From public to private: decision-making gone wrong

Jashwini Narayan

While some observers say it was the major shipbuilding project calamity involving the construction of the *Reef Endeavour* and the continued financial burden on the Fijian State that prompted the privatisation of Government Shipyard and Public Slipways (GSPS), others believe it was a political ploy for personal gain. Based on in-depth interviews and archival data, this article details and analyses the decision-making processes involved in privatising GSPS. It also unveils the political mistakes resulting in the failed privatisation.

Jashwini Narayan is an Assistant Lecturer in the School of Management and Public Administration in the Faculty of Business and Economics at the University of the South Pacific, Suva. Before this, she worked for organisations such as Carpenters Morris Hedstrom, Cost-U-Less, ANZ Bank, Reserve Bank of Fiji and HFC Finance.

Government Shipyard and Public Slipways (GSPS), now known as Fiji Ships and Heavy Industries Limited (FSHIL), was a wholly government-owned entity under the Fijian Marine Department. GSPS was later corporatised as Shipbuilding (Fiji) Limited (SFL) to pave the way for its privatisation. It was the first government-owned body to be privatised in Fiji. The privatisation was undertaken through a sale of 51 per cent of shares to MCI Carpenters Limited (a consortium of MCI New Zealand Limited and Carpenters [Fiji] Limited). All in all, this rushed privatisation was an utter failure. SFL went into receivership in 1999 due to the receivership of the managing partner, MCI New Zealand Limited. Soon after, the Fijian government made a successful F$6.25 million bid to reacquire the assets from the receivers. FSHIL was a wholly Fijian Government Commercial Company (GCC) until recently. Since June 2009, it has been a subsidiary of a profitable GCC—namely, Fiji Ports Corporation Limited.

The prime interest of this article is the investigation of the poor government decision-making process involved in the unfortunate privatisation and its aftermath. The article has two goals: a complete account of the decision-making process and an analysis of the political mistakes resulting in the failed privatisation.

Pacific Economic Bulletin Volume 25 Number 2

Information was gathered through in-depth interviews with a few long-serving employees of the shipyards, union officials and Public Enterprises Ministry officials, as well as reviews of documents such as parliamentary debates, newspaper articles and letters, and union memos.

The privatisation decision-making process

While some observers say it was the *Reef Endeavour* debacle and the unmanageable financial burden on the government that prompted privatisation of GSPS, others feel it was a political ploy for personal gain. The *Reef Endeavour* debacle was the most divisive disaster to have struck the GSPS. It was a major shipbuilding project for cruise liner clients Captain Cook Cruises (Australia) Limited and Qantas Holiday Tours Limited. Work on the *Reef Endeavour* began in 1989. The initial contractual arrangements were, however, rather unusual.

The clients were initially involved in a contract with a Melbourne-based company, Ship Design Management (Australia) Proprietary Limited (SDMA). As the original project managers, they drew up the costings and tendered for the construction of *Reef Endeavour* to GSPS for A$7.7 million. The first dispute arose in 1991 between the shipyard and the ship designers because of problems with the contract and the supply of pre-cut steel for the vessel. Despite SDMA's higher cost estimates, the Fijian government signed the initial contract for A$7.7 million on reassurances by SDMA that the cost of construction would be well within this amount. The cost estimates supporting these assurances were later found to be grossly inaccurate.

When construction came to a halt in 1991, the GSPS had already spent F$10,143,357 but had received only F$2,117,087 from SDMA. By the end of January 1995, GSPS had spent F$16,416,633 on construction. The Fijian government initiated legal action against SDMA for misrepresentation and fraud. The fraud case was, however, later dropped because SDMA was declared bankrupt and there was an extremely slim chance of any form of compensation. The total amount written off up to the stoppage of construction in 1991 was F$5.5 million and it was expected that a further approximately F$3.6 million would be written off on completion.

Under a new A$7.66 million contract, the government received A$4.62 million in the form of a progress payment. It was expected that work on the *Reef Endeavour* would be completed by late 1994 but this did not eventuate. The clients agreed to pay a further F$1.65 million in addition to the new contract amount. As of 13 February 1995, the total estimated cost of completion was F$18,534,979, against a revenue figure of F$9,473,821, including both contracts (the first contract was for F$2,117,087; the second contract was for projected revenue of F$7,356,734), resulting in an estimated loss of approximately F$9.1 million for the Fijian government since the 1989 contract was signed.

On 30 November 1995, the ship was completed at the Suva shipyard with the exception of a few minor tasks. The maximum penalty of F$650,000 was levied on the shipyard by the owners because of late delivery, but the amount was later lowered to F$225,000. After failure to reach an amicable solution, both parties opted for legal arbitration in Australia. Later, the Fijian government and Captain Cook Cruises realised that there was no point in prolonging arguments and it was decided that the government would be paid an additional of F$4.5 million for the work done up to and including completion and delivery of the *Reef Endeavour*.

