

Privatization of Public Economic Institutions in Algeria:

Necessity and Choice

خصخصة المؤسسات الاقتصادية العمومية في الجزائر: الضرورة والإختيار

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ABSTRACT:

ملخص باللغة العربية:

Privatization of public economic institutions represents a critical strategy for restructuring the national economy by integrating the private sector. In Algeria, privatization emerged as a fiscal imperative due to the challenges encountered by the authorities in the late 1980s, compounded by obligations to the International Monetary Fund. The privatization process encompasses various methodologies, from market-based mechanisms like stock exchanges to non-market approaches, including tendering and consensual agreements.

تمثل خصخصة المؤسسات الاقتصادية العامة استراتيجية بالغة الأهمية لإعادة هيكلة الاقتصاد الوطني من خلال دمج القطاع الخاص. وفي الجزائر، برزت الخصخصة كضرورة مالية بسبب التحديات التي واجهتها السلطات في أواخر الثمانينيات، والتي تفاقم بسبب الالتزامات تجاه صندوق النقد الدولي. وتشمل عملية الخصخصة منهجيات مختلفة، من الآليات القائمة على السوق مثل البورصات إلى الأساليب غير السوقية، بما في ذلك العطاءات والاتفاقيات التوافقية.

Keywords: Privatization; Institution; Reasons; Mutual Agreement; Tendering; Market; Financial.

كلمات مفتاحية: خصخصة؛ مؤسسة؛ أسباب؛ اتفاق متبادل؛ مناقصات؛ سوق؛ مالية.

Introduction:

Public economic institutions have been pivotal in Algeria's economic framework, underpinning the nation's planned programs under centralized management during the socialist era. Transitioning into the late 1980s, the Algerian economy embarked on a journey towards a market-oriented phase.

This transition was facilitated by legislative reforms under Law No. 88-01¹ granting autonomy to public economic institutions. The shift to a specific economic regime entails the adoption of its underlying mechanisms and laws. However, public institutions necessitated more than autonomy to prosper; they encountered multifaceted challenges that necessitated governmental intervention through diverse mechanisms.

Privatization, a cornerstone of economic reform and correction strategies, emerged as a vital catalyst for economic transformation, notwithstanding the resistance encountered at various societal levels. Thus, a thorough examination of the underlying factors of privatization is imperative.

1Saad Allah, R. M. (2005), *Privatization Methods and Techniques with Special Reference to the Tunisian Experience*, Journal of Economic Sciences and Management Sciences, 4.

THE FIRST TOPIC

Reasons for Privatization

Algeria's economic reforms in the late 1980s, primarily driven by financial and economic factors, significantly influenced the operational dynamics of institutions, propelling them towards privatization. These factors are internally attributed, with external influences stemming from the International Monetary Fund's mandates and the broader globalization trend¹.

The first Requirement:

Internal Reasons

The reluctance to diminish state involvement in the national economy, spurred by an ambiguous vision of the state's future economic role, necessitated the transition of the public sector to private management to rejuvenate the depleted state treasury, particularly evident in the 1990s.

The first Branch:

Financial Reasons

The public sector in oil-affluent nations like Algeria saw an enormous expansion, irrespective of ideological orientations, dominating a significant share of the Arab Gross National Product. This expansion led to enhanced social and leisure

1 Benhassine, L. (1994), *The Economic Crisis and the Public Industrial Enterprise*, Algerian Review, 3, 615.

services funded by the state, resulting in a continuous and significant budget deficit that favored sectorial privatization¹.

This inclination was also fueled by a governmental aspiration to optimize public expenditure, alleviating the financial burden of sustaining utilities and state-owned enterprises. Unlike profit-oriented entities, the public sector's primary objective was to deliver essential services to the community.

Algeria's excessive protection of its public economic entities curtailed their potential for economic, social, and administrative initiatives, burdened by social policy obligations better suited to specialized agencies. The prioritization of supplementary aspects over economic considerations for political or social motives was evident²

The reckless consumer lifestyle, instigated by governmental policies like the "scarcity combat" initiatives in the early 1980s, exacerbated the financial strain on public institutions. A pervasive non-economic negative environment, where productivity was confined to essential services like dining, payroll, and transportation, precipitated the decline of public enterprises³.

1 Boutaleb, K. (1999), *The Problem of Upgrading Maghreb Economies in the Face of Globalization Challenges*, IDARA Review, 2.

