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PUBLIC CORPORATIONS: CONCEPTS AND EXAMPLES

By

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PUBLIC CORPORATIONS: CONCEPTS AND EXAMPLES

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CHAPTER I

INTRODUCTION

General Background

Public administration as a subject of study gained importance in the present century.¹ In its different phases of development public administration has been viewed as something concerned with the techniques and tools of administration, as an organizational setup having hierarchial structure, and as a socio-cultural matrix wherein individuals work for definite ends. The study of public administration, as such, involves knowledge of different disciplines including sociology, psychology, politics, economics, anthropology, law and jurisprudence. Some scholars have even viewed public administration, as a pan-disciplinary subject of interest.²

¹Woodrow Wilson's article on "The Study of Administration", Political Science Quarterly (1887), pp. 197-222, is the earliest of writings on the subject. Frank Goodnow's Comparative Administrative Law, (New York: G.P. Putnam's Sons, 1893); The Principles of Administrative Law of the United States (New York: G.P. Putnam's Sons, 1905) and Politics and Administration (New York: The Macmillan Co., 1900) are major contributions to public administration at the turn of the century. Leonard D. White's Introduction to the Study of Public Administration (New York: The Macmillan Co., 1926) was the first text book on the subject.

²Fred W. Riggs, Administration in Developing Countries (Boston: Houghton-Mifflin Co., 1964).

In the post world war I period, specially during the depression of 1930s public administration entered into a new phase. In order to avert the effects of the failure of market mechanism, Governments in different countries entered into, what is called, public enterprise apart from taking other fiscal and monetary measures.

Public enterprise, thus, became a vital part of the overall administration of many countries. In socialist countries like the U.S.S.R. public enterprises became the mainstay of the economic structure of the country. In a predominantly laissez-faire economy like that of the U.S.A. the public sector became supplementary to the private sector. Importance of public sector in laissez-faire economies increased so much as to put the Governments face to face with the problem of devising ways and means of harmonising and integrating the economic policies and programmes of government with those of private economic interests in order to attain the highest possible level of well-being for the nation as a whole.³

Public enterprises became so diversified that they covered public utilities on the one hand and atomic energy on the other. Even cultural activities were organized as public enterprises in different countries.

³George A. Steiner, Government's Role in Economic Life (New York: McGraw-Hill Book Co., 1953), pp. 63-65.

Unfortunately, however, public enterprise remained "today's best-kept academic secret" and "gained scant scholarly attention".⁴ The result became conceptual diversity with regard to the legal status, purposes, organization, finance and management of public enterprise in different countries. As a report of the thirteenth International Congress of Administrative Sciences puts it:

if we wanted to define the concept of public enterprise from the viewpoint of a more general convention we would find ourselves in a very difficult situation. There is no concept which might be adopted from the standpoint of all the countries as a uniform concept of all public enterprises. The national reports show an extraordinary large variety of concepts of public enterprise, so much so that they mutually exclude one another.⁵

Problems

The basic problem of public enterprise⁶ is the problem of its being 'public' and 'enterprise'. The methods of creation of public enterprises in different countries, as such, reflected a concern for establishing an organization wherein both 'public' and 'enterprise' aspects could be retained. Harmonization of public enterprise with the general social instruments and safeguards for optimal investment and for efficiency and profitability

⁴Frank P. Sherwood, "The Problems of the Public Enterprise", (Bloomington: Indiana University, 1966), p. 1. (Mimeographed).

⁵Nikola Balog, "Administrative Management of Public Enterprise", (Brussels: International Institute of Administrative Sciences, 1965), p. 3. (Mimeographed).

⁶The concept of public enterprise is wider than that of public corporation.

became vital questions. The public corporation, in preference to other organizations, viz., departments and joint stock companies, was adopted in order to achieve both.

However, the public corporation is an institution without a homogeneous legal form. It has been variously conceived in different countries. In some countries it has been used as an instrument for setting up nationalization programs; in others it has been the instrument for resource development. The common feature of most definitions is that public corporation combines private status and ability with public purpose⁷ and responsibility.

The public corporation has created some problems while solving others. The quest for autonomy on the part of public corporations, the question of efficiency, the controversy over profit-motive vis-a-vis public interest and the problem of public accountability. The problem of coordination of the overall administrative system became all the more important because of the existence of public corporations with a substantial degree of autonomy. In their relationship with the executive branch of government, public corporations presented a problem of delegation and decentralization. Other problems were pricing, and personnel.

⁷It may be noted that public purpose is not absent from private enterprises; but it is dependent on the interpretation of public purpose by private businessmen who may do so under governmental persuasion and regulation. In case of public corporation it is embodied in its legal status.

Governments of different countries - specially the U.S. and the U.K. - became aware of these problems and sought to remedy them. In the U.S.:

the enthusiastic and indiscriminate use of the corporate device in the depression and recovery period to secure for government enterprises the flexibility and freedom of operation of private business undertakings began by 1936 to cause some concern . . . culminating in the Government Corporation Control Act of 1945.⁸

Similar measures were taken by the government in the U.K. and India. The provision of septennial or decennial reviews of public corporations in the U.K. had evoked great enthusiasm.

Purposes

The main purposes of this study are:

- a) to explain the theory behind the establishment of public corporations in several countries;
- b) to examine the basic characteristics of public corporations with specific emphasis on its viability as an organization for public enterprises;
- c) to examine the efficiency of public corporation vis-a-vis its objectives with special emphasis on management and accountability; and
- d) to examine to what degree public corporations constitute an effective instrument of social action by drawing on the examples of the U.K., India and Pakistan.

⁸Herbert Emmerich, Essays on Federal Reorganization (Alabama: University of Alabama Press, 1956), pp. 9-11.

Scope and Method

In this study public corporations in India, Pakistan and the U.K. are examined. Reference is made to the experiences of France, Italy, the U.S.A., the U.S.S.R. and some Commonwealth countries. Obviously, however, detailed and exhaustive treatment of different public corporations in these countries could not be made. Typical cases were cited from different countries only to emphasise points of interest.

The method of this study is deductive and analytical. Facts and figures are quoted only when they were thought relevant to the analysis. No first-hand data were collected.

CHAPTER II

DEVELOPMENT OF PUBLIC CORPORATIONS

The Public Enterprise

The Public Corporation is one of the forms of administrative organization used for the management of public enterprises. Like any other institution a public enterprise is a 'creature of societal imperatives',¹ and needs to be viewed within overall ecological conditions.

Public enterprise is the outcome of state intervention of a positive kind in the ownership, operation or regulation of industries and services, which has now assumed the proportions of a vast worldwide movement. The vast scale of the movement, and its bewildering diversity has unquestionable social economic and political significance.²

Despite diversity, there are a number of general and basic characteristics of public enterprises. As Nikola Balog puts it, public enterprises:

- (a) have been established by the state or another public agency or with the participation thereof,
- (b) enjoy legal personality,
- (c) carry out their activities, which are in the field of the economy, autonomously according to economic principles,

¹Sherwood, op. cit., p.8.

²W. A. Robson, "Forms and Directions of Public Enterprise", Indian Journal of Public Administration, I (1955), 14.

- (d) are not privately owned, though in some states there is a possible participation of private capital, and
- (e) have their relations with the state concerning controls and influence on management regulated by general public law regulations or the general plan or program of works and/or economic development, or determined by the ownership of the capital involved.³

Public enterprises aim at keeping key economic sectors under state administration and in some cases maintaining the financial independence of the state, which is otherwise threatened by large concentration of capital in the private sector; - they are also used as a means to achieve social and economic progress.⁴ However, public enterprises work within the overall imperative of reducing the cost of goods and services through economic management of the enterprise.

The growth of public enterprise in the post-1930 period was related to three conditions:

1. the overall growth of governmental powers and functions for various reasons;
2. the large-scale use of nationalization; and
3. the importance attached to planning for development.

³Balog, op. cit., p. 12.

⁴Balog, ibid., p. 30. It may be noted, however, that effective fiscal policies, apart from public enterprise, is needed for financial independence of the state. They are not two alternatives but supplementary factors.

Expansion of Governmental Activities

The enormous increase in governmental powers and functions is a part of reality of the present century. Nineteenth century liberalism, which professed, among other things limited government gave way to the 'Web of government'⁵ that pervades the social, economic and political life of the people of a country. 'Big government' is a reality both in developed countries like the U.S.A., where the 'Great Society'⁶ is in the making, and in developing countries where traditional society is being moulded into a transitional phase as a prelude to modernization.⁷

Of the factors that led to the expansion of governmental activities, the political philosophy of a country is the most important one. The outstanding example of the influence of political philosophy vis-a-vis the growth of big government is the socialism as professed by the U.S.S.R. and other socialist countries. The tremendous increase in governmental activities in the U.S.S.R. hardly needs emphasis. Socialism apart, the nineteenth century liberalism

⁵Robert Morrison MacIver, The Web of Government (New York: The Macmillan Company, 1947).

⁶Graham Wallas, a member of the British Fabian Society, emphasized the need of big government in his treatise The Great Society published in London in 1914.

⁷Transitional phase is a threshold in the continuum between traditional and modern aspects of development. It is discussed by Fred W. Riggs, op. cit.

that favoured limited government, seems to have been overridden by 'positivism', 'pragmatism' and 'progressivism'.⁸ The influence of all these philosophies is the growth of government with added functions and powers.

The second factor that led to the emergence of big government is the adherence to nationalism. Nation states have many problems; newly independent nations are to be moulded into cohesive ones. National integration, specially in the newly independent countries, became one of the main concerns of the government. Government launched programs that help 'nation-building'.⁹ Even for economic development - involving a great deal of public sector activities - 'reactive nationalism'¹⁰ was thought to be an augmenting factor.

⁸Dwight Waldo, The Administrative State (New York: The Ronald Press Company, 1948), pp. 16-18 and pp. 80-85: 'Positivism' disclaimed the value of search for final causes or for the essential nature of phenomena. Knowledge was obtained by scientific observation and testing. Government became fact-oriented due to the influence of this philosophy. 'Pragmatism' is a protest against rationalism, against a priori methods of thought and habits of mind. Its test of truth is usually considered to be chiefly 'workability' or 'cash-value'; an idea is true if it 'works', if it has desirable effects when tried. It places emphasis upon experience and hence is characterized by empiricism. 'Progressivism' was not an idea but a sheaf of ideas, old and new and at times incompatible, held together by a buoyant faith in progress.

⁹'Nation-building' is used in the sense of developing cohesive community from among diverse groups of people and areas that take the name of a nation.

¹⁰W.W. Rostow, The Stages of Economic Growth (Cambridge: Cambridge University Press, 1963), p. 26.

The third factor is the rising tide of expectation among the people. Those people who lived in abject poverty and did not bother the government with the cry for amelioration, now expect many things that take the form of wants and demands. Only a government with progressive outlook can transform these into actions and decisions. In fact government programs include such services as pre-natal care and post-mortem formalities and thereby cover the whole period of existence of the citizen.¹¹ The whole range of welfare services of the governments of the U.K., and the U.S. and other countries are the output functions of the political systems, that were responsive to the rising tide of expectation.

The fourth factor is technological advancement. The smooth functioning of the 'assembly lines', the communication satellites and the supersonic transport programs need a great deal of governmental activities in the shape of operation, supervision and control. The establishment of the Atomic Energy Authority in the U.K., the National Aeronautical and Space Agency in the U.S. and in a lesser degree the Pakistan Standards Institution for the control of standard of industrial products are the direct outcome of technological advancement.

¹¹John J. Corson and Joseph P. Harris, Public Administration in Modern Society (New York: McGraw-Hill Book Company, Inc., 1963), p.2.

The fifth factor is the 'population explosion'.¹² The effect of such explosion on the government may be judged by the appearance of programs for urban planning,¹³ population planning, housing and settlement.

Besides these factors, the governmental programs of different countries increased because of war, depression, demonstration effect, cold war situation and international agencies.¹⁴ Even such economic goals as to maintain full employment,¹⁵ influenced the growth of government. The framework for big government can perhaps be best summed up in De Tocqueville's observation:

The passage of time constantly opens to central government new fields of action Society, which is in the full progress of development, constantly gives birth to new needs and each one of them is for the government a source of power; for it alone is in a position to

¹²It is noted by the United Nations in Planning for Economic Development: Studies of National Planning Experiences, II (New York: United Nations, 1965), p. 214 that total world population at the time of the birth of Christ was not more than 300 million; it took seventeen centuries to increase to 500 million; but it has increased to 3 billion in the past three centuries.

¹³John C. Eddison, "Industrial Growth and Urban Land Requirement in East Pakistan", Pakistan Development Review, III, No. 4 (Winter, 1963).

¹⁴Paul Appleby, Big Democracy (New York: Alfred A. Knopf, 1949), pp. 169-197. Also, Clifton R. Wharton, "The Nature of Technical Assistance for Economic Development", Economic Development and Cultural Change, VI (1958).

¹⁵The Employment Act of 1946 made full employment a goal of government in the U.S.

satisfy them The sphere of government is mobile and never ceases to grow with civilization itself.¹⁶

Nationalization Trends

The creation of public corporations is directly linked with nationalization in the U.K., France, Italy and the U.S.S.R.¹⁷ "Nationalized industries do not cover the whole of the public sector of the British economy, which includes - for instance - a considerable amount of municipal enterprise".¹⁸ But the wave of nationalization, that gripped the U.K. in the post World War II period, was of a considerable magnitude; broadcasting, power supply, transport, steel and iron and even health services were nationalized. French nationalization acts brought under state control such industries as coal, banking, automobile and aircraft industry, cinematography and the Press. In Italy, nationalization process, that began in 1933 with the establishment of the Institute of Industrial Reconstruction (I.R.I.), brought under state control banking,

¹⁶J.M. Pfiffner and R.V. Presthus, Public Administration (4th ed.; New York: The Ronald Press Co., 1960), p. 38 quoting Alexis De Tocqueville, L'Ancien Regime (Oxford: Basil Blackwell & Mott, Ltd., 1933), p. 65.

¹⁷A.H. Hanson, "The organization of State Enterprises", International Review of Administrative Sciences, XXXI, No. 2 (1965), pp. 106-117. Also, John N. Hazard, "The Public Corporation in the U.S.S.R. in W. Friedmann (ed.), The Public Corporation (Toronto: The Carswell Company Ltd., 1954), pp. 374-375.

¹⁸A.H. Hanson (ed.), Nationalization: A Book of Readings (London: George Allen and Unwin Ltd., 1963), p. 11.

iron and steel, engineering industry (covering shipbuilding, railroad and transportation equipment, electrical and electronic equipment, machine tools and tractors), public utilities and communications.¹⁹

Unlike the U.K., France and Italy, the nationalization in the U.S.S.R. touched the field of agriculture through 'state farms' apart from "industry, commerce, communication, transportation, publishing and even recreation".²⁰

It has been pointed out by A.H. Hanson, that "the inclusion of an enterprise in the public sector may be motivated by principle, by expediency or by a combination of the two".²¹ In England "nationalization of the means of production, distribution and exchange" was adopted by the Labour Government as a 'principle' to attain Socialist objectives of (a) distributing the unearned income more equitably, (b) putting an end to the 'poverty in the midst of plenty', (c) ending concentration of power through private possession of capital, and (d) replacing the competitive but 'fundamentally unchristian' spirit of 'the

¹⁹Mario Einaudi, Maurice Eye and Ernesto Rossi, Nationalization in France and Italy (New York: Cornell University Press, 1955), pp. 209-227.

²⁰Hazard, op. cit., p. 374.

²¹Hanson, Nationalization: A Book of Readings, op. cit., p. 22.

survival of the fittest' by 'a real spirit of co-operation'.²²

But expediency was not altogether absent from nationalization process. Unlike the process in the U.S.S.R., British nationalization process had priorities. The reasons for nationalization of one industry in preference to the other were embodied in such factors as (a) the basic character of the industry concerned, (b) the extent to which it was monopolized, (c) the condition of its internal organization, and (d) the quality of its labor relations.²³ Although iron and steel industry was denationalized, the overall policy of nationalization was a success. An Einaudi puts it:

British nationalization remains to this day a unique example of orderly, deliberate and reasoned expansion of governmental power.²⁴

In France expediency was at the root of nationalization of some industries like the Societe Anonyme des Usines Renault. Collaboration with the Germans during the Occupation was the cause of some nationalization acts. But the nation-

²²Hugh Gaitskell, Socialism and Nationalization (London: Fabian Tract No. 300, 1956), pp. 5-7.

²³Trade Union Congress, Interim Report on Post-War Reconstruction (1944), extracted by Hanson, Nationalization: A Book of Reading, op. cit., pp. 31-34.

²⁴Einaudi, Bye and Rossi, op. cit., p. 33.

alization of the Bank of France and the coal industry was undertaken with the purpose of bringing about structural change in the economy. Nationalization in France was supported on different grounds; the necessity for rational reorganization of coal and electric power industry, the desirability of modernization of existing plants through public expenditure, and the doctrinal involvement of the Communist Party, which collaborated in the government with other parties - were at the back of major nationalization programs.²⁵ The nationalization of the Bank of France was justified on, among other things, the ground that credit facilities were kept limited to 'two hundred families', and, thus, failed to attain the social purpose of distributing the benefits of banking to majority of the population.²⁶

Nationalization leads to direct control of the production, distribution and exchange of goods and services that were otherwise under private enterprise. Whether nationalization is good or not is controversial. Two policy issues are involved in nationalization: one is the choice of instrumentality of public management, and the other is whether

²⁵Einaudi, Bye, and Rossi, op. cit., pp. 71-86.

²⁶Margaret G. Myers. "Nationalization of French Banks", Political Science Quarterly, 64, No. 2 (June, 1949), p. 210.

nationalization of a given economic sector must be total or not. According to Einaudi, the desirable condition is that nationalization of a given sector must not be complete so that an element of competition persists; because in case of complete nationalization anomalies of monopoly may creep into the operation of that industry and desirable degree of efficiency may not be attained.²⁷

As regards the instrumentality of management the experience of different countries is varied. Direct control by state administrative departments were tried in France and the U.S.S.R. and that with some difficulty. In France,

many different solutions were adopted for the management of these enterprises, ranging from direct state administration of the Renault plant to the mixed control of the film companies.²⁸

Although the problem of parliamentary interferences with operations of public enterprises was absent and the reverence for 'businessman' and 'business-like operation' was non-existent the Soviet Union adopted the Public Corporation for nationalized enterprises. John N. Hazard observes:

The Soviet choice of the public corporation as appropriate to the administration of public enterprise is significant; because it followed unsuccessful experience with ministerial operation.²⁹

²⁷Einaudi, Bye and Rossi, op. cit., pp. 46-47.