In January 1996, the Works Minister and Qantas's chief executive officer signed a joint statement indicating that the payment also included other issues relating to disputes and arbitration. The statement acknowledged the timely intervention by Qantas to help reach an amicable solution. Accordingly, the tourist ship left Suva's Kings Wharf on 12 January 1996 at 8 pm with 33 crew members, including three locals. The luxury ship was exchanged for a cheque of A$4 million, which included the F$1.65 million additional payment over the second contracted amount agreed to earlier (Narayan 2009a, 2009b:2).

Notwithstanding the controversy over the construction of the *Reef Endeavour*, its craftsmanship was acknowledged as admirable. Had it not been for the controversy over its construction, the ship would have been regarded as the pride of Fiji. Few would guess that a vessel of such high calibre and complexity could be built in Fiji. 'Almost complete, she stands proud in her white and blue livery at the shipyard' (Chaudhari 1995:99).

The project manager held the shipyard workers in high regard: the 'finish is much superior to anything done here before, he says' (Chaudhari 1995:99). The Commerce Minister commended the local shipyard workers for a job well done. It was the largest and the most complex shipbuilding project undertaken in Fiji.

Whatever the ultimate motivations behind the privatisation of GSPS, numerous recommendations favouring privatisation had been put on paper well before the actual process (between 1986 and 1994). In January 1995, cabinet considered the option of the sale of GSPS. In doing so, the Minister for Commerce, Industry, Trade and Public Enterprises—who was also the Minister for Finance and Economic Development—visited shipbuilding companies overseas. One such country was Korea, which showed interest in the purchase of GSPS.

A list of potential purchasers was drawn up between January and February 1995 and in March 1995 cabinet approved the privatisation of GSPS. An important point to note is that the privatisation of GSPS eventuated before the enactment of relevant legislation—in this case, the *Public Enterprises Act 1996*, which materialised in December 1996. The assets of GSPS were valued at F$5,054,844 by the Ministry of Lands, Mineral Resources and Energy and the Ministry of Public Works, Infrastructure and Transport (Chand 1997:3). The shipyards were labelled an ailing government entity, having accumulated losses totalling F$10.3 million between 1992 and 1994 (Wise 1995:1). Some losses had been written off.

Some commentators argued that it was this loss-making history that prompted the privatisation decision. As for the slipways, the upgrading costs between 1985 and 1993 totalled more than F$2.5 million (Wise 1995:1). These costs exceeded the slipway's earnings for the same period. A paper presented by the Public Enterprises Minister recommended privatisation, owing to the fact that upgrading for corporatisation would have added a further cost of F$1.6 million, apart from the redundancy expenditure (Wise 1995:1). Privatisation of the slipway was to have an inbuilt provision to allow for continued access by local repairers and engineers. The Finance Minister reasoned that the government had neither the expertise nor the capital to turn GSPS into a profitable entity (Government of Fiji 1995:991). The Public Enterprises Unit recommended privatisation, hoping that this would prevent further loss obligations for the government. Until this cabinet meeting, there had been much talk but little action on privatising GSPS.

The cabinet decided to make sale offers locally and overseas via open tender, inviting individual companies as well as entities as consortiums. The sale was advertised in several marine trade journals and through

consulates in a number of countries. An information memorandum was prepared and background information was sent to 103 interested parties in the Asia Pacific region. The interested parties were required to submit expressions of interest to the Public Enterprises Unit by 31 May 1995. Reminder notices were forwarded to 45 interested parties. The government decided at that time to retain some shares until the new private company gained full confidence. It also stated that it would not provide funding to the new company.

An appraisal committee was set up and made responsible for the receipt and evaluation of expressions of interest. This committee comprised the Permanent Secretary for Commerce, Industry, Trade and Public Enterprises, the Permanent Secretary for Public Works, Infrastructure and Transport, the Permanent Secretary for Finance and Economic Development, the director of the Marine Department, the manager of GSPS and the manager of the Public Enterprises Unit. Notably, the private sector was not involved.

Eight companies expressed interest in the purchase of GSPS. Interested parties were invited for the 'due diligence' process and six of these attended. (A due diligence process involves verification of the accuracy of the information provided.) In the event, formal offers were received from only three companies: Mataisau Holdings Company Limited, Blue Lagoon Cruises Consortium and the MCI Group Limited Consortium.[1]

Mataisau Holdings Company Limited (a joint venture between a Fijian company and a South Korean company) was interested only in the slipways. They offered to lease the slipways for an annual rental of F$120,000, with a review after five years. The offer was for an initial lease of 10 years, with options to renew the lease or to purchase the slipways. If the lease offer was found to be unacceptable, the company was willing to negotiate an outright purchase of the slipways as well as take on board the 29 existing slipway employees. In addition, they offered to carry out about F$500,000 worth of upgrading of the slipways.

