the firms to be privatized for decision by the President. It has reviewed the PCGR's proposals, discussed them with the GOCCs concerned, and endorsed the proposed actions to the President, with or without changes. The Department of Budget and Management has taken over the defunct PCGR's functions and will review the non-incorporated assets of GOCCs for possible divestment.

The COP designates the disposition entity, monitors the program, and approves individual cases of disposition with respect to price and buyer. The APT, composed of a chief executive trustee and four other trustees appointed by the President upon recommendation of the COP, is the main disposition entity for GOCCs and NPAs. A separate Sequestered Assets Disposition Authority (SADA) has been created. Parent GOCCs and Departments to which GOCCs are attached may be designated as disposition entities by the COP "if they manifest the commitment and capability" to privatize their subsidiaries or disposable assets in line with COP guidelines. Parent GOCCs like the National Development Company (NDC) and departments like Agriculture have created their own privatization comittees. They may identify and recommend their own subsidiaries for privatization, and carry out the divestment tasks themselves. GOCCs recommended for privatization by the COP were likewise consulted by the Presidential staff before a decision was reached by the President.

However, the latitude given to GOCCs at least to be consulted has also given them an apportunity to resist or delay the privatization process. While most GOCCs recommended by the COP have acceded to privatization, and a few subsidiaries or assets have been sold on the initiative of their parent companies (e.g., NDC), the program has run into stiff opposition from some quarters, as already mentioned above. Out of the 121 submitted by the COP to the President last June, 86 posed no problem, but the rest expressed certain reservations (17) or simply voiced objections to being privatized (18). Despite the COP Chairman's efforts to get at the reasons for their opposition, the Executive Secretary gave only a cryptic reply.[29] But in some particular instances, there have been open debates, and these have generated some light as well as heat on the issues involved.

Policy Issues: The Case of PNOC

The COP, APT, and other privatization agencies are given five years to complete their job. But thus far, the program has had little to show in terms of actual dispositions. The briefing papers on the program, on which we have relied for most of the information given in the preceding paragraphs, reported that one parent GOCC, the NDC, gained P288.7 million from four disposals.[30] Nearly a billion pesos more were reported by the Trade and Industry Secretary

in August from APT sales of 12 NPAs.[31] But accomplishment reports of this kind have been otherwise scanty considering the many more billions expected from the program.

The program has slowed down, revealing the intricacies and difficulties of implementing privatization and raising basic issues of policy, politics, and public administration in the process. As we have indicated, the proponents of privatization had marshalled considerable arguments for their cause in terms of the many other countries which had shown the feasibility of privatization, the entrepreneurial incentives, economic benefits, and fiscal payoffs that it offered to the Philippines, and the administrative burdens that government would shed with the GOCCs, NPAs, and sequestered assets. Still, fundamental questions cropped up along the way: Which GOCCs should go and on what grounds? Should the policy be extended to other government activities? Who would benefit from privatization?

Prominent GOCCs like PNOC, PAL, and the Manila Hotel have resisted privatization on various grounds, including PAL's need to improve its profitability and stability before it should be privatized.[32] Central issues were probably best articulated, however, in the debate on PNOC. This company, together with one of its subsidiaries, Petron, had been recommended for immediate privatization by the COP, including the sale of 40% of Petron's stocks to foreign investors. An "integrated oil and energy company" with 15 subsidiaries, PNOC argued that they should not be privatized because they, (particularly Petron, a petroleum refining and marketing subsidiary) had been doing well financially and were performing strategic roles for the government and the country at a time of great insecurity at home and abroad.[33]

Whereas the government's privatization policy had singled out NPAs and those found "unnecessary or inappropriate for the government sector to maintain," Petron was PNOC's most profitable subsidiary and PNOC's functions would be stymied if it divested its assets and stock shares in Petron, as the COP recommended. PNOC also suggested that it was playing vital roles as a public entity. According to the company's management:

> "PNOC is a key institution in maintaining political stabilility, national security, and economic growth." For one thing, it provides insurance against another oil crisis, which seems likely with the growing tension in the Persian Gulf. This has a public-good dimension, national security. Petron is also a reliable source of supply for the country, particularly for its armed forces which get Petron products on interest-free credit. PNOC's extensive experience in government-to-government negotiations is a big factor in reducing risk and uncertainty about oil supply.
>
> "PNOC's pursuit of alternative energy development projects complements, and does not displace private-sector initiatives which, incidentally, is (sic) luck-luster." Geothermal, coal, and other alternatives to imported oil require "huge

investments in social overhead capital involving economies of scale and long gestation periods, two features which daunt and discourage private investors." Petron's profits have supported alternative energy development and oil exploration projects, and its status as a wholly-owned PNOC subsidiary facilitates access to soft loans.

