

Privatisation of the Government Shipyard and Public Slipways – Some Lessons

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Abstract

Public enterprise reforms have dominated public policy making in Fiji for the past 15 years. While there has been much debate on the logic for privatisation, there have been very few case studies on the processes which privatisation has taken. The Government Shipyard and Public Slipways was one of the first public enterprises that was privatised in Fiji. The venture failed, leading the state to buy back the private company. This paper examines the reasons for the privatisation of the Government Shipyard and Public Slipways, and the processes that were followed in its privatisation. It also examines some of the causes of the failure, and the lessons learnt by the privatisation and the re-nationalisation of the enterprise.

Introduction

Since the early 1970's, there was an increasing challenge to the hitherto accepted doctrine of state intervention in the market to enhance economic growth and development in the Third World. The challenge acquired a more ideological form with the rise of ultra-conservative governments in the UK and the US. 'Thatcherite' and 'Reganomics' doctrines both elevated the role of the market to the central place in resource allocation. In the developed world as well as in the underdeveloped nations, market-mania took numerous forms, of which one is privatisation. Infatuation with privatisation became so intense that public policy makers of the Third World thought that privatisation was the ultimate solution to the problems of the third world.

Privatisation has been defined as the process of transferring majority ownership of public assets from the government to the private sector. The justification for privatisation was that private enterprise, by its very nature – being founded on the overwhelming desire for personal gains – would produce efficient solution for the enterprise. While efficiency and effectiveness became the buzzwords justifying privatisation, over the years, considerable debate emerged between the critics and the advocates over privatisation. A large part of the debate was fuelled by the results of privatisation, and in many cases, the evidences of failed experiments with privatisation.

In Fiji, privatisation became the central pillar of state policy after the 1987 military coups. Appana (2003) argues that after 1987, Fiji went through different phases of privatisation. The very first public sector reforms were implemented by targeting five state enterprises in the early 1990's. The first was the Post and Telecommunications Department, which was first corporatised as Fiji Post and Telecommunications Limited (in January 1990), and later (1996) split into two companies, namely, Telecom Fiji Limited and Post Fiji Limited, finally leading to the sale of majority shares in the Telecom Fiji Ltd. Three other state enterprises were corporatised – these were Fiji Pine Commission (which was incorporated as Fiji Pine Limited in 1990), Ika Corporation (which became Ika Corporation Limited in 1990), and the National Marketing Authority (which became National Trading Corporation Limited in 1992). Ika and National Trading collapsed soon after. The final entity targeted was the Government Shipyard and Public Slipways (GSPS) – which was corporatised, then privatized, then again, more recently, nationalised.

This paper examines the evolution of the Government Shipyard and Public Slipways as a case of privatisation in Fiji. The examination shows that instead of providing the solution to the government's budgetary problems and more generally the problem of 'size of the government', the privatisation process actually resulted in not only a huge drain from the public purse, but also created more human and financial problems than what it promised to solve.

The Pre-Privatization Stage of GSPS

GSPS had been a wholly government owned enterprise under the responsibility of the Marine Department. This department was established on 1 January 1967 after it branched away from the Public Works Department (PWD). It was established with three sections: Ports, Fleet and Shipyard. In January 1969, the boatshed section and the slipways were transferred from the PWD to the Marine Department, which then, became the Government Shipyard and Public Slipways. (GSPS).

The Government Shipyard is a nine thousand square metre yard located at Sannergren Drive in Walu Bay, Suva. The main aim of government in the 1960's and 1970's was to build and maintain a government fleet of vessels which could adequately serve the numerous islands in the country. This section was responsible for ship construction, ship repairs, beaconing work and boat building.

The Public Slipway had four public slipway facilities with capacity slips of 1000, 500, 200 and 100-ton cradle. These are located at Eliza Street in Walu Bay covering an area of eight thousand square meters (Marine Department, 1993). The slipways provide docking and undocking services. The slipways' capacity has had continuous demand over the years.

Though the GSPS was not geared as a commercial entity, it had over the years, developed substantial shipbuilding expertise. It had built some of the best vessels in the country and a number of vessels for the Marine Department. It also carried out some private shipbuilding work, for example, building vessels for the Blue Lagoon Cruises, Ika Corporation, and Kiribati government. It also built the now famous, 'Reef Endeavour' for Captain Cook Cruises of Australia.

