Public Sector Reform in Malaysia – Addressing the Inequalities?

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Abstract: In the mid - 1980s, there emerged a 'paradigm shift' with the adoption of the market ideology in the light of changed situations and changing policy priorities of the government of the Malaysian government. As the role of government changed from direct intervention to an indirect and supportive one the public sector was called for reforms to enable it to perform its new and emerging roles effectively. The public service responded by introducing new reform measures, the major reform being the privatization policy which falls within the New Public Management (NPM) framework. The government adopted the Privatization Masterplan —encompassing sectors such as telecommunications, airlines, railway, electricity, port, and postal services—to reduce public spending, relieve the state's fiscal burden, and strengthen market forces. Despite its contributions to economic growth, the implementation of privatization policy has remained a contentious issue for a number of reasons.

Introduction

Over the past two decades, many governments have taken series of initiatives to reform government processes, in an attempt to address perceived shortcomings and generally make government "work better". As pointed out by Peters (2001), "…if government is to be able to overcome the discontent and distrust of its citizens, it must find ways to become more efficient and effective in the processes of making and implementing policy. Many of these initiatives are inspired by the "new public management (NPM)" concepts (Hood 1991; Larbi 1998) which has caught the attention of and picked up by many governments, from developed and developing countries.

Influenced by the major shift in economic management policy in the UK and US (Molz, 1990; Lieberman, 1993), and in the light of changed situations and changing policy priorities of the Malaysian government in the mid - 1980s, there emerged a 'paradigm shift' with the adoption of the market ideology and privatization policy undertaken as part of public sector reform. As the role of government changed from direct intervention to an indirect and supportive one the public sector was called for reforms to enable it to perform its new and emerging roles effectively (Sarji, 1994). Since then, the Malaysian public sector underwent enormous change. Many of the public assets were privatised or contracted out. Many public monopolies were opened to competition to newly licensed private providers. However, the implementation of privatisation requires that proper conduct of privatisation should be considered in the implementation process. Otherwise, the outcomes might not be efficient and there will be an associated welfare loss.

This paper seeks to examine the public sector reforms in Malaysia and examine their imlementation processes. More specifically, the paper aims to examine some of the issues involved the implementation of the privatisation policy which has been adopted since 1984 in the Malaysian context. This paper focuses on certain aspects of efficiency and accountability in implementing the public sector reforms. The paper is mainly based on secondary sources of data and information, and it adopts a combination of descriptive and analytical. While it provides a review of the reform initiatives, it focuses on the discrepancies between policy and practices in terms of actual implementation. The issues and challenges identified in the paper and the policy implications proposed should aid the formulation of strategies and measures for market-based public sector reform in Malaysia and other similar contexts.

The immediate section is the literature review on theoretical consideration. The remaining part of the paper is on a brief political economy of Malaysia to help the reader understand the background, followed by the third section which examines the implementation of Malaysia's public sector reform through its privatization policy. It takes a close look at the specific privatization programmes of toll-highways and in the health sector, followed by the section on discussion and the concluding section.

Theoretical Considerations: Public Sector Reform and the New Public Management

The 'new public management' is commonly associated with a set of characteristics aimed at responding to the assumed failures of the traditional modes of public administration. It is oriented towards outcomes and efficiency by applying competition, as is used in the private sector, to organizations in the public sector. Privatisation can be used to refer to any measure of public sector reform which has the effect of increasing the influence of the market mechanism on the allocation and uitlisation of resources (Cook and Kirkpatrick 1995). The thinking along these lines is that in a more open and competitive environment the delivery of public goods and services can only be run effectively if managed on the same or similar principles as the private sector. Privatisation is also advocated to modify administrative behavior (Walsh 1995). Measures such as outsourcing, through an external supplier, or internal contracting arrangements, to create accountability are recommended (Vickers & Yarrow 1988, Hood,1991; Hughes 1998).