Blue Lagoon Cruises Consortium (a joint venture between a Fijian and an Australian company) offered the sum of F$700,000 for 51 per cent of GSPS. Of this, F$500,000 was to be paid in cash, while the remaining F$200,000 was to represent the government's share of working capital and uncalled capital on Blue Lagoon Consortium shares—that is, an exchange of shares for the remaining F$200,000. The consortium wanted a 99-year lease at a fixed premium, with an annual lease payment of F$20,000. They also stated that they would expand the business after two years to gain rights to issue further shares. This consortium's tender was considered too low and as not measuring up to the Fijian government's valuation of GSPS.

The highest offer was F$2,508,400 from MCI Carpenters Limited (MCIC), a consortium of MCI Group New Zealand and Carpenters (Fiji) Limited (Government of Fiji 1996:2,324). This consortium's valuations of the shipyard and slipways were F$1,003,000 and F$1,505,400, respectively (Government of Fiji 1996:2324).

Another committee was set up to evaluate the tenders. The committee comprised the Permanent Secretary for Commerce, Industry and Public Enterprise (as the chairman), the Secretary of the Public Service Commission, the Permanent Secretary of the Prime Minister's Office, the Permanent Secretary for Finance and Economic Development, the Solicitor-General and the Secretary for Justice. This committee recommended that none of the offers be accepted and asked the Commerce Minister for suggestions for further action. The minister suggested the committee meet with MCIC for direct negotiations.

While the suggestion was to call MCIC for direct negotiations, the Tender Evaluation Committee followed protocol. In so doing, it rejected the first round of offers in October 1995 and called for a second round of offers. In the second call, offers came from Koje Shipbuilding Company Limited of South Korea (its first entry) and MCIC. Koje offered F$5 million, with F$2.55 million (51 per cent) to be paid immediately, F$1.02 million payable on management takeover and the remainder to be paid in five annual installments at an interest rate of 11.5 per cent (Chand 1997:3). Like MCIC, Koje wanted a 99-year lease. Koje Shipbuilding also wanted an additional hectare of land at no additional cost.

In fairness to MCIC, the government asked it to reconsider its bid. This implies something of a bias towards MCIC as the preferred party for the GSPS privatisation deal. At first, MCIC did not accept the issue of guaranteeing jobs, but was open to negotiations, which continued for some time.

Finally, on 19 October 1995, cabinet agreed to sell the 51 per cent share to MCIC. Before the sale, Shipbuilding (Fiji) Limited (SFL) was incorporated—on 17 November 1995—to acquire the business and assets of GSPS. The two shareholders were the Permanent Secretary for Finance and Economic Development and the Permanent Secretary for Commerce, Industry, Trade and Public Enterprises, acting on behalf of the government. In December 1995, the agreement for the 51 per cent sale of SFL to MCIC was approved after discussions with Carpenters. In January 1996, a satisfactory sale and purchase agreement materialised, which was vetted by the Ministry of Justice. The Solicitor-General subsequently gave his approval for the agreement.

The parliamentary debate

On 31 January 1996, the Opposition Leader filed a writ in the Suva High Court against the Attorney-General and Commerce Minister for bypassing parliamentary approval in the final decision of proceeding with the sale of GSPS to MCIC. In the writ, the Opposition Leader sought an injunction to restrain these ministers from disposing of government property (Pillay 1996:1). The Finance Minister mentioned that he withdrew his 7 November 1995 cabinet paper (in which he had applied to make a presentation to the house for the sale of GSPS) on receiving approval from the Attorney-General's office, which mentioned that it was not necessary to consult parliament.

In this regard, there were evidently different opinions on the interpretation of the *Finance Act* by lawyers in the Attorney-General's office. On the one hand, the Finance Minister reiterated that sales of this nature were stipulated in the act, with an understanding that cabinet approved the sale. On the other hand, senior government officials from the finance and legal departments argued that the act dictated that any public asset exceeding F$1,000 was to be brought before the Parliament. One official expressed the view that the legislation did not cover assets such as the shipyard but, he continued, 'the fact that the law is silent on the matter does not mean it approves of it' (quoted in Waqa-bogidrau and Pillay 1996:1). The Attorney-General contended that prior approval sought for the sale of public assets worth more than F$1,000 dealt only with surplus items that the government no longer needed for its operational purposes. The Opposition Leader disputed the Attorney-General's interpretation, stating that the shipyard was a public asset.