The 'Reef Endeavour' Fiasco

The most decisive disaster to have struck the Government Shipyard was the major shipbuilding project of the 'Reef Endeavour'. Work on the 'Reef Endeavour' commenced in 1989. The contract for this vessel was signed by the Director of Marine on behalf of the Fiji government on 22 December 1989. The contractual arrangements were rather unusual. The owners were initially involved in a contract with a Melbourne based company namely, Ship Design Management (Australia) Pty Ltd (SDMA). SDMA were the ship designers and naval architects. As the original project managers, they drew up the costings and tendered the job of 'Reef Endeavour' to Fiji Government Shipyard for \$A7.7 million (Parliament of Fiji, 1995a: 2424).

Construction of the ship was marred by numerous disputes. Construction came to a halt in September 1991 only to resume in February 1993. 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. The government of Fiji, despite its higher cost estimates, had signed the initial contract for \$A7.7 million upon assurances by SDMA that the cost of construction would be well within this amount. Such assurances were supported by estimates provided by SDMA to the Shipyard Manager, only to be found later that these were grossly inaccurate. Government initiated a legal action against the company for misrepresentation and fraud. The fraud case, however, was later dropped because SDMA had gone into liquidation and there were extremely slim chances for any sort of compensation (Parliament of Fiji, 1995a: 2424).

The total amount written off until the stoppage of the construction was \$F5.5 million in 1991, and a further \$F3.6 million by the time of the completion of the project (Parliament of Fiji, 1995a: 2424). Upon the collapse of the SDMA initiated contract, Fiji government agreed to construct the ship for a new deal of \$A7.66 million in 1992. The clients (Captain Cook Cruises (Aust) Ltd and Qantas Holiday Tours Ltd) had agreed to pay a further \$F1.65 million in addition to the new contracted amount (The Fiji Times, 1996a: 3).

It was expected that work on 'Reef Endeavour' would be completed by late 1994 but this did not eventuate. By February 1995, the total estimated cost of completion was \$F18,534,979 against a mismatched revenue of \$F9,473,821¹, resulting in an estimated loss of approximately \$F9.1 million to the Fiji government since the 1989 contract (Parliament of Fiji, 1995a: 2424).

By the completion date (1995) another dispute surfaced. The owners levied a penalty of \$F650,000, later reduced to \$225,000, on the shipyard for late delivery (The Fiji Times, 1995d: 4). The shipyard disputed the late delivery penalty. It argued that the clients were to forward complete designs for the cruise liner while the shipyard was just required to build the ship according to the specifications forwarded; Captain Cook Cruises

¹ The first contract produced \$F2,117,087 and the second contract produced \$F7,356,734.

failed in its commitments in forwarding construction plans as and when required. Additional costs had been incurred while completing the construction of the ship. On 30 November 1995, the ship was completed with the exception of some minor tasks at the Suva shipyard. According to the shipyard, the completion was in accordance with the schedule, but the government refused to release the ship. According to the then Acting Permanent Secretary for Public Works, government refused to release the ship because payments and claims needed sorting out. Government blamed the owners, saying that there were 'grossly inequitable contractual arrangements and misrepresentation' (as quoted in AAP, 1995d: 5) while the owners blamed the shipyard for total lack of planning and supervision which they said resulted in high absenteeism and low productivity causing delays in delivery.

Upon failure in reaching amicable solutions, the parties (the Fiji government and Captain Cook Cruises) opted for legal arbitration in Australia. This was provided for in the contract. The final cost of building the vessels as at February 1996 was \$20.5m while the amount received had been \$F11.8 million. Additional charges that kept flowing in were the legal fees of aborted arbitration and the cost of furnishing and refurbishing of the ship carried out in Australia. These mounted the total expenditure close to \$F22 million, resulting in an eventual loss of \$F10 million.

The Reef Endeavour fiasco would not be completed without looking for someone to blame for the substantial under-cost sign-up of the contract and the eventual loss. The blame was at one time pushed onto the Manager of the shipyard. He had refused to sign the initial contract of the 'Reef Endeavour' because it did not give much control to their division and was too loose a contract since it was between three parties, the architect (SDMA), the owners and the builders. Since the Shipyard Manager was not the one who signed the contract, the blame was considered baseless. He was then offered options to join other government departments. Instead he opted for further studies at the University of the South Pacific where he attained a Bachelor of Arts degree and a Masters in Business Administration, later joining the Public Service Commission as its Director of Training. He is now one of the Directors of the Board of this entity.