The argument is that service providers should concentrate on efficient production of quality services. Its theoretical underpinnings rely on two bodies of theory, the economic theory and the management theory. The economic argument is that only individuals know best how to maximise their personal economic welfare, such that any act to limit their choices and replace them with collective decisions made in the public interest is likely to be adverse to that welfare. The recommendation is that less of government involvement in people' s welfare decisions is more (eg, Arrow 1950; Osborne and Gaebler 1992). Another argument held is that supplying public goods to the whole community calls to questioned as it opens for inefficiency as it allows public monopolies to charge monopoly rents on the goods they provide, and inefficient allocation of public resources as it allows individuals to freeload on the goods for which they could otherwise afford to pay. The recommendation is that public monopolies should be allowed to compete with private providers, and that the provision of public goods and services should be based on full cost recovery or at the very least based on a user pay principle (eg, Olson 1965). Therefore the recommendation is that market forces, through privatization is identified as one way to expose the public sector to the competitive disciplines of the private sector market and, by extension, general public welfare.

The counter arguments against imitating business management is the fundamental difference between the public and private sector. They are of the view that although market-based reforms produced desired changes, the question remains how much, in what ways and whether there are aspects of public service that should be governed from market perspective (Box 1999). Literature shows that operating with businesslike-manner in the public sphere can violate values of openness, fairness, equity and accountability (Box 1999; Kettl 1998; Kim 2000). It also argues that public administrators are motivated by self interest rather than the public interest.

In the privatization policy, one of the principal objectives is to increase competition in the provision of goods and services and to ensure that the government does not crowd out the market. Therefore, there is a need for regulatory agency is to ensure that competition is protected, ensure that competition is allowed to prevail in the market without distortion or intervention, either from an external source (such as the government) or from within (more powerful firms in the market). It is also to ensure that the interests of society must be given due consideration rather than the interests of particular sectors or groups. Issues such as to overcome income inequalities and regional disparities are of paramount important. Equally important is the safeguarding of health and safety standards for the general public. These issues will not be resolved by market competition and efficiency (Rodrick 2002; Dee 2006) .

Dee (2006) states that a good regulation could be achieved through certain which includes:

i. Transparency – clear and transparent processes made available to all stakeholders and concerned parties without undue restriction;

ii. Costs and benefits - The cost and benefit considerations underlying policy initiative be out to all stakeholders;

iii. Performance criteria - criteria for performance measurement on parties involved in the delivery of the policy for fair audit of policy initiatives and performance assessment of agents/agencies involved in implementing the policies; and

iv. Process and organisational flow - The manner of instituting policies and the institutions and processes involved should be clearly linked, showing the interdependences between agents, their lines of connection and responsibilities.

Dee (2006) further asserts that there are two compelling elements in formulating good regulation: a. The entire process must be transparent; and b. the goal of the regulatory process is towards achieving efficiency or an adequate balance of competing government goals.

Turning to Malaysia's market-based public sector reform i.e privatization policy, despite that the policy made good progress, especially in terms of the government's own declared objectives and credited with enhancing economic growth (Tan 1991), the policy has been rebutted on many grounds. Many allegations were put forth, among which is that the policy give priority to profit maximization at the expense of social welfare and the public interest. And there has been widespread concern about the existence of formal and informal collusion (e.g. cartel-like agreements, for instance in bidding for contracts, suggesting collusion among bidders, as well as some politically well-connected companies enjoying special influence and privileged (insider) information, and thus consistently able to bid successfully for profitable opportunities from privatization.

Political Economy of Malaysia

Malaysia is a federated nation of 13 states, situated in Southeast Asia with two major geographic areas. It has a population of 26 million, majority of which lives on Peninsular Malaysia, to the south of Thailand. The states of Sabah and Sarawak lie on an island to the east shared with Indonesia. The ethnic makeup of Malaysia consists of ethnic Malay (referred to as Bumiputera) at 58% of the population, Chinese with 24%, and Indians making up most of the remainder. The economic shares of each group are far different, which has driven many key policies since the late-1960s. In 1970, Bumiputera controlled a mere 4% of corporate assets while the Chinese owned most of the 34% of assets held by non-Bumiputera Malaysians (Adam and Cavendish. 1995). Race riots erupted in 1969 between the Bumiputera and Chinese over equity issues and economic imbalance.

