

**Questionable Privatisation Process:**  
**Case Comparisons between Cook Islands and Fiji Islands**

by

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*Abstract*

*In the developed, developing as well as in the underdeveloped nations, market-mania has taken numerous forms, one of which is privatization. Infatuation with privatization became so intense that public policy makers believed that privatization was the ultimate solution to their problems. The Pacific Islands are no exception. While there has been much debate on the logic for privatization, there have been very few case studies on the processes which privatization has taken in the Pacific. This paper examines the process of two early privatization cases, a case in Cook Islands and another in Fiji Islands. In its examination, this paper brings to the forefront the features that were similar and those that differed. In particular, the paper highlights the questionable process followed for the privatization of the public enterprises of both the Rarotonga Hotel in Cook Islands and the Government Shipyard and Public Slipways in Fiji Islands. The Rarotonga Hotel was privatized by the sale of the hotel to a local while the Government Shipyard and Public Slipways was privatized via a sale of it to a consortium, in which one of the two partners was a foreign entity.*

## **Introduction - Privatization**

In the developed, developing as well as in the underdeveloped nations, market-mania took numerous forms, one of which is privatization. Infatuation with privatization became so intense that public policy makers believed that privatization was the ultimate solution to their problems. Privatization has been defined as the process of transferring majority ownership of public assets from the government to the private sector.

The justification for privatization was that private enterprise, by its very nature – being founded on the overwhelming desire for personal gains would produce efficient solution for the enterprise (Narayan, 2005).

This paper examines the process of two early privatization cases, a case in Cook Islands and another in Fiji Islands. In its examination, this paper brings to the forefront the features that were similar and those that differed.

## **Aims & Contributions**

The usefulness of this study draws from the gaps that exist in prior research. Past research on public enterprise reforms have not been too many, even fewer in comparative accounts.

A number of related studies on public enterprise reforms discuss single-site case studies, thus offer no comparisons with other public entities, hence disallowing appropriate generalizations. Still other studies have been broad based and have reviewed reforms on Fiji as a whole. What these studies have not managed to produce is persuasive generalizations through comparative case studies. There has not been a serious attempt towards same. Single case studies are more in fashion. This paper also tries to answer calls for future multi-site studies, as suggested by Sharma and Hoque (2002).

Further, while there has been much debate on the logic for privatization, there have been very few case studies on the processes which privatization has taken in the Pacific.

In particular, this paper highlights the questionable process followed for the privatization of the public enterprises of both the Rarotonga Hotel in Cook Islands and the Government Shipyard and Public Slipways in Fiji Islands. The Rarotonga Hotel was privatized by the sale of the hotel to a local while the Government Shipyard and Public Slipways was privatized via a sale of it to a consortium, in which one of the two partners was a foreign entity.

The paper is divided into separate sections. This section gave an introduction to privatization and informed of the paper's aims and contributions. Method is discussed next followed by descriptions and discussions on the country cases. The paper closes with conclusion.

## **Method**

Data for this paper was obtained through various related archival data, most of which were empirical in nature. The paper used Gillham's (2001) analytical framework for recording, verification and analysis of data. Substantive statements were highlighted while repetitions, digressions and irrelevant materials were ignored. Similar statements were noted as similarities and dissimilarities were marked. Notes were revisited the second time to highlight substantive statements that might have been missed out in the first reading. The collected documents were examined to highlight noteworthy information. The entire notes and documents were rechecked to note the highlighted statements and to categorise these as main events during the life of the case studies.

The data of year on year subheadings from all notes and documents were combined on yearly basis to create overall chronological listings of the main events of subject cases to narrate historical developments.

The research is a qualitative study rather than a quantitative study. Hence, no computerised statistical package was used to analyse data. The collected data was analysed on the basis of findings from the case studies which helped document, explain, compare, contrast and understand the process in selected cases as it unfolded. The data analysis was thus particularly based on content analysis.

The case of privatization in Cook Islands is discussed first.

## **Case Study 1**

### Cook Islands

Cook Islands lie in the centre of the Polynesian Triangle. Its fifteen islands are flanked by Fiji 2,300 km to the west, Tahiti 1,140 km to the east, Hawaii 4,730 km north and New Zealand 3,010 km southwest. With a small population size of 19,569 (as at 1 December 2006), its ethnic composition includes Maori Polynesians, Europeans (from NZ, USA, Canada, UK, Australia, others) as well as other Pacific Islanders and Asians (Cook Islands Government, 2007). While it has the second largest exclusive economic zone in the world, it is one of the least populated countries in the South Pacific (Allsworth, 2003). Cook Islands relies heavily on tourism industry - an industry that sits vulnerable due to global economic crisis (ADB, 2009).