It was the Director of Marine who had signed the contract. The PSC was requested to surcharge the Director. But records reveal that nothing was done, for the reason that he had retired (Parliament of Fiji, 1995a: 2425). It has been argued that it should have been the Government Minister responsible for the Shipyard who should have signed the contract on behalf of the Government. But at the date of the signing, the Minister was unavailable. That the Minister allowed the irregularity to continue would also place the Minister as a negligent party. But by the time the whole matter came to light, different Ministers had occupied the positions and left.

What is clear is that there was a discrepancy between the costing done by the shipyard and the actual amount signed for (Parliament of Fiji, 1996d: 2301-2). The Fiji Labour Party alleged political interference in the signing of the contract for a sum lower than the estimated cost of construction:

The shipyard was telling them all along that they cannot build the ship in the design which was then proposed for less than \$[F]15.5 million. It was not the civil servants and it was not the workers. They gave an accurate estimate of the cost of the ship in the form and design and that was \$[F]15.5 million. But eventually their arms were twisted to sign the deal for \$[F]7.5 million... But this was no fault of those who are managing the shipyard. It was the fault of the politicians who interfered (Parliament of Fiji, 1996d: 2301-2).

Notwithstanding the many problems associated with the 'Reef Endeavour' project and it ending up in a disaster for government and the taxpayers, the project proved an important point, and that is that shipbuilding of such calibre is possible in Fiji. Journalist Aniltra Chaudhari wrote:

Had it not been for that controversy, the ship would have been regarded as the pride of Fiji. Even a first glance takes in the simple beauty and fine workmanship of the luxury cruise liner. Few would even 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 (1995b: 99).

Policy makers, however, got another message from the project: that state enterprises could not deliver the efficiency that a private enterprise could. Consequently, they found justification in the disaster to push for privatisation of the enterprise.

The Privatisation Process of the GSPS

While it is argued that the ‘Reef Endeavour’ debacle, and the government budgetary crisis prompted privatisation of the GSPS, some have suggested that it was a move engineered for personal gains for some ministers. Whatever the actual motivations behind this privatisation, it is important to note that the privatisation of GSPS took place before the enactment of a proper legislation on privatisation of public enterprises. The legislation, the Public Enterprises Act 1996, was enacted in December 1996, while the decision to sell the enterprise was made in January 1995.

In January 1995, the assets of GSPS were valued at \$F5,054,844 in a valuation done by the Ministry of Lands, Mineral Resources and Energy and Ministry of Public Works, Infrastructure and Transport (Chand, 1997a: 3). The shipyard was labelled an ailing section, having accumulated losses totalling \$F10.3 million between 1992 and 1994 (Wise, 1995a: 1). As for the slipways, the upgrading costs between 1985 and 1993 were more than \$F2.5 million (Wise, 1995a: 1), which exceeded the slipway’s earnings for the same period. A paper presented by the then Public Enterprises Minister to the Cabinet recommended privatisation. It argued that upgrading for corporatization would have added on a further cost of \$F1.6 million apart from the redundancy expenditure (Wise, 1995a: 1). The Commerce Minister reasoned that government neither had the expertise nor capital to turn the GSPS into a profitable entity (Parliament of Fiji, 1995b: 991).

The Public Enterprises Unit recommended the privatisation move hoping this move would prevent further losses to government. In January 1995, cabinet decided to seek offers locally and overseas via open tenders, inviting individual companies as well as entities as consortiums. The sale was reportedly advertised in several marine trade journals and through consulates in a number of countries. In line with this, an information memorandum was prepared and background information was sent to 103 interested parties in the Asia-Pacific region. Government also stated that it would not provide further funding to the new company.

An Appraisal Committee was set up and made responsible for receiving and evaluating expressions of interest. This Committee comprised the Permanent Secretary of Commerce, Industry, Trade and Public Enterprises; Permanent Secretary for Public Works, Infrastructure and Transport; Permanent Secretary for Finance and Economic Development; Director of Marine; Manager of Shipyard and Manager of Public Enterprises Unit. It is worth noting that this committee involved civil servants, none of who had any private sector or commercial experience.

Eight companies showed interest in the purchase of GSPS. Interested parties were invited for the ‘due diligence’ process; six companies came for this process. The due diligence process normally involves checks, verification and confirmation of the accuracy of information provided. When the companies went back, formal offers came from three companies namely, Mataisau Holdings Company Limited, Blue Lagoon Cruises Consortium and the MCI Group Limited Consortium².

