

Original Article

Interrogating Problems Facing Parastatals in Kenya

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Abstract - This paper makes a case for interrogation of problems that face parastatals in Kenya across the service and regulatory sector. This will be discussed in the context of procurement management, transparency, and accountability, recruitment of human resources, reliance on the exchequer, and corporate debts. Procurement management entails adherence to the public procurement and asset disposal act, 2015, attendant regulations and amendments as per the prevailing finance bill. Adherence to the act ensures prudent use of scarce resources in the public sector. Efficient recruitment of human resources has a direct impact on organizational performance, transparency, and accountability initiatives across the sector. Reliance on the exchequer is a time bomb in the sector due to competing demands for funds to actualize political party manifestos hence the need to have sustainable sources of revenue streams.

Keywords - Parastatals, procurement management, transparency, accountability, organizational performance, corporate debt, board of directors, political party manifestos.

I. INTRODUCTION

Section 2 of the State Corporations Act (1987) defines a state corporation/parastatal as a body that is: defined that way by statute; a body corporate established by an Act of Parliament; a bank or other financial institution or other company whose shares or a majority of whose shares are owned by the government or by another state corporation, and; a subsidiary of a state corporation. According to Njiru (2007), the Kenyan government forms these state corporations to meet both commercial and social goals. They exist for various reasons, including to correct market failure, to exploit social and political objectives, provide education, health, redistribute income or develop marginal areas.

The parastatal task force of 2013 identifies five roles of parastatals in the national development effort. First, parastatals are important in promoting or accelerating economic growth and development.

Second, these entities are critical to building the capability and technical capacity of the state in facilitating and/or promoting national development.

Third, they are important instruments in improving the delivery of public services, including meeting the basic needs of citizens.

Fourth, they have been variously applied to the creation of good and widespread employment opportunities in various jurisdictions.

Fifth, parastatals are useful for the targeted and judicious building of international partnerships. In enabling states to achieve the above goals, parastatals play a major role in enabling the social and economic transformation of the economies in which they operate.

In Kenya, parastatals have been established and played these roles in diverse ways. The experience has been, in some cases, successful and in others not so.

The Kenyan government acknowledges that over the years, there has been poor performance in the public sector, especially in the management of public resources, which has hindered the realization of sustainable economic growth.

There are 262 parastatals in Kenya as of 2018, comprising commercial service category, service, and regulatory category. The service and regulatory category comprise 90 parastatals that offer services or are regulators in the market; for example, the Kenya institute of curriculum development (KICD) offers a service, while the Retirement benefit authority (RBA) is a regulator. Some of the services sector institutions charge a fee for their services, thus augmenting the funds they get from the national treasury, while others depend purely on the national treasury.

Like firms in the private sector, service and regulatory state corporations are supposed to ensure sustainability and a key driver in these initiatives is the human resources at its disposal. Hence managing performance



in state corporations requires a different preparation, mindsets, training, expertise, and experience, much of which is not part of standard public service repertoire.

The service and parastatal regulatory sector are very important as it is a major contributor to public service delivery in the economy/ services industry. The interest in this sector is very important due to its policy direction mandate. Many institutions in this sector may have helped to shape policy direction in education, security, public service transformation, level of service delivery, among others.

Therefore, this sector needs professional leaders and employees who are emotionally aligned to its vision, mission, and core values and who can help the sector achieve the maximum goals of both employees and organizations.

An organization that is short of capital may resort to borrowing money, and one in a poor location has the option to move. However, an organization with short of sound procurement management, transparency and accountability, sound policy on the recruitment of human resources, extensive reliance on the exchequer for funding, and mounting corporate debt has little chance for survival.

A. Recruitment policy

Kenya's regulatory framework for the appointment of directors is still based on the common law where no special skills are required. Akivaga (2005), postulated that since independence in 1963, the recruitment of parastatal board of director had been a reserve of political leadership who prefer election losers to steer them. This in turn, influences the appointment of CEO and first-line managers, who in turn influences the lower echelons of the establishment. That explains why directors are usually perceived to be political aides of prominent politicians, whose appointment is part of the reward system for patronage. In many cases, appointments to the BOD have been made without due regard to the requirements of the parastatal advisory committee.

Irregular appointments have been made because cabinet secretaries exceed their powers by not admitting that their duties end at the policy formulation level and forgetting that heads of parastatals have been given their jobs by the acts creating them.

Depending then on the manner a particular director has been appointed, and especially if one was appointed as a favor, such an appointee is threatened with sacking for failure to strictly adhere to the orders of the line cabinet secretaries or someone higher up the rank,

which greatly contributes to the poor resource utilization and consequent poor sectoral performance as per the parameters of performance contracting.

Akivaga (2005) argued that it is evident that the Office of the President and the parent ministries wield a lot of influence over the appointment of BOD of parastatals and their Chief Executives. This deprives state corporations of autonomy and eventually contributes to their poor performance. Thus, line Ministers in the past took advantage of the fact that there is no statutory provision requiring directors to have expertise and experience in the management of parastatals to appoint boards where the appointees lack the necessary skills, the result is the performance of parastatals goes down.