²⁸Ibid., p. 76.

²⁹Hazard, op. cit., p. 374.

The nationalization acts in the U.K. preferred public corporations as the instrument for management of public enterprises. The emphasis on the 'enterprise' aspect of public enterprises necessitated flexibility in operation. As Ronald S. Edwards puts it:

As far as practicable I believe that the nationalized industries should be run, and governments should encourage them to run, as commercial undertakings. This does not mean that they would have no sense of responsibility.³⁰

Public corporation fulfills both the demands of flexibility and accountability and appears to have gained wide-spread acceptance as the instrumentality for the management of nationalized industries.

Planning for Development

The welfare goals of government have to be translated into achievements; hence the emphasis on planned development. Today, most of the 'developing' countries talk in terms of development. "Development denotes a major societal transformation, a change in system states, along the continuum from peasant and pastoral to industrial organization".³¹ In the process the state and the govern-

³⁰Ronald S. Edwards, "The Influence of the Nationalized Industries", Public Administration, XXXIX (Winter, 1961), p. 57.

³¹Milton J. Esman, "The Politics of Development" (Indiana University, 1963), p.1.

ment assume the role of planners. Despite the outcry of liberal protagonists of laissez-faire against planning, most of the states in the developing areas have entered into the field of planning, which was once termed as 'Road to Serfdom'.³²

Planning does not mean the same thing in every state. Some developed countries like the U.S. have remained content with fiscal policies to influence investments by both the public and the private sectors. Developing nations like India and Pakistan, have adopted planning as a measure for overall development, allocation, and utilization of resources through such measures as enable both the private and the public sectors to make best use of resources. In brief,

the term 'planning' implies merely that the government has organized its decision-making process so as to take account of all economic effects of each of its acts, the total program of action being a coherent one designed to achieve as rapid economic growth as is consistent with other national goals.³³

It has been pointed out by protagonists of liberalism that planning is a negation to freedom of action. They have often referred to planning as a device through which fascism and totalitarianism creep into the body politic of a society.

³²F.A. Hayek, Road to Serfdom (London: Routledge and Kegan Paul Ltd., 1962).

³³Everett E. Hagen (ed.), Planning Economic Development (Homewood, Illinois: Richard D. Irwin, Inc., 1963), p. 1.

F.A. Hayek,³⁴ for one, has termed planning as being against competition and as such against individualism. He has viewed planning as something against democracy, rule of law and freedom of mankind. But the exponents of planning state, "that a planned society can be a far more free society than the competitive laissez-faire order it has come to replace".³⁵

Planned development has been the major effort on the part of the governments of India and Pakistan. Both these governments have created elaborate machinery for the preparation and execution of development programs. The amount of resources involved in these two countries are quite large, the recipient of the benefits are many. This is why the leaders of both countries emphasize the need for planning. The experiences of India and Pakistan in respect to planned development are important. One of the renowned economists observes:

The world has come in far greater degree than has been realized, to identify development as a whole with the experiences of India, or more accurately, India and Pakistan.³⁶

³⁴Op. cit.,

³⁵Hayek, *ibid.*, p. 149 quoting from The Old World and the New Society; an Interim Report of the National Executive of the British Labor Party on the Problems of Reconstruction, pp. 12 and 16.

³⁶John K. Galbraith, Economic Development (Cambridge, Massachusetts: Harvard University Press, 1964), p. 44.

Protagonists of planning in India and Pakistan point out the historical absence in their countries of capitalist system developed by private entrepreneurship and the absence of special circumstances that led to the growth of that system in Europe and North America. Therefore, they contend that, to 'catch up' with the developed countries and to improve the economic conditions of the people, planning should be adopted.³⁷ And in view of the fact that social goals and priorities can be set better by the state, planning has perforce to be state planning in India and Pakistan.³⁸

Planning has its own limitations. The influence of planning vis-a-vis administration may be viewed from two perspectives: one, it leads to goal-orientation on the part of the government of a country; two, it leads to direct participation by the government through public sector programs in development. Both the choice of goals,³⁹ and the choice of machinery for public sector development

³⁷O.K. Ghosh, Problems of Economic Planning in India (Allahabad: Kitabistan, 1957), pp. 1-2.

³⁸Ibid., p.8.

³⁹Fred W. Riggs, in his Administration in Developing Countries (Boston: Houghton Mifflin Co., 1964), p. 333 says: "Choices among goals are influenced not only by the availability of resources, such as qualified personnel, budget-items, equipment and technology, but also by the inherent cost of each goal that is the ease or difficulty attending its achievement."

works remain difficult. The choice of machinery for development works was given priority in India and Pakistan; the Government of Pakistan urged upon the Planning Board in 1953 "to make proposals regarding the administrative machinery best calculated to ensure the successful implementation of the plan".⁴⁰

Forms of Public Enterprise

Public enterprise, being 'a creature of societal imperatives' has assumed an almost infinite variety of forms chosen by the different states. W.A. Robson identified seven "principal types of institutions used to administer publicly-owned industries or services".⁴¹ From the point of view of their structure, management and public accountability,

all these forms approximate to one of three main types: the first is administration by government department; the second is the joint stock company governed by company law but controlled by public authority as the principal shareholder; the third is the public corporation

⁴⁰Government of Pakistan, National Planning Board, First Five Year Plan, 1955-60 (Karachi: Manager of Publications, 1957), p.i.

⁴¹W.A. Robson, Nationalized Industry and Public Ownership (London: George Allen & Unwin Ltd., 1962), pp. 24-28. The seven types of public enterprise are (1) Government Department or Ministry; (2) Local Authority; (3) Regulatory Commission; (4) Mixed Enterprise; (5) Representative Trust; (6) Joint Stock Company; and (7) Public Corporation.

proper, a relatively new but most important type of public enterprise, developed in particular by the countries of the British Commonwealth.⁴²

The choice of form of public enterprise is conditioned by the purpose for which it is established. As one authority on public enterprise puts it:

the main object of a public enterprise is to produce goods and provide services at the lowest possible cost and with the greatest possible satisfaction to the consuming public and this requires that the methods of private business should be adopted: flexible, enterprising commercial-type methods.⁴³

Further, it is argued that in order to improve the entrepreneurial viability of public enterprise, the management should be entrusted to competent businessmen within the most generalized forms of control. "Able management"⁴⁴ is the essence of public enterprise.

Departmental Organization

The theory of public enterprise does not preclude governments departments as the form of management. But government departments are regarded as storehouses of

⁴²A.H. Hanson, Public Enterprise (Brussels: International Institute of Administrative Sciences, 1954), pp. 15-16.

⁴³A.H. Hanson, Managerial Problems of Public Enterprise (Bombay: Asia Publishing House, 1962), p.4.

⁴⁴D.N. Chester, "Management of Nationalized Industries", Public Administration, XXX (Spring, 1952), pp. 27-47.

"slowness, circumlocution, caution, excessive devotion to routine and precedent."⁴⁵ Lack of training on the part of the civil servants for management of public enterprises, excessive treasury control over the appropriations of moneys for departmental operations and the practice of 'passing the buck' up to the superior, over-centralization and the lack of delegation of authority are some of the characteristics of public bureaucracy which have been cited as making the departmental form unsuitable for public enterprise.⁴⁶

Further limitations of the departmental form of management of public enterprise are as follows:

- (a) Permanent staff is subject to rules and regulations applicable to civil servants, thereby preventing both promotion on merits and prompt disciplinary action where necessary;
- (b) Tardy procedures for arranging funds, for instance, the necessity for getting sanctions for expenditure and other matters in every single case;
- (c) Cash receipts have to be put into Government accounts and cannot be taken out without special sanction;
- (d) The system of accounting;
- (e) The departmental methods of purchase of raw materials and sale of products and so on.⁴⁷

⁴⁵Hanson, Managerial Problems of Public Enterprise, op. cit., p. 3.

⁴⁶Chester, op. cit., p. 29.

⁴⁷Hanson, Managerial Problems of Public Enterprise, op. cit., pp. 17-18 quoting from Report of the Subcommittee of the Congress Party in Parliament (Krishna Menon Report) on Parliamentary Supervision Over State Undertakings in India, 1959.

In the words of one observer,⁴⁸ the 'over-centralized', over-coordinated', 'under-supervised' and 'under-propelled' administrative departments could not also take up public enterprise. But the trend in the world vis-a-vis public enterprise presents a different picture. The government department "is the instrument for conducting postal services in all countries, and telephone and telegraph services in most of them".⁴⁹ Some post offices like those in the U.K. and Pakistan conduct a large banking, insurance and money order business. All India Radio and the Radio Pakistan are within the operational jurisdiction of government departments in India and Pakistan respectively. Thus, despite different criticisms, "the administration of enterprises by government departments continues to play an important part in public life in many countries".⁵⁰

Joint Stock Companies

The second form of public enterprise that gained wide acceptance is the joint stock company. India is the pioneering country in this respect. Canada, France, Italy

⁴⁸Rowland A. Eggar, Improvement of Public Administration in Pakistan (Karachi: Manager of Publications, 1953), pp. 23-24.

⁴⁹Robson, Nationalized Industry and Public Ownership, op. cit., p.24.

⁵⁰Hanson(ed.), Public Enterprise, op. cit., p. 16.

and Sweden also have public enterprises having the status of joint stock companies.⁵¹ As regards India it has been pointed out that "upto June 30, 1959, forty-six Central Government Companies had come into existence".⁵²

There are four categories of joint stock companies in India. In the first category falls those joint stock companies which are jointly owned by the Central Government and private interests. In the second category falls those owned by the Central and State Governments; in the third, those owned by State Governments and private interests and in the fourth those exclusively owned by the Central Government.⁵³

The contrasting feature of joint stock companies of France and the U.K. is that in France they were created under the nationalization acts, which provided for retention of shares by previous owners; but in the U.K. such shares were sold to the private interests after denationalization of steel and transport industries.⁵⁴

⁵¹Hanson (ed.), ibid., pp. 18-19.

⁵²Om Prakash, The Theory and Working of State Corporations with Special Reference to India (London: George Allen and Unwin Ltd., 1962), p. 83.

⁵³Om Prakash, ibid., pp. 83-84.

⁵⁴Hanson (ed.), Public Enterprise, op.cit., pp. 18-19.

The basic characteristics of joint stock companies are mainly two: one, that it could be created by a memorandum of association under the Company Law of a country, thus avoiding parliamentary process; two, state control could be exercised through the ownership of a majority of the shares, reinforced by the reservation of special privileges in the by-laws of the company.

There are two different points of view regarding joint stock companies as a form of public enterprise. On the one hand, it is argued that joint stock companies and public corporations do not differ very much from each other except, of course, in the legal status. Public control over joint stock companies are effected through holding majority or all of the shares by the government and the special privileges reserved for the government.⁵⁵

The other point of view is that joint stock company and Public Corporation are at different poles. Since the former is not created by the Parliament some vital questions regarding public accountability remained vague. The powers and authority of the Board of Directors could be unlimited and in the name of secrecy of the accounts, parliamentary control and public debate on the efficiency of the joint stock company could be evaded. Even "its

⁵⁵Hanson, Managerial Problems of Public Enterprise, op. cit., p. 24.

corporate nature is often fictitious since the ownership is usually vested in the crown or in the government".⁵⁶

Further, the joint stock company was criticised by the Auditor General of India "as a fraud on the Companies Act".⁵⁷ Because the company device evaded constitutional responsibilities which public enterprise has to the Government and to the Parliament. Even the question of separation of management and ownership gets mixed up in the company form wherein the government owns the entire share capital.

However, the utility of joint stock company may remain in such cases

- (a) where there is joint participation by public and private interests . . . ;
- (b) where the state intervenes temporarily, with a definite intention of disposing of its holding as soon as possible.⁵⁸

The Public Corporation

The Public Corporation, however, remained "the most important invention of the twentieth century in the sphere of government institutions".⁵⁹ It serves both the

⁵⁶Robson, Nationalized Industry and Public Ownership, op. cit., p. 28.

⁵⁷Quoted by Hanson, Managerial Problems of Public Enterprise, op. cit., p. 24.

⁵⁸Hanson, Public Enterprise, op. cit., p. 19.

⁵⁹Robson, Nationalized Industry and Public Ownership, op. cit., p. 28.

purpose of retaining public accountability and business methods. "A public corporation gives us the best of both worlds . . . we can combine progressive modern business management with a proper degree of public accountability."⁶⁰

A Public Corporation as an administrative organization was favored (a) when a government program is predominantly of a business nature; (b) when it is revenue-providing and potentially self-sustaining; (c) when it involves a large number of business-type transactions with the public; and (d) when it requires greater flexibility than is permitted by the normal type of appropriation.⁶¹

However, W. Friedmann pointed out,

two major motives for the establishment of Public Corporations in so many countries and in so many fields One of these motives is practical necessity . . . to intervene, in the interest of the general development of the country, in ventures which private capital is either not willing or not able to launch. . . . The other main inspiration is political philosophy.⁶²

⁶⁰Quoted from Herbert Morrison, House of Commons Debate, May 6, 1946, by D.N. Chester, op. cit., p. 27.

⁶¹President Truman in his budget message in 1948 laid down these criteria for a Public Corporation, L.D. White, Introduction to the Study of Public Administration (4th ed.; New York: The MacMillan Company, 1955), p. 130.

⁶²W. Friedmann (ed.), The Public Corporation (Toronto: The Carswell Company Ltd., 1954), p. 542.

He further pointed out that modern socialist theory used the Public Corporation as a compromise between the older ideas of socialism and the new necessities of economic management.

The experiences of India and Pakistan lay more emphasis on 'practical necessity' than on political philosophy, vis-a-vis public enterprise in general and Public Corporations in particular. Despite "much talk of socialism on political platform", India "is living in an economic framework which is essentially capitalistic".⁶³ Pakistan is more definite about the absence of any philosophical leaning when she embarked on planned development. The Planning Commission contended that "no doctrinaire assumptions underlie the plan and neither an exclusively capitalist nor an exclusively socialist economy is postulated. The approach throughout is pragmatic."⁶⁴

⁶³Om Prakash, op. cit., pp. 35-36.

⁶⁴Government of Pakistan, Second Five Year Plan, 1960-65 (Karachi: Manager of Publications, 1960), p. xiii.

CHAPTER III

THE PUBLIC CORPORATION : CONCEPT AND CHARACTERISTICS

The Concept

The term 'Public Corporation', was first used in 1926 in a report on the British Broadcasting,¹ although a 'respectable antiquity' is claimed for Public Corporations in India and the U.K.² The concept gained prominence through the persistent and influential advocacy of Herbert Morrison. As Minister of Transport in the Labour Government (1929-31) he pioneered the Bill for the establishment of the London Passenger Transport Board. His book Socialization and Transport "is still a classic in the theory of Public Corporations".³

Quite in accordance with the tradition of British political institutions, there was no attempt to formulate a precise definition of the concept, until 1946, when

¹W. Friedmann, "The Public Corporation in Great Britain" in W. Friedmann (ed.) The Public Corporation (Toronto: The Carswell Company Ltd., 1954), p. 163.

²Om Prakash, op. cit., p. 51, and Robson, Nationalized Industry and Public Ownership, op. cit., pp. 46-48.

³Om Prakash, op. cit., p. 109.

Ernest Davies suggested:

The Public Corporation is a corporate body created by public authority, with defined powers and functions, and financially independent. It is administered by a board appointed by public authority to which it is answerable. Its capital structure and financial operation are similar to those of the public company. But its stockholders retain no equity interests, are deprived of voting right and power of appointment of the board.⁴

Public Corporation is a distinct institutional set up, "away from government by Department of State on the Post Office model; away from municipal organization; and away from mixed board of representatives".⁵ The distinctive feature of public corporation is symbolized by the public board, which acts as a corporate body. It may be pointed out at this stage that corporations were established in the private sector long before it was adopted for public enterprises.

The Precursor of Public Corporation

According to the Encyclopaedia of the Social Sciences,

" a corporation is a form of organization which enables a group of individuals to act under a common name in carrying on one or more related enterprises, holding

⁴Ernest Davies, National Enterprise: The Development of Public Corporation (London: V. Gollancz Ltd., 1946), p. 24. A similar definition was suggested by W. Friedmann, op. cit., p. 541.

⁵P. Sargant Florence, The Logic of British and American Industry: A Realistic Analysis of Economic Structure and Government (London: Routledge & Kegan Paul, 1953), p. 236.

and managing property and distributing the profits or beneficial interests in such enterprises or property among the associates. Its structure is defined and sanctioned by a statute, charter or certificate granted by the State; its shares are transferable; its life is independent of the life of the individuals; and its debts do not usually create a liability for the latter.⁶

The basic idea of establishing a corporation is to enable a group of individuals to unite together for the purpose of acting in unison. Such unity of purpose also enables individuals to create the corporation, whose life extends beyond the life of individuals participating in it. Although a one-man company, may be a perfect legal entity,⁷ the plurality of corporators or participating individuals is indicated by the existence of a contract between the corporator and the corporation.

The corporation becomes a 'juristic person' with rights and duties quite distinct from the rights and duties of the participating individuals. The Corporation, with a distinct seal of its own, may sue and be sued in the courts of law without involving the participating individuals personally. The recognition of the principle of limited liability, which governs the corporate life, has strengthened the doctrine of segregated personality.

⁶The Encyclopaedia of Social Sciences, IV, p. 414.

⁷The interesting decision of the House of Lords in Salomon vs. Salomon & Co., 1897 is cited by Om Prakash, op. cit., p. 11.

According to Om Prakash, "the corporate device is an amalgam of four peculiarities".⁸ First, it provides a cementing force without which the 'group-person' would be pulverized into 'grouped-persons'. The importance of 'group-person' has increased in modern society, where development activities require massive capital investment and long gestation periods, which individual private initiative could hardly tackle.