The highest bid - of \$F2.5084 million - was made by the MCI Carpenters Limited, a consortium of MCI Group New Zealand and Carpenters (Fiji) Limited (Parliament of Fiji, 1996d: 2324). The consortium valued the shipyard at \$F1.003 million and the slipway at \$F1.5054 million (Parliament of Fiji, 1996d: 2324).

A committee – called the Tender Evaluation Committee - was set up to evaluate the tenders. The committee comprised the Permanent Secretary for Commerce, Industry and Public Enterprise (Chair), the Secretary of Public Service Commission, the Permanent Secretary in the Prime Minister’s Office, Permanent Secretary for Finance and Economic Development, and the Solicitor General. The Tender Evaluation Committee concluded that none of the offers be accepted. It asked the Commerce Minister for direction, who suggested they call up MCI-Carpenters consortium (MCIC) for direct negotiations. Effectively, then, the offers of the first round were rejected. In October 1995, a second round of offers was asked for. This time the offers came from Koje Shipbuilding Company Limited of South Korea (its first entry) and MCIC.

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 instalments 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. The government asked the MCIC to reconsider its bid. MCIC did not accept to guarantee jobs, but was open to negotiations that continued for sometime. Finally on 19 October 1995, cabinet agreed to sell the 51 per cent to MCIC.

² There is nothing in the record showing what MCI stands for. An internet search also does not produce any relevant result for MCI.

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. On top of this, it also promised to bring in contracts worth \$5m. But before the actual sale – in November 1995 - Shipbuilding (Fiji) Limited (SFL) was incorporated to acquire the business and assets of GSPS. On behalf of the government, there were two shareholders - the Permanent Secretary for Finance and Economic Development, and the Permanent Secretary for Commerce, Industry, Trade and Public Enterprises.

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 was concluded after the Solicitor General gave his approval for the agreement.

Disposal of Public Assets

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. The Opposition Leader sought an injunction to restrain these ministers from disposing off the aforementioned government property (Pillay, 1996a: 1).

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 further, that if the Cabinet had approved the sale, there was no need for a motion in the Parliament. On the other hand, senior government officials from the finance and legal departments argued that the said Act dictated that any public asset exceeding \$F1000 be brought before the parliament. The Attorney General contended that prior approval sought for the public assets worth more than \$F1000 only dealt with surplus items that government no longer needed for its operational purposes. The then Opposition Leader disputed this interpretation, saying that the shipyard was a public asset. In a reaction, the Executive Chairman of the MCI Group threatened to withdraw from the sale if the contract was delayed any further. The Opposition then blamed the Commerce Minister for the delay questioning the reluctance of the then ruling party, *Soqosoqo Vakavulewa ni Taukei* (SVT), in openly discussing the matter in parliament. Eventually, the Commerce Minister did go to the Parliament seeking its approval for the sale (Nadore, 1996a: 5).

In seeking parliamentary approval, the Commerce Minister reiterated the seriousness of the matter claiming that they might lose out on the sale and if so, government would not be in a position to accommodate the 180 of the 220 shipyard workers who were awaiting re-employment under the new ownership. In the parliamentary session of 20 February 1996, the Commerce Minister gave reasons for the privatisation of the GSPS, outlined the Sale and Purchase Agreement and gave details on the procedure on payments to be made by MCIC to government. The parliamentary debates highlighted the dubious nature of the deal between government and the MCIC. It brought out the many fears, possible blunders and loopholes of the so-called business deal.

The MCI Group

The MCI Group was said to be a consortium of companies in the shipping industry of New Zealand. Their so-called businesses included Marine Tech (with expertise in consulting, project management, dry docking and ship conversion), Urban Securities Ltd. (a property owning and management company), Angelo Pacific Underwriters (a wholesale insurance provider), and Universal Shipping Ltd. (a provider of services such as liner and tramp agency, freight brokerage, cargo and ship brokerage, and port agency work) (Chaudhari, 1995b: 97). The MCI was said to have taken over a number of state owned shipyards and slipways in New Zealand.

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 (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 instalments to government while Carpenters guaranteed 49 per cent.