In reaction to the debate, the Executive Chairman of the MCI Group threatened to withdraw from the sale if the contract was

further delayed. The Opposition Leader then blamed the Finance Minister for the delay, questioning the reluctance of the then ruling party, Sogosogo Vakavulewa ni Taukei (SVT), to openly discuss the matter in parliament. Such issues prompted the Finance Minister to seek parliamentary approval (Nadore 1996:5).

Consequently, in March 1996, the Opposition Leader withdrew his case, given that the house had now been consulted. In seeking parliamentary approval, the Finance Minister reiterated the seriousness of the matter, claiming that they might lose out on the sale and, if so, the government would not be in a position to accommodate 180 of the 220 shipyard workers who were awaiting re-employment under the new ownership. In the parliamentary session of 20 February 1996, the Finance Minister gave reasons for the GSPS privatisation, outlined the sale and purchase agreement and gave details of the payments to be made by MCIC to the government. A debate on the matter heated up in subsequent parliamentary sessions. The parliamentary sittings of 21–22 February 1996 highlighted the dubious nature of the deal between the government and MCIC. They brought into the open the many fears, possible blunders and loopholes of the deal.

The MCI Group

The MCI Group was said to be a consortium of companies involved in the shipping industry in New Zealand. Its businesses were said to include Marine Tech, a group with expertise in consulting, project management, dry docking and ship conversion; Urban Securities Limited, a property-owning and management company; Angelo Pacific Underwriters, a wholesale insurance provider; and Universal Shipping Limited, which provided services such as liner and tramp agencies, freight brokerage, cargo and ship brokerage, and port agency work (Chaudhari 1995:97). MCI was said to have taken over a number of state-owned shipyards and slipways in New Zealand. It was hoped that with its better management control and technology, MCI would provide the Fijian workers with much needed experience and would help Fiji's shipping industry advance in the world market.

In the 22 February 1996 parliamentary debate, the Finance Minister, who had been championing the sale of GSPS, disclosed the reason—a rather questionable reason—why MCI was not allowed to make an outright purchase and why the government retained a 49 per cent share. MCI had been losing some F$3 million annually for the past four years (Government of Fiji 1996:2,326). The minister stated that once the company became profitable, it would pay for the shares from its dividends. This piece of information seems highly questionable since an audit that began in November 1996 (after MCI went into receivership) and concluded in early September 1997 made it known that MCI had registered itself as a company in New Zealand while offers were being invited for the sale of GSPS. In fact, the company was only 'four months old' at the time of its first offer (Chand 1997).

This report gives rise to additional questions. How could MCI have been making losses for the past four years? From where did the minister receive such information? If it was from the MCI Group, why was this figure not verified? In a later parliamentary session, 6 August 1997, the Finance Minister accepted that the 'background of MCI was not checked' in the belief that Carpenters, being a reputable company, would have done so (Government of Fiji 1997:400). Questions and statements such as these led many to question the motives behind the minister's championing of MCI.

The minister's support for the sale to MCI stated that in the case of defaults on payment calls, as per the sale and purchase agreement, 10 per cent interest would be charged daily. The payment from dividends was guaranteed by three guarantors: the joint-venture partners, MCIC, and the individual partners, the MCI Group and Carpenters (Fiji) Limited.

The MCI Group guaranteed 51 per cent of the payments in three installments while Carpenters guaranteed 49 per cent. The Executive Chairman of MCI mentioned that the deal was a normal business deal and confirmed that they would not have entered into such a deal if the government had asked for an up-front F$3 million payment. He stated that they had already spent a considerable amount of money (Rashid 1996:4). He further argued that Fiji had received a very good deal, considering the state of the shipyard.

Finally, on 22 February 1996, after a heated parliamentary debate, 35 members voted for the sale of GSPS while 31 voted against it. The deal was subsequently approved with a government guarantee of F$784,000 for an overdraft facility of F$1.6 million for the working capital needs of SFL (Nadore 1996:5).

The sale and purchase agreement was signed on 27 March 1996. Workers were given their redundancy packages, ranging from F$2,000 to F$38,000 (Lave 1996:3), and the 180 workers who were to be re-employed by SFL were given a week's leave to allow for the completion of the privatisation process. The scheduled 15 April 1996 takeover of the shipyard and slipways was, however, deferred by two weeks to allow the government and SFL to resolve matters relating to the surplus stock from the *Reef Endeavour* project and seabed licensing. According to the agreement, SFL was to be issued an exclusive 99-year licence for the use of the seabed and waters surrounding the area of the shipyard and slipways. Amid the shipyard transfer to SFL, 20 or so workers were laid off without the redundancy packages promised after the completion of the *Reef Endeavour*. Unlike the Public Enterprise Union, the Public Service Commission (PSC) argued that this redundancy payment was not the same as the formalised agreement during the buy-out of the shipyard.