2 Boutaleb, K. (1994), *The Nature and Efficiency of the International Monetary Fund's Adjustment Policy*, Algerian Review, 3.

3 At the end of the century, privatization emerged as an unavoidable phenomenon, significantly intensified with the triumph of the market economy and the collapse of the administered economy system.

The rarity of public companies thriving in a competitive market scenario, encumbered by non-economic goals and bureaucratic management, highlighted the lack of motivation for performance enhancement and accountability.

The exacerbation of these issues due to plummeting oil prices resulted in diminished foreign currency reserves and financial incapacity to fulfill international payments, revealing the inherent vulnerability of an oil-dependent Algerian economy. Thus, privatization became an indispensable strategy for fostering dynamic non-oil exports, liberating Algeria from the constraints of fluctuating oil revenues.

The contemporary view of the government's economic role transcends mere fiscal support for its institutions; it encompasses the provision of necessary resources to individuals and economic entities to bolster their capabilities. In this paradigm, the government's function is to remedy market shortcomings, positioning privatization as a crucial element aligned with the progressive concept of development and global competitive standards, transcending its political or economic narrative.

The second branch: Economic Reasons

After independence, Algeria adopted a centrally planned system, relying on an industrialization policy as an economic model to achieve sustained economic growth, at the expense of the agricultural sector, which saw a decreased contribution to the gross domestic product. The financing of industrialization programs was primarily based on oil export revenues, not on the actual production of wealth.

The main and fundamental task of the public economic institution in a centrally planned economy was to execute and accomplish what had been planned by the supervisory authority, produce what was required, and achieve the highest possible utilization of available productive capacities. The supervisory body guaranteed the continuous operation of the economic institution and overcoming any obstacles that might arise during implementation¹

The economic institution relied on centralized management, which often imposed its control over economic activities or discouraged individual initiative. However, the situation changed in the mid-1980s with the state's reforms in the structural and financial restructuring of public institutions, aimed at breaking down large companies into smaller entities for better management and removing barriers that limited the public institutions' profitability²

Due to the failure of the structural reforms applied to public institutions, it became necessary for the government to grant decision-making freedom and initiative to institutional managers according to market rules, granting them autonomy. The principle of autonomy involved granting public institutions legal personality, subjecting them to commercial law rules, meaning they acquired rights and incurred obligations.

1 Saad Allah, R. M. (2005), *Privatization Methods and Techniques with Special Reference to the Tunisian Experience*, Journal of Economic Sciences and Management Sciences, 4.

2 Decree No. 95-22. (1995, August 26), *On the privatization of public institutions*, Official Gazette No. 48, (Revoked).

Autonomy allowed institutions the freedom to make decisions and obtain funding to achieve economic effectiveness. However, this effectiveness was hindered by two main factors:

Firstly, the liberalization of foreign trade exposed public sector entities, accustomed to monopolistic or near-monopolistic conditions with little incentive for performance improvement, to strict customs barriers limiting foreign competition. The Algerian consumer had no choice but to accept the national product, regardless of its quality, but with the liberalization of foreign trade, foreign products began to compete with national ones in quality and price, leading to a surplus of goods in many economic institutions.

Secondly, the absence of financial conditions for implementing autonomy. Under Law No. 88-01, the public economic institution became a legally independent entity from the state, not only financially but also organizationally, and was expected to be profitable. However, contrary to this, it became a legally incapacitated entity, stripped by the authorities of the legal and financial protection it previously enjoyed, burdened with debt, and subjected to market relations with banks under Law 90-10 related to currency and credit, which gave banks the authority to refuse financing without guarantees.

This new situation closed the public institutions' access to loans for operational financing due to inadequate guarantees, leading to some institutions ceasing operations and others unable to pay workers' salaries. Legally, this situation represents conditions for bankruptcy¹

1 Abbouy, Z. M. (2006), *Privatization in Public Administration: Between Theory and Application*. Al-Moataz for Publishing and Distribution.

Considering the considerable equipment and large workforce of public institutions, which required significant financial investments and contributed to solving unemployment issues, exposing public institutions to bankruptcy could lead to potential social unrest. Excluding bankruptcy and judicial settlement systems from application to institutions does not mean they are legally inapplicable; the legislator, after amending the commercial law with Decree 93-08 concerning bankruptcy provisions, subjected them to bankruptcy regulations.