Second, incorporation means the birth of a new entity in the eye of law. The very recognition of such a new entity by the state often give a sustaining force to a corporation, whose life extends beyond the life of individual members. Thus, the question of perpetual succession enables the corporation to take up activities having far-removed benefits.

Third, the voluntary nature of membership of a corporation, keeps the door open for those who want to step out of it. By transfer of shares the corporation keeps its life-force intact; in the process it enlists entrepreneurial ambition, which is so vital for large-scale enterprises.

Fourth, all corporations - whether nationalized or private-owned, carry with them an element of autonomy.

⁸Om Prakash, ibid., p. 12.

Since management and ownership are separated from each other, a corporation enables the managers and technically qualified persons to attain a high degree of efficiency. The Board of directors which represent the owners, remain content with policy issues leaving the management in the hand of those who know how to manage.

Thus,

within the limits set by the law of the land and its own constitution the power of the corporation is supreme. Like the fabulous island in Thomas More's Utopia, a corporation is a small world inside a bigger universe".⁹

Critics of modern corporation smelled in it a return to the 'feudal system',¹⁰ where ownership and management were separated to such a detrimental extent that the whole system had to collapse. They also thought that corporations might take such shape as would be formidable enough to stand as rival to the State. These critics lost sight of the fact,

that the rivalry between the state and the corporate device might be avoided by the former adopting the latter; i.e., through the growth of State (or Public) Corporations as the dominant form of industrial and commercial organization.¹¹

⁹Om Prakash, ibid., p. 13.

¹⁰Adolfe A. Berle, Jr. and Gardiner C. Means, The Modern Corporation and Private Property (New York: MacMillan Book Company, 1950).

¹¹Om Prakash, op. cit., pp. 13-14.

One should not, however, forget that it is the State that infuses life into the private corporations, by way of recognition and cooperation with the latter. Moreover, the State, by taking such measures as antitrust and anti-monopoly laws, directs the entrepreneurial skill of private corporations to socially acceptable activities.

However, monopolistic corporations in the private sector have been the precursors of public corporations for a number of reasons. First, where monopoly is inevitable because of technical, physical or historical factors, the creation of State Corporations has been found to be an urgent social necessity. Second, the passage of nationalizing legislation has been quite convenient in such cases because the monopolistic corporations can be taken over as a going concern. Third, when regulatory measures fail to protect the public interest, the psychological atmosphere is most favorable for the birth of State Corporations. Fourth, the reaction against privately-owned corporations is still greater when 'subsidiary' corporations are under the thumb of 'holding' corporations (the situation being further complicated in case of intermediate holding corporations, i.e., when a corporation is 'holding' and 'subsidiary' at the same time). Finally, whereas the corporate device has taken away much of the flexibility, initiative

and sense of responsibility in the case of private enterprises, the institution of State Corporations has made public enterprises more acceptable.¹²

Characteristics of Public Corporation

Across the diversity of origins, purposes, legal systems and economic ideas the comparable institutions of Public Corporation have developed certain common features.¹³ An analysis of these features or characteristics, would be an aid to the understanding of Public Corporation, as such, and its contribution to the socio-economic development of different countries.

Statutory body.-- The general practice of creating a public corporation is through an Act of Parliament (legislature) as in the U.K. In Pakistan during the period between 1958-62 when the Constitution was suspended some of the Corporations were created through ordinances. However, an ordinary joint stock company comes into being automatically by fulfilling certain legal requirements; but public corpora-

¹²Om Prakash, ibid., pp. 14-15.

¹³W.A. Robson, "Forms and Directions of Public Enterprises", Indian Journal of Public Administration, I (1955), p. 14. W. Friedmann, The Public Corporation, op. cit., found it convenient to discuss these common characteristics in the light of those obtained from Public Corporations in the U.K. Om Prakash, on the other hand, enumerated them from the other side, i.e., identifying comparable characteristics of Public Corporations in different countries without basing his search on one country. In this study Om Prakash was the model.

tion is an embodiment of the wishes of the State to create a new agency. The creation of the Damodar Valley Corporation in India and the East Pakistan Industrial Development Corporation in Pakistan, were direct outcome of legislative provisions. Legislation is also at the root of such public corporations as the Regie Renault of France, where the privately owned automobile company was nationalized. The National Coal Board of the U.K. was established under provisions of the Coal Industry Nationalization Act of July 12, 1946.

Insulated Personality.--- It has been pointed out earlier that a corporation is a 'juristic person'. Since a corporation is created under provisions of legislation, it attains maturity on the day it is created. "It is a child of the State which grows into maturity as soon as it is born".¹⁴ Although Professor Friedmann is not certain if the Soviet State Corporations are 'juristic persons', he points out that the Australian Dried Fruit Board and Sondervermogen in Germany were organizations without legal personality. In India and Pakistan, public corporations are legal personality and may sue and may be sued as such in the court of law. Prof. Friedmann's examples are rather exceptions.

Independent Governing Board.--- The Tennessee Valley Authority Act of 1933 (May 18, 1933) provides, under section

¹⁴Om Prakash, op. cit., p. 15.

2 of the Act, for the Board of Directors. Likewise, legal provisions are there for a Board of Directors for every public corporation created so far in both 'developed' and developing countries. The governing board, which is constituted under provisions of the law, is in charge of the affairs of a public corporation. Ideally the members of the board are appointed by the government without any consideration of class or group-interest; they are appointed on the basis of their knowledge of or skill and ability for the type of corporation. In India, the Minister in charge of the Department, is found to have headed the Board of Directors of such public corporation as the Employees State Insurance Corporation. In the U.K. ministers do not sit on these boards.

What is important in respect of the governing board is "the mixture of functional 'specialists', supervisory and policy-making 'generals' and part-time business statesmen"¹⁵ - who form the board. The board, however, has to work as a team in order to make a corporation a success.

Proper relationship with the Minister.-- As a public corporation is responsible to the government through the

¹⁵P. Sargent Florence, "Present Problems in the Nationalization of British Industries", Indian Journal of Economics (Allahabad: University of Allahabad, Special Number on Economic Development and the Role of State, No. 140, July, 1956), 17. Quoted by Om Prakash, op. cit., p. 17.

Minister, there should always remain a respectful relationship between the minister and the members of the board. The absence of such a relationship may affect the efficient working of a public corporation. A definition of powers and functions of the board is thus essential; without this the ministers and members may encroach on each others realm of activities. The oft-quoted policy-administration dichotomy, which itself is too difficult to achieve, may be guiding principles for them; the minister may remain content with policy formulation, and members may concentrate on administration.

Since it is a delicate balance, there are occasions when controversies arise and public corporations suffer. This is more so in developing countries. According to Riggs,¹⁶ this is due to absence of goal orientation on the part of the policy-makers, who often intrude into day to day administration and thus become, quasi-administrators.

Autonomous working.-- Over-centralization has been criticised as the root cause of inefficiency in the administration of public enterprises. If efficiency is to be aimed at, then, a public corporation has to be given autonomy in procedural and financial aspects of administration. In concrete terms this autonomy means,

¹⁶Fred W. Riggs, op. cit., pp. 332-336.

- (a) freedom from the red tape;
- (b) freedom from Treasury control, and
- (c) freedom from political dictation.

Freedom from political dictation should not be construed, however, as absence of policy-decisions made by the Ministers and the parliament. In order to achieve efficiency a public corporation is to be guided by its charter of incorporation and such other formal policy directives which are issued by the government.

Autonomy is ensured if political interference does not prevent the corporation from, let us say, hiring and firing personnel according to the need of the corporation. A happy blending of 'business principles' with what is called 'public interest' is attempted at in corporate autonomy. However, "autonomy does not mean less public accountability. On the contrary, it means more. But it is accountability not for methods, procedure or individual action, but for result".¹⁷

Self-contained finance.-- Autonomous working leads to the insistence on self-contained financing of a public corporation. Financial independence means that a public corporation, like the East Pakistan Industrial Development

¹⁷John K. Galbraith, Economic Development (Cambridge, Massachusetts: Harvard University Press, 1964), p. 98.

Corporation, and the Air Corporations in India, must have resources enough for vast capital expenditure, and the occasional deficits or losses. It is because of this fact, that, while passing legislations for the creation of a public corporation, the Government of Pakistan, for example, provides for 'paid-up share capital', 'revolving-fund' and 'guarantees'. The grant of subsidies to a public corporation like the Pakistan International Airlines Corporation, or the British Overseas Airlines Corporation - has enabled them to work efficiently; without subsidy they may not have worked within their means.

Another facet of the question of self-contained finance is the freedom from Treasury control. A public corporation is empowered to have commercial accounting and audit. This further includes freedom from direction of government on matters such as banking and transactions. Where, as in the case of East Pakistan Industrial Development Corporation, a public corporation has to enter into contract with international monetary agencies, the government has to provide, for guarantees for loan repayment and at 'guaranteed rate'.

However, "public corporations should realize that income depends upon economic factors rather than upon the benevolence of the legislature".¹⁸

¹⁸Om Prakash, op. cit., p. 20.

Disinterestedness.-- According to Herbert Morrison:

The public corporation must be no mere capitalist business, the be all and end all of which is profits and dividends It must have a different atmosphere at its Board table from that of a share-holders' meeting; its Board and its officers must regard themselves as the high custodians of public interest.¹⁹

With regard to the members of the board of directors, disinterestedness also means the absence of profitable contractual relations with a member in his personal capacity and the corporation. Questioning the desirability of appointing the same civil servant like the Principal Finance Secretary in the Government of India, who was appointed concurrently as the Chairman of the Life Insurance Corporation of India, Professor Om Prakash says, "whatever advantages of coordination may exist in such a scheme, it is clear that it is not a case of disinterestedness, unless we think that a man has a double face or a flexible personality".²⁰

Moreover, the appointment of civil servants to the Board and, as in Pakistan, to hundreds of supervisory jobs, has far-reaching consequences on this aspect of disinterestedness in a public corporation. In view of the generally prevalent corruption within the civil service, such dependence

¹⁹Herbert Morrison, Socialization and Transport (London: 1933), pp. 156-57 quoted by Om Prakash, ibid., p. 21.

²⁰Om Prakash, ibid.,

on the civil servants needs reconsideration. "The low operational efficiency of many public enterprises and occasional dramatic revelations of corruption and mismanagement have led to severe restrictions on autonomy."²¹

No shares and no shareholders.-- "The public corporation has no shares and no shareholders, either private or public".²² "There are no shareholders and the profit motive has been replaced by the public service motive."²³ "The equity is owned by the nation."²⁴ Thus, a nation works as the entrepreneur through such bodies as the Board of a public corporation. Since the Board is not to declare dividends, and since the shares remain a national equity - the ideal type of public corporation does not have to bother about shareholders. But in India and Pakistan, many of the Public Corporations have share capital just like a Joint-Stock company. In this category we find public corporations like the Industrial Finance Corporation of India and the Industrial Development Bank of Pakistan.

²¹Merle Fainsod, "The Structure of Development Administration" in Irving Swerdlow (ed.) Development Administration: Concepts and Problems (New York: Syracuse University Press, 1963), pp. 18-19.

²²W. Friedmann, "The New Public Corporation", The Modern Law Review, X. Quoted by Om Prakash, op. cit., p. 21.

²³W.A. Robson, The British System of Government (London: Longmans, Green & Co., 1948), p. 25.

²⁴Robson, Problems of Nationalized Industry, op. cit., p. 29.

Professor Robson has termed these public corporations as 'Mixed Corporations'. "By this we mean organs which combine public and private ownership and control"²⁵ One interesting feature of these 'mixed' public corporations is that they are mainly the financial group of corporations.

Public monopoly.-- Public enterprises, in general, whether they are administered through ministries or Public Corporations, have declared monopolistic rights for ~~them~~ themselves. This is more so in case of enterprises which run public utilities like gas, electricity, water, etc. Even such age-old services like postal services are under the monopolistic rights of government. Public Corporations for industrial development have not been given monopoly rights; thus the East Pakistan Industrial Development Corporation has undertaken jute textile industry side by side with the private sector. In fact the 'disinvestment'²⁶ program - by which the completed projects are transferred to the private sector - of the E.P.I.D.C. is a negation to monopoly. But there are cases when private competing enterprises have been brought together under government supervision. "Thus, the Government of India brought about

²⁵Robson, Nationalized Industry and Public Ownership, op. cit., p. 26.

²⁶It may be noted that Japan has such 'disinvestment' program. In fact Pakistan has adopted this practice.

a compulsory merger of the Steel Corporations of Bengal and (into) the Indian Iron and Steel Company with effect from January 1, 1953".²⁷ The purpose of such merger is to iron out competition in the industry, which by nature and by reason of their size are suitable for monopolistic operation.

However, "public monopoly does not necessarily mean monopoly for each public corporation".²⁸ In India the Government has established two public corporations to tackle air transport - one, the Indian Airlines Corporation for internal services and the other, the Air India International for international services. Likewise, the British European Airways (B.E.A.) and the British Overseas Airways Corporation (B.O.A.C.) operate air transport in the U.K. and the world.

Judicial Control.-- The financial autonomy and monopolistic operation of Public Corporations have necessitated the enforcement of judicial control. As a 'juristic person' a Public Corporation is subject to all legal implications;- its contractual obligations are subject to judicial inquiry, review and litigation. Likewise, the courts can, through rulings, compel a Public Corporation to avoid discrimination against a particular individual or a privately-owned cor-

²⁷Om Prakash, op. cit., p. 22.

²⁸Ibid., p. 23.

poration; courts can enforce general compensation plans of the government on Public Corporations as well. The review of its accounts by the Public Accounts Committees of Parliaments (legislatures) in India and the U.K. keep the Public Corporation under watchful eyes.

The Rampspeck Act of 1940, in the U.S.A. has provided for control of Public Corporations. The DVC Act of 1948 in India provided that:

Any dispute between the Corporation and any participating Government regarding any matter covered by this Act or touching or arising out of it shall be referred to an arbitrator, who shall be appointed by the Chief Justice of India. The decision of the arbitrator shall be final and binding on all parties.²⁹

Commercial Audit.--- The commercial and industrial character of public enterprises makes it necessary that the accounts of Public Corporations be kept in commercial accounting procedure and be audited by commercial auditors. There is, however, a great deal of difference between practices in different countries. "The Port Authority's books are subject to examination by the Comptroller of the State of New York and the Director of the Division of Budgets and Accounts of the State of New Jersey".³⁰ But in India it has been felt that:

²⁹Government of India, The Damodar Valley Corporation Act, 1948 (March 27, 1948).

³⁰Hanson, Public Enterprise, op. cit., p. 53.

this repressive and negative influence of audit by the Comptroller and Auditor General is in considerable part indirect, impinging on the bureaucracy by way of Parliament, because of the exaggerated and unselective attention given by Parliament to the petty exceptions and the inflated pretensions built around the pedestrian function of audit.³¹

Hence is the preference to commercial auditors who pay more attention to commercial principles - viz., paying interest on capital outlay, income tax, percentage of profits to the consolidated fund and so on.

Flexibility from Civil Service Regulations.-- One of the reasons of the inefficiency in administration has been the rigidity with which certain rules and regulations are applied to transactions made in the government. Public Corporations are created by many governments to cut across such rigidity in rule application. In the whole range of personnel administration, as such, Public Corporations are allowed to have their own regulations.

In the U.S.A., the Ramspeck Act of 1940 authorized the application of civil service laws to employees of federally-owned and controlled corporations except the T.V.A. In India and Pakistan, members of the Governing Boards of Public Corporations are civil servants. In

³¹Paul H. Appleby, Re-examination of India's Administrative System with special reference to Administration of Government's Industrial & Commercial Enterprises (Govt. of India, Cabinet Secretariat, 1956), p.28.

supervisory jobs, as well, there are a lot of 'deputed' civil servants, whose salary, leave, etc., are governed under civil service regulations.

However, the privilege, most cherished by the managers of a Public Corporation, is their freedom from civil service regulations. This would make for convenience and speed in the process of recruitment, promotion and discretion in the fixation of remuneration and other fringe benefits. By way of attracting the best talents such measures would ensure efficiency of Public Corporations. The problems faced by the E.P.I.D.C. in recruitment and training of and compensation for personnel are many and the steps that have been taken are not adequate. In fact it has failed to evolve its own personnel practices and depend heavily on 'deputed' employees.

Private Law status.-- It has been pointed out that public corporation is an amphibious institution.³² It is a public authority in as much as it is owned by the State and is expected to fulfil public tasks on behalf of the Government or Parliament. But the commercial nature of its activities, and its managerial model, greatly resembles the privately-owned corporation. This duality of its nature gives rise to intricate legal questions. Countries like

³²Om Prakash, op. cit., p. 31.

India and Pakistan - which are in need of resources for developmental works - cannot afford to leave a host of public corporations outside the pale of what is called 'corporate tax'. But the state ownership of these corporations do not permit such taxation. The riddle is quite a difficult one.

Socialization.-- Public Corporation, as has been pointed out earlier, have been created in the U.K. and France, to take over the management of nationalized industries. This has been done as a primary step to socialization, which means responsiveness of the industries to the needs and interests of the society. It is assumed that with a new consciousness on the part of management, technicians, and labor, in this Public enterprise, a social change may be effected. But one should note the doubts expressed by Berle and Means in this connection. Moreover, the so-called 'disinvestment' program of Pakistan's Public Corporation needs to be taken into consideration before judgement on socialization could be given.

