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Privatization in sub-Saharan Africa: On factors affecting implementation

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Discussion Paper No. 2002/12

Privatization in sub-Saharan Africa

On Factors Affecting Implementation

Steve Kayizzi-Mugerwa*

January 2002

Abstract

Although privatization has been a key feature of economic policy in Africa since the early 1990s its sequencing and intensity have varied from country to country, with donor leverage being an important determinant of the pace of implementation. However, although many privatization schemes were undertaken in response to donor demands for reduced government participation in business, the process soon achieved its own dynamics. The positive view of privatization suggests that it went ahead, in spite of domestic opposition, because politicians and bureaucrats perceived real benefits to themselves and their supporters. They could influence the sales to their own benefit, while, on the other hand, a more focused public sector improved service delivery.

Keywords: privatization, positive models, normative models, economic policy, sub-Saharan experience

JEL classification: P16, O55

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1. Introduction

A characteristic feature of the African economy in the 1990s was the speed with which governments extricated themselves from direct ownership and management of businesses. Although the process was part of a global trend, it has tended to have larger economic and political connotations in Africa than elsewhere (Bennel 1997, Drum 1993). This is because, outside the former socialist bloc, African governments had embraced state ownership of the formal economy much more strongly than other parts of the world.¹ This attempt at controlling the 'commanding heights' coincided with severe external shocks, however, and was not sustainable. The structural adjustment programmes that were embarked on in the 1980s presented an alternative approach based on less intrusive government, and with privatization and the restructuring of state-owned enterprises seen as important for the success of economic reform.

Privatization implies the transfer of ownership from the public to the private sector, as well as changes in income flows between groups. It has thus important socioeconomic implications for the various interest groups, not least the bureaucratic elite. Thus politically and in terms of administrative resources, privatization and public sector reforms have been more demanding than the 'stroke of the pen' measures such as exchange rate and price reforms, which brought about macroeconomic stability. Furthermore, in recent years, donors and multilateral agencies have made privatization a key conditionality. Indeed more African countries undertook privatization in an effort to assuage donor fears over domestic reform commitment than out of ideological or economic conviction. Privatization thus touches on a complex set of issues, including property rights, nationality, ethnicity, bureaucratic practices, donor conditionality, nature of markets and politics.

The purpose of this paper is to analyse the factors affecting the implementation of privatization in sub-Saharan Africa. Anecdotal evidence suggests that there have been wide differences in the way privatization strategies and plans have been introduced, debated and executed in Africa. While some governments quickly overcame opposition to privatization from influential groups, such as labour unions and consumer groups, and were able to sell off the bulk of the parastatals, others failed to go much beyond the initial divestiture of small companies or the return of shares acquired during earlier nationalizations. Ironically, it is not always the capitalist-oriented African economies such as Kenya and the Côte d'Ivoire, which are the most keen privatizers. Formerly socialist-oriented ones such as Mozambique and Tanzania have been faster in implementing privatization.²

Among the questions addressed in this paper are the following: What strategies have been used to initiate privatization, especially in light of domestic opposition? Which factors have influenced the evolution of the privatization debate in the various countries and what impact has this had on the pace of implementation? Why have some countries kept a steady

¹ See for example the article in *Africa Analysis*, October 18, 1996:4, 'Selling off the icons of state socialism'.

² Two reasons can be given for this. First, state-owned companies in Tanzania and Mozambique were close to bankruptcy and had lost their original purpose of bolstering domestic employment and generating government revenue. The second point, also advanced in the text, regards the need by governments to send signals to domestic and foreign investors that a new page had been turned.

course in implementing privatization, while in others the process has stagnated or failed altogether? Which issues have emerged as privatization evolved from the divestiture of small firms to that of large corporations and how have they been resolved?³ In other words is there a 'privatization learning curve', if so how have the transition costs, political as well as economic, been addressed?

2. Theoretical overview

Theoretical analyses project two main views on privatization. The normative view is that privatization is necessary to curb waste, raise economic efficiency and develop the activities of the private sector via increased domestic and foreign investment.⁴ The main driving force being the eradication of the 'soft budget' constraints that make public firms a major cause of fiscal imbalance, as they encourage waste and obstruct the flow of services (Harsch 2000, Kornai 2000). The normative theory also presupposes benevolent governments and politicians. The latter are assumed to be altruistic, their main concern being to maximize aggregate welfare. They are willing to abandon a discretionary system for one where market forces determine performance. Since the welfare benefits of privatization take time to realize, however, the normative view provides a long-term rationale for public sector divestment, since the process is in the context not as important the outcomes.

The point of departure for the positive view is that in sub-Saharan Africa, as is many other developing countries, privatization is a politically charged subject. This relates to the agency and credibility problems that are unleashed by the exercise as well as its income distribution implications. In managing state-owned enterprises, politicians and bureaucrats enjoy rents and are also able to exercise political patronage, for example, creation of jobs for their supporters as well as targeting credit and other benefits to them. In turn they are assured re-election or other means of retaining power. Why then would politicians that are pursuing group-interests and, under them, bureaucrats with discretionary powers, be willing to commit to a privatization policy that does not favour particular groups or agree to the establishment of an impartial regulatory mechanism post-privatization?

The answer from the positive theory is that privatization only goes ahead when politicians see in it clear-cut economic and political benefits. In their application of the model on sub-Saharan Africa, Laffont and Meleu (1999) conclude that the speed of privatization is directly related to the shares that politicians or their relatives can fetch in the privatized firms to compensate themselves for the loss of the rents previously enjoyed under state ownership. Similarly, interest groups or constituencies, depending on the amount of political influence they wield, can also affect the speed and sequence of privatization (see Table 1). Thus governments could end up maximizing group than aggregate welfare. For example, since the divestiture of loss making state-owned enterprises implicitly lowers the

³ This concern is altogether different from that related to how to ensure that privatization contributes to private sector development.