Finally on 22 February 1996, after a much-heated parliamentary debate, 35 members voted for the sale of the GSPS against 31 who objected to the sale. Consequently, 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). The Sale and Purchase Agreement was signed on 27 March 1996. But the scheduled 15 April 1996 takeover of the shipyard and slipways was deferred by two weeks to allow the government and SFL to resolve matters relating to surplus stock from 'Reef Endeavour' project, and seabed licensing. By 30 April 1996, any surplus stock remaining from the 'Reef Endeavour' project was sold to Government Supplies at a large discount, and the seabed issue was resolved. The sale of SFL was then concluded. As per agreement, 180 workers were recalled to work from 1 May 1996.

The Rise and Fall of the Privatised Company

The new management of the MCI Group brought in new promises to the workers. Such promises included providing SFL with \$F5 million worth of contracts, embarking on training programmes whereby technical staff from New Zealand would come to Fiji to upgrade local skills and key SFL personnel were to be sent to New Zealand for further training, and general upward movement in the company. However, within a few months, the situation took a different turn.

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 letter stated that these difficulties arose apparently because a former MCI director involved SFL into contracts and guarantees without the knowledge of the other directors. It informed that MCI Group was expected to go into receivership soon. Since the MCI Group was the controlling shareholder and the manager of SFL, there was the possibility of receivership of SFL then.

Far from the three years full of promises, the MCI management failed to even survive a year. Before its withdrawal, MCI entered into an agreement with a Tahitian company to take its place as a partner with Carpenters. Later, Carpenters informed that talks with this company, named Tahitian Shipbuilders, did not conclude. Carpenters' letter also mentioned that upon an agreement with MCI, Carpenters had taken control of the MCI Group that managed SFL. Carpenters had bought MCI shares in MCIC subject to Reserve Bank's approval. The MCI \$1 shares held by the Executive Chairman of MCI in MCIC was transferred to Carpenters for \$1 with cooperation from relevant government departments. On 23 November 1996, the Fiji media brought to public attention the receivership status of the MCI Group.

An audit that commenced in November 1996, and going to early September 1997, exposed that the MCI Group got registered 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 Privatisation 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. Further on, 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 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 (Parliament of Fiji, 1997: 400).

Major Contracts

As at August 1996, SFL could not secure any major contract. According to the SFL management, the international perception had been negative because of problems encountered at the time of the 'Reef

Endeavour?. Four possible clients pulled out at the last minute; these contracts went to Chinese and New Zealand shipbuilders.

In April 1997, Fiji media reported on the shipyard losing another \$F11 million contract (Foster, 1997a: 1). The contract involved construction of five ships for a French Polynesian firm. This contract actually involved three parties. Initially the owners contracted out a local firm, United Engineers but this firm went into financial trouble. The owners then contracted Tahitian Shipbuilders to look for a shipbuilder, which identified the SFL. Two ships were to be constructed at the United Engineers premises, which was taken over by the Tahitian party. SFL had been asked to provide a performance guarantee of 10 per cent (\$F1.1 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. Consequently, SFL sought an injunction on this. On 4 April 1997, the Chairman of SFL stated via a letter to the editor of *The Fiji Times* that the contracted amount was \$F5.8 million, not \$F11 million, and further, that the performance guarantee was for \$F600,000, not \$F1.1 million (Clemens, 1997: 6). The SFL Chairman claimed that the contract, which was being transferred from United Engineers to Tahitian Shipbuilders and then to SFL, was of doubtful legal validity.

In April 1997, a new contract for a \$F3.3 million 85-metre motorized barge was signed in Auckland for a New Zealand company (Hicks, 1997: 3). This contract was also unusual since it required no upfront down-payment. Down-payments were required for purchase of materials to start construction. In fact, SFL had 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, upon delivery. Such was the financial state in the midst of the barge building that in March 1997, SFL informed its shareholders of a working capital requirement of about \$F2.6 million (Parliament of Fiji, 1997: 381). By August 1997, about 30 per cent of work was completed on the 85-metre barge.

The SFL management and directors hoped that new 'would-be' partners (either Ports Authority of Fiji or Commonwealth Development Corporation (CDC)) after the pull-out of the MCI Group from MCIC would bring in these funds. But funding from these sources did not eventuate. 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 Australia New Zealand bank (ANZ) was unwilling to provide further funding. Thus, funding by way of guarantees or cash depended on the shareholders.