Cook Islands is said to be among the best performing Pacific Island economies (ADB, 2009). But prior to 1995, its swollen public service led to excessive expenditures resulting in an economic collapse. The government-owned assets that were not performing at par also contributed to the economic collapse. Such a state prompted the government to downsize and restructure its public service (Allsworth, 2003). This decision of the government gave rise to a reform process. In consequence, a number of government assets were privatized including the government's failing flagship hotel (Allsworth, 2003). Public sector reform hence, commenced in 1995-6 (Allsworth, 2003). The Economic Reform Program of 1996 emphasised much on the need for public sector reform (Cook Islands Government, 2007).

Unfortunately, the initial wave of privatization (1996-7) was much rushed leaving after it, many deficiencies. One highly contestable privatization deal was the sale of the Rarotongan Hotel which was noted for its lack of transparency (ADB, 1999).

### *Sale of the Rarotongan Hotel*

The Cook Island government owned asset, the Rarotongan Hotel was under a mortgage of the Nauru government. Because the hotel failed to generate profit, it was sold to a local businessman at NZ\$3.5 million after renovations, which cost NZ\$2 million. The deal allowed the new owner to make payments over an extended period. Interestingly, the ‘deal was settled despite a cash offer of NZ\$5 million by a foreign buyer’ (Kerry, 1999). The sale of the hotel to a local at a lower price thus gave rise to criticism. In particular, those within the Chamber of Commerce questioned the deal. According to such critics, this action ‘ran against government efforts to boost its cash balance’ (Kerry, 1999). In a reaction, the Public Expenditure Review Committee and Audit (PERCA) were compelled to investigate into the deal (Kerry, 1999).

ADB (2002) reveals more details on the deal as follows<sup>1</sup>.

In April 1996, government advertized the sale of the Rarotongan Hotel. The sale attracted four bids, one of which was a NZ\$6 million bid submitted by an Australian company. This bid was recommended by the sales agent. A higher offer of NZ\$8.4 million was made by a Hawaiian company. Government, thus pursued this higher offer. However, this company withdrew its offer at a later date.

The NZ\$6 million bid of the Australian company remained available. Despite this, government made a deal with the locally owned Rarotongan Resort Hotel Limited (RRHL) in November. The deal was set at the sale price of NZ\$3.25 million. The Chairman of the then government's Privatization Committee owned controlling interest in RRHL - a noteworthy point. The deal with RRHL then, was not too surprising. What was even more surprising was that the purchase price did not require immediate payment. Instead, payment depended on the availability of 'net distributable reserves' within RRHL. Interestingly, the accounting advisors of RRHL were the ones deciding on whether or not adequate net distributable reserves existed. In other words, they did have considerable discretion to control whether net distributable reserves were adequate or not.

Subsequently in November 1996, the sale to RRHL was announced by the Prime Minister's office. Unusually, the transaction stood incomplete until late August 1997. Again at that time, an Asian businessman made an offer of NZ\$6 million. Government asked for double the amount. It informed that the hotel could be purchased for \$12 million. This high-ask brought this negotiation to an abrupt end.

Government then moved ahead to conclude the sale to RRHL. This began with the refurbishment of the hotel in May 1997 for the 1997 Forum meeting. The refurbishment costs topped up by other operating costs amounted to NZ\$2 million. These costs were funded by a loan from Australia and New Zealand Bank and the public account.

The delay in the sale to the RRHL was due to delays in the transfer of title since the mortgage over the hotel was held by the Nauruan Government. The Cook Islands government sold its 20 per cent stake in Telecom (Cook Islands) Limited to Telecom (New Zealand) Limited. It then used this sale proceeds to clear its hotel mortgage. The mortgage to the Nauru government was cleared in August 1997.

In September 1997, the hotel title was transferred to RRHL. The final agreement on the sale included a number of conditions. These were the repayments of the NZ\$3.25 million purchase price being capped at 10 years, RRHL required to pay-off the refurbishment cost plus interest after year one, and an international operator to manage the hotel within twelve weeks of the completion of sale. The last condition was to replace an original requirement which was that a management agreement be entered into with Outrigger Hotels and Resorts.

The ultimate surprise was - nothing was paid upon sale. Even a 'deposit' of NZ\$100,000 was refunded in April. There was also no allowance made for the interest on NZ\$3.25 million.