⁴ For example on announcing its privatization/divestiture programme in 1992, the Government of the Republic of Kenya listed the following objectives for privatization: Enhance the role of the private sector in the economy; enhance efficiency and the use of the scarce resources; rationalise the operations of the public enterprise sector; improve the regulatory environment; broaden the base of ownership and enhance capital market development; reduce the fiscal burden on government; raise revenue for the government.

tax burden, privatization rewards taxpayers, often the middle classes, while reducing the rents and employment opportunities enjoyed by senior bureaucrats and other public sector employees.⁵ There is thus a trade-off between the goals of economic efficiency postulated by the normative approach and the issues of income distribution and voter maximization of the positive approach (Gupta 1998, Talley 1998).

Table 1
Interest groups, threats and benefits in the privatization process

Interest groups	Potential Threats/Benefits
1. Government leaders and their representatives on boards of the state owned companies, as well as bureaucrats in the line ministries.	Threats include possible loss of political patronage and income. On the other hand, privatization reduces the fiscal burden and sends positive signals to the donor community.
2. Parastatal managers and employees	Risk of loss of employment and income during privatization and post-privatization restructuring.
3. Participants in the markets for goods and services: consumers, suppliers of inputs, financiers, competitors, etc.	Since many parastatals were moribund pre-privatization, their divesture tends to increase market activities, benefiting participants. However, even non-performing parastatals still received huge subsidies from government. Their loss affected some groups seriously.
4. Influential domestic groups—including political parties, religious leaders, labour unions, parliamentarians, academics, etc.	The unequal distribution of privatization benefits as well as 'foreignization' are seen as threats by a large number of groups ex ante. Still, an expanding private sector soon begets its own support groups and views change rapidly ex post.
5. Donors and multilateral agencies	On the whole, donors and multilateral agencies see no threats in privatization, only benefits. To them privatization signals commitment on the part of national policymakers to economic reform and to efficiency in government.

Source: author's compilation

However, bureaucratic collusion and political patronage need not be the only spur to privatization. As already noted, privatization was undertaken in many African countries as a direct response to demands from the donor community and the multilateral agencies to

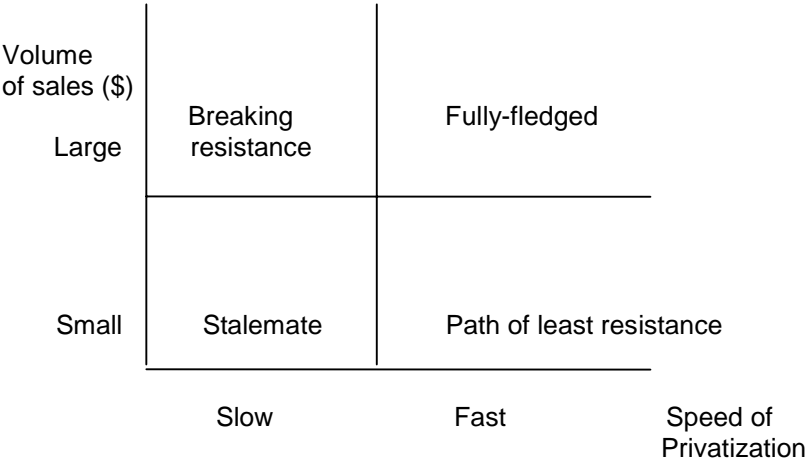
⁵ Avishur (2000) has argued that privatization might not amount to a pareto-dominating mode of operation. Note, however, that in Uganda, the 'privatization' of coffee marketing greatly improved peasant incomes in the coffee growing regions of the country thus reducing poverty.

get governments out of business. Indeed in Kenya and Zambia the privatization of key companies was made a key precondition for further financial assistance. There is one important reason why donors would have influence in the context. The inflow of aid keeps government bureaucracies operative and sometimes even increases their activities and wages. It can also be argued that for many regimes, for example those that had forcefully nationalized or expropriated properties belonging to multinationals and non-indigenous groups, as in Uganda in the early 1970s, privatization became a means of signalling the end of the old ways and the beginning of legality. That governments were tying their own hands, for the sake of private sector development, also indicates how weak they had become compared to the 1960s, for example (Kumssa 1996, Okara 2000).

3. Learning to privatize

Even after privatization, as a concept, has been internalized by policymakers, debate often continues around issues like the divestiture sequence, size of the firms to be sold and the speed at which privatization is to be undertaken, as well as the method to be used. In many countries in Africa, the divestiture of small firms, almost exclusively sold to ‘nationals’ or simply liquidated, elicits little controversy, even when the companies end up in the hands of bureaucrats and politicians. It is the privatization of large companies, especially those thought to be ‘strategic’ that leads to controversy. First, these comparisons are often too big for domestic capitalists to afford and thus end up in foreign ownership. Second, the concept of ‘sunk costs’ is not well appreciated by the general population and the politicians. They expect large state-owned enterprises to be worth at least a good fraction of the millions spent on their rehabilitation or on loans to them by the government. The sale of ‘national treasures’ at ‘distress’ prices causes much political dissatisfaction. In deference to this, many African governments embarked on privatization with lists of companies that were to remain in state ownership. In the case of Uganda the list included, among others, the government-owned newspaper the new vision, the national airline and the Uganda Electricity Board, an electricity utility monopoly. It is an illustration of how fast the process has evolved since the early 1990s that none of the above firms remain on the priority list, with Uganda Airlines in de facto liquidation.

Figure 1: Phases in privatization



Note: identifying four modes of privatization

With the help of Figure 1, we portray the evolution of the privatization process for a typical group of sub-Saharan countries. On the vertical axis of Figure 1 is the accumulated volume of sales in an appropriate currency, say US\$. This ranges from the proceeds of 'small' businesses with fewer than five employees to 'large' corporations employing thousands of workers. On the horizontal axis is the speed of privatization, measured as the time it takes to achieve a given volume of sales. It could be 'slow', which for convenience also includes no activity, or 'fast'.