In response to the 1969 race riots, the government launched the New Economic Policy (NEP) in 1971, with a two-prong objective: "restructuring society to eliminate the identification of race with economic function' and "poverty eradication regardless of race". One part of this policy was the stated goal to reach corporate equity ownership levels of a minimum 30% Bumiputera and 40% other Malaysian and a maximum 30% foreign ownership, a goal which remains to this day. Another major part of this policy was to eradicate poverty by improving the economic competitiveness of the poor who are mainly Bumiputera. To achieve this, the "Malaysia Incorporated" policy was introduced in 1983 with the privatization of state-owned enterprises (SOEs) which requires that the equity of newly privatized entities must meet the government's stated goal for equity ownership. The NEP was the reflection of the leadership that was committed to achieving national unity by reducing poverty and achieving inter-ethnic economic parity, especially between the politically dominant Malays and economically ubiquitous Chinese.

The public service responded by introducing new reform measures, many of which falls within the New Public Management (NPM) framework, aimed at enhancing public service capacity in relation to economic development and the quality of its relationship with the private sector (Muhammad Rais et al.2002). It follows, therefore that subsequent policy decisions under the National Development Policy (NDP) and Vision 2020 (the 30-year perspective plan that seeks to transform Malaysia into a developed country by 2020), marked the new beginning of reforms. These two documents have recognized the pivotal role of the private sector as the main engine for economic growth and development with the public sector playing only a facilitative and supportive role in the process. The reform agenda focuses on privatization.

The Malaysian Public Sector Reform: Privatisation

Since independence in 1957, the Malaysian public service has been entrusted with the twin task of socio-economic development and transformation as well as nation building. The policy atmosphere changed since 1983 when the government adopted the major public sector reform - the privatisation programme under the 'Look East Policy.' The Look East Policy was essentially an attempt to encourage the Malaysians to change their traditional perspectives of Western countries as role models and instead look towards the East. The underlying assumption was that Malaysia had much to learn from countries like Japan and South Korea, which succeeded in achieving remarkable economic progress. In actual terms, the policy encouraged the Malaysians to emulate the high productivity, strong ethical standards and management philosophy and practices (Taib and Mat, 1992).

A direct outcome of the Look East Policy was the introduction of the Malaysia Incorporated Policy in 1983 which was an attempt to emulate the Japanese model of economic development by forging a new relationship between the public and private sectors. The concept sees the government as the provider of an enabling environment and the that the private sector is to be the engine of growth for the nation. The central thrust of this approach is that cooperation and collaboration between the government and private sector is essential for accelerated economic development. Hence, the Malaysia Inc. not only called for an end to the traditional antagonistic relationship between the public and private sectors but also underscored the need for establishing a symbiotic relationship between them for realizing national developmental goals. In view of this, consultative panels were set up at each agency at federal and state levels; all public sector agencies began to hold regular dialogues with private sector partners to identify the problems of service delivery and decide on policy implications. A wide variety of reforms and innovations have been introduced by the government in the Privatization Masterplan in 1983 —encompassing sectors such as telecommunications, airlines, railway, electricity, port, and postal services. This was followed by the publication of *Guidelines on Privatization* in 1985 (EPU 1985), which outlined policy aims, modes of privatization and the means of privatization.