"PNOC keeps prices of gasoline and other petroleum products at reasonable levels, in an industry where the only two other major participants are multinational enterprises (MNEs)." Petron performs this regulatory function by helping the government obtain first-hand information about refining, processing, and marketing costs as a basis for determining reasonable price levels, and by maintaining excess processing capacity whose utilization could be raised in the event of a shortage. Thus, market power of MNEs like Shell and Caltex could be blunted.

"PNOC's ability to compete on an equal footing with these MNEs has received international acclaim and made it a source of national pride and honor." There is no reason to believe that private foreign investment in Petron would improve its technological base, its flexibility in securing crude oil and supplying specialty products, or its concern for the national interest, which are far from the motivations of MNEs. The immediate sale of Petron stocks is also likely to reward only the wealthy few at home as the MNEs, i.e., the domestic and foreign investors at the expense of Filipino consumers.[34]

In response, the COP made it clear that it did not recommend the privatization of PNOC, which could continue to serve as the vehicle for the government's crude oil acquisition strategies, and that it meant to distinguish Petron from its parent company. The Committee sought to refute the arguments of PNOC's board of directors as follows:

1) The world has learned to stave off oil shocks by diversifying their sources away from the Persian Gulf and using much less oil. The potential for sustained oil supply disruption is thus "extremely unlikely, and OPEC no longer holds the world to ransom." Through similar measures and through domestic resource development, the Philippines itself has reduced its dependence on imported oil from 92% to 52% of its energy requirements. If necessary, PNOC can reassume the task of government-to-government crude oil supply arrangements. But it is no longer necessary to maintain 100% government ownership of Petron. Petron's role as supplier to the AFP is tantamount to government competition with the private sector.

2) Alternative energy development projects were financed by the previous regime out of PNOC funds derived from other than the intended source of funds for such projects (taxes on petroleum products). Petron itself can no longer hope to underwrite them because its profits picture is likely to be negative in 1987 and 1988, the peak period for the projects' capital outlay requirements. Moreover, such projects do not daunt the private sector, whose expenditures and investments during 1973-1985 far exceeded the public sectors, except in the uncertain field of geothermal development. Rather than

competing, the "proper role of government is to provide the conditions under which private enterprise can fluorish." PNOC's access to soft loans is ensured by national government guarantee rather than by Petron's status.

3) Petron's role as "window on the industry" should not be diminished with the reductions of government equity to 35%, which should enable it to continue to exercise control over Petron. As it is, oil is one of the most heavily regulated industries and the government already has all the information from various available sources to do an effective job of regulation. It is anomalous and unfair for Petron to be both an industry participant and industry regulator. If PNOC's spare refinery capacity is a sound strategy against a domestic shortage, why is it increasing its utilization level?

4) PNOC's concerns that allowing foreign capital into Petron would add to the country's foreign exchange problems and displace Filipino employees, that Petron's privatization would worsen income and wealth disparities, and that a broadened ownership base should be assured and shares be sold only to other state firms as conditions for privatization — these are mistaken, unwarranted, or inconsistent. The first assumes that debt-equity conversions will be allowed for Petron's share, which need not be the case. The potential effects of foreign investment should also be determined in individual negotiations instead of prejudged. The sale of Petron shares to other GOCCs only does not jibe with a widened ownership base and the aims of privatization. The base should be expanded through public offerings, preferably to its own employees and dealers.

5) That Petron has been an effective competitor may be conceded, but its presence in the industry as a state firm is inconsistent with the Aquino Administration's policy. Moreover, it has been effective only because "it enjoys the best of all possible worlds," a state firm and market participant that has self-contained decision-making powers, exemptions, and other privileges not available to private companies or even to other GOCCs. It remains to be seen, however, if Petron can continue to compete effectively if the usual government structures, such as closer scrutiny of the Comission On Audit and Civil Service regulations, are imposed on it.[35]

Aside from conflicting assessments of the international environment, the debate pitted opposing views on the propriety and efficacy of Petron's dual status as a state agency and market participant, on the one hand, and the economic and social consequences of its privatization through sale to foreign and local investors on the other. The PNOC board's arguments have much in their favor: Why not a regulator-competitor in an industry otherwise dominated by only two MNEs, if Filipino public interest could be better served that way? What benefit to the Filipino people could be had from selling Petron

to more foreigners and to local elites? The recent domestic energy price increases, following OPEC's moves to raise crude oil prices, and the growing tension in the Persian Gulf today, may have vindicated PNOC in its apprehensions about the specter and dire consequences of an oil shock and increased foreign domination. And yet they also throw water on its claim to Petron's being an effective and conscientious competitor-regulator.