- A. Stalemate describes a position of minimal movement, with slow privatization and a small volume of sales. This was the case for many African countries in the late 1980s, before the privatization process achieved momentum. But owing to social strife and political difficulties, some countries have not moved far from here.
- B. The 'path of least resistance' refers to a scenario, quite common in sub-Saharan Africa, where governments embarked on rapid privatization of small firms, but balked when it came to large companies. This was, for example, the experience of Zambia during the first 5 years of privatization in the 1990s when close to 200 companies were divested and the government was praised by donors and the multilateral agencies for undertaking one of the fastest and most transparent privatizations in Africa (Kayizzi-Mugerwa 2001). The Zambian government claimed at the time that when it came to privatization there were 'no sacred cows'. However, altogether the companies sold thus far were only worth a fraction of the assets of the Zambia Consolidated Copper Mines (ZCCM), the mining conglomerate, whose privatization was long-drawn out and controversial and not completed until the end of the 1990s.⁶

Eventually, the stock of small firms in the 'path of least resistance' phase are exhausted and governments must resort to privatizing larger ones. At about this time, the privatization process begins to generate its own dynamics. This is partly a process of learning from earlier mistakes, strengthening the administrative and financial aspects of the process, including the introduction of new legal codes to remove loopholes.

- C. The third phase of privatization in Figure 1 can be referred to as 'breaking resistance'. This characterised the bulk of sub-Saharan countries in the first half of the 1990s. At this stage, privatization has been accepted in principle, and institutional and legislative modalities for its implementation are in place, but owing to institutional and political constraints, for example as symbols of national independence larger firms have considerable sentimental value in Africa, privatization is much slower than before. The political mood is still against the divestiture of large companies. Some governments were able to privatize one or two large companies, for example, Kenya Airways in the mid 1990s and the electricity conglomerate (CIE) in Côte d'Ivoire in 1990 via the issue of a 10-year lease contract to a French company. While often making little headway

⁶ The slow process of privatising ZCCM eventually led to an aid embargo on Zambia by donors and the multilateral agencies. Post-privatization restructuring of the mines has been slow. Ironically, the former Chief Executive of ZCCM was made the chair of a committee put in place to privatise it, probably partly explaining the turns and twists of the process.

otherwise, the privatization of a big company helps break resistance. The privatization of ‘national treasures’ is no longer impossible, becoming just a question of time.⁷

- D. The last phase, so far only reached by a few African countries, involves a more fully-fledged privatization effort, including firms formerly considered strategic in sectors such as telecommunications, electricity, water and other utilities. The phase is reached when political and institutional constraints to privatization have been resolved, enabling rapid divestiture, with big companies coming on stream relatively quickly and with sales to foreigners causing little or no controversy. This phase differs from the ‘big bang’ privatization that was common in the transition economies of Eastern Europe, notably the voucher privatization schemes in Russia, the Czech Republic and to a lesser extent Poland. The rationale there was that for reasons of fairness every citizen had to be given an equal share of the former property of the state. For the ‘big bang’ to succeed, however, central bureaucracies, such as those of the post-socialist era in Eastern Europe, must have suffered serious credibility problems making it difficult for them to defend themselves against the serious onslaught on their incomes and rents implied by the rapid diminution of the public sector. Voucher privatization has not been attempted in sub-Saharan Africa. Under the fully-fledged privatization phase governments have more experience and are able to make the necessary adjustments, notably with respect to strengthening the legal framework. Typically, the debate regarding the rationale for privatization has at this stage been transcended, with the focus now on how the benefits of privatization are allocated.⁸

4. The privatization process in sub-Saharan Africa

In this section, we use the framework discussed above to analyse issues arising during the privatization process. We look specifically at the stages of initiation, consolidation and fully-fledged privatization. The factors determining performance during each of these phases as well as the transition from one to the other will be illustrated using examples and data from a range of sub-Saharan countries, although the experiences of Côte d’Ivoire, Ghana, Kenya, Mozambique, Tanzania, Uganda and Zambia will form the core of the discussion.

4.1 Factors at initiation

Privatization and public sector reforms mark what have been termed ‘second generation’ adjustment policies, an attempt at distinguishing them from the ‘first generation’ policies, which focused almost exclusively on economic stabilization. In most sub-Saharan African countries, privatization was embarked on after pressure from the donor community, rarely

⁷ The notion of what was strategic has changed radically over the years. While utilities, railways and airlines had been declared strategic in the late 1980s when the privatization process began, and thus to be retained, few areas if any were still designated as such by the late 1990s.

⁸ The latter has proven to be an important issue. Few governments had a good strategy for using the money that privatization generated. In Uganda some of the privatization proceeds were lent to companies in the private sector to improve their operations. Sales proceeds were also used to ‘fatten’ other companies before sale or to pay off workers. There was inevitably considerable confusion, which eventually led to direct intervention by Parliament.

was it a result of own policy initiative (Appiah-Kubi 2001).⁹ Still, when privatization began a number of domestic factors came into play. As a result some privatization episodes were relatively smooth while others were drawn out and controversial, in some cases forcing the government to postpone or cancel the process altogether.

State-owned enterprises (SOEs) are often an amorphous group of companies covering most sectors of the economy, acquired under a variety of political ambitions and held together by a number of statutes and legal provisions. The bulk of SOEs, not only utility companies supplying electricity, water, transport and telecommunications but also huge mining companies, were inherited from the colonial governments at independence. However, governments then acquired whole or partial stakes in multinationals and other foreign-owned companies during the 'socialist' revolutions of the 1960s and 1970s. This included areas such as banking, transport, agriculture, mining and manufacturing.