The Malaysian government, in its *Guidelines on Privatization* (EPU, 1985) has identified five different objectives for the privatization policy, Firstly, it was to reduce the 'financial and administrative burden of the government'. Secondly, it was expected to 'promote competition, improve efficiency and increase productivity' in the delivery of services. Thirdly, to promote private sector participation in economic development and and stimulating private investment, to accelerate economic growth. Fourthly, it was expected to help reduce 'the presence and size of the public sector'. Fifthly, In addition to the standard objectives privatization, the most important objective was that the policy was to contribute towards meeting the objectives of the New Economic Policy (NEP) especially as Bumiputera entrepreneurship and presence have greatly improved since the early days of the NEP and therefore they are capable of taking up their share of the privatized service (EPU 1985). In other words, privatization was supposed to accelerate growth, improve efficiency and productivity, trim the public sector, reduce the government's financial and administrative role, and redistribute wealth to the Bumiputeras.

Under the policy a large number of services and projects have been privatised and corporatised in various sectors of the economy thus bringing about important changes in the structure and size of the public sector. In line with the NDP, the Government stipulated that Bumiputera should hold a minimum of 30 per cent equity in all privatized projects. Privatization projects involved divestment, either by sale of equity or assets to the public or managment buy-out. Other forms were also used including leasing, management contract, and Build operate and transfer (BOT) infrastructure contracts. Over a period from 1983- 1995 privatization grew rapidly with 204 projects privatised, of which 56.4 per cent were from Federal government projects and 43.6 per cent State Government (Malaysia 1996: 200). Between 1996-2000, 98 projects were privatized (Malaysia 2001). The increased dynamism was attributed by the various forms of Government support such soft loans, tax incentives and other concessionary terms, to selected projects. The privatization programme implemented encompassed all sectors of the economy, with most of the projects privatized through the sale of equity followed by BOT method (Malaysia 1996). The implementation of the privatization programme was mostly through the private sector –initiated approaches. Between 1991-1995 a total of 234 proposals was initiated by the private sector for privatization, of which 109 projects were privatized. (Malaysia 1996). Over a 5 year period between 2001-2005, 35 projects were implemented, 25 of which were new projects whilst 10 were existing projects. The privatized projects were in the construction sector, in electricity, gas and water sector, and highways (Malaysia 2006) as shown in Table 1.

Table 1: Number of Privatised Projects by Sector and Mode, 2001-2005

Sector	Mode of Privatisation (Number of Projects)										% of total
	SOE	BOT	BLT	SOA	BOO	LD	LIST	LOA	MC	Total	
Agriculture & Forestry	1	1	-	-	-	-	-	-	-	2	5.7
Construction	-	3	2	-	-	10	-	-	-	15	42.9
Electricity. Gas & Water		1			5		2			8	
Transport, Storage & Communications	-	-	-	-	-	-	1	1	-	2	5.7
Govt. Services	-	-	-	1	-	-	-	-	1	2	5.7
Other Services	-	1	-	-	-	-	-	-	5	6	17.1
Total	**1**	**6**	**2**	**1**	**5**	**10**	**3**	**1**	**6**	**35**	**100.0**

Source: Economic Planning Unit

Notes: SOE- Sale of Equity
BOT- Build-Operate-Transfer
BLT- Built-Lease-Transfer
SOA- Sale of Assets
BOO-Build-Operate-Own
LD-Land development
LIST-Listing
LOA- Lease of Assets
MC- Management Contract

As D'Souza and Megginson (1999) put it, studies have collectively shown a consistent result: privatization induces output, efficiency, and profitability improvements. For Malaysia, the privatisation programme, despite various criticisms, made good progress and has led to significant gains to the government, at least in terms of downsizing bureaucracy and reducing governmental expenses, as reported in the government's documents (Malaysia 2001; 2006). By 2005, a total of 471 projects have been privatized which has led to the reduction of 113,220 employees in the public sector workforce. Since 1983-2005, it has also helped the government to save a massive RM 153.9 billion in capital expenditure and RM 7.7 billion in operating expenditure annually (Malaysia 2006). In terms of the ethnic implications and equity, it has widened Bumiputera participation in commercial and industrial activities participation through the management-buy-out (MBO) exercise, contracting works and vendor programme, collaborations and joint-ventures. In terms of efficiency and productivity, the services and management of the privatized entities was said to be significantly improved due to the upgrading of facilities which were able to acquire new and modern technology, expanded capacity and network and fostered changes in management, and also led to faster implementation of projects.