However, this submission is restricted by the non-intervention of the authority, as stated in paragraph three of Article 217 of the Commercial Law: "However, the competent public authority may, through regulation, take measures to settle creditors' claims," allowing the government to take measures to settle creditors' claims, which prevents bankruptcy proceedings.

In this context, the state resorted to a sanitation process, affecting about 180 public institutions by 1995 with an amount of 700 billion, yet this did not prevent public institutions from the risks of dissolution and indirectly caused a freeze in public investments¹

The imbalance of public institutions, whether structural or financial, accelerated their privatization, leading to the issuance of Decree 95-22² on privatization, later repealed by Decree 01-1004. Observers of the economic situation recognize that privatization is not merely a matter of suitability but has become a necessity.

1 *Ibid.*

2 Al-Moussawi, D. M. (2005), *Privatization and Structural Adjustments*. University Publications Office, Algeria, p. 16.

The second Requirement : External Reasons

External factors include the requirements of the International Monetary Fund (IMF) and the globalization of the economy, both focusing on the liberalization of the economies of developing countries, including Algeria.

The first Branch: IMF Requirements

The policy of the World Bank¹ is based on encouraging developing countries to adopt the concept of privatization as a suitable means to eliminate deficit and poverty. Thus, privatization became one of the essential elements for

developing countries to facilitate their dealings with major and developed countries.

In the last decade of the 1990s, the IMF published numerous studies showing that one of the main reasons for the instability and economic decline of developing countries was excessive and arbitrary government intervention. The IMF experts conducted several economic studies to evaluate the performance of state-owned public institutions².

1The World Bank and the International Monetary Fund play a pressing and active role in promoting privatization programs in developing countries in need of support and assistance, by conditioning the loans and aid they provide on the implementation of economic reforms including economic liberalization, reducing the role of the state, and supporting the private sector.

2 Al-Moussawi, D. M. (2005), Privatization and Structural Adjustments. University Publications Office, Algeria, p. 16.

Developing countries must adopt economic policies based on structural reforms in several aspects, such as rationalizing spending, liberalizing the economy, adopting market mechanisms, supporting institutional frameworks for investment, reforming economic management and legal systems, and privatization.

International financial bodies have played a role in urging developing countries to liquidate the public sector. According to Marie Shirley, a World Bank expert, the liquidation of unsustainable public enterprises has become a condition for borrowing for structural adjustment purposes, as seen in Burundi, Malawi, Panama, and Thailand.

In Togo, the bank supported the conversion of public projects into private ones through policy-supporting lending and technical assistance. In various countries like Congo, Jamaica, the Philippines, and Turkey, the bank supports the ongoing preparations for transferring public projects to the private sector and helps in identifying buyers and negotiating sales.

In several African countries, the bank arranges finances enabling private sector buyers to obtain loans for restructuring these public projects. International institutions and developmental aid donors have seen the shift to the private sector as a pretext to reduce developmental aid while encouraging direct investment and increasing non-debt creating capital flows¹

In 1989, the Algerian Minister of Finance sent a letter of intent to the IMF's executive director, wherein the Algerian

1 Shehmat, M. (2007), *Law of Privatization in Algeria*, (PhD thesis, University of Mentouri, Constantine).

government pledged to commit to a market economy, gradually implementing economic decentralization, creating an environment conducive to decision-making based on responsibility and profitability, and relying on pricing mechanisms, including exchange rates, focusing on expanding the private sector's role.

In May 1989, the first agreement with the IMF was made, leading to the Algerian economy's restructuring through trade liberalization, reliance on market mechanisms for exchange and interest rates, and reducing subsidies. In June 1991, a second agreement was made with the IMF to advance reforms, and in April 1994, another agreement was made to address the structural imbalances of the Algerian economy.

The Algerian government made an agreement in 1995 with the IMF as part of a structural adjustment program for three years until 1998, characterized by several measures:

- Financial sanitation of public institutions,
- Establishment of private banks or branches of foreign banks,
- Creation of a securities exchange to support the privatization of public institutions,
- Adoption of the privatization principle.

The first privatization program, supported by the World Bank in 1996, targeted 200 small local public companies. The national economy's diminished capacity and competitiveness necessitate reliance on the private sector, both domestic and foreign, especially in modernizing services and developing technologies that play a significant role in the economies of countries, including Algeria.