CHAPTER IV

MANAGEMENT OF PUBLIC CORPORATION

The establishment of Public Corporations as an administrative device is an universal practice. They have taken different forms in different parts of the world. But they are established for those governmental programs which are revenue-producing or at least, are potentially self sustaining. As the Brownlow Commission pointed out:

Its particular value lies in the freedom of operation, flexibility, business efficiency, and opportunity for experimentation Particularly in the case of permanent, as opposed to emergency, corporation, freedom of operation finds justification in the fact that they are financially self sustaining. The balance-sheet incentive is to insure efficient and economical administration without the imposition of the usual government controls.¹

Profitability: the Criterion of Efficient Management

The public purpose and responsibility of any Public Corporation is linked with efficiency gained through freedom of operation. The measure of efficiency in case of private enterprise is profit. Public Corporations, while while running industrial enterprises, are expected to make

¹Quoted from President's Committee On Administrative Management, Report with Special Studies (Brownlow Commission Report), p. 302 by V.V. Ramanadham, Problems of Public Enterprise (Chicago: Quadrangle Books, 1959), p. 22.

profit, or at least, become self financing. "The essential purpose of any enterprise is not to be a liability but to be an asset".²

But profitability is not the only purpose for which a Public Corporation is created. Commercial considerations are really blended with non-commercial ones in the conduct of industrial management - both in the private and the public sector. Within the overall controls by Government industrial enterprises pursue other public interests as well. "It is often a bad commercial practice - bad labor relations and bad public relations - to pursue the profit motive without regard to broader social consideration".³ Thus, profitability of public enterprises has to be viewed within an overall socio-economic context.

Further, profitability of Public Corporations is related to the role played by them in the overall national economy. As in the case of the U.K. nationalization of power and transport industries and their management through Public Corporations - were justified not merely by profit-

²Hanson, Managerial Problems of Public Enterprise, op. cit., p. 16. It may also be noted that in recent years the profit motive became an issue in Soviet enterprises, which were run in the public interest previously. The trend in the non-Socialist countries seem to be in the other way round.

³Herbert Morrison, "Public Control of Socialized Industries", Public Administration, XXVIII (Spring, 1950), p. 4.

ability but on the grounds of:

- (a) achieving economies of large-scale operation;
- (b) providing the nucleus for expansion of the economy as a result of their operation;
- (c) providing goods and services at low prices; and
- (d) enjoying the benefits of monopoly without monopoly profits and exploitation.⁴

Basic Determinants of Profitability

Profitability of public enterprises under administrative control of Public Corporations is influenced by four factors.⁵ First, enterprises taken up by Public Corporations structurally comprise such economic activities as are intrinsically characterized by poor rewards. Transport, public utilities, shipbuilding, producer goods industries - are some of the enterprises which the private sector avoids on the ground of lack of profitability.

Considerations other than profitability lead the Government to step into these fields. The process of nationalization, that brought about a host of Public Corporations

⁴Michael Shanks (ed.), The Lessons of Public Enterprise (London: Jonathan Cape, 1963), pp. 21-22.

⁵Ramanadham, Finances of Public Enterprises (Bombay: Asia Publishing House, 1963), pp. 12-14.

in the U.K. and France, was justified, among other things, by the fact that the State was to provide basic commodities and services which were scarce in supply. In the cases of India and Pakistan, inadequacy of the private sector - both from the point of view of entrepreneurial skill and capital - led the Government to enter into public enterprises in different fields.

Second, for no inefficiency or lack of effort on the part of a public enterprise, it may be unable to accumulate profits at its level, though simultaneously returns accumulate at other levels, particularly at the level of the exchequer. Such is the case with the Damodar Valley Corporation, which has not been able to realize the sale proceeds on water made available to the Government of West Bengal, since the latter has contested the rationale of the charge.⁶

Third, it is possible that a Public Corporation while recording low direct returns, lead to important indirect returns⁷ elsewhere in the economy. A Public Corporation like the East Pakistan Inland Water Transport Authority may not have enough of direct profit but the benefit accrued to trade out of the operation of this:

⁶Ramanadham, ibid., p. 13.

⁷For a detailed discussion on "The Concept of Indirect Return", see Ramanadham, ibid., pp. 28-44.

Corporation may be quite high.

Fourth, the profitability of a Public Corporation is directly linked with the efficiency of the technical, organizational and financial operations of the enterprise. It is evident that technical and organizational efficiency may be improved through proper training, and organization and methods research. But financial efficiency remains illusive; because it involves all the aspects of finance including sale, purchase, risks, market research, price fixation and discrimination and the decisions to expand or contract the enterprise as per the 'law of the situation'.

In order to ensure profitability of public enterprises there should be clear-cut policy decisions regarding:

- (a) the minimum level of efficiency expressed in terms of profit-making by any Public Corporation;
- (b) the autonomy or independence of the public enterprise units, which should remain free from external control in so far as its own profit and capital formation is concerned;
- (c) the proper balances with regard to the claims of indirect returns to the overall economy of a nation; and
- (d) the measures for the removal of inefficiency, which are under peculiar limitations in the public sector.⁸

⁸Ramanadham, ibid., p. 14.

It has been established that "the profitability of the public sector undertakings has so far been relatively low"⁹ and that the Public Corporations have depended substantially "on the savings of others to finance their investment"¹⁰ - even in the United Kingdom.

In view of the fact that a great bulk of national income is invested in public undertakings and that a large proportion of public sector investment comes from external loans that need to be redeemed within stipulated period - this being the case with developing countries - profitability of public enterprises assumes great importance.

Professor John K. Galbraith says:

If I had to lay down a measure for performance for the publicly-owned corporation in the developing country it would be the earnings that it is able to put into its own expansion The most successful form would be the one which by its efficiency and drive finds the earnings that allow it the greatest growth.¹¹

Basic Requirements for Efficiency of Public Corporation

The efficiency of public enterprises is the crucial matter that needs thorough study. It is related to the effective use of men, money and material. In the absence

⁹Ramanadham, ibid., p. 24.

¹⁰Ramanadham, ibid., p. 25. quoting

¹¹Ramanadham, ibid., p. 24 quoting J.K. Galbraith's address on "Public Administration and the Public Corporation" at the Indian Institute of Public Administration, New Delhi, on 25th of August, 1961.

of proper organization, efforts of people to achieve an end remain ineffective. Contrarily, without proper personnel the most logical organizational set up becomes useless.

Professor A.H. Hanson has pointed out that,

the basic requirements for efficiency in an enterprise . . . are essentially two: first, a competent and responsible management free to run an enterprise within the limits laid down by the Constitution, legislation and Government policy decision; secondly, and this is really the consequence of the first - that the enterprise should possess personnel and financial systems which are sufficiently similar to those prevailing in the best-organized private enterprises not to place it at any great disadvantage.¹²

Competent and Responsible Management

The top-level management of public enterprises presents a wide variety so far as its form, composition, and membership are concerned. There are three basic types of structure of the top-level management, viz.,-

- (a) Public enterprises whose top-level management is organized in the same manner as the management of private trading companies;
- (b) Public enterprises where top-level management is in the hands of a board of directors;
- (c) Public enterprises where management is entrusted to one person.¹³

Public enterprises in the form of Public Corporations fall within the second type so far as top-level

¹²Hanson, Managerial Problems in Public Enterprise, op. cit., p. 16.

¹³Nikola Balog, op. cit., p. 61.

management is concerned. Most of the Public Corporations, do have Governing Boards with wide powers and responsibilities.

The Governing Board

The Governing Board occupies a position of crucial importance in the direction and management of public enterprise in general and Public Corporation in particular. The success or failure of a Public Corporation depend more on the quality and composition of the Governing Board than on any other single factor.

The importance of the Governing Board may be appreciated if one reflects on the matters which will normally come for approval or decision to the Governing Board of a Public Corporation. According to W.A. Robson, the Governing Board is concerned with:

The appointment of a chief executive and the principal officers; the programmes of current and future output; plans for development or reorganization; major projects for new equipment; relations with Ministers on matters of policy; the consideration of serious criticism by Parliament, consumers or the public and the action to be taken; the result of negotiations with or demands by trade unions on important matters; general policy concerning finance, capital expenditure, prices, surpluses and deficits; the policy of the undertaking in staff matters, including questions of wages, incentives, morale and consultation with employees; the promotion of further legislation (whether private or public Bills) and the attitude to be taken towards other Bills; the methods by which the corporation is to comply with ministerial directions and the attitude of the corporation to requests or proposals by Ministers; serious conflicts of interest or policy with other public cor-

porations or with private interests; the allocation of sums to reserve and the management of reserve funds; the action to be taken by the corporation to reduce operating deficits; the adoption of important new inventions, processes or improvements; policy on research and development; training and education.¹⁴

The distinctive position of the Governing Board of a Public Corporation - compared to that of a private corporation - is inherent in the nature of public enterprise itself. Unlike a private corporation, where the board acts as a representative body of the shareholders, the Governing Board of a Public Corporation "is entrusted with duties to the consumers, to the employees, to the Government, to the Parliament and to the nation".¹⁵

Despite the importance attached to the Governing Board, the concept is not free from criticisms. One of the criticisms is that if a Public Corporation is to execute the policy-decisions taken by the Ministers and the Parliament, vis-a-vis its functions the Governing Board may become an ineffective body with no functions at all. This criticism is based on the assumption that the essential function of a Governing Board is to take policy-decisions. But these critics seem to have lost sight of the

¹⁴Robson, Nationalized Industry and Public Ownership, op. cit., p. 212.

¹⁵Ibid., p. 213.

fact that "there is an important area of subpolicy and decision making midway between the overall action of Congress and the point where the administrator takes up".¹⁶ It is this area which the Governing Board must look after in order to operate Public Corporations with efficiency and accountability.

The second criticism against the Governing Board is that it leads to what is called diffusion of responsibility¹⁷. The existence of a Governing Board, between the Minister and the management creates the problem of differentiating the responsibilities. Even within the Board it is possible for individual members to avoid, obscure or dilute the responsibilities by passing the buck from one to another. Harold Seidman has also pointed out that the recommendation for the replacement of the Board of Directors of the Reconstruction Finance Corporation by a single administrator by the U.S. Congress was the result of the diffusion of responsibilities.

Inherent in this criticism is the lack of faith in group action. But in the U.K. where "a genuine collec-

¹⁶Marshall E. Dimock, "Government Corporations: A Focus of Policy and Administration", American Political Science Review, XLIII (October, 1949), p. 916.

¹⁷Harold Seidman, "The Theory of the Autonomous Government Corporation: A Critical Appraisal", Public Administration Review, XII, No. 2 (Spring, 1952), pp. 89-96.

tive leadership"¹⁸ is sought for Public Corporations. The Governing Board "will remain right as far ahead as we can see".¹⁹

The third criticism against a Board is that when it is given functional responsibilities, the danger of bringing too much detail to the top becomes more probable. Further:

the specialists who constitute the Board may be dominated by their own specialisms and consequently unable to take a broad view. They may not even be particularly interested in the policy of the organization as a whole because they are too much immersed in day to day administration.²⁰

However, effective delegation and proper regulations could do away with the problems of details and specialisms in the Governing Boards of Public Corporation.

In spite of all these arguments against Governing Boards, they have been created by the laws establishing Public Corporations in several countries. The reason may be found in the functions that a Governing Board is expected to perform. Although in the U.S. "the trend is towards single administrator or a single administrator and advisory Board, particularly when the Corporation operates outside

¹⁸Hanson, Managerial Problems of Public Enterprise, op. cit., p. 36.

¹⁹National Coal Board, Report of the Advisory Committee on Organization (Fleck Report) (February, 1955), para 48, quoted by Hanson, Nationalization: A Book of Readings, op. cit., p.143.

²⁰Hanson, Managerial Problems of Public Enterprise, op. cit., p. 39.

the areas of banking and finance",²¹ the Governing Board remains the ideal form of top-management in the U.K. and Commonwealth countries.

Types of Governing Boards

Broadly speaking, Boards are of two kinds or - more correctly - there are two extremes in Board organization. At the one extreme there is the Functional Board and at the other the Policy Board".²²

The Functional Board consists predominantly of professional full-time members who remain entrusted with one or more functions of the Corporation. Because of their background and eminence in the fields of production, purchase, finance or other operational aspects of an enterprise these members are given the responsibility commensurate with their experience.

The reasons for entrusting operational responsibility to Board members are not far to seek. It is assumed that all the members of the Board are not required to exercise leadership and to watch over the activities of the whole concern. As such, some of them should preferably be given operational responsibility in order to give the best of their knowledge and skill to the development

²¹Ibid., p. 34.

²²Ibid., p. 37.

of services of the enterprise. And, as the operation of large-scale enterprises extends beyond the immediate vicinity it is desirable that some members of the Board should have executive duties, which would enable them to gain knowledge required for effective policy decisions.

The Governing Board of the National Coal Board in the U.K. is a functional Board. It consists of twelve members with "a full time chairman and deputy chairman six other full-time members and four part-time members."²³ While the Chairman and the deputy-chairman have no specific responsibility except to preside over meetings and to watch over the work of the headquarters, six full time members are responsible for production, marketing and purchasing, Industrial Relations staff, Finance and Scientific and Medical affairs.

The Governing Boards of the East Pakistan Industrial Development Corporation, the East Pakistan Water and Power Development Authority and the East Pakistan Inland Water Transport Authority are also Functional Boards. The Chairman and Members of these Boards are appointed as full-time employees and are entrusted with such functions as finance, engineering, production and so on.

²³Robson, Nationalized Industry and Public Ownership, op. cit., p. 225. Also Appendix F in Om Prakash, op. cit., pp. 252-255 and Fleck Report, op. cit., paras 43-55.

The Policy Board is "intended to provide the enterprise with a genuine collective leadership".²⁴ The Policy Board may have "both full-time and part-time members, none of whom are responsible for specialized functions as executive heads of departments".²⁵ While members of the Functional Board are preferably recruited from within the organization, on the basis of their "experience and independent-mindedness"²⁶ to work as members in a relatively small Board, those of Policy Boards are recruited from various sections of the society.

It has been pointed out by Om Prakash²⁷ that members of the Functional Boards - experts in different fields - often prove to be bad administrators. They are criticized for vindictiveness and shortsightedness - vis-a-vis their relationship with subordinates. They often fail to bring about a good teamwork which is essential for the successful functioning of a Board. As against this, a Policy Board, providing for the representation of different interest-groups, may gain cooperation of

²⁴Hanson, Managerial Problems in Public Enterprise, op. cit., p. 50.

²⁵Robson, op. cit., p. 223.

²⁶Hanson, Managerial Problems in Public Enterprise, op. cit., p. 51.

²⁷Om Prakash, op. cit., p. 141.

all concerned, promote workers' participation and adopt policies that often become consistent with those of government.

A Policy Board is criticized for being the 'same old gang' consisting of the yes-men to Ministers who exercise the discretion of appointing members.²⁸ As members need not have experience in the operation of any industry, a Policy Board becomes a 'Board of Laymen' or a 'Board of All-rounders'.²⁹ Moreover, a Policy Board is too big a group - when different shades of opinion are represented - to work with the similar efficiency as the Functional Board can.

Hanson³⁰ has a preference for the Policy Board for enterprises in developing countries. Experiences in India and Pakistan, however, do not show the preference for Policy Boards only. Policy Boards are established for financial and banking corporations like the State Bank, the Life Insurance Corporation and State Financial Corporations in India and the State Bank, the Agricultural Development Bank and the Industrial Development Bank of

²⁸Hanson, Managerial Problems in Public Enterprise, op. cit., p. 51.

²⁹Om Prakash, op. cit., p. 141.

³⁰Hanson, Public Enterprise and Economic Development (London: Routledge, Kegan Paul Ltd., 1959), pp. 403-410.

Pakistan. But, for corporations for industrial and resource development programs, Functional Boards are also established. Thus, the East Pakistan Industrial Development Corporation, the East Pakistan Water and Power Authority, the West Pakistan Industrial Development Corporation and the West Pakistan Water and Power Development Authority have Functional Boards. In India, the Damodar Valley Corporation has a Functional Board.

The question whether a Corporation should have a Functional or Policy Board is a controversial one. It has been pointed out by Om Prakash that the preference for one or the other type of Boards is conditioned by the socio-economic conditions, the availability of qualified persons, the technical nature of the operations and even the faith in the democratic principles. He further contends that:

while technological considerations go in favour of the functional Board, sociological considerations suggest superiority of policy Board. . . . In case of industrial corporations, due place must be given to functional experts In case of commercial and social service corporations, the role of functional experts may be less important; even then, it will be quite significant. While a policy Board is, on the whole, preferable, the ideal of a small-sized full-time Board should not be given up.³¹

³¹Om Prakash, op. cit., p. 141.

Apart from these two major types of Governing Boards, there may be Representative Boards as in the case of the Port of London Authority, or 'Advisory Boards' with limited influence on the management of public enterprises.

There are a number of areas vis-a-vis Governing Boards that need to be mentioned. They are the composition, of boards, appointment of members, tenure and remuneration of members, sources of recruitment, qualifications and the size of the Boards. Even frequency of board meetings have bearing on the operation and efficiency of Public Corporation. As W.A. Robson concludes,

it is of profound and fundamental importance that the prestige, status and dignity of these posts should be upheld and enhanced. Only by that means shall we secure at the summit of the Public Corporations the men of genius and energy whose leadership is essential for the success of these great industries.³²

Personnel Policy

Moving on to the discussion on personnel policy it may be pointed out that the success of a Public Corporation depends greatly on a sound personnel policy. A sound personnel policy should provide for recruitment, training, promotion, supervision, compensation, job ana-

³²Robson, op. cit., p. 242.

lysis, job classification, conciliation, consultation and merit assessment of employees apart from proper assessment of personnel needs and utilization of available manpower. Development of personnel through pre-service and in-service training adds to the effectiveness of a personnel policy.

Personnel policies of Public Corporations need to be viewed, efficiency part, from the perspective of national manpower. "But manpower budgeting, on which the proper development of resources depends, rarely receives the attention given to financial accounting."³³ In case of public corporations the problem assumes greater dimension. On the one hand, Public Corporation fosters entrepreneurial skill and knowledge; while it also attaches importance to technically qualified personnel. Where a Public Corporation takes over existing enterprises - the old guard of the existing personnel concomittantly goes into the payroll of the Corporation. They bring with them their traditional patterns of behaviour - viz., formalism, proceduralism and the practice of 'passing the buck'. The dissemination and acceptance of new ideas is a major problem. "Too often, boldness is regarded with distaste; a reputation for unorthodoxy weighs more heavily in the balance the achievement of success".³⁴

³³Shanks, op. cit., p. 167.

³⁴Ibid., pp. 179-180.