Aside from the 'official views', a study by Qian Sun and Tong (2002) on a sample of 24 state-owned enterprises that were privatized via public listing on the Malaysian exchange. The study compares financial and operating performance of the firms before and after privatization. Measures that improve following privatization include profitability, output level, and dividend payout; leverage declines. After privatization, the firms was found to have their absolute levels of total profits increased three-fold, more than double their real sales, increase their dividend payout, and significantly reduce their leverage. The study observed increased linkages between ownership and corporate governance with such performance changes. The results are said to be similar to that of other comparative multi-country studies.

However, there are considerable concerns on the implementation and management of the Malaysian privatization programmes. This paper looks at the implementation and management of two cases – the toll-highways and the privatization of health support services.

Toll Highways

One of the significant projects under the privatization programme is the building of toll-highways and other parts of transportation system such as ports and public transit. Until the mid-1980s, the construction and maintenance of public roads in Malaysia were the sole responsibility of the public sector. The Public Works Department, as a government agency, under the Ministry of Works, is responsible for the provision of infrastructures, specifically, roads, water supplies, building airports, ports and jetties in the country.

As part of the government's privatization thrust, the construction and operation of toll highways by the private sector were introduced in the mid-1980s. Since then, 1800 km of toll highways have either been completed or concession agreements signed with the private sector for their construction, providing much of the highway expansion over this time. The construction of the four major privatised highways: the North South Expressway, Shah Alam Expressway, North-South Expressway Central Link and the KL-Karak Highway were completed in the 1990s. The concession holder for the North South Expressway is PLUS (*Projek Lebuh Raya Utara Selatan* or North-South Highway Project, under United Engineers Malaysia, UEM). From 2001- 2005, 16 privatised highway projects were undertaken, four of which were completed. The completed highways were: the New Pantai Expressway, Kajang Outer Ring Road (SILK); Shah Alam-Kluang Expressway (Guthrie Corridor, and Western Kuala Lumpur Traffic Disposal Scheme (SPRINT)

Package C. One of the benefits to the public is said to be the construction of privatized toll highways which changed the travelling pattern of road users through reduced travelling time and lower vehicle operating costs, besides the strategically placed rest areas which contribute to comfort and safety of road user. In terms of benefits to the public, have benefited the public as the privatized toll highways have contributed substantially through comfort of travel and changed the travelling pattern of road users, as they benefited from reduced travelling time.

With the advent of privatization, which was most active in the 1990s, 27 toll highways were privatized, with 20 private companies in operation. Malaysia created an institutional and legal framework in supportive of toll highways. To oversee these projects, the Malaysian Highway Authority was established under the Act of Parliament in 1980. It is a monitoring and regulatory body to oversee the rights of government in all toll –highways and expressways in Malaysia. It is responsible for the regulatory function in the design, construction, operation and maintenance of privatized toll highway projects. The primary law for toll highways is the Federal Roads (Private Management) Act of 1984 which permits private companies to collect and retain tolls on federal roads and undertake subsequent maintenance over a concession period from the public to the private sector. This law is administered by the Prime Minister's Economic Planning Unit (EPU) and its Privatization Committee. The law provides much latitude to the EPU in its implementation.