While in most countries nationalization was completed after protracted negotiations with incumbent owners, with governments compensating them for their nationalized assets, in the case of Zambia even borrowing on international markets in order to do so, there were a number of exceptions. In Mozambique, nationalization was a result of the assumption of power of the socialist guerrilla movement (Frelimo), which saw private ownership as synonymous with Portuguese alienation and something to be eliminated entirely (Pitcher 1996). The properties left behind by the fleeing Portuguese settlers were nationalized *en masse*. In Tanzania, following the declaration of socialism in the second half of the 1960s, a similar nationalization of businesses took place, with the government or cooperatives ending up with much more of the smaller businesses than in neighbouring countries. Uganda provides yet another variation. In the early 1970s the military government expelled citizens of non-African origin, with Asian business families being the main target, and expropriated all their properties with little or no compensation. However, unlike in Mozambique and Tanzania, the smaller businesses were acquired by indigenous Ugandans that were close to the political leadership, only the bigger businesses were taken over by the state.¹⁰

Governments also set up their own companies, seeing it as an important means of providing dynamism to their economies. It would help create employment, while enabling governments to ensure regional balance in economic development. SOEs were created in a number of areas including airlines, banking, insurance and tourism. In francophone Africa in particular, perhaps as a legacy of metropolitan France itself, state ownership became quite entrenched. In Côte d'Ivoire, for example, a country generally considered capitalist in orientation, the government still holds extensive business holdings in most areas of the economy. This policy stance resembles that of Kenya. In both countries, state ownership of businesses has not excluded multinational corporations and private individuals from holding large stakes in the economy, although there have been complaints over lopsided competition.

⁹ Only Zambia, under the Movement for Multiparty Democracy (MMD), had embarked on the privatization exercise of own volition.

¹⁰ In Uganda, regime shifts also meant a reallocation of the businesses acquired from the departed Asians. Indeed the businesses became an important source of patronage. This also meant that the security of tenure was tenuous and the businesses attracted little investment (see Bigsten and Kayizzi-Mugerwa 1999).

4.2 Evolution of the privatization debate

In most African countries privatization has been superseded by serious debate. The exchange between politicians, bureaucrats and other stakeholders has sometimes been acrimonious, while the conditionality attached to privatization by donors and multilateral agencies has caused sharp disagreement.

African governments had heralded the nationalizations of the 1960s and 1970s as marking the real beginning of independence. Beside political independence, Africans would also control their economies for the first time. Thus although many of the businesses acquired by governments were very poorly run, with low capacity utilisation and serious dependence on state subsidies, SOEs were seen as national possessions worth preserving in the public realm.¹¹ However, although state ownership of the larger companies could be justified on the grounds of scale economies, employment creation and regional balance, governments had gone well beyond 'strategic' considerations in acquiring businesses. This was because in many of them nationalization was equated with indigenisation, with businesses belonging to foreign-born ethnic minorities especially targeted for take-over.

During privatization, the foreign ownership debate has thus returned, with governments trying to ensure that indigenous Africans, get a 'fair' share of the assets on sale. Apart from the small enterprises, governments have not been in a position to tilt the ownership structure in favour of Africans, however. There was no attempt to adopt the voucher-type privatizations of Eastern Europe, named earlier, while the stock exchanges, which would have provided an alternative means of privatization, remain small and fragile.

While privatization seems irreversible in many countries in Africa, local opinion still refers to it as a loss of 'resources to abroad', 'foreignization' and 'loss of independence'. In Uganda, which has gone further than most other sub-Saharan African countries in its privatization efforts, President Museveni has made an insightful analysis of the politics of the process (Museveni 1993). He argues that simply because his government was returning assets to their former Indian owners and selling off large companies to foreign companies and individuals is not reason enough to claim that Uganda was 'being sold to foreigners'. He notes that the 'local middle class' that propagate this view are not in a position to purchase the assets on sale and the government has no money to lend them. He concludes that the tension is not surprising since in his estimation the national interest rarely coincides with the interest of the 'local middle class'.

The second area of contention relates to who should determine the pace, extent and depth of privatization. As already noted, the multilateral agencies and donor community are very much involved in the implementation of privatization in many African countries. They help set up and finance the institutional structure for privatization and ensure that the process remains on track by attaching it to their overall conditionality. In the earlier phases of privatization, it was generally felt that donors had much more influence on the process than domestic actors. In Uganda, for example, members of parliament argued that while they considered privatization a *fait accompli*, they worried about how little influence they and,

¹¹ For example at the beginning of privatization in Mozambique in the late 1980s, only 42 percent of the companies were operational. However, many of these were operating at a very low level of capacity utilisation (see Unidade Técnica para a Reestruturaco de Empresas, various issues).

by analogy their constituents, had had on the process as a whole (UMACIS, 1998). Labour unions in many African countries had been so weakened by the economic crisis of the 1970s and 1980s that they were not able to resist privatization via strikes or other industrial action.

The third sources of controversy relates to the valuation of assets and the use to which the proceeds are put. As already noted, although many of the enterprises were non-operational at the time of privatization, the general public still believed that they were worth much more the buyers were offering. The secrecy related to the privatization proceedings often raised public suspicion, leading to charges of collusion, especially when assets were sold cheaply to 'foreigners'.

4.3 Setting up the institutional structure for privatization

Although domestic opposition to privatization delayed the process in many countries, a more serious impediment was lack of an institutional structure for privatization. Even after reaching a consensus on the need for privatization, it took much longer than expected for governments to nullify statutes that had sustained state monopolies and put in place an adequate body of legislation to support privatization, including revisions of laws covering areas such as taxation, bankruptcy, land ownership, competition and regulation.