The traditional rivalry between the generalist and the specialists continue to exist in Public Corporations. The dilemma is that, being large organizations with many-fold activities, Public Corporations need men of highly developed professional, scientific and technological skills; but "to keep their internal and external activities in balance, they need men capable of thinking in general terms, picking out what is relevant from masses of complex detail and free to formulate ideas which can form the basis of policy".³⁵

The issue of traditional old guards may be avoided - specially in developing countries where Public Corporation is entrusted with development of resources and industries - by circumventing the existing governmental bureaucracy.³⁶ Even in case of such an attempt there may arise two or three tiers of bureaucracy,³⁷ while the basic problem remains unsolved.

³⁵Ibid., p. 169.

³⁶Such an idea worked behind the creation of Public Corporations like the Aswan High Dam Authority and the Suez Canal Authority in Egypt. See Editorial essay "The Road to Administrative Revolution" in Al-Ahram (Cairo), March 13, 1964.

³⁷S.N. Eisenstadt, "Problems of Emerging Bureaucracies in Developing Areas and New States" in Bert F. Hoselitz and W.E. Moore (eds.) Industrialization and Society (Mouton: UNESCO, 1963), p. 160.

The problem becomes more complicated, when in a developing country - already short of administrators and professional persons - Public Corporation becomes an instrument of action for development purposes. Because there is a lack of entrepreneurial skill, - even in the private sector - civil servants step into the role of entrepreneurs, when they are appointed as Directors of Boards or as supervisors at different levels.

The personnel problems of Public Corporations has another facet. Incentives under some circumstances brings up entrepreneurship; if this is to be tapped for the efficient performance of a Public Corporation, then there must be leeway for the utilization of such entrepreneurial zeal within the Corporation. Otherwise there may be a great deal of 'turn-over', which could affect the efficient operation of an enterprise specially in a developing country where there is scarcity of entrepreneurial skill.

The Public Corporation is one of the employers in a country. Other customers in the employment market are the private enterprise and the government. Personnel policies of a Public Corporation, as such, need to be so adopted as will build a commendable 'public image' for it and enable it to recruit and retain skill that is scarce in supply. Such a 'public image' may come in good stead of a Public Corporation in a country like the U.K., India and Pakistan,

where government employment is held in high esteem and and also in a country like the U.S., where private enterprise remains the main contender in the employment market. However, the provisions for personnel matters of public corporations differ greatly from country to country. Despite the importance of personnel policies vis-a-vis efficiency, this aspect has remained obscure and anomalous, except in case of the T.V.A.

The question whether the employees of a Public Corporation should be a civil servant or not is yet to be answered. At one extreme is found the contention that the employees of a Public Corporation should not be civil servants. For example, "the T.V.A. was exempted from the Civil Service laws; political patronage was prohibited".³⁸ In a country like the U.S. where civil service laws are quite elaborate, such an exemption was quite interesting. But keeping in view the enormous responsibility of the T.V.A. whose success depended on its ability to attract men and women having distinctive knowledge and skills, Congress left the Authority supreme in regard to personnel, Apart from recruitment, selection, training, promotion,

³⁸Gordon R. Clapp, "T.V.A.'s Working Philosophy of Industrial Relations" in Hanson, Public Enterprise, op. cit., p. 73.

and other facets of personnel administration, the T.V.A. "established machinery for handling grievances and for developing cooperative relationships with employee organizations and principles relating to hours of work, compensation, training, etc."³⁹ This is because of the fact that "more than 200,000 men and women in almost all professions and trades have at one time or another been employees"⁴⁰ of the T.V.A.

Personnel management of the National Coal Board in the United Kingdom presents a different picture. While the T.V.A. was a new organization with flexible provisions for its personnel, the National Coal Board took over such coal mines all over the U.K. as had a large army of workers. In fact, over 700,000 out of the Board's 750,000 industrial employees were employed before nationalization.⁴¹

The Coal Industry Nationalization Act, 1946 laid down the Board's statutory obligations to their employees. The Act provided for the safety, health, and welfare of the employees including pension rights.⁴² The Act also provided for:

³⁹Clapp, ibid., p. 74.

⁴⁰Clapp, ibid., p. 72.

⁴¹R.S.S. Allen, "The Legal Relationships of a Nationalized Industry", in Friedmann, The Public Corporation, op. cit., p. 445.

⁴²The Coal Industry Nationalization Act, 1946, Sections 1(4) and 37(2).

- the establishment and maintenance of joint machinery for:
- (a) the settlement by negotiation of terms and conditions of employment, with provision for reference to arbitration in default of such settlement (known technically as "conciliation"); and
 - (b) consultation on questions relating to the safety, health and welfare of such persons and on the organization and conduct of the operations in which such persons are employed, and other matters of mutual interest to the Board and such persons arising out of the exercise and performance by the Board of their functions (known technically as 'consultation').⁴³

By the introduction of its 'Ladder Plan', under which everybody in the industry was given a chance to learn mining or some other form of engineering, its ambitious university scholarship scheme, and its large-scale management training scheme the National Coal Board succeeded in recruiting and retaining trained personnel. The other nationalized industries, were, however, less fortunate in this regard.⁴⁴

In India and Pakistan Public Corporations have the power to make rules for the "remuneration and privileges"⁴⁵ offered to their employees. But all these rules and regulation were to be "not otherwise inconsistent with the Service Rules as the Provincial Government, may, in con-

⁴³Allen, op. cit., 444.

⁴⁴For a thought provoking discussion, on "Staffing and Recruitment of Public Enterprises", see Shanks, op.cit., pp. 167-181.

⁴⁵The Indian Air Corporations Act 1953 (No. 27 of 1953) Section 8(2).

sultation with the Authority determine".⁴⁶ In addition to these provision the employees of Public Corporations shall "be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code, 1860".⁴⁷

One interesting feature of the rules for the personnel of Public Corporations in Pakistan is that they describe the status, privileges and the benefits for Government servants working on lien with these Corporation. Rules for the 'direct recruits' of these organizations are not given in details.

In respect of personnel policies it may be said that Public Corporations are starting from scratch. A relatively higher degree of freedom is accorded to the British Public Corporations.⁴⁸ In the U.S. the provisions of the Ranspeck Act of 1940, which gave the President the powers to impose civil service conditions upon any of the public enterprises - except of course, the T.V.A. - are used by other countries almost as a model for the control of personnel policies of public enterprises.

⁴⁶East Pakistan Water & Power Development Authority Ordinance, 1959 (No. 11 of 1959) Section 17(2).

⁴⁷Ibid., Section 19. It may be added that Pakistan adopted the Indian Penal Code 1860, (Act No. XLV of 1860) which was in force at the time of independence.

⁴⁸Hanson, Managerial Problems of Public Enterprise, op. cit., p. 85.

The main effects of such provisions for the control of personnel policies are: one, an almost universal trend towards the assimilation of conditions of service in public enterprise with those in the general government service - to make them as alike as possible, not by bringing the civil service pattern nearer to the public enterprise pattern, but vice-versa;⁴⁹ two, it amounted to the denial to public enterprise of the freedom in respect of personnel policies.

According to Hanson, such an assimilation had its own rationale. One of them is the prestige enjoyed by the civil service in many countries. The second is the question of fairness and equality, which demands that within the national community there should be one standard of employment. The third reason is the elimination of competition for scarce personnel. The last cause may be found in the desire on the part of the national government to bring about some kind of regularity in its policy.

Commercial Policy

Most of the public corporations, examined in this work, have, as one of their objectives, a 'sound commercial policy' vis-a-vis their operations. Basically a 'sound commercial policy' involves three things: (a) capital struc-

⁴⁹Ibid., 85.

ture, (b) pricing, and (c) disposal of profits.⁵⁰

(a) Capital structure.-- Theoratically speaking, a Public Corporation should be self financing; its capital requirements - including servicing of loans, compensation and depreciation - should come from the sources specified under the statutory provisions. Some of the Public Corporations may have paid up share capital. Besides this, direct grants loans, subsidies paid by the Government form part of the capital of a Public Corporation. Other sources may includes provisions for bonds, debentures, profits from sale proceeds and specified levies. The creation of 'revolving funds' within the statutory provisions also form part of the capital structure of a Public Corporation.

There are two unique qualifications vis-a-vis the capital structure of a Public Corporation. One of them is the provision for securing prior approval of the Government to raise capital in the open market. The other qualification is that the capital structure, "in case of certain corporations, does not totally consist of governmentally supplied funds carrying an interest; a part is derived from subscriptions from other sources and these carry dividends, which in some cases, can be within flexible limits".⁵¹

⁵⁰Ramanadham, The Structure of Public Enterprise in India, op. cit., p. 145.

⁵¹Ibid., p. 152.

Thus, a mixed capital structure is provided for the Public Corporation.

The mixed capital structure of public corporations is rather a digression from the accepted pattern. But such a digression has at least two justifications, according to Ramanadham. First, by allowing those corporations to float capital from non-governmental sources the Government can divert resources to such corporations as are too weak to borrow from the open market. Leaving aside the question of investment planning, this practice enables the Government to follow, with limitations, an optimum policy of resource allocation. Second, by the practice of floating capital from non-government sources, Public Corporations help associate the initiative of private enterprise with the public sector.

The mixed nature of capital structure of Public Corporations is not an unmixed blessing. Hanson points out that,

if the enterprise issued to the public shares on which the interest varied according to its profitability two consequences would follow. First, the corporation or the enterprise would have to aim at making the maximum of profit; second, it would have to give the holders of stock representation on the Board. But profitability . . . is not necessarily the main purpose of public enterprise . . .; and if representatives of private shareholders were made members of the Board, then the enterprise would automatically cease to be fully public.⁵²

⁵²Hanson, Managerial Problems in Public Enterprise, op. cit., p. 130.

In practice, the rigid adherence to the raising of capital from public sources only i.e. from the government is rather limited. In the U.K. the Electricity Board issued Electricity stock, the Gas Council issued Gas stock, The Transport Commission issued Transport stock and so on. But, on the contrary, the National Coal Board raised its capital from government loans and grants only. In India, the Industrial Finance Corporation, the Delhi Road Transport Authority, the Damodar Valley Corporation and the Air Corporation - among others, have statutory provisions for floating loans from non-governmental sources by issuing bonds and debentures.⁵³ In Pakistan, Public Corporations with the responsibility of extending credit facilities have provisions for selling shares to the private individuals and corporations. The Water and Power Development Authority - one each for East and West Pakistan - were empowered to raise capital from sources other than the Government.

The apprehension expressed by Professor A.H. Hanson with regard to the involvement of private capital in Public Corporations may be viewed with reservation in case of East Pakistan Industrial Development Corporation. This Corporation follows a policy of 'disinvestment' whereby

⁵³See Table 31 on Financial Provisions of 12 Public Corporations in India in Ramanadham, The Structure of Public Enterprise in India, op. cit., pp. 145-152.

completed projects like jute mills are transferred to the private sector. Naturally, as such, this Corporation attempts to introduce more and more private capital into each project that it starts, in order to 'disinvest' the same by sale to private sector.⁵⁴

From the analysis above, it may be concluded that dogmatic approach to raising capital of Public Corporations is giving way to more practical considerations.

(b) Pricing.-- The adherence to the principle of self-sufficiency in finance is the basic feature of Public Corporations. "The British Acts include the almost uniform provision that the receipts shall not be less than the expenses".⁵⁵ Beyond this, there is hardly any provision with regard to pricing of products of public corporations.

As evident from the analysis in earlier part of this chapter, public enterprise prices differ in purpose from those of private units. This is because of the distinctive nature of public enterprise itself. One of the causes of this distinctiveness is the fact that some public

⁵⁴The Pakistan Industrial Development Corporation, the parent body of the East Pakistan Industrial Development Corporation, sold the Karnaphuli Paper Mills to a private corporation in 1959.

⁵⁵Ramanadham, The Structure of Public Enterprise in India, op. cit., p. 156.

enterprises operate with a significant degree of monopoly.⁵⁶ The question of competitive prices, as such, becomes an impossibility. Even when a public enterprise, under a Public Corporation, is one of a few undertakings in an industry, public and private - the possibility of having a seller's market of that industry e.g., fertilizer and steel, - may blur the market mechanism.

From the point of view of cost, a Public Corporation works under limiting conditions. Apart from the possibility of having under-utilization of its capacity, which influences the cost of production, a public enterprise may be affected by (i) social costs, (ii) propriety costs, (iii) costs of external decisions, and (iv) costs of public organization.⁵⁷

The pricing policies of public enterprise, as such involve considerations that are not found in private enterprise. Whether or not the installed capacity of the enterprise should be utilized, whether or not the social costs be recovered are policy decisions which do have influences

⁵⁶One of the three primary duties of the National Coal Board was "to work and get the coal in Great Britain to the exclusion of any other person". . . as provided under section 1(1) of the Coal Industry Nationalization Act, 1946.

⁵⁷For details see Ramanadham, Finances of Public Enterprise, op. cit., pp. 61-76.

on the price structure of products of public enterprise. Prices of products as such remain higher than competitive level if social costs are recovered; prices may be lower than the cost price if subsidiary is allowed by the Government.⁵⁸

One other factor that influences the pricing policy of public enterprise is the 'public service' principle. Uneconomic ventures have been taken up under such considerations, so as to render service to the people even when the returns remain inadequate. The "discriminatory pricing policy" adopted by the Air Corporations and the Railways is one of the methods by which prices of public enterprise products is fixed.

Public Corporations in Pakistan and India follow a variety of pricing policies. The Air India International and the Indian Airlines Corporations, the Pakistan International Airlines Corporation and the Railway Boards in

⁵⁸J.R. Sargent in his article "Nationalized Industries and Economic Policy" in Michael Shanks (ed.) op. cit., pp. 253-54 says, "Nationalized Industries have borne certain costs which they ought not to have borne, and they have not borne certain costs which they ought to have borne. The net effect of these economic sins has almost certainly been that their prices have been lower than necessary to recover the true costs of their operations, or in other words, they have been such as to subsidize the users of their products". He goes on to say, "the subsidy has not, of course, been the explicit kind which is publicly scrutinized by Parliament before the money for it is voted".

Pakistan follow "discriminatory pricing policy". The East Pakistan Water and Power Development Authority, which has almost monopolistic operations in the generation and supply of power and water, has the following provision vis-a-vis prices:

The rates at which the Authority shall sell power and water shall be so fixed as to provide for meeting the operating costs, interest charges and depreciation of assets the redemption at due time of loans other than those covered by depreciation, the payment of any taxes and a reasonable return to investment.⁵⁹

While pricing practices vary in their content and motivation "there is a diffusion of responsibility between the Government and the public enterprises respectively for the pricing policy"⁶⁰ and the practices in the U.K. differ from those in Pakistan and India. Contrasting them V.V.

Ramanadham says:

It is true that the British Acts are themselves not sufficiently equipped with pricing provisions. However, there are some points of contrast with the Indian position. Firstly, there is mention of 'reasonable prices'; and some broad reference to costs as the basis of prices is found in many an Act. Secondly, the trend of legislative amendment is towards the addition of helpful pricing provisions as may be seen from the recent laws relating to transport and electricity. There is a third element of contrast, viz. that there is some provision for the control of prices by consumers and statutory

⁵⁹The East Pakistan Water and Power Development Authority Ordinance 1959 (Ordinance No. 1 of 1959) Section 25 (ii).

⁶⁰Ramanadham, The Finances of Public Enterprise, op. cit., p. 98.

commissions (e.g. The Transport Tribunal); however imperfect, this mitigates the consequences of inadequate pricing provisions to some extent.⁶¹

(c) Disposal of profits.-- Disposal of profits has a great deal of influence on the purpose and efficiency of public enterprises. The importance of profit motive and its ramifications described earlier, indicate that profit motive permeate the working of all Public Corporations.

In the United Kingdom the Corporate Capital comes mostly from the Government and the 'surpluses' earned by the Public Corporations are deposited with the exchequer. In India "some of the corporations are empowered to declare dividends, as contrasted with the payment of interest charges; the rates of dividends are flexible though within statutory limits."⁶² This is so, because in India Corporate Capital comes partly from shares held by private entrepreneurs.

In Pakistan the question of dividend goes along with the mixed nature of the paid up capital of the Public Corporations. But they are kept within statutory limits and at times the surpluses go to form the different statutory 'funds' created for every corporation.

⁶¹Ramanadham, The Structure of Public Enterprise in India, op. cit., p. 157.

⁶²Ibid., p. 153.

CHAPTER V

PUBLIC ACCOUNTABILITY

Public accountability of enterprises run by Public Corporations is a major question. In principle, public accountability "means that the public must have the final word in the control of the industries it owns".¹ It is in effect, "the uphill task of convincing the people that public undertakings are being run in the best interest of the society".²

When a public enterprise is managed by government department, the question of accountability becomes easier. In a democracy the Minister, who is in control of the enterprise, is accountable to Parliament for anything he or his department does or for anything he has power to do - whether he does it or not. Accountability for departmental enterprises is fulfilled (a) through parliamentary questions, (b) through debates under several procedures, and (c) through the examination of the reports of the Comptroller and Auditor General by the Parliamentary Committee on Public Accounts.³

¹United Nations, Some Problems in the Organization and Administration of Public Enterprises in the Industrial Field (New York: United Nations, 1954), p. 55.

²Om Prakash, op. cit., p. 191.

³Asok Chanda, Aspects of Audit Control (Bombay: Asia Publishing House, 1960), p. 54.

Public Corporations are statutory bodies. The 'self-denying ordinance',⁴ by which the Parliament creates a Corporation, further purports that the control of the enterprise shall vest in a Board, with power to manage it in the best way possible. As such, "the principle of parliamentary accountability does not hold the Minister responsible for things which Parliament has already decided he is not responsible for".⁵

Having no shares nor shareholders,⁶ Public Corporations are free from direct shareholder control as well. In a Public Corporation shareholders are the members of the community at large. So, in line with the basic philosophy of maintaining control over the management of the public enterprise by the owners, - herein the disguised shareholders, some devices have been made to ensure public accountability.

Since Public Corporations have an element of autonomy in the overall functioning of the industries, a subtle distinction had to be made between "major policy" and

⁴This expression was used by Lord Reith in the Report from the Select Committee on Nationalized Industries, 1953 quoted by Ramanadham, Problems of Public Enterprise, op. cit., p. 112.

⁵Herbert Morrison, Government and Parliament (London: Oxford University Press, 1954), p. 256.