#### *The Audit*

The Audit committee, PERCA arrived at the following conclusions:

- ★ The impending Forum meeting and the lack of speed in disposing the Nauru government held mortgage had a negative effect on the sale price.



- \* A negotiation with the landowners should have been done prior to the advertisement of the sale of the hotel. While the advertisement reflected the prospect of a 60-year lease, the lease had 34 years to run.
- \* The sale should have been re-advertised upon partial or complete upgrade.
- \* That no money was received at the time the hotel was sold, government incurred substantial expenses. It waived potential revenue when it agreed to the sale. In this way, it did not meet the economic recovery objectives.
- \* Adequate accounting advice was not sought. There was unlawful spending of some part of the NZ\$2 million. It was highlighted that such expenditure was not appropriated as per the conditions of the Ministry of Finance and Economic Management Act.
- \* There appeared to be misunderstanding on the sale process and conditions, given that the sale details advanced before the government obtained the endorsement from the sales agent.
- \* A better financial return could have been achieved from the sale.
- \* According to government's own objectives, the transaction was not carried out in "fully arms length, transparent, and contestable manner". Government cannot claim otherwise.

The case of privatization in Fiji Islands is discussed next.

## **Case Study 2**

### Fiji Islands

Fiji is an island nation located in the heart of Pacific Ocean, southwest of Honolulu, and midway the equator and New Zealand. Indigenous Fijians (predominantly Melanesian with Polynesian admixture) account to 57.3 per cent; Indo-Fijians account to 37.6 per cent; Rotumans account to 1.2 per cent; Europeans, other Pacific Islanders, and Chinese, amount to 3.9 per cent of the total population (Fiji Statistics: Global Edge, 2001-9). Fiji is endowed with forest, mineral and fish resources with a large subsistence sector. In Fiji, privatization became the central pillar of state policy after the 1987 military coups (Narayan, 2005).

#### *The Sale of Government Shipyard and Public Slipways*

Established on 1 January 1967, Government Shipyard and Public Slipways (GSPS) was a wholly government owned enterprise operating under the Marine Department. The Shipyard section was responsible for ship construction, ship repairs and boat building. The four public slipway facilities provide docking and undocking services (Narayan, 2004, 2005). The shipyard was dubbed an ailing section, having accumulated losses totaling \$F10.3 million between 1992 and 1994 (Wise, 1995a: 1).

A paper presented by the then Public Enterprises Minister to the Cabinet recommended privatization, arguing that government neither had the expertise nor capital to turn GSPS into a profitable entity (Hansard Report: Hansard Report: Parliament of Fiji, 1995b: 991). In January 1995, the assets of GSPS were valued at \$F5,054,844 (Chand, 1997a: 3).

In this same month, cabinet sought offers locally and overseas through open tenders. In the first round, the highest bid of \$F2.5084 million was made by the MCI Carpenters Limited, a consortium of MCI Group New Zealand<sup>ii</sup> and Carpenters (Fiji) Limited (Hansard Report: Parliament of Fiji, 1996d: 2324). The offers of the first round were rejected. In October 1995, a second round of offers was called. This time the offers came from Koje Shipbuilding Company Limited of South Korea (its first entry) and MCIC (its second entry) (Narayan, 2004, 2005, 2010). Koje Shipbuilding Company Limited offered \$F5 million.

It offered \$F2,550,000 (51 per cent of its share on tender offer) as cash, \$F1.02 million payable upon management takeover and the remaining to be paid in five annual installments at an interest rate of 11.5 per cent (Chand, 1997a: 3). Like MCIC, it also wanted a 99-year lease but additionally, Koje wanted a hectare more at no further cost.

Finally on 19 October 1995, cabinet agreed to sell the 51 per cent to MCIC. The MCIC tender of \$2.5m was accepted because unlike Koje (which had a bid almost twice that of MCIC), it agreed to employ 180 of the 220 GSPS workers. In November 1995, Shipbuilding (Fiji) Limited (SFL) was incorporated to acquire the business and assets of GSPS. In January 1996, a satisfactory Sale and Purchase Agreement was concluded after the Solicitor General gave his approval for the agreement (Narayan, 2004, 2005, 2010).

On 31 January 1996, the then Opposition Leader filed a writ in the Suva High Court against the Attorney-General (A-G) and the Commerce Minister for bypassing the requirement for parliamentary approval for the sale of GSPS to MCIC (Narayan, 2004, 2005). The Minister for Commerce publicly defended his position stating that legal advice to him from the Attorney General was that it was not necessary for him to consult the Parliament. Evidently, there were different interpretations of the provisions of the Finance Act. The Act required that the disposal of any asset or public stores with a value of over \$1000 be done only with the approval of the House of Representatives.