In July 1997, the directors informed government that SFL almost exhausted its ANZ bank overdraft facility and without input of new funding by shareholders, the company could be forced to suspend operations as early as 8 August 1997. As a result the government considered five options:

- 1) Make no response to the request by the SFL directors;
- 2) Provide only additional \$F784,000 loan guarantee requested by SFL;
- 3) Provide additional \$F784,000 guarantee requested in May and additional debt funds of \$F637,000 and then sell government's 49 per cent shareholding as soon as possible thereafter;
- 4) Provide additional \$F784,000 guarantee and agree to Carpenters proposal, then sell government's 49 per cent shareholding as soon as possible thereafter; or
- 5) Immediately wind up SFL (Parliament of Fiji, 1997: 381).

In early August 1997, cabinet agreed to pursue the third option on the grounds that government was obliged under the Sale and Purchase Agreement to meet the guarantee obligations or face litigation. Litigation would have tarnished Fiji's reputation as a shareholder and would have had a negative impact on investors. Nonetheless, this option was conditional. It required MCIC to meet their 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 government's investment and to allow for sufficient time for search of buyers for its 49 per cent shares. The barge got completed with government support.

Receivership

By the end of March 1999, the accumulated operating cost of SFL stood at \$F1,911,602 with an uncollected debt of more than \$F4 million (Chandra, 1999a: 3). In August 1999, SFL owed government more than \$F3 million (Kissun, 1999a: 3). SFL also failed to meet several of its obligations under the Sale and Purchase Agreement. For instance, out of the \$F500,000 worth of upgrading of slipways that the MCIC had to

carry out by 30 April 1997, only \$F280,000 worth of upgrading was done (Parliament of Fiji, 1997: 380). By August 1999, the newly elected government (People's Coalition Government) refused to engage in further discussions with Carpenters advising MCIC to pay up its debts to government or face litigation and the cabinet decided on inviting another strategic partner.

Major problems erupted in early December 1999 when SFL sought a temporary \$F150,000 increase to its overdraft facility and needed government endorsement to complete a \$F2.2 million fishing boat due in ten days for Tahitian owners. The government refused to give its consent. The transaction did not eventuate. SFL argued that government consent was only a formality, not a guarantee. Carpenters and Contractors Bonding Limited had given their consent as other secured lenders. 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. The Government, on the other hand, pointed out that it could not continue pumping money into an entity that was not under its control.

On 2 December 1999 the entire workforce of 105 workers was laid off without prior notice. The government went to the court seeking to regain full control over SFL by retrieving the 51 per cent shares sold to MCIC. The then Attorney General accused the management of SFL as being negligent, incompetent and unprofessional. The then Prime Minister and Public Enterprises Minister also announced the 'would-be' appointment of a new Board and Management Team, and informed of the State Law Office's investigation into SFL operations. At that time, Carpenters was unaware of government's plans but expressed via media of its interest in cooperating with the government. Contrary to Carpenter's expectations, government lost no time in initiating legal proceedings on the grounds of breach of contract and damages. On 9 December 1999, Carpenters paid \$F1,538,776.20 as a result of legal proceedings (Chandra, 1999b: 3).

On 15 December 1999, after meeting its bankers (ANZ Bank), SFL directors decided that SFL should go into receivership the next day. The SFL reasoned that this was the only option since they did not qualify for any additional overdraft facility. On 29 January 2000, the receivers advertised for a tender sale of SFL assets.

To avoid this sale and to retain the shipyard and slipways, government had three options: first, to pay off the bank debt; second, to bid to buy the assets; and third, to buy out the debenture, which would give government temporary control over SFL. The government finally settled to takeover the SFL so that protesting workers could return to work. By then, the liabilities of the shipyard accumulated to \$F9 million (The Fiji Times, 2000a: 3).

The Re-nationalisation Process

On April 2000, the Parliament approved a motion to pay off the SFL \$F2.9 million ANZ bank debt. On 1 May 2000, the SFL mortgage debenture was transferred from the ANZ bank to the government. On May 19 2000, the government collapsed. The new 'interim' regime then appointed Peat Marwick-Chartered Accountants (KPMG) as the new receiver and asked it to place emphasis on the rehabilitation of SFL with the implementation of a working business plan.

While slipways reopened during the receivership period with twelve employees, the shipyard remained shut due to three reasons: first, the yard needed lots of funds for working capital to repair some major plant in poor condition; second, the receivers could not afford to re-open and face the risk of incurring enormous trading losses; and third, the receivers did not have the necessary funds for upgrades.