⁶It may be pointed out that this feature of Public Corporation is not there in India and Pakistan, where certain percentage of shares are sold to the private shareholders.

"management" aspects of administration; and the former envisaged as a fit matter for public or parliamentary control.⁷

Provisions for such parliamentary control on the "major policy" matters, however, centre round, what may be called, the inception of some body with a degree of investigatory power.⁸ The establishment of criteria or canons by which the Corporations are expected to be accountable remained relatively less emphasized. As such, these investigatory bodies could only point out past mistakes without offering the managers valid criteria for subsequent actions. In the absence of any criteria, the idea of "informing Parliament"⁹ became a basic element in the concept of public accountability.

It is evident, however, that the concept of public accountability is a very wide one. For the sake of conceptualization:

⁷Ramanadham, Problems of Public Enterprise, op.cit., p. 112.

⁸Ibid., p. 113.

⁹In the U.K. that the Parliamentary Select Committees, set up in 1951 and 1952, were appointed "to consider the present methods by which the House of Commons is informed of the affairs of the Nationalized Industries and to report what changes, having regard to the provisions laid down by Parliament in the relevant statutes, may be desirable in these methods". Quoted by Raymond Nottage, "Reporting to Parliament on the Nationalized Industries", Public Administration, XXXV (Summer, 1957), p. 143.

public accountability may be defined as a framework of assurance: (a) that the commercial performance of the corporation is efficient both in the short run and in the long run; (b) that the Board's decisions shall not contain implications of social policy but shall be based on commercial criteria in the main; (c) that any parliamentarily approved or ministerially directed decisions are implemented in practice; and (d) that the Minister, as distinct from the Board, shall be accountable for his own influence on the Board's working.¹⁰

The connotation of public accountability is so broad and composed of such diverse issues that exclusive insistence on one or the other element of it would not meet the real expectations of the community vis-a-vis the working of a public corporation. This is one of the reasons for setting up different agencies for the purpose of ensuring public accountability.

The problem of public accountability and the methods or agencies for ensuring it may be examined under the following headings:

- (a) Parliamentary control;
- (b) Executive (or Presidential and Ministerial) control;
- (c) Comptroller and Auditor General's control;
- (d) Expert Reviews; and
- (e) Consumers' Councils and other Advisory Organization.¹¹

¹⁰Ramanadham, Problems of Public Enterprise, op. cit., p. 114.

¹¹Om Prakash, The Theory and Working of State Corporation: With Special Reference to India (London: George Allen & Unwin Ltd., 1962), pp. 191-213.

Since Public Corporations are statutory bodies, provisions for different types of control are embodied in the statutes and the rules and regulations made thereunder. Further provisions for control are available in the overall constitutional-legal fabric of the country. It is not surprising, as such, to find different types of provisions; in fact, control provisions, like other provisions, vary from corporation to corporation and from country to country.

Parliamentary Control

Parliament is the representative of public opinion; and, as in U.K. and India, it is the sovereign body with final say in all matters. Naturally, it is the supreme body which could take controlling measures over public corporations, on behalf of the 'disguised share-holders'.

Parliamentary control is effected at different stages. Even before the birth of a Public Corporation the Parliament gets the opportunity of establishing the basic framework of public accountability in the shape of provisions made in the Bill seeking to establish a Public Corporation. Parliamentary control is exercised through the right to amend the Act or the right to 'wind up' the Corporation and the right to impose restrictions on the mono-

polistic behavior of such Corporations as have monopoly rights. Further control by Parliament is exercised through sanctioning of loans, grants and subsidies, if they are subject to approval of the Parliament. The practice of questioning in the Parliament helps control. Budget is another instrument of parliamentary control.

The most important of control mechanisms available to the Parliament is the Special Committee for Nationalized Industries - or Public Enterprises. Such Committees have been proposed to be formed both in India and in the U.K. on the grounds that a few members of Parliament may give intensive study to the problems of Public Corporation and that there may be interrogation of witnesses in a committee room in an atmosphere which will be free from political prejudices.¹²

However, pending appointment of the 'Special Committee for Public Enterprises', "the activities of State Corporations in India have been examined with great thoroughness by the Estimates Committee and the Public Accounts Committee of the Parliament, the role of the former being

¹²There is great deal of controversy as to the efficacy of the creation of a Special Committee for Public Enterprises. See, Report from the Select Committee on British Nationalized Industries, 1952; Indian Institute of Public Administration, Question of a Parliamentary Committee for Public Enterprises (New Delhi: 1960); and the Report of the Krishna Menon Committee, India, 1959, op. cit.,

all the more praiseworthy".¹³

Likewise, the Select Committee - appointed by the House of Commons on November 29, 1956, to examine 'the Reports and Accounts of the Nationalized Industries established by Statute' - surveyed the current policies and trends in the fields of capital expenditure, production and marketing.¹⁴

In Pakistan parliamentary control over public corporations is yet to take concrete shape. Apart from the detailed discussions held on the Railway Budget¹⁵, in the provincial assemblies, public corporations draw varied criticism from members of assemblies during 'question hours'. The trend, however, is in favor of streamlining not only in matters of finances but also in those of administration.¹⁶

As regards parliamentary control the question of proper balance between autonomy and public accountability has haunted the mind of those who are concerned. Sir Richard Boyer, chairman of the Australian Broadcasting Commission has observed:

¹³Om Prakash, op. cit., p. 194.

¹⁴Ibid., p. 197.

¹⁵The Railways are now under two Railway Boards and operate on commercial considerations. But under provisions of laws governing the Railways the annual budget is placed in the Provincial Assembly for approval.

¹⁶Pakistan Times (Lahore), October 12, 1962.

If the accent is to be heavily placed on the safeguarding and magnifying of parliament's powers, the necessary measures of independence and sense of responsibility of the corporation is apt to be lost. On the other hand, if the efficiency of the corporation is sought to the exclusion of proper democratic safeguards, the whole concept of public responsibility can be in jeopardy.¹⁷

The Budget as an instrument of parliamentary control is widely used. There is however wide variations in the use of budgetary control of Public Corporations. As pointed out earlier, the budget of the Railway Boards are submitted to the Assemblies of East and West Pakistan. Annual Budgets of the E.P.I.D.C. and the E.P.W.A.P.D.A. are to be submitted to the Provincial Government, though there is no provision for their being placed before the Provincial Assemblies.

In India, the State Bank does not submit its budget to the Government at all; the State Electricity Boards submit their budgets to the government for information; the Air Corporations and the Delhi Road Transport Authority are to submit their budgets to government for executive approval; but the budget of the Damodar Valley Corporation is laid before the concerned Legislatures, viz. the West Bengal Legislative Assembly, the Bihar Legislative Assembly and the Parliament - for approval.

¹⁷Richard Boyer, "The Statutory Corporation as a Democratic Device", Public Administration, XXXV (1957), p.30.

Public Corporations in the United Kingdom are not required to submit their annual budgets for government approval. Such a difference between the budgetary practices are inherent in the overall governmental systems in these countries. The tone of control over the budgets of the Public Corporations in India and Pakistan impinges on the essential virtue of the Corporation's financial and managerial autonomy.

It may be pointed out that Public Corporations in India and Pakistan are created for the purpose of implementing public sector development programs proposed within the framework of the national plans. The estimates of income and expenditure of these Corporations form part of the overall resource of the country. These estimates of income and expenditure help appraisal of the resources, which is essential for planning. In the name of autonomy this wider purpose could not be sacrificed.

Executive Control

The executive controls over Public Corporations are exercised by the President, Central Ministers, Provincial Governors and Provincial Ministers in India and Pakistan. General areas of control over the working of Public Corporations are:

- (i) Maximum limits for incurring capital expenditure (beyond these limits, Presidential or Ministerial approval being required);
- (ii) Maximum limits on borrowing powers (including limits on the rate of interest, maturity, etc.);
- (iii) Government approval for the issue and increase of capital and the declaration of dividends;
- (iv) Governmental approval for the appointment of high salaried staff;
- (v) Governmental approval for the changes in prices of rates;
- (vi) Prior approval of operating budgets and the submission of annual reports;
- (vii) Power of the Government, the President or the Minister, to dictate policy matters either by issuing directives 'in the national interest', or requiring the Board of Directors to leave such matters for Governmental decision;
- (viii) Power of Government (President or Minister) to appoint and recall or dismiss members of the Governing Boards (and certain other officers);
- (ix) Power of the Government to revoke the charter and to take over the undertaking; and
- (x) Informal contacts between the Minister and the Board, and wire-pulling through Department Secretaries and Government Commissioners.¹⁸

Apart from these areas of control, the government - i.e. the executive branch of government, may put restrictions in other matters as well. The East Pakistan Industrial Development Corporation for example, has to seek approval of the Government for maintaining credit accounts with banks.¹⁹ The question of approval of the Central Government in case of borrowing money in the open market by the Damodar Valley Corporation may be quite vital; because that involves

¹⁸Om Prakash, op. cit., p. 201.

¹⁹Ordinance No. XXXVII of 1962, Section 17(b).

a major change in the capital structure of the Corporation.²⁰ As regards capital-issue through bonds the T.V.A. is under obligation to secure the approval of the Secretary of Treasury.²¹

The typical power of direction is granted to the Minister vis-a-vis his relationship with the National Coal Board in the U.K. Section 3 of the Coal Industry Nationalization Act, 1946 runs:

The Minister may, after consultation with the Board, give to the Board directions of a general character as to the exercise and performance by the Board of their functions in relation to matters appearing to the Minister to affect the national interest and the Board shall give effect to any such directions.

The role of the President and the Ministers in relation to Public accountability is yet to be played properly. Ministers may fail to keep themselves within the realm of 'policy' and intrude into managerial aspect of a Public Corporation. They may again fail to issue directions in regard to 'national interest' and prefer to influence the Board through consultation, so as to evade responsibility.²² This is more so in the developing countries, where role differentiation is very difficult.

²⁰The Damodar Valley Corporation Act of 1948, Section 31.

²¹Om Prakash, op. cit., p. 204.

²²See Asok Chanda, Aspects of Audit Control, op. cit., p. 57. Also, Ernest Davies, "Who Decides the Public Interest" in Michael Shanks, op. cit., pp. 227-247.

The question of 'national interest' or 'public interest' - itself a highly controversial issue - is often advanced by the executive branch of government as a justification for interference in the affairs of Public Corporations. The T.V.A. Act provided for the takeover of all or any of the property of the Corporation by the government in case of 'national emergency'.

Comptroller and Auditor General's Control

Keeping in view the question of efficiency Public Corporations should incur expenditures with the motto that every unit of money is "most economically intended, expended and rewarded".²³ Such decisions are definitely that of the Board and the management - which is responsible for efficient performance.

Within the organizational set up, it is desirable to have financial units which can work as automatic checks and balances. But such internal machinery for financial checks may remain inadequate in relation to the 'disguised shareholders'. As such an independent audit preferably by the Comptroller and Auditor-General, may be conducted and made public.

²³Ramanadham, Finances of Public Enterprises, op. cit., p. 131.

But "the provision for an independent audit by the Comptroller and Auditor General would, obviously, be invoked only where the normal audit reveals gross mismanagement".²⁴ Normal audit may also be made by commercial auditors; in fact because of the nature of transactions commercial audit is more suitable than audit by such constitutional agencies as the Auditor General.

The purpose of audit vis-a-vis the administration of Public Corporation should be positive guidance for future transactions.

Audit is not an inquisition and its mission is not one of fault-finding. Its purpose is to bring to the notice of the administration lacunae in the rules and regulations, irregularities and lapses, and to suggest, whatever possible, ways and means for the execution of plans and projects, with greater expedition, efficiency and economy.²⁵

However, the type of efficiency audit advocated by Asok Chanda is yet to develop in India as well as in other countries. This efficiency audit is related to 'performance budget; the latter has also barely moved out of the sphere of ideas'.²⁶ The attitude of the auditing staff

²⁴Asok Chanda, Indian Administration (London: George Allen & Unwin Ltd., 1958), p. 202.

²⁵Asok Chanda, Aspects of Audit Control, op.cit., p. 26.

²⁶"A performance budget is one which presents the purposes and objectives for which funds are required, the costs of programs proposed for achieving those objectives and quantitative data measuring the accomplishments and work performed under each program". Quoted from an unpublished memorandum prepared by the U.S. Bureau of the Budget, in Jesse Burkhead, Government Budgeting (5th print.; New York: John Wiley & Sons Inc., 1963), p. 149.

needs to be revolutionized in order to attain the purpose of an efficiency audit. Without such a change in attitude and a good knowledge of administration auditing becomes "a necessary but highly pedestrian function with a narrow perspective and very limited usefulness The function of auditing is strictly a negative one".²⁷

Om Prakash has contended that even this negative function of auditing, viz., that of fault-finding is of considerable importance, specially in developing countries, where public officials, including those in Public Corporations, have not only to act honestly, but they have to demonstrate openly that they have so acted.²⁸

Statutory provisions with regard to audit range from auditing by commercial firms to that by the Auditor General in India, Pakistan and the U.K. The accounts of the E.P.I.D.C. "shall be audited by auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance 1961 and appointed with the approval of the Government by the Corporation".²⁹ On the other hand, the East Pakistan Water and Power Development

²⁷Paul Appleby, Reexamination of India's Administrative System with Special Reference to Administration of Government's Industrial & Commercial Enterprises, op. cit., p. 27.

²⁸Om Prakash, op. cit., p. 209.

²⁹Government of Pakistan, Ministry of Industries, Ordinance No. XXXVII of 1959, Section 19.

Authority Ordinance 1959 (Ordinance No. 1 of 1959) provides, under section 28, that:

the accounts of the Authority shall be audited every year by the Comptroller and Auditor General in such manner as may be prescribed. Copies of the audit report shall be sent to the Authority, and, with the comments of the Authority, to the Provincial Government and shall also be available for public inspection. The Authority shall carry out any directive issued by the Provincial Government for rectification of an audit objection.

It is evident from the audit provisions of these two Public Corporations in Pakistan that there is no indication that an audit may be an useful guide for future actions, except in case of rectifying the objections.

The audit provisions of the British Acts are quite consistent and uniform. The Public Corporations in the U.K. appoint their own auditors. These private auditors are known to be efficient and honest. So the question of shifting the responsibility of auditing to the Comptroller and Auditor General does not arise. "In fact, Britain's Comptroller and Auditor General's observations before the Parliamentary Select Committee during 1953 indicate that there was no great reason for a change in the prevailing practice under the British Acts."³⁰

Hence, it may be contended that nature of audit is more important than the agency for auditing and that commercial audit with emphasis on performance may be a better

³⁰Ramanadham, The Structure of Public Enterprise in India, op. cit., p. 162.

guarantee of ensuring Corporation efficiency.³¹

Expert Reviews and Periodical Appraisals

Public accountability is, at times, ensured by the periodical appraisals and expert reviews of the workings of Public enterprises in general and Public Corporations in particular. Public Corporations "may have much to gain from expert investigations conducted once in several years by highly experienced accountants, engineers and administrators".³² Herbert Morrison favored "competent business people", "ordinary good citizens" and "parliamentarians" as members of such expert Committees.³³

However, investigations may be made into cost and revenues, price and output policies,³⁴ incentive bonus schemes, personnel practices and administrative structure.³⁵

The outstanding examples of expert reviews are the Report of the Beveridge Committee on Broadcasting, 1949, the Report of the Fleck Committee on National Coal

³¹Ibid., p. 163.

³²Om Prakash, op. cit., p. 209.

³³Evidence to Select Committee on Nationalized Industries 1953, referred to by Ramanadham, Problems of Public Enterprise, op. cit., p. 128.

³⁴W.A. Lewis in his article suggests that "the prices of every public corporation should, in its Act, be made subject to the scrutiny of an independent tribunal (not necessarily a different one for each corporation)", "Price Policy of Public Corporations", in Robson, Problems of Nationalized Industry, op. cit., p. 194.

³⁵Om Prakash, op. cit., p. 210.

Board, 1955 and the Report of the Herbert Committee of Inquiry into the Electricity Supply Industry, 1956. The Beveridge Committee was concerned with the question of monopoly and competition, the Fleck Committee with organization and the Herbert Committee on organization, policy and activities.³⁶

Although inquiries "are most terribly upsetting",³⁷ the method is useful in

- (i) discovering the policy implications of the Boards' major decisions;
- (ii) examining, if necessary, the consistency of Boards' policies with the overall policies of the Government;
- (iii) verifying how far the Government's policy directions have achieved . . . the intentions with which they were given; and
- (iv) making any other relevant inquiries into matters reflecting national interest.³⁸

Consumers' Council

Nationalized industries have monopoly rights. Unless the good sense of the Boards prevail over the temptation of exploiting the situation, Public Corporations are susceptible to practices which may go against the interest

³⁶Robson, Nationalized Industry and Public Ownership, op. cit., pp. 206-209.

³⁷Ibid., p. 207.

³⁸Ramanadham, Problems of Public Enterprise, op.cit., p. 129.

of the consumers. A check is necessary under such situations. Consumers' Councils are taken to be adequate machinery for safeguarding the interest of the people; they also ensure "the public accountability of corporations".³⁹ The customer of a Public enterprise is also the 'disguised shareholder'; he has right to oversee the management of the enterprise.

"The chief function" of a Consumers' Council is "to ensure that the views of ordinary consumers will be expressed effectively to and considered seriously by the Board".⁴⁰

The Consumers' Council - as an instrument for ensuring public accountability - is yet to gain currency. In India, the Consumers' Council concept has been incorporated in the statutes creating the Damodar Valley Corporation, the Air Corporations, the Industrial Finance Corporation and above all the Railway Board.⁴¹ But "the consumer is the most forgotten interest"⁴².

³⁹Ramanadham, ibid., p. 120.

⁴⁰Ibid., p. 122. Quoted from Mary Stewart, Consumer Councils (London: Fabian Research Series No. 155, 1953), pp. 6-7. Also, J.A.G. Griffith, "The Voice of Consumer", The Political Quarterly (April-June, 1950).

⁴¹Om Prakash, op. cit., pp. 211-213.

⁴²Ramanadham, The Structure of Public Enterprise in India, op. cit., p. 167.