The IMF's policy is to provide a universal remedy deemed to cure all ailments faced by developing countries. The IMF believes that one solution fits all, suitable for Brazil as well as Chad,¹ regardless of the economy's structure and resources².

This policy, known as austerity or structural adjustment, is determined without considering the socio-economic context, the nature of structures, and the level of development achieved by the concerned country. The IMF's rationale is financial and technical, disregarding the social aspect, viewing the economy as a mechanism that, when experiencing imbalances, requires rectification³.

The second branch: Globalization of the Economy

As the world enters the 21st century, it faces a new global economic system shaped by radical changes and developments, stemming from the outcomes of the Uruguay Round and the establishment of the World Trade Organization (WTO). A prominent feature of this era is the promotion of economic freedom, the elimination of barriers to information flow, commodity trade, services, and foreign investments.

A fundamental initial step has been to reevaluate the role of the public sector, aiming to amplify and empower the private

1 Saad Allah, R. M. (2005), *Privatization Methods and Techniques with Special Reference to the Tunisian Experience*, Journal of Economic Sciences and Management Sciences, 4.

2 Ajja, G. (2006), *Law of Public Economic Institutions*. Dar El-Khaldounia.

3 Bouabed, M., & Kada, S. (2017), *The Impact of Privatization on Attracting Foreign Direct Investment: Case Study of Algeria*, Journal of Studies and Research in Renewable Energy Economics, 7.

sector's involvement in the economic development process under the globalization paradigm, which is based on economic liberalization, reliance on market freedom, and progressing towards privatization. This phase is a critical component of the economic liberalization process, with privatization becoming a global phenomenon¹

The future commercial prospects of a nation are no longer confined to its domestic boundaries; instead, countries are assessed based on their integration into the global economy and their active role therein, which enables them to benefit from successive global advancements.

National trade faces broad challenges that threaten its commercial existence, positioning the national economy in a context that necessitates improved trade performance. If Algeria aspires to a sophisticated economy, it must undertake rapid and significant strides to align its production with global quality and price standards, preparing it for international competition. This entails transferring expertise and efficiency, particularly in the information technology sector, to enhance competitive capabilities.

A free-market economy requires economic institutions to seek mechanisms to adapt to the globalization of the economy. Economic entities must consider international standards, such as ISO 9000², in their production processes; failure to meet these

1 Belmihoub, M. C. (2000), *Government and the Economic and Social Role of the State: Between Requirements and Resistances*, IDARA Review, 1.

2 Boutaleb, K. (1999), *The Problem of Upgrading Maghreb Economies in the Face of Globalization Challenges*, IDARA Review, 2.

standards signifies an inability to penetrate the international market.

THE SECOND TOPIC:
***Privatization Methods for Public Economic
Institutions***

The first Requirement:
Privatization through Mutual Agreement

For direct sales to selected investors by the authorities overseeing the privatization process, this method is particularly suited to foreign investors. In this context, it typically involves large state enterprises that have been financially cleansed and selected by the state, specifically listed for foreign investors only¹.

Transfer of Ownership to the Private Sector:

Nations generally employ various privatization methods based on several factors, including the nature of the legal frameworks that define the rules and procedures for privatization, the government's desire to retain control over public institutions, the desired speed of implementing privatization, and the government's expertise in promotion, negotiation, and contracting.

These factors also encompass the size of local securities markets and their capacity to absorb public enterprise shares, and the financial and administrative status of these institutions, which affects their attractiveness to local and foreign investors.

1 Al-Moussawi, D. M. (2005), *Privatization and Structural Adjustments*. University Publications Office, Algeria. p. 16.

The legal framework governing the privatization of public economic institutions encourages diversity in methods and does not restrict the means to privatize a public economic entity, thereby leaving the field open to choose the most optimal and suitable method for successful privatization.

***The second Requirement :
Through Financial Markets***

Experiences of developing countries in selling through financial markets indicate a mutual relationship between privatization and the development of securities markets. Each activity reinforces the other to achieve economic and social objectives. Privatization contributes to enhancing economic efficiency and social welfare by transferring ownership to the private sector in a highly transparent and disclosed manner, ensuring the sound management of these institutions and allowing all citizens to own shares to broaden the ownership base, preventing concentration among a few influential individuals at prices below their real value. Furthermore, privatization acts as an effective incentive for developing and reforming securities markets by boosting the volume of available shares.