By September 2000, the interim government decided to participate in the competitive bidding for the sale of the shipyard and slipway. Other bidders were some local businessmen and a New Caledonian company. Among these, the two strong contenders were the interim government and Industrial Marine Engineering Limited (IMEL), a subsidiary of Carpenters. The government was determined to win the tender. It finally won the tender – but in the third round - only when it tendered \$F6.25 million against a commercial valuation of \$F4.77 million (Fiji Shipbuilding Corporation Limited (FSCL), 2001: 3). It then proceeded to 'establish' a new company, the Fiji Shipbuilding Corporation Ltd, to takeover the SFL assets. The government gave the reasons for its determination to buy back the company: first, there had been heavy investments of \$F8.7 million on SFL by the previous government; second, SFL assets were of strategic importance to Fiji; and third, it was government's social responsibility to keep the skills, and the repair and build facilities (The Fiji Times, 2001c: 3).

Fiji Shipbuilding Corporation Limited

During the preparation for the opening of the new company, Fiji Shipbuilding Corporation Limited (FSCL), on 28 March 2001, government expressed its interest to a Tahitian Company in bidding for a 32 vessel fishing fleet contract. At about the same time, a Tahitian representative met with the Prime Minister and the Public Enterprises Minister, urging the government to tender for these vessels. The deadline for this tender was set at 20 April 2001 but it was doubted whether FSCL could get back on its operational feet within an appropriate time frame. The new company was not fully established in law then, only coming to be established in May 2001.

The objectives of the new company were: first, the refurbishment and upgrade of the shipyard and slipways; second, increasing the number of slipping and repairing of vessels; and third, on marketing and promoting the capabilities of shipyard as a shipbuilder. While the shipyard remained closed for some further time, the slipway operated with twelve tradesmen and one supervisor, doing slipping and unslipping of vessels.

During 2002, rehabilitation continued, appointments were made and former employees who were not employed elsewhere, were absorbed by FSCL. Refurbishment work was done on the overhead crane in the steel shop, the main slipway winch, the outfitting jetty, the 1000-tonne and 500-tonne slipways and the company workshops.

Fiji Ships and Heavy Industries Limited

In 2002, the FSCL Board decided that the company name be changed to Fiji Ships and Heavy Industries Limited (FSHIL) effective from 1 January 2003. This was in order to better reflect the wide range of heavy engineering work done by the company. Also in the same year, an international search was done for the selection of a CEO as local advertisements did not result in suitable applicants. In November 2002, an Australian was appointed, who took office from year 2003.

The CEO contends that he was brought into a shipyard that was not doing well and had old-time machinery with an overly tarnished reputation. Apart from this, he says the biggest and the most difficult of all challenges is Fiji's culture towards commercial operations. He argues that the shipyard industry is very much politically sensitive, and that money and investor confidence are major problems he is faced with.

Lessons and Concluding Comments

The GSPS changed ownership three times. Prior to privatisation, the GSPS was part of the Marine Department that was wholly government owned. After it was incorporated as SFL, it was privatised via the sale of its 51 per cent shares to a consortium, MCI Carpenters Limited (MCIC). As this privatised entity underwent receivership, the entity was re-nationalised. The re-nationalisation process has once again given 100 per cent ownership of the entity to the government. It now operates as a corporate entity.

The 'Reef Endeavour' debacle and the unmanageable financial burden on government were the supposed reasons for the privatisation of GSPS. The experiences from the 'Reef Endeavour' are noteworthy, especially in regards to contractual catastrophe. The case shows that when dealing with clients, a thorough check must be done prior to making any commitment. In this case, the Ship Design Management (Australia) Pty Ltd (SDMA) and MCI Group were never thoroughly checked for their background and standing. It was disclosed later that these companies, in essence, were paper companies. Obviously those responsible for the project were negligent in not carrying out due-diligence. Whether this was a result of the government being ill-equipped for privatisation, or whether the outcome was due to a general deterioration in the standards within the civil service in the country, is a matter that needs further investigation. But what is clear is that instead of learning from the experiences of SDMA, the same mistake was repeated with the MCI Group. Past experiences are only meaningful when individuals learn from them and avoid repetition of the same or similar mistakes.