The COP's rebuttals seem equally persuasive. The Committee seemed to concede too readily to Petron's claimed effectiveness as competitor and regulator. This is only because the first role was simply improper under a free-enterprise policy, and the second did not strictly require 100% government ownership, and the two roles together were irregular and unfair. Moreover, Petron's efficacy was due to its dual status which gave it "the best of all possible worlds." Actually, this implied a doubt on Petron's and PNOC's real efficiency, which was deceptive in view of their privileged access to both government tax resources and market profits, which the COP expected to be no longer forthcoming under a stricter regime. Without its crutches, Petron may no longer be the profitable public enterprise that it is touted to be. Instead, with the normal government constraints on it, Petron and its parent GOCC may turn out to have, as a foreign consultant said some years back of Philippine public enterprises, "the worst of two worlds."[36]

The Committee's position on the issues of increased foreign control and elite domination of the industry was comparatively weaker. Although the debt-equity conversion scheme may not apply to Petron's privatization, it has been devised (and criticized) as a systematic way of inviting more foreign investment in Philippine enterprises. Finance Secretary Jaime Ongpin, who served as COP Chairman, himself expressed pride in the unique linkage between the scheme and the privatization program in a speech before Japanese businessmen in April 1987. He singled out PNOC as one of the most profitable exceptions to the assorted white elephants that the Philipine government had accumulated.[37] Now, in its reply to the PNOC's demurrer, the committee headed by Ongpin doubted Petron's future profitability and dismissed PNOC's fear of foreign control through privatization as unfounded. The COP seemed to agree that Petron's local ownership base should be broadened, yet would give preference to the company's own employees and dealers.

The more significant point emerging from the PNOC-COP debate is the question raised by the pushers of privatization about the basic capabilities of public enterprises. When as free and privileged as Petron had been, they are likely to be profligate though deceptively profitable. But when brought within the pale of regular government rules, they are liable to be hobbled by the intricacies of bureaucracy. The COP thus reminded PNOC that "the specter of closer COA and Civil Service coverage as well as other government

regulations provided part of the motivation for the previous PNOC management to prepare for privatization." [38] In any case, privatization advocates see in public enterpises an "inherent inefficiency," as Ongpin would argue.[39]

Public Choice Theory and Public Administration

PNOC may be said to be a "hard case" for privatization. Otherwise, the Philippine program has probably been concentrated on the easier ones—firms or assets in the manufacturing, services, and other commercial sectors—and through the limited mode of divestiture. The problems of policy and implementation that these easier cases turn up are no less important: Why sell the profitable ones as well as the losers when the government needs money badly? On the other hand, why should the losers go first when they can be sold only at bargain prices (a quarter of their book value for the whole lot of NPAs)—and they are likely to have fewer takers? Why bother to touch them up before selling them off? How do we deal with "financial form" assets sequestered and court-contested properties? Restrain the profit margin of private brokers serving as APT intermediaries? Does not the sequestration program grate against the thrust and spirit of privatization policy?

But the hard cases are what primarily interest us because they churn up the more interesting questions about public administration—and this includes politics as well. They lead to the heart of the matter, questioning the basic competence of government to minister to the demands and needs of the people. Ongpin's view of public enterprises as necessarily wasteful is widely shared, unfortunately. Privatization, the remedy, reflects "a profound skepticism" about state planning, state ownership, and public policy and administration. It has usually been anchored on a litany of horror stories about the failures of public enterprises, but "the issue extends far beyond public enterprises,"[40] and well it might, given the expansive nature of a concept and policy that would embrace regular social services as well as industrial and commercial enterprises.