Ronoh (2014) argued that Parastatals are facing a major crisis as key positions remain vacant for close to a year, a situation that threatens to cripple operations since weak human resources and institutional capacity to attract and retain the skill sets are an impediment to organizational performance.

B. Corporate debts

In emerging economies, public sector corporate debts are a source of concern as Ojina(2019) pointed out that Kenyan parastatals need to have their debts written off, citing Sh38.5 billion in debts owed by various parastatals to pave the way for the privatization of the parastatals in the sugar sector/sugar millers.

Parastatals in the sugar sector have been surviving on loans, and this had rendered them uncompetitive. The case below provides food for thought on the stark reality of the situation.

“Chemelil Sugar owes Sh271 million. Nzoia Sh231 million, Mumias (Sh400 million), Sony (Sh168 million), and Muhoroni (Sh229 million).

These debts have been in existence for a long time, but the five millers have been performing poorly for the last decade. They have run into debts and are bogged down by old machinery. They have also failed to compete with cheaper imports.

The Kenya Railways Corporation is a shell of its former self, despite its significant role in the creation of and realization of the nation of Kenya. The lack of strategic vision of what this entity could and should do has led to the selection of sub-optimal choices that have cascaded negative effects into the wider economy beyond the railways themselves. These include congestion and road carnage on our roads as well as the high cost of doing business for the private sector and the government

itself. It has a corporate debt of over Ksh 16.7billions owed to suppliers and retired workers (pensioners),

The Numerical Machining Complex (NMC), previously known as the Nyayo Motor Corporation limited, represents a significant missed opportunity, pointing to a lack of effective translation of strategic vision into tangible outputs contributing to the national development effort. A comparison of the NMC with the Perusahaan Otomobil Nasional Sendirian Berhad (Proton) established in Malaysia in 1983 clearly illustrates the issues. Proton adopted a strategic approach by collaborating with Mitsubishi and leveraging domestic demand to create a product that supported other parts of the Malaysian economy. The NMC failed in this regard. It has a debt of ksh12.3 billion and lost a junk of its prime land to squatters in the Mavoko division of Machakos County.

The Kenya Meat Commission represents another missed opportunity for transforming the livestock industry in Kenya. The sad story that is the mismanagement of parastatals has meant that Kenya has lost opportunities to other countries in the region and the world. This has worked to the detriment of the economy and the people of Kenya in terms of lost wealth creation opportunities. It has a corporate debt of over Ksh 19.7billions owed to suppliers and retired workers (pensioners),

The above parastatal debts are an impediment to their privatization, according to the parastatals reform report of 2013

The World Bank (WB) has warned a persistent rise in public spending bills is strangling the economy by limiting liquidity flow and profitability of firms doing business with the State.

In findings contained in the latest country economic update report, WB cautions the unchecked rise, especially at the county government level, will ultimately weaken aggregate demand and economic growth.

The Washington-headquartered institution wants the government to take a decisive policy action such as a phased-out approach to clear pending bills to restore liquidity, stimulate private sector activity and create jobs.

“The recent increase in the government’s pending bills or/and arrears could affect profitability and working capital for vendors that trade with both the national and county governments, potentially curtailing private sector activity,” says WB.

The 47 counties had by the end of last financial year in June 2018 accumulated Sh108.41 billion claims from contractors and suppliers, a steep climb from Sh35.84 billion the year before, according to the Controller of the Budget data.

This reinforces findings by the 2018 enterprise survey for Kenya that approximately 12 percent of the 1,001 firms surveyed have had a contract with the government that was in arrears.

The total value of pending bills increased from 0.9 percent of the gross domestic product (GDP) in the financial year 2015/16 to 1.6 percent in the 2017/18 fiscal period, according to WB analysis.

C. Procurement management

The budget outlook paper of 2014/2015 highlighted that 30% of the budgetary allocations are misappropriated by public servants in the course of implementing the budget, which entails procurement of goods, works, and services to deliver relevant political manifestos.

This sad state of affairs permeates in the parastatals as per the auditor general reports, which are released each year.

According to Ogachi (2014), there seems to be a deliberate misuse of public funds since the auditor general reports are rarely acted upon, and even when actions are taken, they may drag in the judicial system for up to ten years, and this gives the master minds of the corruption schemes to circumvent the judicial process.

Cases where parastatals disregard the public procurement and asset disposal act, 2015 are in the public domain, and malpractices such as payment for goods not delivered(ghost payments), inflated prices, single sourcing, order splitting, to mention but a few are the order of the day in parastatals.

Ogachi (2014) also argued that disposal of state assets does not follow the action, and cases have been cited where even new vehicles have been disposed of for a song in the parastatal sector.

Prudent use of organizational resources has never been factored in the performance contracting of parastatals. The requirement of article 227 of the constitution of Kenya, 2010, and article 201(d) have not been internalizing in the parastatal sector.