By 30 April 1996, the surplus stock remaining from the *Reef Endeavour* project was sold to government supplies at a large discount and the seabed issue was resolved. After this sale of stock, MCI's solicitor informed the director of the Public Enterprises Unit that the sale of surplus stock to the Supplies Department breached the sale and purchase agreement. Eventually, the stock was handed over to MCI on approval from the Permanent Secretary for Finance, despite a request from the shipyard manager, who suggested a direct sale of stock to reduce losses associated with the construction of the *Reef Endeavour*. The sale of SFL was then completed. Accordingly, as per the agreement, 180 workers were recalled to report to work on 1 May 1996.

The rise and fall of the privatised company

The new management of the MCI Group made promises to the workers as indicated in the sale and purchase agreement. Such promises included providing SFL with F$5 million worth of contracts and embarking on training programs in which technical staff from New Zealand would come to Fiji to upgrade local skills and key SFL personnel would be sent to New Zealand for further training. The situation took a different turn, however, after just a few months.

Surprisingly, on 20 November 1996, the Carpenters Group wrote to the Ministry of Commerce, Trade, Industry and Public

Enterprises and to the Ministry of Finance and Economic Development informing them of the financial difficulties faced by the MCI Group. The letter stated that these difficulties arose because a former MCI director had involved SFL in contracts and guarantees without the knowledge of other directors. It advised that the MCI Group was expected to go into receivership soon. Since the MCI Group was the controlling shareholder and manager of SFL, there was the possibility of SFL going into receivership.

MCI management, far from the three years promised, failed to survive even one year. Nonetheless, before its withdrawal, MCI entered into an agreement with a Tahitian company to take its place as a partner with Carpenters. Later, Carpenters informed the Fijian government that talks with this company—Tahitian Shipbuilders—were not concluded. The letter also mentioned that on an agreement with MCI, Carpenters took control of the MCI Group, which managed SFL. Carpenters bought MCI shares in MCIC subject to the approval of the Reserve Bank of Fiji. MCI's F$1 shares held by the Executive Chairman of MCI in MCIC were transferred to Carpenters for F$1 in consultation with the relevant government departments.

The report of an audit that began in November 1996 and concluded in early September 1997 stated that neither the Privatisation Committee nor the Public Enterprises Unit had the authority to proceed with the tendering process and that there should have been in place a major tenders board. Further, the report questioned the dominating involvement of one ministry's officials in handling the negotiations. Accordingly, the report recommended that the powers of the Public Enterprises Minister, the Public Enterprises Unit and the Privatisation Committee be appropriately defined.

In the parliamentary session of 6 August 1997, the Finance Minister accepted that the background of 'MCI was not checked' in the belief that Carpenters, being a reputable company, would have done so (Government of Fiji 1997:400). This implies that the government was ill equipped for the privatisation of GSPS. Employees interviewed for this research recalled their experience under the ownership of MCIC as one that extracted much from them and the government in return for almost nothing. Workers complained that the CEO at that time was rather invisible, almost always operating from New Zealand. (It would, however, have been illegal for the CEO to work in Fiji because of the expiration of his work permit. The consideration of an application lodged at the beginning of 1999 for extension to his work permit dragged on for some time.) Workers maintain that the aim of the privatised company was to make and repatriate as much money as possible.

Major contracts

As of August 1996, SFL had no major contracts. In fact, it had lost four potential contracts to Chinese and New Zealand shipbuilders. According to the SFL management, international perception of the company was highly negative because of the problems with the construction of the *Reef Endeavour*.

On 2 April 1997, the Fijian media reported the shipyard losing a F$11 million contract (Foster 1997:1), involving the construction of five ships for a French Polynesian firm. This was a three-party deal. Initially, the firm had contracted a local firm, United Engineers, which had gone bankrupt. The firm then contracted Tahitian Shipbuilders to look for a shipbuilder, which is how SFL came into picture. Another unusual element in this deal was that two

ships were to be constructed at the United Engineers premises, which had been taken over by the Tahitian party. SFL was asked to provide a performance guarantee of 10 per cent (F$1.1 million) of the contracted sum, but it refused to do so. Because SFL could not perform according to the terms of the contract, the Tahitian party asked SFL to leave the site. Subsequently, SFL sought an injunction. On 4 April 1997, the Chairman of SFL clarified via a letter to the editor of *The Fiji Times* that the contract amount was F$5.8 million, not F$11 million, as reported, with a performance guarantee of F$600,000, not F$1.1 million (Clemens 1997:6). The SFL chairman argued that their rejection of the performance guarantee was justified on the grounds that a legal contract did not exist and that the contract being transferred from United Engineers to Tahitian Shipbuilders and then to SFL was doubtful.