The existing legislation for the setting up of the institutional framework for privatization and public sector reforms was introduced almost simultaneously by many African countries in the early 1990s, assisted by the donor community. The laws and related documentation, share a number of common issues for instance explaining why it was necessary to privatize, commercialize or bring about changes in the operations of SOEs. The documents and laws also define the structures and powers of the units and institutions set up, within ministries, or as independent entities, to supervise the privatization and reform process. However, while the thrust and direction are quite similar, the documents nevertheless reveal some subtle differences in emphasis across countries, reflecting a number of political concerns.

In this section we provide a brief review of some of the laws, proclamations and ordinances introduced by a cross-section of African countries: Ethiopia, Ghana, Guinea, Mozambique, Tanzania, Togo, Uganda and Zambia. The group exemplifies a range of political and economic experiences. Ethiopia, Mozambique and Tanzania have in the past pursued a socialist approach to development, although only the latter was spared the ravages of civil war, while the rest of the countries in the sample had practised varying forms of state control, and excepting Zambia were led at some stage by the military. Uganda, in particular, had gone through over a decade of political and economic chaos in the 1970s and 1980s. In this section we look at the legislation setting up the privatization structures in the individual countries and the extent to which affirmative issues were taken into account (see Table 2).

The objective of the newly created agencies was 'to carry out the process of privatizing public enterprises in an orderly and efficient manner' (Government of Ethiopia 1994). However, few countries gave the agencies complete autonomy, while the composition of their boards was steered to a large extent by the governments themselves. For example, although the Ethiopian Privatization Agency was to be an autonomous agency with its 'own legal personality', its five permanent board members were designated by the

government and it was accountable to the Prime Minister in all matters. Moreover, the government would designate five permanent members to its board. With respect to interest group representation, the chairman of the board of the enterprise under privatization as well as the worker representative sitting on its board were allowed to represent the company during the Agency's negotiations for its sale.

A similarly centralized approach to privatization was evident in Ghana in the early 1990s (Republic of Ghana 1993). The purpose of the Divesture Implementation Committee was defined as 'to implement and execute all Government policies in respect of divesture programs'. All the Committee's recommendations were submitted to the Provisional National Defence Council (PNDC) for approval. The latter appointed the members of the Committee whose chairman and executive secretary were PNDC members. Other members included a representative from the trade unions, the Ghana Armed Forces, and the Committee for the Defence of the Revolution.

In Guinea the Minister of State Assets assumed authority over the privatization exercise, signing transfer documents on behalf of the government and supervising the work of the Privatization Committee. A representative from the Ministry of State Assets, would chair the Committee, which would comprise two representatives from the ministry where the enterprise on sale 'belonged', a representative from the Association of Bankers and two representatives from the Chambers of Commerce of Agriculture and Industry of Guinea. Although there was no explicit representation on the Privatization Committee for workers, the Committee was admonished to keep the labour unions 'informed of the progress of the privatization process'.

The Kenyan and Tanzanian privatization legislation is light compared to other sub-Saharan African examples (Republic of Kenya 1992, Republic of Tanzania 1992, 1993). These more modest models contrast sharply with that of Mozambique. To get the privatization process started there required five decrees, three laws and a 'ministerial diploma' as well as the creation of layers of institutions at the national and provincial levels. The process is also marked by considerable affirmative action to ensure that Mozambicans benefit.

Togolese privatization also favoured a centralized approach, with the minister in charge of public enterprises having the main responsibility. The privatization committee, comprised mainly of officials chosen by Cabinet decree, would consult the Minister on each operation, including justifying the choice of object for privatization as well as on the nature of the negotiations and their conclusion.

Table 2

Legal and institutional structures for privatization: board composition of the agency and the affirmative action content of the legislation

Country	Laws and policy declarations	Board composition of the privatization agency	Affirmative action
Ethiopia	Ethiopian Privatization Agency Establishment Proclamation No.87/1994; Establishment of the Board of Trustees of Privatized Public Enterprises Proclamation No. 17/1996.	The Privatization Agency has 5 permanent members designated by the government. When a company is in the process of privatization the chairman of its board and the worker representative on the board would participate in the Agency's deliberations, as non-voting members.	The proclamations establishing the Privatization Agency as well as the Board of Trustees for Privatized Public Enterprises make no explicit mention of the need to favour Ethiopian nationals in the privatization process.
Ghana	Ghana Divestiture of State Interests (Implementation) Law, 1993, establishes a Divestiture Implementation Committee.	A Chairman who had to be a member of the then ruling Provisional National Defense Council (PNDC). A representative each from the following: Trade Union Congress, Ghana Armed Forces, and Committee for the Defence of the Revolution, plus 3 other people chosen on the basis of their 'experience or specialised knowledge'. The Executive Secretary of the Committee was automatically a member. All members of the committee were to be elected by the PNDC i.e. the government.	No explicit affirmative action provisions are made by the Divestiture Law.
Guinea	Loi L93 fixant les regles de la privitisation des entreprises publiques, 1993 sets up a Privatization Committee.	A representative of the Minister for State Assets, 2 representatives from the Ministry to which the company belongs, a representative from the Association of Professional Bankers, and 2 representatives from the Chambers of Commerce (Agriculture and Industry). The mandate of the members would be enforced by decree.	Article 8, of the Law of 1993, states that the privatization should be conducted with national interests in mind. Measures in support of the employees of the privatized companies, including their acquisition of some of the shares, had to be put in place, while labour unions had to be consulted frequently during the process.