D. Transparency and accountability

Transparency, as used in science, engineering, business, the humanities, and in other social contexts, is operating in such a way that it is easy for others to see what actions are performed. Transparency implies openness, communication, and accountability.

General Assembly Resolution 50/225 (19 April 1996) recognized "that governments in all countries should make their procedures transparent in order to avoid and combat all acts of corruption, since weaknesses in systems of accountability and transparency that facilitate unethical behavior, are the order of the day in parastatal in Kenya according to international transparency report of 2011

According to the IT report of 2011, there is a critical need for governments and multilateral and bilateral donors to recognize the importance of the accounting and auditing systems and to dedicate resources and priorities to establishing sound, basic and timely systems.

"There is need to focus attention on malfeasance in government, compliance issues—both as regards government officials as well as donors— with national laws, rules and regulations, the need for long-term training initiatives, and the United Nations' role in assisting governments of developing countries.

Specific recommendations were also made in the practical areas of improving transparency and accountability in cash management as well as parastatal management and divestiture programs."

In Kenya, parastatals have fallen short of the above yardstick of measuring transparency and accountability according to the various auditors' general reports, cases where financial and non-financial decisions are taken unilaterally abound and create confusion in the running of such parastatals.

Line state departments normally take advantage of the fact that there is no statutory provision requiring directors to have expertise and experience in the management of parastatals to appoint boards where the appointees lack the necessary skills.

When this happens, the performance of parastatals goes down. An opinion has been expressed to the

The effect is that directors with nothing to offer in terms of skills and experience should be replaced with well-qualified individuals on the boards. This is notwithstanding the fact that they are usually cronies of cabinet secretaries and highly placed politicians. This is

why the re-appointment of some of the directors responsible for the collapse of parastatals to other directorships is a common practice.

E. Reliance on exchequer

According to the Taskforce Report of 2013 on parastatal reform, only 51 State Corporations do not receive any budgetary support, in a sample of 188 entities. With regard to the wage bill, 96 State Corporations would require Treasury support as it cannot be covered by internally generated funds. Dependence on the Treasury for salaries denies another key sector, the much-needed exchequer for implementing key socio-economic pillar projects.

Out of the 188 State Corporations that responded, 92 pay salaries from internally generated funds while 96 pay salaries from funds allocated by the Treasury, according to the report. As a group, the parastatals have a wage bill of over KES. 131.2 billion, of which the National Treasury finances 60.34 billion (46%). The total wage bill takes about 4% of GDP (currently KES. 3.44 trillion³) while their internally generated funds contribute about 7% of GDP. The Government contribution to salaries in the sector is about 6% of recurrent expenditure for the 2012/2013 financial year.

F. Recommendations

Reform of parastatal is key to liberate them from bureaucratic control that hinders their management, and learning from America's own experience requires welfare functions must be stripped from parastatal and replaced by policy objectives compatible with commercial purposes. Second, reducing financial dependence on parastatal will remove a barrier to rational control. Third, and most importantly, a robust regulatory framework for control must be developed as a substitute for the weakened administrative linkages.

II. CONCLUSION

This discussion has given an overview of the factors that have contributed to the problems experienced by parastatal and, to an extent, poor governance in Kenya. This has not only led to their poor performance but, in some instances, total collapse of the said institutions.

REFERENCES

- [1] Elizabeth joined Business daily (2019) 6
- [2] Symonds Kichamu Akivaga, Anti-Corruption Politics in Post-KANU Era, In Ludeki Chweya and John KithomeTuta, Control of Corruption in Kenya: Legal Political Dimensions Claripress: Nairobi (2005) 243
- [3] Njiru, I., Management of Strategic Change in the Implementation of Performance Contracts among State

- Corporations in Kenya: MBA unpublished thesis, University of Nairobi (2007).
- [4] Faith ronoh the standard Parastatals in crisis as reforms stall (2014)
 - [5] Gok., budget review and outlook paper, the national treasury (2014)
 - [6] Johannes ogachi towards a flawless supply chain management in the public sector nation (2014).
 - [7] The Seventeenth PIC report on the Accounts of State Corporations 1 noted that Nzoia and Chemilil Sugar Companies financial performance was wanting and recommended that the government speed up their privatization (2010).
 - [8] Kiarie Mwaura, the Failure of Corporate Governance in State-Owned Enterprises and the Need for Restructured Governance in Fully and Partially Privatized Enterprises: The Case of Kenya. Fordham International Law Journal, (2007).
 - [9] Guido Tabellini., The Role of the State in Economic Development. CESifo Working Paper Series 1256, CESifo Group Munich 2004.
 - [10] Omano, Edigheji., A Democratic Developmental State in Africa? A concept paper. Centre for Policy Studies 105 (2005).
 - [11] Centre for Corporate Governance in Africa Rating Corporate Governance of State-Owned Enterprises: Moving towards improved Performance, (2011).
 - [12] <http://www.governance.usb.ac.za/pdfs/Rating-Corporate-Governance-of-State-Owned-Enterprises.pdf>