Also on 4 April 1997, a contract for a F$3.3 million 85-metre motorised barge was signed in Auckland for a New Zealand company (Hicks 1997:3). This contract was most unusual and highly questionable since it required no down payment. Down payments are normally required for the purchase of materials to begin construction. In fact, SFL was to use its own money to construct the barge. The New Zealand client was to deposit the contracted sum with an international bank and SFL was to draw this on delivery of the finished vessel.

Such was the financial state of the company that in March 1997, SFL informed shareholders of a working capital requirement of about F$2.6 million; the SFL directors revised this figure to F$2.9 million in August 1997 (Government of Fiji 1997:381). At this time about 30 per cent of the work was completed on the 85-metre barge. The SFL management and directors hoped that new partners (either the Ports Authority of Fiji or the Commonwealth Development Corporation), who would join Carpenters after the pull-out of the MCI Group from MCIC, or the resolution of the legal battle with the Tahitian company, would bring in these funds. The Commonwealth Development Corporation (CDC) clearly indicated that SFL's dependence on its shareholders meant unlimited liability for the shareholders because of continued guarantees and inefficient contract handling. Even the ANZ Bank was unwilling to provide further funding. Thus, funding by way of guarantees or cash depended on the shareholders. The barge building was put on hold until the end of August 1997. During this period waiting for government support, the following occurred.

On 15 July 1997, the directors notified the government that SFL had almost exhausted its ANZ Bank overdraft facility and, without new funding by shareholders, the company could be forced to suspend operations as early as 8 August 1997. At meetings on 18 and 22 July 1997, the Minister for Finance and Economic Development, the Minister for Trade, Commerce, Industry and Public Enterprises, the Minister for Youth, Employment Opportunities and Sports, the Minister for Infrastructure, Public Works and Transport, the Attorney-General and the Minister for Justice considered five options (Government of Fiji 1997:381)

- make no response to the SFL directors' request
- provide only the additional F$784,000 loan guarantee
- provide the additional F$784,000 guarantee and additional debt funds of F$637,000 and sell the government's 49 per cent shareholding as soon as possible thereafter
- provide the additional F$784,000 guarantee and agree to Carpenters' proposal, then sell the government's 49 per cent shareholding as soon as possible thereafter
- immediately wind up SFL.

In early August 1997, the cabinet agreed to pursue the third option on the grounds that the government was obligated under the sale and purchase agreement to meet the guarantee obligations or face litigation. Litigation would have tarnished Fiji's reputation as a shareholder, leaving a negative image with investors. Nonetheless, this option was to be conditional. It required MCIC to meet its loan guarantee obligations in providing the remaining 51 per cent of additional loan funds required. The additional short-term debt funding was necessary to protect the government's investment and to allow for sufficient time to search for buyers for its 49 per cent shareholding. Surprisingly, in a *Fiji Times* article (24 August 1997), Carpenters claimed that it was not obliged to provide financial support to SFL.

Notwithstanding this, the construction of the barge was concluded by the end of August 1997, thanks to the government's support, after which the client's representatives arrived to survey it. For as long as the barge remained in Fijian waters, the representatives were happy with what they saw. Once the barge left Fijian waters, however, the owners claimed numerous defects and refused to pay or return the barge. The claim about the defects seems dubious, because until a Fijian surveyor declares a vessel seaworthy, it cannot leave Fijian waters. On receiving nothing from the clients, the Fijian government tried to reclaim the barge but could not do so. This was because a first mortgage was held by the ANZ Bank from which the CEO of SFL had taken a second loan for the project. On non-payment of the bank's loan, the bank seized the barge and sold it to recover its debt.

Receivership

As of the end of March 1999, the accumulated operating costs of SFL stood at F$1,911,602 and uncollected debts totalled more than F$4 million (Chandra 1999a:3). As of August 1999, SFL owed the Fijian government more than F$3 million (Kissun 1999:3). SFL had also failed to meet several of its obligations under the sale and purchase agreement. For instance, of the F$500,000 worth of upgrading of the slipways that MCIC was to carry out by 30 April 1997, only F$280,000 worth had been completed (Government of Fiji 1997:380). In August 1999, the Fiji Labour Party-led People's Coalition government refused to engage in further discussions with Carpenters, advising MCIC to pay its debts to the government or face litigation.