These developments appeared as exemplars of the privatization policy aimed at improving the delivery of its public goods and services (eg, Haque 1999: 47-69; Jomo 2000: 141-60). However, on closer examination, the program is not without controversy. There were concerns over the implementation of the toll highways as with some of the privatization programme. An example is the case of PLUS, the concession holder for the North-South Expressway. As cited from studies by Abd. Aziz (2002) and Ward and Sussman (2005), under the original concession agreement, PLUS, was entitled to increase the toll incrementally to cover financing costs and escalating maintenance and service charges; the first upward change of 33% was scheduled in 1996, followed by 6% in 1997 and 1998. The public opinion were not sought nor consultated on the toll rates and charges. As media report got around that PLUS seek the government's consent for the first upward revision, the public reacted angrily, which led to the government to re-negotiate with PLUS. The outcome of which was an agreement that toll rise of 20% was scheduled for 1996, 20% for 1997 and 7% for 1998. In an unofficial report, it is learned that in return, the government agreed to compensate PLUS for close to a RM100 million or equivalent to US$18.9 million[12] for the company's loss of revenue, though there was no evidence to support this. When PLUS requested to increase the toll in 1998, again there were renewed protests from many sections of the society including the Federation of Malaysian Consumers Association (FOMCA), and coalition parties of the ruling government. In 2005, due to overwhelming public resistance, the toll rate increase was deferred for a year. Other similar cases were the Seremban-Port Dickson Highway, Butterworth-Kulim Expressway, Kuala Lumpur-Karak Highway.

Support Services in the Health Sector

The government has been the major provider of health services. In the mid 1980s, the healthcare services has been reviewed, with national privatization and liberalization policy as the backdrop. With government's encouragement, private hospitals mushroomed unprecedentedly. In the early 1990s, the government decided to privatise the health support services only. The key areas that were privatised were:

a. Supply of hospital support services in 1993;
b. Supply of pharmaceutical services, in 1994;
c. Monitoring and consultancy services in 1996; and
d. Monitoring and supervision of foreign workers health certification in 1997.

The objective was to improve economic efficiency in the health sector.

The privatization in health sector started with the health support services (HSS). When open tenders were called in July 1993, it attracted thirty-one companies, both local and foreign, to participate in the tender process. The process was under the charged of the EPU and the Privatisation Task Force (PTF). Three companies—Faber Medi-Serve Sdn. Bhd., Radicare (M) Sdn. Bhd. and Pantai Medivest Sdn. Bhd. was awarded the concession and were allocated regions over which they had control over the market. Faber Medi-Serve was given the Northern Zone of Malaysia and East Malaysia, Radicare to cover the Central and Eastern Zones and Pantai to cover the Southern Zone. The principal activities comprise

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[2] exchange rate of US$1 is to RM5.30

the provision of hospital support services, which include, clinical waste management services, cleansing services, linen and laundry services, facilities engineering maintenance services and biomedical engineering maintenance services. Other activities of the group include designing, constructing, equipping and commissioning of hospitals.

As in other Malaysia's privatization programme, the concession companies are insulated from much of the risks by way of assured profitability in the form of soft loans, exchange rate guarantees and minimum revenue guarantees (Naidu, 1995). Once the concession is awarded, the concessionaire negotiates the contract with both technical and financial subcommittees of the EPU's Privatization Committee. The Concession Agreement (CA) covers a total public hospitals and institutions (Contract Hospitals) in the allocated region and the government may from time to time, designate additional hospitals to the existing list of Contract Hospitals. Under the Concession Agreement, government payments for services are based on services provided at the agreed rate. Two striking observations were made: a. none of these firms had any track record on the provision of the health support services; and b. the allocation process had in effect made the three companies monopolies in their allocated regions (Noorul 2003; Nambiar 2009).