At bottom, privatization represents a conservative ideological bias against state intervention that has been around for some time but is now enjoying an international resurgence. This bias has found expression in Western "new right" theories of political economy and public administration, the most fashionable of which (judging from, among other things, the Nobel prize given to its chief exponent) has been the theory of "public choice." Essentially, this theory argues that the market is a naturally more efficient allocator of resources than the state. In the market, self-interested individuals bear the full responsibility for their own choices and thus allocate and use their resources only for what they truly need and want. In government, people

behave in the same rational, self-interested manner, despite the assumption that there is also a public interest to be pursued. But the incentives and the resources to be used are different.

When a legislator pursues the public interest, he does so by spending other people's money. So, he has little personal incentive to make sure that government expenditures are efficient or wise. The result of this system of incentives, public-choice proponents say, is that government tends to grow too large and to be increasingly costly to operate.[41]

Government tends to expand its scope and squander scarce resources because of the rational desire of people in government-and interest groups who benefit from government resources—to maximize their share of the government budget as the closest public sector equivalent to private profit. The budget is both a surrogate and a means for amassing status, power, and other values obtainable through government. Bureaucrats, politicians, and client groups thus seek continually to expand their programs, functions, and personnel. This leads to inflation of the public budget because of the lack of reliable performance measures and effective restraints like the profit line in the private market. Indeed, relations with client groups and practices such as log-rolling in legislatures provide and facilitate pressures for indiscriminate expansion. Hence, governments are naturally inclined to over-estimate public demand, oversupply of goods and services, and overspend resources. The consequent growth in scale and complexity of government and the dysfunctional proclivities of bureaucracy exacerbate inefficiencies in public administration. Government is thus a less efficient provider of goods and services than the private market. Although there are goods that the market may fail to provide, market failures or imperfections do not necessarily mean that government is the alternative.[42]

Public-choice theory is plausible particularly in pluralist political settings in the West, where influential new right thinkers such as Buchanan, Tullock, and Niskanen, have helped persuade policy-makers about "how the public sector budget is *necessarily* inflated...."[43] Along with kindred ideas such as "supply-side management," public choice theory is credited with inspiring measures designed to curb government's expansionary tendencies, e.g., policies or proposals to reduce the overall size of government budgets, impose balanced budgets as a legal requirement, privatize public functions, and otherwise reduce the scope and influence of government over the economy.[44] In the study of public administration, the theory has been familiar since at least the early 1970s,[45] but it has elicited renewed interest in view of the current popularity of privatization. In the Philippines, proponents of this policy base their arguments on principles reminiscent of public-choice theorists. The academic advocates of economic recovery and sustained growth, for example, enunciated these "principles in the design of government":

i) The government should intervene only in unambiguous cases where there is market failure of a competitive market economy, as in cases such as public goods, externalities, increasing returns to scale, and risk and uncertainty.

ii) The mere hint of the existence of market failure should not be immediately construed as a justification for government intervention."[46]

Public-choice theory and privatization policy have thus dealt government a severe blow, while allowing that the market has its share of deficiencies. But if neither government nor the market is the appropriate institution to do a job, what is the alternative? Although some authors do not normally envisions more than these two basic options, with private enterprise as the operational unit of "market," others have construed the market as either a broader set of entities or as just one of the major players in society.

"Clans," "communities," "associations," and even "private-interest governments" have been advanced as equally important social or institutional categories.[47] In the less academic parlance of government practitioners, volunteer groups, non-governmental organizations (NGOs), and "quangos" have been identified as potential legatees of public service functions. As we have suggested earlier, the choice of which institutions and groups to turn to is of great social and political consequence in the privatization process.

In Defense of Public Administration

Does all this mean that government - public administration - is beyond repair? Not really; although litanies against public bureaucracies reflect a deep despair, it is often allowed that public administration can be rationalized as long as government keeps within its proper bounds. But the questioning of competence implicit in privatization and its theoretical underpinnings has often been so strong that it spills over to the discipline of public administration itself. This was reflected recently when an American consultant wrote that the enterprise management institutes in Third World countries could better "vitalize" public institutions than their sister institutes of public administration, which "had achieved a not particularly distinguished record."[48]

Something, however, may still be said for public administration that could help fend off privatization or at least put it in its proper place. Privatizers should not assume that public administration and, say, private business management are the same and that a transfer would not entail any important social cost. As some authors have pointed out, they may only be "fundamentally alike in all the unimportant respects."[49] There remain some basic differences between them that should be taken into account. These include differences in objectives. For example, government is (or at least supposed to be) big on equity, whereas business puts a premium on profit as

efficiency. If there is anything that even hard-nosed economists would concede to government, it would be this kind of difference, and much as the minimalists would limit the scope of government, they still concede a wide range of purpose and functions as proper for it to perform.