Kenya	Policy Paper on Public Enterprise Reform, 1992, announces creation of Parastatal Reform Programme Committee (PRPC), with Executive Secretariat and Technical Unit (ESTU) as implementing agency.	The board membership of PRPC and ESTU is not specified although the Vice President was to head the former at initiation. The work of the two agencies would be 'insulated from any Government or political interference'.	With respect to the overall reform of the parastatal sector, the government refers to the need for safety nets to counter the effects of labour retrenchment. The reform measures are also aimed at broadening ownership of assets in the country.
Mozambique	Decrees, Laws, and a Ministerial Diploma (1989-93) create the Inter-Ministerial Commission for Enterprise Restructuring (CIRE), implementation agency (UTRE), with an Executive Privatization Commission (CEP) for each large company. National and provincial agencies created for smaller firms.	CEP membership includes the following: One representative from Ministry of Planning and Finance, Bank of Mozambique, the Ministry where the company belongs, a union representative. All are nominated by the Prime Minister.	For purchase of bigger companies, favourable interest rates are offered to nationals. They can also mortgage up to 60 percent of the acquired asset before full payment. Acquisition of smaller firms is faster and tilted in favour of nationals.
Tanzania	Amendment of Public Corporations Act 1992, in 1993 creates Parastatal Sector Reform Commission.	The President, upon advice from the Minister of Finance appoints 7-9 members of the Commission, including Chairman.	Affirmative action not explicit.
Togo	Ordonnance No 94 002/PR Portant Desengagement de L'Etat et D'Autres Personnes Morales de Droit Public Des Entreprises, 1994.	9 members, including the Chairman, to be nominated by decree of the council of Ministers	A hierarchy for privatization specified: firm employees, Togolese persons (physical and legal), similarly for WAEMU countries and ECOWAS. A key goal being 'to protect national interest'.
Uganda	The Public Enterprises Reform	Members of DRIC included: Minister of Finance as Chair,	No explicit affirmative action imbedded in PERD statute,

	and Divestiture (PERD) Statute, 1993 (Revised 1998), establishes a Divestiture and Reform Implementation Committee (DRIC), the Privatization Unit (PU) and a Parastatal Monitoring Unit (PMU).	Attorney General, Minister for Privatization, Chairman of the Parliamentary Committee on Economy, Chairman of Parliamentary Committee on Parastatals, Chairman Uganda Investment Authority, 3 eminent Ugandans who are not ministers. All are government appointees.	although among its objectives was included: 'the promotion of local entrepreneurship'.
Zambia	The Privatization Act, 1992, sets up the Zambia Privatization Agency.	Board members include: permanent secretary ministry of commerce, trade and industry; permanent secretary ministry of finance; the Attorney General; a representative each from Zambia Congress of Trade Unions; Zambia Federation of Employers; the Law Association of Zambia; the Zambia Institute of Certified Accountants; the Dean of the School of Business of the Copperbelt University, Churches in Zambia; Bankers Association of Zambia; the farmers. The Chairperson and the deputy would be elected from among its members. Members would be chosen by a Select Committee of the National Assembly, ratified by the National Assembly and appointed by the President.	The government may retain a share in any privatized enterprise and could convert it into a golden share. Related to this is the establishment of a Privatization Trust Fund, in which government would hold shares to be purchased later by Zambians. Citizens could also be offered shares (small number) at a discount, while management and employees wishing to buy into the state owned company would be able to pay for shares by instalments.

Source: World Bank: Privatization Transaction Data; national sources

In Uganda, the Public Enterprises Reform and Divesture (PERD) Statute came into force on October 8, 1993, establishing the Divesture and Reform Implementation Committee (DRIC) (Republic of Uganda 1993). It consisted of the Finance Minister, as chairperson, the Attorney General, and the Minister responsible for the parastatal on sale. It also included chairpersons of parliamentary committees on the economy and the parastatals, the executive director of the Uganda Investment Authority and three 'prominent Ugandans', not ministers, appointed by the cabinet. The PERD differed from the privatization and reform statutes presented above in that it also laid out the complete portfolio of Ugandan SOEs from the outset, dividing it into four groups: those in which the state would continue to have 100 percent ownership; those in which the state would require majority shareholding in the future; enterprises to be fully divested; and enterprises to be liquidated. The PERD Statute was revised in 1997 to improve the transparency of the privatization process and increase the private sector's representation on the Committee. The number of parastatals slated for outright privatization was also increased, while those to remain in government control was reduced drastically.

Unlike many African countries, where the authorities or ruling parties only decided to undertake privatization after pressure from donors and the multilateral agencies, Zambia's own privatization effort was part of the ruling Movement for Multiparty Democracy's (MMD) election manifesto. After election into power in 1991, the MMD embarked on a rapid process of enacting laws and institutions to enable the process to go ahead. Parliament passed the Privatization Act in July 1992, while the Zambian Privatization Agency was established two months later (Republic of Zambia 1992). The agency's board would include 12 members, drawn from as many interest groups as possible, appointed by the president of the country but subject to scrutiny by a select committee of the national assembly as well as to the assembly's ratification. The breadth of the board, including representatives from the churches as well as labour unions, is credited with Zambia's success with the earlier phase of its privatization programme.

Turning briefly to the question of affirmative action, that is to ensure that nationals are favoured in the acquisition of the assets on sale, it is not as emphasised as one would have expected, and even then more by implication. The Kenyan document, for example, refers to the need to 'broaden ownership of businesses' and Ugandan ones to 'the promotion of local entrepreneurship' as a goal of privatization. Notably, Ethiopia, Ghana and Tanzania, both with long experiences of collectivism have no explicit affirmative statements in their legislative statements on privatization, which is of course not to say that policymakers did not have any such ambitions in mind.

The privatization laws from francophone Guinea and Togo (Republique de Guinée 1993, Republique Togolaise 1994) are thus significant in their insistence on enabling citizens to acquire some of the businesses on sale. For example, Article 8 of the privatization law of the Republic of Guinea, states explicitly that privatization should 'safeguard the national interest' and protect the social wellbeing of the workers in the privatized firms. Moreover, 'labour unions should be involved in discussions related to the treatment of workers in the privatized industries'. Further, the law demands that the privatization committee set aside enterprises for acquisition by Guineans.¹²

¹² This right would, however, be valid for a limited period only, after which the companies would revert to the common pool. The legal texts have been translated freely by the author from the French original (see the references).