In 1994, the supply of pharmaceutical services was contracted to a private firm, Pharmaniaga Logistics for a concession period of 15 years. It was agreed that the government would make purchases from Pharmaniaga at an agreed price that would be re-negotiated every two years. The purchase of pharmaceutical products, services pricing and other arrangements were regulated jointly by the National Pharmaceutical Bureau, the Ministry of Health and the Price Committee. There is no one single regulatory body. The payment mechanism adopted was similar to that of hospital support services

The supply of monitoring and consultancy services was contracted out to SIHAT (or the Hospital System for the Monitoring of Standards) in 1996, for a concession period of 5 years. SIHAT, is an independent regulatory body whose function was to directly monitor the performance of contractors and advises the MoH as to whether contractors are fulfilling their obligations as stipulated in the Concession Agreement. It was to provide advisory services to the Engineering Services Division of the MoH. The monitoring and supervision of the health certification of foreign workers was privatised to FOMEMA and regulated by the Disease Control Division and the Ministry of Health. Similarly, in this case, also, there is also single body acted as a regulatory authority.

The Ministry of Health (MoH) established a regulatory unit, Kawalselia to supervise and monitor the technical activities of the concession firm to ensure that their services were in accordance with the requirements stipulated in the Concession Agreement. *Kawalselia* was responsible for monitoring the activities of contractors, providing technical advice and approving consumables and procedures. To date, little systematic evaluation has been made on the privatized support services (Noorul 2003)

Discussion

Malaysia has certainly benefited from the privatization policy. However, despite its contributions to economic growth, the implementation of privatization policy has remained a contentious issue for a number of reasons.

First, on the selection process for the award of the concessionaires. Proposals for privatization projects may come from two sources: government plans or private sector proposals. The award of the concession is not made through open tender, rather through a policy characterized as "first-come, first-served policy' by which the government has on several occasion justified for awarding privatization opportunities (see Gomez and Jomo, 1999). It has not involved the formalities of an open tender system. The government may select the companies that were allowed to bid rather than have a fully open competition. As in the case of the toll highways, proposals may come from the private sector and there are no limits on the types of road proposals. In the case of the privatization of health support services, concession firms that were awarded for the health support services were with no prior experience, and this raises questions about the selection of such concessionaries. There seems to be no transparency in the selection criteria.

Second, on the handling of the concession agreement. The concession agreement is not a rigid contract. Renegotiations are common due to changing economic conditions, such as the Asian financial crisis in 1997, or unfavorable public opinion, as in the case of the toll-highways. Reductions in expected future income for the concessionaire due to the renegotiations are compensated for by the government. Cash payments and an extension of the concession period are the two most common forms of compensation. Similarly, in the case of health support services and the pharmaceutical services.

Third, on the regulatory body. The institutionalisation of the regulatory bodies was a cause for concern. There was no regulatory body in place prior to privatization activities in the health sector. SIHAT, as an independent regulatory body whose function was to directly monitor the performance of contractors and advises the MoH as to whether contractors are fulfilling their obligations as stipulated in the Concession Agreement, was established only three years after the hospital support services was privatized. That the MoH did not seem to anticipate the need for a regulatory body while the privatisation initiative was being implemented, is something that the government had overlooked, as without the necessary institutional infrastructure the potential gains of privatisation is weakened. Also, there is no one single regulatory authority to regulate in the private entities in health sector for helath support services, for FOMEMA and for Pharmaniaga. Instead it has joint regulatory bodies which can give rise to offloading of responsibilities from one body to another. Third, the operation of the Kawalselia and SIHAT in the monitoring of hospital support services seems to overlap in function which often caused friction.

In the case of the toll-highways, there is no independent regulatory body to oversee the concession companies. The Malaysian Highway Authority is a statutory body, not an independent regulatory authority. It is responsible for the regulatory function in the design, construction, operation and maintenance of privatized toll highway projects but not on the operations and the toll rates itself. There were calls for the establishment of Highways Consultative Council to protect the interests of both motorists and the general public and to provide a forum for the public to voice their complaints and grievances about the highway privatisation, constructions, operations and tolls. However, that has not happened.

The independent regulatory role is a relatively new concept for Malaysia, with regulatory system on ad hoc basis and the scope of regulatory action is rudimentary (Naidu 1995, Naidu and Lee 1997). Another feature of regulation is that there is ambiguity with regard to the autonomous power of the relevant regulatory agency (Burr 1995, Naidu and Lee 1997).