With regard to the under-cost contract sign-up, even when the Public Service Commission was asked to take to task the person(s) responsible for the contractual disaster, nothing was done, with the excuse that the individuals involved with the contract were no longer at the shipyard. But this was clearly going to be the case – the script was written to perfection - the Manager of the Shipyard had been offered the option to join other government departments, and therefore, was not to be found at the Shipyard.

While the notion of transparency has been used over decoratively in the country, the actual practice is quite to the contrary. In cases of negligence or dereliction of duty in civil service, government is quick to initiate side transfers. Political involvement in the privatisation exercise also compromised the fundamental tenets of good governance. The whole exercise of working by the rules of good governance within the civil service itself becomes wasteful.

As for the procedure, the rushed privatisation of GSPS was a classic example of a quick fix solution initiated by a so-called business deal which was not at all business like in the first place. The way the privatisation deal was handled was absolutely questionable. First, the provisions of law, in this case the Finance Act (which required the government to seek parliamentary approval for disposal of any public asset) were not adhered to.

Second, the GSPS privatisation process began before the enactment of a proper legislation to enable privatisation, which in this case was the Public Enterprises Act 1996. But the absence of any legislation does not offer any excuse for the ineffective machinery that was put in place to privatise the entity.

Third, the privatization exercise began with a faulty premise – that the GSPS privatisation would reduce the size of the government and do away with state dependency. The GSPS privatisation raised the extent of state dependency as well as the financial burden on the state.

Fourth, the entire exercise was done without any consideration of the benefits to the state. Significantly, the deal permitted the new owners to have a greater control (with four members in the Board against government's three), while not placing a commensurate financial burden on the new majority owners.

Fifth, one particular Ministry – being that responsible for Public Enterprises - dominated in the privatization process. The audit report completed by early September 1997 questioned the dominating involvement of one ministry's officials in handling the negotiations. Such dominating role resulted in the eventuality that the Minister for Public Enterprises accepted that the background of the MCI Group was not checked with the assumption that Carpenters, being a reputable company, would have done so. This was not at all a good reason for not checking on MCI in the case where the deal was showcased as a totally commercial one. Business deals do not rely on flimsy assumptions.

Sixth, the continuous requests by the privatised company for government guarantees throughout the privatisation period implied that the company still relied on the Government to back it financially. Clause 49 of the Sale and Purchase Agreement required government to assist the SFL in raising capital or provide guarantees as and when guarantees were needed. That government accepted such a clause, while arguing that privatisation would relieve the government of the problem of raising capital, indicates that privatisation was not viewed as one reducing the burden on government, but allowing, possibly preferred private companies to buy state enterprises. The events leading to the finalisation of the tenders show that the MCIC had become the preferred party of the government for the privatisation deal. The Minister championing the GSPS sale accepted later that the MCI Group had been incurring losses of some \$F3 million for the past four years. How was this a guarantee for turning around supposedly a sick government entity when the buying company could not do well for itself?

There had been numerous warning signals from the very start of the deal that indicated that the GSPS privatisation was destined for failure. Other early warning signals involved continuous dependence on government for guarantees, possible fears and loopholes, as highlighted in the parliamentary sittings, before the finalisation of the deal and the evaluation by Commonwealth Development Corporation. The CDC clearly indicated that SFL's continued dependence on its shareholders, as well as inefficient contract handling, meant unlimited liability for the shareholders. The heavy dependence on government should have been seen as early warning signs of the entity moving towards bankruptcy.

Unfortunately, Fiji had to learn the hard way. This points out that government had a reactive approach. It did not heed the numerous warning signals but had to wait for increased accumulated losses and the bankruptcy of the MCI Group. SFL survived only because of government support. When government withdrew its support, it had to close down. The GSPS privatisation was obviously privatisation in name and paper only.

While the government argued that it was the 'Reef Endeavour' disaster and the unmanageable financial burden on government that prompted privatisation of GSPS, the Parliamentary debate contains interesting allegations of unethical conduct by government ministers, including allegations of possible personal profiteering from privatisation schemes.

The ultimate lesson is that privatisation is no guarantee to success of an enterprise. The privatisation of GSPS was an absolute failure. The consequence of this has been that the government ended up buying back the entity that it had 'sold' off. While the assets were transferred, the new owners had not paid the government its dues. In a way then, the government was forced to buy back what it had not even fully sold. Moreover, throughout the processes of privatisation and re-nationalisation, government kept incurring significant costs. Perhaps the only benefit of the scheme was that it gave Fiji a strong lesson on privatisation.

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