If government often fails to solve problems that are turned over to it, or comes far short of doing so, this failing may be due more to the nature of the problems theselves than to the nature of government.[50] The objective of equity, not to mention equality, is not easy to achieve in a generally satisfying manner; so is the related one of getting external costs and benefits to be "internalized" by the parties concerned. Despite the popular (and even professional) perception of public sector shortcomings and failures, however, some authors suggest that public bureaucracies have been doing more satisfactorily than is often thought. Goodsell presents evidence of this in defense of bureaucracy and public administration in the US. He also implies that the scope for privatization may not be as great as one may think, because much of this process already occurs in federal government "administration by proxy" through private contractors (over half of federal expenditures) and through assignments to state and local governments. Moreover, this mode of administration has added considerably to the complexities, difficulties, and costs of federal administration.[51]

Another author, Dunleavy[52] has stressed related aspects of public administration in a critical review of public-choice theory and privatization in Great Britain. The theory overlooks the complex nature of politico-administrative systems. It has tended to view people in government as an undifferentiated mass of maximizing individuals unaffected by the functional and structural variations in their institutional framework and environment. On closer scrutiny, it would turn out that such systems contain diverse organizational functions, forms, and relationships. Public budgets also contain components that vary in terms of proximity to the vital interest of politicians and bureaucrats. Such variations in organization, in their positions, and in the contents of their budgets determine whether politicians and bureaucrats do seek to maximize their budgets or are willing to shed and privatize. Individuals in control- or regulatory-type agencies - or in control units or positions in a complex of agencies - may be inclined to hive off functions, personnel, and funds unessential to their interest and power. In general, there are transaction costs that deter budget- maximizing efforts and cost-and-benefit incentives that elicit different responses to privatization, factors also neglected by public-choice theory. When such factors are overlooked, privatization may be indiscriminately and inappropriately applied and may sacrifice net external social benefits associated with a public service[53] such as security of employee tenure, and accessibility in the "missionary routes" of a public transport service.

Conclusion

Privatization has been advertised variously as a "seachange," a "wave of the future," a "boom" that could sweep away many ills of government and restore private enterpise to its primary role in development. The boom could peter out due to practical problems of implementation, difficult issues of policy, and invalid theoretical and empirical premises. The Philippine program was launched auspiciously enough, with hundreds of GOCCs and NPAs in prospect. But to the great disappointment of its advocates and adherents, including the American and Australian chambers of commerce, the program has apparently floundered on at least the first two factors.

However, the ideological momentum of privatization may remain strong for some time to come. This may derive its force from the claim that privatization has decentralizing, liberalizing, and democratizing effects. By reducing the size and scope of government the program could help break up monopolistic power and disperse it to groups and institutions outside, including the market. The market ensures such dispersion and limitation of power.[54]

Yet, even if privatization is liberalizing, it need not be democratizing as well in the sense of dispersing power sufficiently to enable the masses to participate effectively in developing and governing themselves.[55] As the policy's opponents have argued, privatization may simply transfer resources and control from government to foreign investors and domestic elites, from one monopoly to other monopolies. Despite the ostensible wishes of its policy-makers and implementors to give preference to small Filipino investors, the program offers more attractive incentives and facilities to foreign multinationals and local notables.

Meanwhile, the policy may (further) erode public confidence in the capacity of government to solve problems and resolve issues by relying on a theory that postulates a necessary inclination in government to overgrow and to waste resources. This lends credence to the popular view that public enterprises and regular bureaucracies have inevitably botched their jobs. As we have suggested though, public administration has a significanty different job - a wide range of jobs to perform, and may have done better at it than is often supposed. The theory supporting privatization over-estimates the vices of public administration and the virtues of private business, ignoring important factors and conditions in government that call for more discriminating application of privatization.

What is at stake in the absence or presence of public confidence in public administration is not just a discipline, but also the fate of a political system and its nation. At this critical juncture in Philippine history, true liberty as well as democracy is in grave doubt. There are enough centrifugal forces pulling the country apart. The political center may not hold; it may be hollowed out by extremist forces. If the administrative structure is subverted as well, the whole system may break apart.

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