The People's Coalition government did not respond to two written requests from Carpenters to resume discussions. On the contrary, the cabinet decided to invite another strategic partner. In September 1999, a group of businessmen from Mainland China showed interest in the purchase of SFL. Also in October 1999, Bluewater Craft (whose managing director had at one point been the project manager for construction of the *Reef Endeavour*) presented a proposal to the government for how to operate SFL. This five-employee company was the only firm apart from SFL that engaged in building steel boats in Fiji. Bluewater Craft stated that it had the much needed expertise and knowledge for proper management and supervision to complement the skills of SFL workers.

In December 1999, the financial state of affairs of SFL was brought out into the open. Major problems erupted in early December 1999 as SFL sought a temporary F$150,000 increase of its overdraft facility and government endorsement to complete a F$2.2 million fishing boat due in 10 days for Tahitian owners (Ragogo 1999:1). Because the government refused to give consent as a secured lender and shareholder, the transaction did not eventuate. SFL argued that the government consent was only a

formality, not a guarantee. Carpenters and Contractors Bonding Limited gave their consent as the other secured lenders. It was alleged that the government breached Clause 49 of the sale and purchase agreement that required it to assist SFL in raising capital or when guarantees were needed. The government countered that it could not continue pumping money into an entity that was not under its control.

On 2 December 1999, the entire SFL workforce (105 workers) was laid off without notice. On 3 December 1999, the former SVT government's Commerce Minister offered a personal guarantee for the F$150,000 needed by SFL on the condition that SFL settle the debt or extinguish the guarantee from the first payment for the vessel. This former minister accused the People's Coalition government of racism since the SFL workers were indigenous Fijians, while the government claimed his offer of a guarantee was a 'face-saving' act.

From early December 1999, the government engaged in court action to regain full control of SFL in order to retrieve the 51 per cent share sold to MCIC and then to refloat its 49 per cent share to revitalise the shipyard by searching for strategic partners. The Attorney-General accused the management of SFL of being negligent, incompetent and unprofessional. The Prime Minister and Public Enterprises Minister of the People's Coalition government also announced the 'would-be' appointment of a new board and management team, and a State Law Office investigation into SFL's operations. At that time, Carpenters was unaware of the government's plans but expressed, via the media, its interest in cooperating with the government.

Contrary to Carpenters' expectations, the government lost no time initiating legal proceedings on the grounds of breach of contract and damages. On 9 December 1999, Carpenters paid F$1,538,776.20 as a result of legal proceedings (Chandra 1999b:3).

With regard to SFL management, after a 15 December 1999 meeting between SFL representatives and ANZ Bank executives, the SFL directors decided that they would proceed with the receivership process from the next day and that the process would be handled by PricewaterhouseCoopers (Chartered Accountants). SFL reasoned that this was the only option since they did not qualify for the additional overdraft facility. This showed that SFL survived largely because of government support despite being a private company. Clearly, it was not in a position to stand on its own.

Concluding remarks

The main issue discussed above was the fast-tracked privatisation process. Questionable issues uncovered were the approval of the sale of GSPS without parliamentary debate, the loophole in the *Finance Act*, the composition of the tender committee and poor background checks. The rushed privatisation of GSPS was an example of a quick-fix solution through a so-called business deal, which was not at all business-like! No doubt, the way in which the GSPS privatisation deal was handled by the government was questionable. First, there was the loophole in the *Finance Act* that allowed for confusion in the first place between the political leaders and government departments as to when to bring public entity sales before the Parliament. If it were not for the then Opposition Leader, the sale would have taken place without any discussion in the Parliament. The public mandates parliamentarians to look after its interests, not to sell public assets without proper discussions or without thorough checks done on companies they expose themselves to. Further, the privatisation deal allowed for immediate ownership transfer without any up-front payment. Additionally, the deal

permitted the new owners to have greatest control, with four members on the board, while the government had only three.

Another noteworthy point is that a particular minister/ministry dominated the privatisation process. The audit report of September 1997 questioned the dominating involvement of the ministry's officials in handling the negotiations. The parliamentary debates revealed that the minister advocating the sale of GSPS was the same minister who had advocated other failed 'commercial' endeavours. Despite this, a majority in the house approved the idea of the privatisation of GSPS. Also, on numerous occasions it was made clear that MCIC was the preferred party for privatisation. These facts seriously question the real motive behind the reform. Such blunders should be properly addressed and those responsible, even if they are country leaders, must be held accountable for making ineffective decisions about public entities.