Fourth, on lacking of transparency. The public opinion and are not sought. As in the case of toll highways, there is little consultation with the public as the end users on the toll structure and charges, which resulted in public backlash.

Turning to the literature in the New Public Management (NPM), policy making is explained in terms of rational self-interested choices on the part of the politicians, bureaucrats and administrators who shape policy. However, according to Meier (1993) this is replaced by a passive policy maker who is dependent upon societal and state-centred forces all of which seek to advance their own interests. As evidenced from studies by Abd. Aziz (2002) and Ward and Sussman (2005) on the implementation of the privatized toll-highways, the state becomes a passive agent of various interest groups, engaged in the transfer and redistribution of income or wealth between different factions. The privatized programmes as in toll-highways in particular and in the health support services and pharmaceutical services in the health sector, have aroused adverse public opinion. At the heart of the controversies surrounding these programmes was the apportionment of risks between the concession company and the government that has manifested in among others, toll charge structures that are unacceptable to the public.

Little attention was paid to ensuring greater competition or public or consumer accountability (Jomo 1995; 2000). As in the privatization of health support services, the fact remains that government did not seem to anticipate the need for a regulatory body while the privatisation initiative was being implemented. It has been observed that the Malaysian public sector has assumed a more passive, indirect and facilitating role (Jomo 1995; 2000). Consequently, the capacity of the government to exercise necessary control over economic activities, income distribution and consumption patterns have been reduced, which gives rise to questions about the ability of the government to promote public interest/welfare, in which traditionally the state played a lead role in bridging the gap.

Likewise, the application of market principles in the business of the government has caused serious concerns with regard to loss of control and lacking in transparency and public accountability. The concern with loss of control is simply because public officials are no longer responsible for the delivery of goods and services, they are to encourage and facilitate the private providers to deliver public services. with the transformation of the public governance, the public sector has assumed a more passive and facilitating role. The ability of the government to promote public interest/welfare can be questioned. As demonstrated from the case of toll-highways, the government resorted to quick-fix solution in addressing the conflict between the private concession holders and highway users by compensating the former in return for not increasing the toll. Other aspect of privatization is that private owners/contractors are more motivated by considerations of profit, growth and market-share than by broad moral concerns of public welfare. It has been observed that neither the public nor the government has enough control over these concession companies.

There seems to be lack of transparency. As with many other privatization projects in the country, the award criteria are difficult to discern. In the case of toll-highways, the prime criterion is assumedly the lowest toll but the minimal transparency such as with the North-South Expressway makes this assumption questionable. The lack of transparency in the concessionaire selection process breeds the belief that the concessionaires were awarded based on political connections rather than societal benefit and has led to accusations of cronyism being leveled at the government. Due to low transparency and little public involvement during the process, led to less support from the public on the program and public protests are common over tolls with the government reducing or delaying planned increases. The application of market principles in the business of the government has caused serious concerns with regard to public accountability. The government justifies the privileges given to privatisation promoters on the basis of encouraging investment. It is viewed that the implementation of privatization has favoured the vested interests.

Conclusion

The Malaysian public sector reform through the privatization policy has yielded tremendous benefits. Just on the toll-highways alone, it has been successful in providing hundreds of kilometers of needed roads, the benefits were by way of faster mobility of goods and people, alleviation of congestion, increased connectivity across the nation and the emergence of new growth centers. While Malaysians generally acknowledge the benefits of the privatization programmes, it has several shortcomings that prevent it from better meeting societal needs. The weakness was in the manner in which the market economy is allowed to operate, with the low transparency and minimal public involvement and lack of information throughout the process.

Malaysia's public sector reform through privatization might have done better if it had planned for its regulatory mechanisms and clear and transparent administrative processes that emphasised on accountability and good governance. Public sector reform is an on-going process and it requires strong political and public leadership with a shared commitment to better government.

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