The Commerce Minister, on advice from the Attorney General, stated that a sale of this nature did not come under the ‘disposal of assets or public stores’ category, and if the Cabinet had approved the sale, there was no need for a motion in the Parliament (Narayan, 2004, 2005, 2010). Eventually, the Commerce Minister did go to the Parliament seeking its approval for the sale (Nadore, 1996a: 5). The February 1996 parliamentary debates highlighted the dubious nature of the deal between the Fiji Government and the MCIC.

In February 1996 the Commerce Minister disclosed the reason for the MCIC not being given the right to make an outright purchase and the reasons for the government retaining 49 per cent shares. It was found that the MCI had been losing some \$F3 million annually for the last four years (Hansard Report: Parliament of Fiji, 1996d: 2326). The Minister clarified that once the company became profitable, it would pay for the shares from its dividends.

He justified that in the case of default on payment calls, and as per the Sale and Purchase Agreement, 10 per cent interest would be charged on a daily basis. The payment from dividends was guaranteed by the MCIC as well as by the individual partners (the MCI Group and Carpenters (Fiji) Limited). The MCI Group guaranteed 51 per cent of the payments in three installments to government while Carpenters guaranteed 49 per cent.

Finally on 22 February 1996, the deal was approved with a government guarantee of \$F784,000 for an overdraft facility of \$F1.6 million for working capital needs of SFL (Nadore, 1996d: 5). As per agreement, 180 workers were recalled to work from 1 May 1996 (Narayan, 2004, 2005, 2010).

Surprisingly on 20 November 1996, the Carpenters Group wrote to the Ministries of Commerce, and Finance informing them of the financial difficulties faced by the MCI Group (the controlling partner and the manager of SFL). It informed that MCI Group was expected to go into receivership soon. Carpenters letter also mentioned that upon an agreement with MCI, Carpenters had taken control of the MCI Group that managed SFL (Narayan, 2004, 2005, 2010). Far from the three years full of promises, the MCI management failed to even survive a year. On 23 November 1996, the Fiji media brought to public attention the receivership status of the MCI Group.

### *The Audit*

An audit that commenced in November 1996 and concluded in early September 1997, exposed that:

- ★ The MCI Group registered itself as a company in New Zealand while offers were invited for the sale of GSPS. In fact, the company was only four months old during its first offer. The report argued that neither the government's Privatization Committee (PC) 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 for the sale.
- ★ It also 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 PC be clearly defined.

In the parliamentary session of 6 August 1997, the Commerce Minister accepted that the background of MCI 'was not checked' with the assumption that Carpenters, being a reputable company, would have done so (Hansard Report: Parliament of Fiji, 1997: 400).

Major problems erupted in early December 1999 when Carpenters-led SFL, sought a temporary \$F150,000 increase. Government refused to give its consent. It was alleged that government breached Clause 49 of the Sale and Purchase Agreement that required it to assist SFL in raising capital or when guarantees were needed. Government pointed out that it could not continue pumping money into an entity that was not under its control (Narayan, 2004, 2005, 2010).

On 2 December 1999 the entire workforce of 105 workers was laid off without prior notice.

Government lost no time in initiating legal proceedings on the grounds of breach of contract and damages which resulted in Carpenters paying up \$F1,538,776.20 (Chandra, 1999b: 3). SFL went into receivership from 16 December 1999.

The then interim government won the tender in a competitive bidding for the sale of SFL when it tendered \$F6.25 million against a commercial valuation of \$F4.77 million (Fiji Shipbuilding Corporation Limited (FSCL), 2001: 3). A new company, in the name Fiji Shipbuilding Corporation Limited was established to takeover the SFL assets.

In 2002, company name changed to Fiji Ships and Heavy Industries Limited (FSHIL) (Narayan, 2004, 2005). FSHIL is now a subsidiary of another government owned entity, Fiji Ports Corporation Limited (Narayan and Reddy, 2010).

### **Case comparisons –Similarities and Differences**

There appears to be more similarities than differences.

#### *Similarities*

First, both the cases highlighted rushed, ill thought-out privatization process.

The cases are classic examples of quick-fix solution.

Second, while it is understandable that mistakes are possible in any process carried out for the first time, the way the privatization deals were handled was absolutely questionable.