***The third Requirement :
Transfer of Public Enterprise Ownership through
Contractual Agreement***

***The first Branch:
Firstly- Through Bidding or Tendering***

The valuation or pricing of the enterprise at market rates presents a significant challenge. Overvaluation can lead to sharp criticism from investors and deter them from purchasing overpriced assets. Conversely, undervaluing the enterprise

results in financial losses for both the institution and the government. To address these issues, some countries resort to auction systems where the market determines the enterprise's value¹.

The tendering process has evolved to meet the states' desire to attract investors capable of ensuring the sustainability of the privatized entity. Consequently, tender requests have been segmented into technical and financial parts. The technical component requires the bidder to commit to investing in the privatized entity and maintaining an acceptable level of employment. The best offer is selected based on its technical and financial merits².

The Algerian legislator, in relinquishing public enterprises through their sale, incorporated methods outlined in public procurement laws, treating such divestitures as transactions between the state (the owner) and the contracting party. Under Decree No. 95-22 and Decree No. 01-04, tendering, as a mechanism of administrative contracting, primarily aims to ensure fairness and equality, fostering equal opportunities among participants within a transparent framework³.

This is executed by opening the bid envelopes in front of the authorized committee in the presence of all parties involved in the tender⁴.

1 Abbouy, Z. M. (2006), *Privatization in Public Administration: Between Theory and Application*, Al-Moataz for Publishing and Distribution.

2 Law No. 88-01. (1988, January 12), *Containing the guideline law for public institutions*, Official Gazette No. 02.

3 Decree No. 95-22. (1995, August 26), *On the privatization of public institutions*, Official Gazette No. 48. (Revoked).

4 Ben Gaid Ali, M. L. (2020-2021), *Legal Procedures for the Privatization of Public Economic Institutions*, (PhD thesis, University of Algiers).

***The second branch:
Secondly- Privatization of Public Enterprises through
Mutual Agreement:***

This approach often faces scrutiny for its opacity, which has led to debates regarding the ethical conduct of those managing the process, occasionally escalating to allegations of bribery, illicit enrichment, or disregard for the public good. Nevertheless, mutual agreement-driven privatization enables the state to transcend mere financial metrics in selecting purchasers.

This approach is particularly apt when the prospective buyer is a strategic investor, anticipated to infuse additional capital, along with providing technical, organizational, and marketing prowess, vital for the revitalization of the privatized entity. In situations where the economic and financial status of the enterprise targeted for privatization is critically impaired, rendering its shares non-marketable, mutual agreement may emerge as the sole viable option¹.

Mutual agreement serves as a conventional methodology employed by the contracting authority when it prefers a specific transferee, bypassing the statutory formalities or procedures. This exceptional procedure encompasses negotiation processes orchestrated by the contracting entity, culminating in the direct disposition of shares or assets, while the transfer operation undergoes oversight by regulatory bodies following the submission of a contextual report².

1 *Ibid.*

2 Mourad, N. (2010), *Economic Reforms in Algeria*, Algerian Journal of Legal, Economic, and Political Sciences, (2).

Conclusion:

The journey of reform and economic rejuvenation persists. Privatization has transformed into an essential inevitability, yet this does not signify a complete retreat of the state from the economic sphere; indeed, certain ventures may still be perceived as precarious by the private sector. The indispensable synergy between the public and private sectors to attain macroeconomic objectives is unequivocal.

In the contemporary epoch of globalization, the contest extends beyond economic entities to encompass national competencies, necessitating a collaborative endeavor across all societal strata to bolster the national economy. The requisite potential is in place; the remaining imperatives are determination and transparency in whichever methodology is adopted. A paradigm shift from the historically directed economic model is both challenging and essential to avert the adage, ***"The leaders of the revolution never spearhead a counter-revolution, and the architects of socialism will not be the constructors of capitalism."***

The focus should pivot towards emancipating the economic process from the ideological and political constraints that engender power struggles over decisive choices, seeking an equilibrium between the public and private sectors. This balance could render economic activities more pragmatic, potentially introducing a novel facet to the emergent development theory, which advocates for a harmonious blend of economic and social vistas, culminating in a unified theory of development predicated on efficiency and efficacy.

Increasingly, policymakers are persuaded that privatization transcends mere optionality for Arab nations; it has become an imperative to ameliorate the investment environment, augment the efficiency of public enterprises, foster

social equity, elevate economic growth rates, and synchronize national economies with the global economic order.

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