In the case of Togo, the Privatization Committee is charged with setting up a priority list which would have the first right of refusal on the assets on sale: notably, employers wishing to take over management of a company, individuals or legal persons of Togolese origin, individuals or legal persons from the West African Economic and Monetary Union (WAEMU), or individuals and legal persons from the Economic Community of West African States (ECOWAS). In a similar law, but drafted earlier by the Senegalese government, the need to reserve shares for employees who wished to participate in the process was emphasised, significantly even employees who had since retired were to be included.¹³ Mozambique also has a strong affirmative element, with nationals able to mortgage up to 60 percent of an acquired asset before even paying it off.

With respect to collision of interests, which sub-Saharan African experience has shown to lie at the centre of the privatization process, legislation has been mild or silent. Here also, the Guinean privatization is significant, taking a tough line on abuse of office by members of the Privatization Committee. For example those that accept payment or seek employment or other benefits in the privatized companies would be liable to imprisonment and a large fine.¹⁴ In comparison, the Togolese privatization law named above, for example, only refers to the need for 'professional secrecy and integrity' in the work of the Committee members, with no legal consequences indicated for transgression. The Ugandan law (Republic of Uganda 1993) on the other hand demands (Article 7) that Committee members with 'direct personal interest' in the matter being considered should as soon as possible 'disclose the nature' of this interest to the Committee and not partake in decisions relating to it. There are, even here, no sanctions specified for any transgressing the provision.

What can be concluded from the above examples is that governments were well aware of the political implications and serious conflicts of interest implied by the privatization exercises. The response to these challenges, not only in the drafting of privatization laws, but also in implying them, very much depended on the politics of the individual countries, the history of past ownership structures and the extent of donor leverage.

5. Privatization in practice

As already noted, privatization is not a uniform process, not least because of its politicised nature. Comparisons among countries are also made difficult by the differences in methods used to privatize. Among the methods used to privatize companies have been direct sale, usually via tender or direct negotiation, public offer (via the stock exchange), joint venture, lease, for example of hotels in national parks, sale of assets, and liquidation. Moreover, governments have tended to bunch up their sales, for example selling hotels, banks or textile companies at about the same time. The need to prepare sector strategies and legal documents also tends to bring the affected companies on stream at about the same time.

Table 3 indicates that direct sale has been the most common method used, 100 percent in the case of Mozambique, although stock exchanges, well developed only in Kenya, Ghana

¹³ See 'Loi 87-23 du Août 1987 Portant privatisation d'entreprises', of the Republic of Senegal.

¹⁴ For example, the fine for taking advantage of knowledge gained in the exercise of duties on the Privatization Committee would lie between CFA 5-10 million (that is, up to US\$15,000).

and Nigeria, in the sample countries, have been used. In Kenya, the sale of Kenyan Airways was partly undertaken via the stock exchange as well as that of a commercial bank. Nigeria undertook 72 percent of its privatization via the stock exchange, although generally its privatization rate has been slow, to be characterised as being in the 'breaking resistance' phase.

Table 3
Privatization in sub-Saharan Africa by method of sale of company, 1990-8 (%)

	Stock Exchange	Direct Sale	Joint Venture	Liquidation	Lease	Management Buyout	Return of assets and pre-emptive rights
Côte d'Ivoire	24	76					
Ghana	4	89	5	2			
Kenya	35	44		21			
Mozambique		100					
Nigeria	72	28					
Tanzania	6	53	21	10	10		
Uganda	2	86	6	2			4
Zambia		87				6	7

Source: World Bank: Privatization Transaction Data; national sources

Note: direct sale here also includes restricted tender, public tender and negotiated tender, auction and management buy out.

While liquidations featured in a number of countries, they have only been significant in Kenya. It can also be argued that since liquidated companies are written off the books, this might be an easy way for bureaucrats to get hold of the assets cheaply, without rousing political interest. Tanzania has undertaken more joint ventures than other countries in the sample. Besides the fact that its stock exchange is quite new and unable to cater for large transactions, joint ventures reflect the latent resistance to fully-fledged privatization by the Tanzanian bureaucrats (Due 1995, Due et al. 2000). Zambia is the only country recording cases of management buy-outs, with many of these involving companies providing services to the mining industry on the Copperbelt. In both Uganda and Zambia, privatization has also included restitution of companies to their original owners. As argued earlier, privatization enabled these countries to erase their history of private property confiscation in their bid to attract investors.

Tables 4 and 5 present privatization outcomes for a sample of African countries over a decade. While Mozambique has undertaken by far the largest number of privatization over the 1990s, it is important to note that it has also had one of the largest holdings of state-owned enterprises in Africa. When Frelimo took power in the mid 1970s, it simply annexed the thousands of small businesses and shops owned by the fleeing Portuguese settlers. During privatization, many of these have been sold cheaply to nationals, as part of the country's affirmative action. Thus in spite of the large number of firms for sale, the government has, perhaps intentionally, realized modest revenues from privatization. It might also be the case that privatization, coming after a long period of civil war, was seen

as a part of the post-war reconstruction by policymakers, maximizing returns was thus not necessarily the goal (see also Harris and Lockwood 1997).