Third, in both the cases, it was very clear that there was a preferred party for the deal. In the case of Cook Islands, it was the locally owned Rarotongan Resort Hotel Limited (RRHL). In the case of Fiji Islands, it was the MCI Carpenters Limited (MCIC). Even when there were higher bidders, these parties were selected. But MCIC was selected because it did agree to reemploy the GSPS employees.

However, instances which indicated that upfront payment was not sought for the sale in both the cases do raise more questions. This brings to the forefront, the decision on paying up the purchase price. For instance, the ADB (2002) informs that absolutely no payment was received from RRHL for the Rarotongan Hotel. Even a deposit was refunded. In the case of MCIC, the company did spend some money on refurbishment but this fell short of what they indicated in the agreement and later Carpenters ended up paying \$F1,538,776.20 only upon a court action. Nothing was forthcoming from the other partner, MCI Group New Zealand Limited since it went bankrupt before completion of its one year period. In both cases, payment was scheduled over time. For RRHL, the payment depended on the availability of its 'net distributable reserves'. For MCIC, payment depended on it making profits. It was said to be incurring losses of \$3 million for the past four years. This situation is highly questionable. How can anyone buy into selling public entities to parties which do not seem to be in a position to make any upfront payment? How is such a situation then, a guarantee towards overtime repayments?



Both the cases highlight that the governments incurred substantial losses during the process. In the case of Cook Islands, government lost out since it received no money at all. In the case of Fiji, government lost out significantly since it never received any upfront payment, aside the later payment from Carpenters. Instead the Sale and Purchase agreement was such that government itself was required to assist SFL in terms of loans and guarantees whenever SFL needed those. Clause 49 of the Sale and Purchase agreement required government to assist the SFL in raising capital or providing it with guarantees as and when guarantees were needed.

That government accepted such a clause, while arguing that privatization would relieve it of the problem of raising capital, indicates that privatization was not viewed as one reducing the burden on government, but allowing, possibly preferred private companies to buy state enterprises (Narayan, 2004, 2005).

Both cases also disclose a heavy involvement of a key individual. In Cook Islands, it was the Chairman of the then government's Privatization Committee who owned controlling interests in RRHL, the local business which was the preferred buyer. In the case of Fiji Islands, the individual was the then Public Enterprises Minister who championed the sale of GSPS. The Parliamentary debates in Fiji did contain interesting allegations of unethical conduct by such government ministers, including allegations of possible personal profiteering from privatization schemes (Narayan, 2005).

Both cases also reveal some misunderstandings, but the areas where misunderstanding arose differ. As such, this will be discussed in differences.

### *Differences*

There are fewer differences.

At a first glance, the key difference is to whom the government assets were sold to. In the case of Cook Islands, the preferred buyer was the locally owned Rarotongan Resort Hotel Limited (RRHL). In the case of Fiji Islands, it was the MCI Carpenters Limited (MCIC).

MCIC was a consortium of two companies, MCI Group New Zealand (foreign partner which was the controlling partner as it owned 51 per cent of MCIC) and Carpenters Fiji Limited, a reputable company operating in the Pacific.

Clearly, there were misunderstandings but on different matters. For instance, in Cook Islands the misunderstanding related to the sale process and conditions given that the sale details advanced before the government obtained the endorsement from the sales agent. In Fiji's case, the misunderstanding related to the different interpretations of the provisions of the Finance Act on whether an approval from the House of Representatives was required for the sale of GSPS.

## **Conclusion**

The key aim of this paper was to compare and contrast two country privatization cases, one is Cook Islands and the other is Fiji Islands. The paper revealed the very similar mistakes by both island neighbours during their first series of privatization.

Overall, such not-so-good experiences also compel economies to take extra care when implementing similar processes. Of course, after these first series of privatization, each country has made significant changes to better deal with such processes in future.

The focus of this paper was on earliest privatization, though. However, this paper has shown that while each country is specific and unique in their own right, they can and do make similar mistakes.

The paper thus suggests similar comparative cross-country research to allow for cross-country lessons. In this way, other Pacific Countries can be made alert on the mistakes they might make.

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<sup>i</sup> ADB's (2002) source is an Economic Evaluation of the Cook Islands Economic Restructuring Program prepared by an ADB staff consultant in October 1998. Information is based on the Public Expenditure Review Committee Report to Parliament on the Review of the Sale of the Rarotongan Resort Hotel, Cook Islands, December 1997.

<sup>ii</sup> There is nothing in the record showing what MCI stands for. An internet search also does not produce any relevant result for MCI.