Further, the committees set up for the evaluation and assessment of tenders involved only civil servants. Ineffectiveness was clearly shown when, in the parliamentary session of 6 August 1997, the minister championing the sale of GSPS accepted that the background of the MCI Group was not checked in the belief that Carpenters, being a reputable company, would have done so. Private sector involvement in the tender evaluation and assessment committees would have introduced some shrewdness into the process, especially when carrying out checks on probable buyers and in the preparation of a prudent privatisation deal. This article strongly recommends that committee membership comprise the media, non-governmental organisations, private firms, social welfare groups, politicians, academics and unions to carry out background research more effectively on probable buyers, help in the preparation of prudent deals and monitor state actions regarding the sale of public assets. The establishment and processes of such committees must be set down in the *Public Enterprise Reform Act*.

Notably, the privatisation of GSPS eventuated before the enactment of appropriate legislation—in this case, the *Public Enterprises Act 1996*. While the absence of relevant legislation at the time of the privatisation could have been a factor in its failure, it offers no excuse for the ineffectiveness of the privatisation process. There were numerous warning signals from the outset of the deal that it was destined for failure. The early warning signals involved expressed fears and legislative loopholes highlighted in the parliamentary sittings before the finalisation of the deal, continuous dependence on the government for guarantees and the warning by the CDC that SFL's dependence on its shareholders meant unlimited liability for the government.

The parliamentary debates revealed many loopholes in the way the GSPS privatisation was handled. For instance, public enterprise reforms are meant to do away with state dependency, but the GSPS privatisation deal gave rise to continued state dependency in the form of guarantees. Moreover, the continuing requests by the privatised company for government guarantees implied that SFL remained very much a government entity and was not in a position to stand on its own. The privatised company time and again sought government support despite its 51 per cent ownership. In this respect, the company remained very much government owned rather than privately owned. The government contradicted its own earlier decision during the period of invitation of expressions of interest that it would not provide further funding to the new company and that privatisation was sought because it could not carry the burden of a loss-making entity.

Notes

[1] Throughout the research, there was no evidence found of what the initials MCI stood for. Later sections of the article give details of this company.

References

Chand, A., 1997. 'Audit slams shipyard deal', *The Fiji Times*, 9 September:3.

Chandra, S., 1999a. 'State bids for control', *The Fiji Times*, 4 December:3.

——, 1999b. 'Carpenters pays up $150,000: some reprieve for SFL shipyard workers', *The Fiji Times*, 10 December:3.

Chaudhari, A., 1995. 'A private affair: Fiji's government shipyard goes to a consortium for $6.25m as Reef Endeavour nears completion', *The Review*, November:97–9.

Clemens, K., 1997. 'Letters: shipyard business', *The Fiji Times*, 4 April:6.

Foster, S., 1997. 'Shipyard loses $11m job: govt venture fights to stay afloat', *The Fiji Times*, 2 April:1, 3.

Government of Fiji. 1995. *Parliamentary Debates: House of Representatives: Daily Hansard*. 11 September: 988-1007, Government of Fiji, Suva.

——, 1996. *Parliamentary Debates: House of Representatives: Daily Hansard*, 22 February, Government of Fiji, Suva.

——, 1997. *Parliamentary Debates: House of Representatives: Daily Hansard*, Uncorrected copy, 6 August, Government of Fiji, Suva.

Hicks, J., 1997. 'Shipyard draws interest: finance company studies SFL make-up', *The Fiji Times*, 8 April:3.

Kissun, S., 1999. 'SFL saga may be "costly"', *The Fiji Times*, 22 August:3.

Lave, A., 1996. 'Shipyard takeover deferred', *The Fiji Times*, 22 April:3.

Nadore, I., 1996. 'Ah Koy firm on shipyard sale', *The Fiji Times*, 21 February:5.

Narayan, J., 2009a. 'The Reef Endeavour fiasco', *Advances in Management*, 2(6).

——, 2009b. 'Foreign involvement in local operations', *Advances in Management*, 2(11).

——, 2008. *Public Enterprise Reforms in Fiji : How Not to Privatize : the Case of Government Shipyard and Public Slipways*. E-published Master of Arts Thesis of 2004. COOPERJAL Ltd, London.

——, 2005. Privatization of Government Shipyard & Public Slipways: Some Lessons. *Journal of Fijian Studies* 3(1): 35-56.

Pillay, K., 1996. 'Reddy takes govt to court over shipyard', *The Fiji Times*, 1 February:1.

Ragogo, M., 1999. 'Shipyard sends workers home', *The Fiji Times*, 3 December:1.

Rashid, Y., 1996. 'MCI happy with government shipyard deal', *The Fiji Times*, 28 March:4.

Waqa-Bogidrau, W. and Pillay, K., 1996. 'Shipyard shambles: Bulewa ignored advice of fellow lawyers on sale', *The Fiji Times*, 27 January:1.

Wise, M., 1995. 'Cabinet approves sale of shipyard', *The Fiji Times*, 15 March:1.