It may not be out of place to mention that the nationalized industries in France, are now under mixed corporations, wherein the consumers have been represented.⁴³ The Constitution of the Port of London Authority, discussed earlier, also provided for representation of the shipowners association, which may be regarded as one of the major customers of the Port Authority.

⁴³Mario Einandi, Maurice Bye and Ernesto Rossi, Nationalization in France and Italy (New York: Ithaca, 1955), p. 98.

CHAPTER VI

PUBLIC CORPORATIONS IN SELECTED COUNTRIES

The diversity of origin, purpose and operation of Public Corporations presented different problems. Some agencies¹ investigated the workings of Public Corporations in different countries. Within the limited scope of this study, selected Public Corporations in India, Pakistan and the U.K. are presented in the following pages.

The reasons for arbitrarily choosing these countries in preference to others are mainly: ~~three~~: one, in the U.K., specially in the post World War II period, "the concept of Public Corporations has received more systematic investigation and thought than in any other country";² two, despite socialization programs the U.K. remained a country

¹The efforts of

- (a) the U.N. Seminar held in Rangoon in March, 1954, on Public Enterprise in various countries;
- (b) the University of Toronto, School of Law, Comparative Symposium on the Public Corporation, 1954; and
- (c) the 13th International Congress of Administrative Sciences held in Paris in July, 1965 under the auspices of the International Institute of Administrative Sciences, Brussels - are noteworthy.

²Friedmann, The Public Corporation, op. cit., p. 556.

with a "mixed economy"³ which has been used as a model in India and Pakistan; three, despite modifications in the administrative structure, the basic pattern set up during British rule in India and Pakistan lingered on.

Public Corporations in the U.K.

Public Corporations in the U.K. have a long history. William A. Robson referred to the Charity Commission (1853) and the Trinity House (1894) as organizations "possessing varying degrees of independence from the executive and distinguishable from the great departments of state under the direct control of Ministers of the Crown".⁴

In the present century, important public corporations were established in the form of the Port of London Authority (1908), the British Broadcasting Corporation (1926), the Central Electricity Board (1926), the London Passenger Transport Board (1933), and the British Overseas Airways

³"A 'Mixed Economy' sometimes called 'Administrative Economy', or 'Dual Economy' or 'Controlled Economy' may . . . be defined as an economy reflecting a more or less judicious combination of public investment with private business". E.K. Mintz, "The Roles of Public and the Private Sector in a Mixed Economy", Hassan Habib and Guthrie S. Burkhead (eds.) Selected Papers on Development Economics and Administration (Lahore: Pakistan Administrative Staff College, 1963), p. 87.

⁴Robson, Nationalized Industry and Public Ownership, op. cit., p. 46.

Corporation (1939). These public corporations were established "for operating state-owned undertakings requiring management of a commercial or industrial character".⁵

Another phase of establish public corporations in the U.K. started with the return to power in 1945 of a Labor Government pledged to large measures of nationalization. Major Corporations were the Bank of England transferred to public control in 1946, the National Coal Board (1946), the Transport Commission (1947)⁶, the Central Electricity Board (1947), the National Gas Council (1948), the Iron and Steel Corporation (1949). The Atomic Energy Authority was established in 1954 by the Conservative Government for "most swift and effective development of atomic energy".⁷

As one of the authorities on Public Corporation points out,

there are three Public Corporations in Great Britain which deserve particular mention. The Port of London Authority established under the Port of London Act,

⁵Robson, Nationalized Industry and Public Ownership, op. cit., p. 48.

⁶The Transport Act of 1947 provided for nationalization of the Railways, Canals and inland waterways and also the chain of hotels and restaurants owned by the railways and transfer of the London passenger transport system from the London Passenger Transport Board established in 1933.

⁷Robson, Nationalized Industry and Public Ownership, op. cit., p. 54.

1908, is the earliest prototype of a twentieth century Public Corporation. It was entrusted with the management of a local service of national importance and was, for that purpose, granted a high degree of autonomy. The British Broadcasting Corporation was created under the Royal Charter issued on December 20, 1926, renewed from time to time for varying periods. It is a national organization of international significance, and enjoys substantial autonomy in the management of its affairs. The National Coal Board, established under the Coal Industry Nationalization Act, 1946, is the first example of a truly industrial Public Corporation (though with a relatively low degree of autonomy). It is the earliest manifestation of British socialism under a full-fledged Labour Government leading to nationalization on a nationwide scale.⁸

It is interesting to note the sequence which took place. The Port of London Authority (P.L.A.) was established before the First World War; The British Broadcasting Corporation (B.B.C.) after the World War I and the National Coal Board (N.C.B.) after the World War II. They seem to reflect the expanding role of government and the importance attached to a high degree of freedom, boldness and enterprise in the management of undertakings of an industrial and commercial character and the desire to escape from caution and circumspection which is considered typical of government departments.

Further, it is of interest to note that these Corporations were established under the aegis of the three major parties of the U.K. i.e. the Liberal Party, the

⁸Om Prakash, op. cit., p. 110.

Conservative Party and the Labour Party respectively.

That political philosophy is not at the root of the establishment of public corporations is borne out by this fact.

The Port of London Authority

The unique feature of the Port of London Authority is the representative nature of the Board, which consists of twenty-eight to thirty members, depending on whether the Chairman and the Vice-Chairman are elected from within or without the panel of members. Unlike members of the Board of other Public Corporations, only ten of them are appointed and eighteen are elected. "The Board is reconstituted triennially, and there is no restriction on re-appointment or re-election of members."⁹

Worker interest is represented in the Board; because the Ministry of Transport and the London County Council appoint one each of their representatives after consultation with such organizations of labor as are best qualified to advise them on the matter.

⁹The appointed (ten) members are nominated as follows: (i) by the Admiralty (one); (ii) by the Ministry of Transport (two); (iii) by the London County Council (four); (iv) by the Corporation of the City of London (two); and (v) by the Corporation of Trinity House (one). Of the remaining eighteen members, (i) eight are elected by shipowners; (ii) eight are elected by merchants; (iii) one represents the public wharf-owners; and (iv) one represents the owners of river craft. Om Prakash, op. cit., p. 111.

The British Broadcasting Corporation

The distinguishing characteristics of the British Broadcasting Corporation (B.B.C.) is the practice of issuing Royal Charters from time to time. The first and the second Royal Charters were granted for ten years each on the first January 1927 and 1937 respectively. The first charter provided for the establishment of a "public corporation . . . to act as Trustee for the national interest"¹⁰; the second charter authorized it to carry on the service "for the benefit of Our dominions beyond the seas and territories under Our protection".¹¹ The special feature of the third charter granted on January 1, 1947 under the Labour Government for five years was the requirement to establish machinery for joint consultation with its staff. Subsequently the new Conservative government, while again granting a ten year charter on July 1, 1952, (after an interim extension for six months granted earlier on January 1, 1952) put an end to the exclusive rights of the B.B.C. over broadcasting services. In fact, the Post Master General granted a license to the Independent Television Authority set up under the Television Act of 1954, and thus put the B.B.C. in a competitive situation.

¹⁰Hanson, Nationalization: A Book of Readings, op.cit., p. 82, quoting the Crawford Committee on Broadcasting (1925).

¹¹Om Prakash, op.cit., p. 112, quoting the Second Charter, 1937.

Apart from periodicity of its Charters, the B.B.C. held meetings of its Board of nine members in different parts of the country - viz., England, Scotland, Wales and Northern Ireland and appointed governors "in virtue of his knowledge of the culture, characteristics and affairs of our people"¹² in these regions.

The National Coal Board

The National Coal Board, established under the provisions of the Coal Industry Nationalization Act, 1946, "was charged with the duties of : (a) working and getting the coal in Great Britain to the exclusion (save as in this Act provided) of any other person; (b) securing the efficient development of coal-mining industry; and (c) making supplies of coal available, of such qualities and sizes, in such quantities and at such prices as may seem to them best calculated to further the public interest in all respects, including the avoidance of any undue or unreasonable preference or advantage".¹³ Further, the policy of the National Coal Board, was directed toward securing health and safety of the employees, and maintaining the

¹²Om Prakash, op. cit., p. 114.

¹³Ibid., p. 252.

self-sustaining character of the Corporation.

However, the National Coal Board has yet to achieve its goals. Despite workers' earnings per man shift, which presented a consistent increase, the Board failed in its objective of increasing the output of coal and the productivity per man year. "Absenteeism among coal miners, since 1954, had been continuously on the increase".¹⁴

The interesting feature of the National Coal Board is the functional specialty of members, who are allocated portfolios of Production, Marketing, Finance, Manpower, Welfare, Labour Relations and Scientific Department. Even the part-time members of the Board are men who have proved themselves outstanding in some phases of industrial leadership. No member of the House of Commons can be a member of the Board; this is provided for, in order to ensure, on the one hand, autonomy of the Board and, on the other hand, the exclusiveness from the Parliament which is to control the Board. All the nine members including the Chairman and the Deputy Chairman are appointed by the Minister of Fuel and Power.

The National Coal Board, which was the only legal entity created by the Nationalization Act, was left alone with internal organization of the coal-mining industry.

¹⁴Om Prakash, ibid, p, 255.

For administrative convenience the Board grouped the coal fields of the U.K. in nine geographical divisions;¹⁵ each division (except South Eastern) is similarly divided into a number of areas; each area is divided into groups of collieries, containing from one to five pits and/or occasionally into sub-areas.

Apart from the Board, whose members were to take charge of executive Departments, as well as to share in forming the Boards' policy, there are, at the headquarters, a Secretariat, and Establishments Department under the Secretary, Production, Carbonization, Finance, Marketing, Labour Relations, Manpower and Welfare, and Scientific Departments - each under a Director-General and Legal Department under a Legal Advisor.

At each Division, there is a Divisional Board consisting of senior employees. Except in South Eastern Division, a Divisional Board includes six full time members, viz., a non-functional chairman and Deputy chairman with Production, Finance, Marketing and Labour Directors. Each Divisional Board has the general duty of working its own

¹⁵R.S.S. Allen, "The Legal Relationships of a Nationalized Industry", in Friedmann, The Public Corporation, op. cit., pp. 435-444. The Nine Divisions are: Scottish, Northern, Durham, North Eastern, North Western, East Midlands, West Midlands, South Western and South Eastern.

coal-fields with substantial amount of authority delegated to Divisional and Area officials for transactions within certain limit.¹⁶ The principle of delegation pervades transaction between the Department at Divisions and the Departments at the headquarters also.

Public Corporations in India

Quite in line with the general trend of the creation of public corporations in the U.K., the U.S., France, Canada and Australia after the World War II, India produced a bountiful crop of public corporations after her independence in 1947.

It will, however, be wrong to suppose that the mere fact of independence resulted in this performance. Some of the legislations which gave birth to these Corporations had already been planned in the pre-independence era. For example, the need for a Damodar Valley Corporation - prince among these Corporations - had "engaged the attention of the people and the Government since the early years of the last century In 1863 the Government had explored

¹⁶A Division can undertake without headquarter's approval any colliery scheme costing not more than £250,000; but the capital expenditure has to be incorporated within the overall budget of the Board.

the Damodar Valley for possible flood control measures and schemes of irrigation and navigation".¹⁷

The creation of the Damodar Valley Corporation in 1948 opened a new era in the administrative history of India. The traditional machinery for administration of public enterprises like the Indian Railways, posts and telegraphs did not provide the model for new public enterprises of commercial nature. Practical considerations of flexibility, efficiency and economy have motivated the Government of India and the State Governments within India to create public corporations.

The Reserve Bank of India(1948), The Employees' State Insurance Corporation (1948), The Rehabilitation Finance Administration (1948), and The Industrial Finance Corporation of India (1948) were all created ~~within~~ one year after independence.

In subsequent years the Government of India established the Air India International Ltd., and the Indian Airlines Corporation under the provisions of the Air Corporations Act, 1953,¹⁸ the State Bank of India as a subsi-

¹⁷Om Prakash, op. cit., p. 51. It is not clear whether the Government intended to set up a public corporation in 1863.

¹⁸See Friedmann, op.cit., pp. 190-204 for the Act with an introductory note.

diary Corporation of the Reserve Bank of India under the provisions of the State Bank of India Act 1955, and the Life Insurance Corporation of India under the provisions of the Life Insurance Corporation Act No. 31 of 1956.

The National Cooperative Development and Warehousing Board

The Agricultural Produce (Development and Warehousing) Corporation Act, 1956 gave birth to two more Corporations with jurisdiction over the whole of India. "The National Cooperative Development and Warehousing Board, which shall be a body corporate having perpetual succession, and a common seal with power to acquire, hold and dispose of property and to contract, and may, in the said name, sue and be sued"¹⁹ was created under the Act. The other Public Corporation created under section 17 of the Act is the Central Warehousing Corporation established in March 1957.

It is of interest to note that the general practice of creating Public Corporation with a view to circumvent official or bureaucratic interference has been abandoned in this case. As evident from the organization of the National Cooperative Development and Warehousing Board, a member of the Board, nominated by the Central Government,

¹⁹The Agricultural Produce (Development & Warehousing) Corporations Act of India (No. 28) 1956 Section 3(1).

may be nominated by virtue of his office.

Of the twenty-two members provided for under section 3(2) of the Act, twenty-one are nominated by the Government; the other member, who is the Chairman of the Forward Markets Commission established under the Forward Contracts (Regulation) Act 1952, acts in an ex-officio capacity. While nominating the Central Government ensures that the Ministries of Agriculture and Food, Finance, Production, Commerce and Industry, Transport, and other bodies like the Railway Board, the Planning Commission and the State Bank of India are represented.²⁰ Thus, in the Board there are ten members who are nominated 'by virtue of their office'.

Of the non-official members, - who may be members of the Parliament or of the State Legislative Assemblies,²¹ "nominated by the Central Government (a) one shall be a person who has special knowledge of rural economics (b) four shall be persons who have experience for cooperative societies, one being a person who has also special knowledge of cooperative education."²² This Board, which does

²⁰Om Prakash, op. cit., p. 62.

²¹It may be noted that unlike other countries, specially the U.K., members of Parliament and the State Legislative Assemblies can be nominated as members of Boards of Public Corporations in India. One exception is the Damodar Valley Corporation, in which under Section 4(2) of the D.V.C. Act 1948, members of Parliament and other legislatures are debarred from being members of Board.

²²Om Prakash, op.cit., p.63. Also see Ramanadham, Structure of Public Enterprise in India, op. cit., p. 132.

not provide for full-time service of its members is further characterized by the absence of any statutory stipulation of tenure as per section 5(1) of the Act. This Board acts through a seven member Executive Committee.

The Central Warehousing Corporation

The other Corporation, viz., the Central Warehousing Corporation - provided for in the Agricultural Produce (Development and Warehousing) Corporations Act No. 28 of 1956 - has a fifteen member Board with a full-time Managing Director. The Central Government nominates the five of the seven members of the Executive Committee of the National Cooperative Development and Warehousing Board to the Central Warehousing Corporation Board. Two more members from the N.C.D.W. Board and the Managing Director are chosen by the C.W.C. Board itself, - thus making the number of nominated members eight. The rest seven of the fifteen members Board are elected by each of the shareholder schedule banks, cooperative societies, insurance companies and recognized associations dealing with agricultural produce. Thus, in this Board, the representation of shareholder interests is ensured.

The Damodar Valley Corporation

The Damodar Valley Corporation was established

under the provisions of the Damodar Valley Corporation Act of 1948. This Corporation has been described by Professor Om Prakash as "the Indian counterpart of the American Tennessee Valley Authority".²³ Although India inherited a British pattern of administration with supremacy of the Parliament, the Cabinet system of executive, unified central civil services, specially the Indian Civil Service,²⁴ and generalist orientation of the top echelons of the civil service,

it is difficult to say whether the growth of Public Corporations in India was inspired more by the American experiment or by the British pattern of organization. The much-publicized Damodar Valley Corporation, . . . was, at least in theory, a replica of the Tennessee Valley Authority. The problems of regional planning, flood control, development of hydro-electricity, and the utilization of natural resources in other ways naturally found India and America closer together.²⁵

These two corporations have been created in two vast countries - one of which is highly developed and the other is relatively poor - within a gap of fifteen years. "But, while the socialist zeal was absent in America, it did

²³Om Prakash, ibid., p. 225.

²⁴The Indian Civil Service, which has been redesigned as the Indian Administrative Service, is the top administrative class.

²⁵Om Prakash, op.cit., p. 52. It may be noted that this Corporation resembles the T.V.A. in activities but remains a prototype of British Corporations in structure.

manifest both in India and in England"²⁶ and influenced the growth of public corporations including the Damodar Valley Corporation.

The Damodar Valley Corporation is the outcome of thorough investigations done by the Damodar Flood Inquiry Committee of 1943 and Central Technical Power Board, which utilized the services of W.L. Voorduin, a senior engineer on the staff of the Tennessee Valley Authority. After thorough investigation into the problems of recurrent flood the Board recommended the multi-purpose development project under a "single unified administration".²⁷

The functions of the Damodar Valley Corporation as outlined in the Act are:

- (a) the promotion and operation of schemes for irrigation, water supply and drainage;
- (b) the promotion and operation of schemes for the generation, transmission and distribution of electrical energy²⁸ both hydro-electric and thermal;
- (c) the promotion and operation of schemes for flood control in the Damodar River and its tributaries and the channels, if any, excavated by the Corporation in connection with the scheme and flow conditions in the Hoogly River;
- (d) the promotion and control of navigation in the Damodar River and its tributaries and channels, if any;
- (e) the promotion of afforestation and control of soil erosion in the Damodar Valley; and

²⁶Om Prakash, ibid., p. 52.

²⁷Recommendations of the Central Technical Power Board are contained in Preliminary Memorandum on the Unified Development of the Damodar River, reprinted 1948.

²⁸It may be noted that the D.V.C. enjoys monopoly rights in this respect.