Table 4
Privatization outcomes for a sample of African countries during 1987-97 (numbers and %)

Country	Sample Period	Peak year	Peak Sales (no.)	Total sales (no.)	Services %	Industry %	Finance %	Agriculture %
Côte d'Ivoire	1990-6	1995	17	45	17	23	2	24
Ghana	1989-96	1994	82	193	12	52	1.5	9
Kenya	1992-7	1995	65	153	13	61	5	11
Mozambique	1987-96	1994	136	549	21	36	-	6
Nigeria	1989-4	1990	36	60	4	20	30	27
Tanzania	1992-6	1996	34	123	5	45	-	31
Uganda	1991-7	1995	35	85	24	30	3.5	5
Zambia	1993-7	1996	107	213	22	30	2	19

Source: World Bank: Privatization Transaction Data; national sources

Table 5
Value of total sales (US\$m) over sample period and share of foreign purchases in %

Country	Sample Period	Total sales in US\$m*	Value of foreign sales as % of total sales.	Largest foreign sale in US\$m	Largest foreign sale as % of total sales
Côte d'Ivoire	1990-6	477	70	193	40
Ghana	1989-96	800	71	398	49.8
Kenya	1992-7	170	15	26	15
Mozambique	1987-96	139.7	43	14	10
Nigeria	1989-94	763.4	65	500	65
Tanzania	1992-6	133.9	79	55	41
Uganda	1991-7	151.4	56	20.5	13.5
Zambia	1993-7	417	93	220	52.7

Source: World Bank: Privatization Transaction Data; national sources

Note: *that total sales data refers to amount agreed to at the time of sale. In many countries payment has been tardy, with some buyers even asking for renegotiation of contracts.

Taken individually, many countries in the sample reached a peak in terms of the number of companies sold in about the mid 1990s, that is about 5 years after the launch of the privatization process across the continent. However, in terms of sales value, peaks were not reached until substantial numbers of the larger companies were privatized towards the end of the 1990s. The bulk of the companies sold were in the industrial sector, but with a good number in agriculture and services.

Table 5 indicates that foreign sales have been important for the returns from privatization. Excepting Kenya and Mozambique, foreign purchases contributed to over 50 percent of total sales. This has been marked in Zambia, 93 percent, and Kenya, 79 percent. In a number of cases a single foreign purchase was worth over 40 percent of total sales, this includes Ghana's sale of Ashanti Gold on the London Stock Exchange as well as Zambia's sale of part of ZCCM.

Table 6
Major foreign purchases during privatization in a sample of sub-Saharan African countries by country of origin, 1988-98 (US\$m)

Country of Origin of Buyer	Ghana 1989-98	Côte d'Ivoire 1991-8	Kenya 1988-98	Mozambique 1989-98	Nigeria 1989-94	Tanzania 1992-6	Uganda 1991-7	Zambia 1993-7
Belgium		45						
Britain	12	5.1		0.9		10	20	68.2
China							1.5	20
France	24.3	220			500		5.4	
India	0.2						20.5	2
Japan	2.8							
Germany	39.4							
Malaysia	43.9			21			11	
Netherlands			26				11.2	
Norway	4							
Portugal				20				
South Africa	2			18		45.5	6.8	376
Sweden						1.3		
Switzerland		91						
USA	9.8					71.5		
Other	597.2	4	0.4	2.5			17	12

Source: World Bank: Privatization Transaction Data; national sources

Note: for Ghana, the row 'other' includes purchases of shares of Ashanti Gold on the London Stock Exchange, involving a number of institutional investors. For other countries they include mostly purchases of small companies jointly by local and foreign investors, without specification of the country of origin of the latter.

With respect to the country of origin of the buyers, there has been considerable variation. Table 6 indicates for example that buyers in Ghana included companies originating from Britain, France, Germany, Malaysia and the USA. The London Stock Exchange sale of Ashanti Gold of course implies an even broader participation in Ghana's privatization process. Buyers of Ugandan companies are equally diversified. It is only in Côte d'Ivoire where France is the dominant purchaser, although companies from Britain and Switzerland have also purchased businesses (Plane 1996). The relatively low diversity of participation is probably because, compared to Ghana and Uganda for example, Côte d'Ivoire still retains a huge parastatal sector. The recent political problems in the country have prevented the implementation of plans, quite advanced in the late 1990s, to embark on

rapid privatization of the remaining companies, using the regional bourse, which has its headquarters in Abidjan.

6. Conclusions

Although privatization in Africa did not become the political battleground that many predicted it would, it nevertheless was opposed by broad groupings in many countries. That policymakers went ahead nevertheless was initially because they really did not have much choice given that the donor community demanded it. In many countries economic assistance was conditioned on the progress made in privatization and public sector reforms. Domestic resistance was also lighter than expected because many countries were faced with more pressing concerns, which included the transition to multiparty politics, poverty eradication and, in some countries, civil war. Moreover, many parastatals performed poorly, failing to deliver the basic consumer goods and utility services on which their creation was premised. The official or normative justification for privatization is that it increases economic efficiency and productivity and thus raises general welfare. However, African experience indicates that political considerations have also been important determinants of the pace at which privatization has been designed and implemented. Politicians went ahead only when they were sure that the benefits to themselves and their supporters exceeded the costs, including loss of rents, of denationalization. The reasons for this are threefold.

First, even where net revenues from privatization were modest, the process generated its own economic and political dynamics. Economically it improved resource flows in the form of new investment and donor aid, which rejuvenated whole sectors. Politically, the expansion of economic activities improved government finances and its capacity for patronage.

Second, privatization helped improve the image of many African governments in the eyes of foreign and domestic investors. In earlier decades, governments had forcefully nationalized businesses and properties, of both multinationals and non-indigenous citizens. Privatization can thus be seen as signalling that past behaviour has been abandoned, with respect for property rights reinstated.

Third, privatization is not the threat to the politicians that it is sometimes said to be. Policymakers in many countries as well as their supporters have benefited directly or indirectly from privatization, by buying up some of the assets on sale or by ensuring themselves access to the proceeds from privatization. In a number of countries these economic and political factors have converged positively to ensure a well sequence privatization process, thereby helping to revive investment as well as overall economic activity. In many more countries, however, the verdict on privatization is still pending. Many newly privatized firms have not been able to 'graduate' and still depend on or expect direct and indirect support from the government to survive. Weak internal markets and vulnerability to foreign competition have turned them into lobbyists for increased protection.

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