(f) the promotion of public health and the agricultural, industrial, economic and general wellbeing in the Damodar Valley and its area of operation.²⁹

Unlike the National Cooperative Development and Warehousing Board, discussed earlier, the Damodar Valley Corporation has a small Board. "The Corporation shall consist of a Chairman and two other Members appointed by the Central Government after consultation with the Provincial Governments".³⁰ Every member was to be a full-time servant of the Corporation as provided for in Section 5(1) of the Act; but this provision was deleted by the D.V.C. (Amendment) Act, 1957. This was done in order to give discretion to the Central Government to appoint full-time or part-time members as may be required. Members of the Parliament or any Provincial Legislature and those who have any interest in a contract with the Corporation, are disqualified from the membership of the Corporation. The Board meetings are "to be held ordinarily once a month",³¹ with three days' notice and any two members form quorum.

²⁹The Damodar Valley Corporation Act of India, 1948, Section 12.

³⁰The D.V.C. Act, 1948, Section 4. The area of operation of the Corporation being within two Provinces of Bihar and West Bengal, the Central Government provided for this consultation, prior to the appointment of Board members.

³¹Regulation 3 originally provided that "normally meetings shall be held at least once a week". Later it was amended to read "ordinarily meetings shall be held once a week". Still later present position is provided for in DVC Compilation of Regulations, etc., March 1960, p. 71.

The D.V.C. Act did not provide for the tenure of office of the Board Members; but the D.V.C. Rules³² provided that the Chairman, Members, (Secretary and Financial Adviser) of the Corporation shall be appointed for such term not exceeding five years and shall be eligible for reappointment. It is important to note that the Secretary and the Financial Adviser - are full-time employees and take a great share in the conduct of business of the Corporation.

The D.V.C. Act has a number of shortcomings, which in their turn affect the working of the Corporation. One of these shortcomings is the absence of any priority among the various objectives. The second is the absence of directives as to the location of the principal office.³³ The third one is the absence of clear directives as to the share of expenditure between the two Provincial Governments and between the Central Government and the Provincial Governments.

³²Government of India, Ministry of Works, Power and Mines, Notification of April 23, 1948 and of April 8, 1958.

³³The principal office is located in Calcutta, in West Bengal Province at present. This is resented to by the Bihar provincial government because the D.V.C. operates in Bihar province also. It may be noted that New Delhi is specified as the headquarters of the National Cooperative Development and Warehousing Board and the Central Warehousing Corporation in the Act of 1956, referred to earlier.

In India, "the corporation acts define the basic background for the economical working of the enterprises in question and their control by the government"³⁴ - leaving a degree of flexibility in the decisional techniques and the action processes of the corporation at different levels of management.

Public Corporations in Pakistan

Background

Absence of a common language,³⁵ widespread poverty, illiteracy³⁶ and disease were a few of the burning problems of Pakistan. Predominantly agrarian in structure, lacking in traditions of industry and investment, with a crippled banking system and burdened with a host of unsettled refugees - the economy of Pakistan was a staggering one. The high rate of population growth aggravated the situation.

³⁴Ramanadham, The Structure of Public Enterprise in India, op. cit., p. 119.

³⁵There are six major languages in Pakistan. In East Pakistan the language is Bengali and in West Pakistan Sindhi, Punjabi, Pushto, Baluchi are major languages. Urdu is spoken in most of the parts of West Pakistan, although it originated in the Uttar Pradesh Province of India.

³⁶According to the 1961 Census literacy rate is 15.3 percent. See Government of Pakistan, Census Report 1961.

The basis of partition was a referendum held in 1947; economic aspects were fully ignored. The result was that:

at the time of partition 20 percent of the total population of British India inhabited the regions now comprising Pakistan but its share of the total industrial employment of the sub-continent was merely 6.5 percent. Out of 14,569 industrial concerns located in British India, Pakistan inherited only 1,406 i.e., 9.6 percent of the total. The position of large scale industries was still worse - only 34 out of 887 fell to Pakistan.³⁷

The economic consequences of such a situation are many; one indicator is the per capita income, which remained low.³⁸ This condition made the people and the Government of Pakistan aware of the need for development. But as Pakistan was lacking in the traditions of modern economic development through private enterprise, the Government had to adopt several measures to make up the deficiency of private enterprise. "One of them was the establishment of a number of public corporations to provide direct participation by the Government in certain specified indus-

³⁷K.M. Zaman, "The Concept of Public Corporations and the West Pakistan Railway Board" in Hassan Habib and Guthrie S. Burkhead (eds.), Selected Papers on Development Economics and Administration (Lahore: Pakistan Administrative Staff College, 1963), pp. 103-104.

³⁸Per Capita income of Pakistan was Rs, 247 in 1960-61 (about \$52). See Government of Pakistan, Ministry of Finance, Economic Survey of Pakistan (Rawalpindi: 1962), pp. 11-12.

tries and to make available agencies for affording financial assistance either in the form of loans or investments".³⁹

The establishment of public corporations was the outcome of practical necessity. In a developing country like Pakistan "economic development via public enterprise is a matter of necessity, not of choice".⁴⁰ Because in a developing country the "major portion of the task of laying the basis upon which the structure of a dynamic and diversified economy is to arise, is assigned to the public enterprise."⁴¹

It may be pointed out that the growth of public enterprise in Pakistan is not tied to any ideology or political philosophy. "No doctrinaire assumptions underlie the Plan, and neither an exclusively capitalist nor an exclusively socialist economy is postulated. The approach throughout is pragmatic."⁴²

As President Ayub Khan put it, "the policy of the Government had been to include a project in the public

³⁹K.M. Zaman, op.cit., p. 105.

⁴⁰A.H. Hanson (ed.), Public Enterprise (Brussels: International Institute of Administrative Sciences, 1955), p. 399.

⁴¹Hanson, Public Enterprise and Economic Development, op. cit., p. 182.

⁴²Govt. of Pakistan, Planning Commission, The Second Five Year Plan, 1960-65 (Karachi: Manager of Publications, 1960), p. xiii.

sector only when private enterprise is found wanting,"⁴³ and one of the aims of the plan is to "push ahead industrial development by encouraging private enterprise in all practicable ways and by freeing the economy from superfluous restraints".⁴⁴ However, the main reasons for which the Government of Pakistan had to establish public undertakings are as follows:

- (a) The pace of development contemplated under the Plans pointed to direct governmental participation.
- (b) Investments in certain sectors particularly basic heavy industries are unlikely to materialize on the requisite scale, because private investment is not interested in ventures where prospects of immediate return are poor.
- (c) The only institutional medium for providing social benefits on a non-profit basis is public enterprise.
- (d) Balanced development in different parts of the country can be achieved only through the agency of public undertakings as private capital is attracted to certain kinds of areas which may be already developed.
- (e) Credit and banking facilities for certain sectors which the commercial banks are not ready to furnish are to be fulfilled through specially constituted Government institutions.⁴⁵

Inadequacies of Administrative System

The establishment of Public Corporations in Pakistan was one of the outcomes of the inadequacy of the inherited

⁴³From Pakistan Administrative Staff College Reading Paper No. 72 (Summary of President Ayub's speech on August 29, 1961).

⁴⁴The Second Five Year Plan, 1960-65; op. cit., p.xiv.

⁴⁵Zaman, op. cit., pp. 105-106.

governmental system. According to G. Ahmad, a former Deputy Chairman of the Planning Commission of Pakistan:

The principal criticism of Pakistan's inherited governmental system has been that it was designed as an instrument for administration of colonial policies, for maintenance of law and order and for collection of revenues; that it lacked resilience and dynamism, was overcentralized and dilatory and in consequence failed to answer the needs of a situation where prompt and purposeful action was required to press forward with national development. . . . A further and related criticism has been that the working of this outmoded system was entrusted to multiple layers of generalists, lacking in professional competence demanded of a modern welfare government.⁴⁶

The administrative structure itself suffered from a number of defects:

- (a) Lack of clear definition of powers and functions between the Central and the provincial governments and between different functional ministries and departments;
- (b) Lack of differentiation between government operations that are essentially commercial in nature and those that are non-commercial or service operations;
- (c) Amalgamation of staff and line functions;
- (d) Lack of delegation of authority or in other words, centralization of decision-making.⁴⁷

⁴⁶G. Ahmad, "Changes in the Administrative Organization of the Government of Pakistan Since 1953", in Inayatullah (ed.), Bureaucracy and Development in Pakistan (Peshawar: Pakistan Academy for Rural Development, 1963), p. 154.

⁴⁷Rowland Eggar, The Improvement of Public Administration in Pakistan: A Report with Recommendations (Karachi: Government of Pakistan, 1953), p. 10.

The situation has since then improved.⁴⁸ The Central Ministries have been reorganized and a number of functions have been transferred to the provincial governments, according to the provisions of the new Constitution.⁴⁹ Industry, for instance, is now the responsibility of the two provinces, while the Central government retains only policy matters in this respect.

From the point of view of administrative management the administration in Pakistan was handicapped. The share of top level civil servants, specially of the Indian Civil Service, that came to Pakistan, was rather insignificant.⁵⁰ The result was that a handful of civil servants were in charge of the management of the affairs of the government. There was overcentralization, over-coordination, under-supervision and under-propulsion of the governmental machinery.⁵¹

Such a state of affairs was further aggravated by some legal provisions and procedures. One of the legal provisions was the creation of a sanctioning procedure of

⁴⁸Govt. of Pakistan, President's Secretariat, Establishment Division, Efficiency and O & M Wing, Report of the Standing Organization Committee on the Reorganization of Functions and Structure of the Central Government in the Light of the New Constitution (Rawalpindi: 1962).

⁴⁹The 1962 Constitution of Pakistan has listed the subjects under the Central Government in the Third Schedule. Any matters not listed in the Schedule are left with Provincial governments.

⁵⁰Keith Callard, Pakistan: A Political Study (London: George Allen & Unwin Ltd., 1955), pp. 284-301.

⁵¹Eggar, op. cit., pp. 23-24.

the Ministry of Finance.⁵² The all powerful Ministry of Finance, with rigid financial procedures, was a bottle-neck for every action in the country; financing development program and day to day administration was all but efficient. Because of the practice of cutting down of the expenditure proposals by the Ministry of Finance the operating agencies usually put up inflated estimates which could hardly be fitted into any realistic plan. Faulty procedure was not the monopoly of the Ministry of Finance, rather they impeded all phases of the Government. The Government of Pakistan was not oblivious of the administrative problems. Careful studies⁵³ were made and changes were effected throughout the administration. Organization of units of administration up to the ministry-level on discrete functional basis, the establishment of the Efficiency and O. & M. units at different levels and also the improvements in recruitment and training of civil servants

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⁵²It may be noted here that the financial procedures in Pakistan has been simplified as per the recommendations of the Report of the Standing Organization Committee, 1962, op. cit., Annexure E, pp. 81-86. Also see G. Ahmad, op. cit., pp. 161-162.

⁵³The following are the major studies on Administrative System in Pakistan: (a) Rowland A. Eggar's Report, op. cit., 1953; (b) Bernard L. Gladiux, Reorientation of the Pakistan Government for National Development, 1955; (c) Report of the Administrative Enquiry Committee, 1953; (d) Report of the Federal Reorganization Committee, 1956; (e) Report of the Central Administrative Reorganization Committee, 1958; and (f) Report of the Standing Organization Committee, 1962, op. cit.,

point towards a better administrative system.

But the added functions of the Government, a direct result of its commitment toward planned development necessitated establishment of new governmental agencies - including public corporations.

Some Public Corporations

The Government of Pakistan ventured to establish Public corporations for different purposes, as it assumed greater and greater responsibilities. Immediately after independence the Government of Pakistan created credit organizations for agriculture and industry. The Agricultural Development Finance Corporation established in 1952, and the Agricultural Bank of Pakistan established in 1957 - were merged together into the existing Agricultural Development Bank of Pakistan on February 18, 1961. In the field of financing industries the Government established the Pakistan Industrial Finance Corporation in 1949; but later on it was converted into the Industrial Development Bank of Pakistan in August, 1961. The House Building Finance Corporation was created in 1952.⁵⁴

⁵⁴For details, see Government of Pakistan, Ministry of Finance, Financial Institutions: National and International (Rawalpindi: 1964).

The most important step in the field of public enterprise was the setting up of the Pakistan Industrial Development Corporation in 1952⁵⁵ to foster the industrial development of the country. This Corporation was later bifurcated on July 1, 1962 in order to fulfil a constitutional obligation.⁵⁶ Likewise, the Railway Division of the Ministry of Communications was replaced by two "semi-autonomous"⁵⁷ Railway Boards for the operation and management of the railways in 1960. The West Pakistan Water and Power Development Authority was established in 1958 and the East Pakistan Water and Power Development Authority was established in 1959. To give impetus to agriculture, The Agricultural Development Corporations, one each for the two provinces were created in 1961.

Besides these, the Government of Pakistan established the State Bank of Pakistan (1948), the Pakistan Refugee Rehabilitation Finance Corporation (1948), the Pakistan

⁵⁵The Pakistan Industrial Development Corporation Act was passed in 1950 and the Corporation came into being in January 1952.

⁵⁶According to the 1962 Constitution Industry is a provincial subject. The principle of decentralization was one of the considerations behind this provision.

⁵⁷For succinct differentiation between 'Government Corporations', 'Statutory Authority' and 'Autonomous Bodies' see Mashihuzzaman, "How Pakistan is Governed", Pakistan Quarterly, XIII, Nos. 2 & 3 (Autumn and Winter, 1965).

Security Printing Corporation (1949), the Karachi Electric Supply Corporation (1952),⁵⁸ the Pakistan International Airlines Corporation (1953), the Pakistan Insurance Corporation (1953), the Pakistan Industrial Credit and Investment Corporation (1957),⁵⁹ the Karachi Development Authority (1957) and the Capital Development Authority (1961).

Public Corporations were created for urban planning and development, inland water transport and even for film industry. The Government of East Pakistan, for instance, established the Dacca Improvement Trust (1953), the East Pakistan Inland Water Transport Authority (1958) and the Film Development Corporation (1957).

Public Corporations in Pakistan fall into three functional categories:

- (1) Finance Corporations, which provide funds for specific purposes;
- (2) Development Corporations, which execute and control major projects of national importance; and

⁵⁸The Karachi Electric Supply Corporation was established in 1913 as a private limited company. The Government of Pakistan took it over in 1952 in order to meet the growing need for power supply in the then Capital of Pakistan.

⁵⁹The entire paid-up capital of the P.I.C.I.C. came from private sources. The reason why this is regarded as a public corporation is the fact that the Central Government had advanced an interest-free loan of Rs. 300 lakhs or Rs. 30 million. It is again a symbol of international cooperation in the financial field, since 53 of its 781 shares are subscribed by private concerns from the U.K., the U.S., Japan and West Germany.

- (3) Others, which support national programs in essential fields.⁶⁰

It may be observed that some of these corporations⁶¹ were established under provisions of executive ordinances, contrary to the general practice of establishing them through legislative enactments. The development corporations like the East Pakistan Industrial Development Corporation and the East Pakistan Water and Power Development Authority⁶² have multiple purposes although others like the Industrial Development Bank of Pakistan and the Karachi Electric Supply Corporation are single-purpose ones. Further, both the Central and Provincial Governments have established public corporations for matters within their respective constitutional jurisdictions.

⁶⁰Govt. of Pakistan, Ministry of Finance, Government Sponsored Corporations (Karachi: Manager of Publications, 1959), p. 1.

⁶¹The E.P.I.D.C., The W.P.I.D.C., The A.D.B.P.; The E.P.W.A.P.D.A. are major corporations established by executive Ordinances.

⁶²The E.P.I.D.C. is responsible for:
"(a) planning, promoting, organizing and implementing programmes for the establishment of industries . . . and for the exploitation of forests and fisheries;
(b) the exploration, exploitation and development of minerals and mines thereof". The Government of Pakistan Ordinance No. XXXVII of 1962, Section 15(2).
The E.P.W.A.P.D.A. "may frame a scheme or schemes for the province of East Pakistan or any part thereof providing for all or any of the following matters, namely: (a) Construction of dams, barrages . . . ; (b) Flood control including watershed management; (c) The prevention of salinity . . . ; (d) . . . improvement and extension of channels for Inland Water Transport; (e) Regulation of channels to concentrate riverflow; (f) The Generation, transmission, distribution of power;" The East Pakistan Ordinance No. I of 1959, Section 8(iii).

Management of Public Corporations in Pakistan

A great deal of importance is attached to public corporations in Pakistan. Most of the public sector development programmes are within the operational jurisdiction of these corporations. The development of industries, power, water resources, transport and communication, are now the responsibility of one or another Corporation in Pakistan.

Whether or not public corporations can play the role - they are assigned to, depends on their internal organization and management apart from the overall environment in which they work. An examination of the governing boards, personnel practices, financial provisions of public corporations is needed to show the efficiency of the arrangement.

The Governing Board.-- Public corporations in Pakistan have different types of governing boards. The composition of the board also varies greatly. Small functional boards are organized for development corporations and policy-type are common for financial corporations. Type of functions taken up by the corporations and the question of representation conditioned the composition of boards.

The Governing Board of the E.P.W.A.P.D.A. consists of the Chairman and two other members. The Chairman is appointed for 5 years - and the members for 3 years by

the Government of East Pakistan. They may, however, be re-appointment⁶³. They are appointed on full-time basis and "receive such salary and allowances and be subject to such conditions of service as may be prescribed by the Provincial Government."⁶⁴

Similar provisions are made for the Governing Board of the E.P.I.D.C.⁶⁵ One distinctive feature is the flexibility as to the number of the Directors of the Board which "shall consist of such number of Directors, not less than three and not more than five, as may be appointed by the Government."⁶⁶ The Chairman and directors of the Board are full-time officers of the Corporation, and hold office for three years, after which they may be reappointed.

The Central Board of Directors of the State Bank of Pakistan comprises of a Governor, one or more Deputy Governors and nine directors, of whom six are nominated by the Central Government, and three are elected by the share-holders, one from each of the three regional groups.⁶⁷

⁶³The East Pakistan Ordinance No. 1, 1959 Section 4.

⁶⁴Ibid., Section 5.

⁶⁵Government of Pakistan Ordinance No. XXXVII of 1962, Sections 5-9.

⁶⁶Ibid., Section 6(1).

⁶⁷The three regions are East Pakistan, West Pakistan and the Federal Area with headquarters at Dacca, Lahore and Karachi respectively.

One of the six nominated directors is an official and the rest five are non-officials. The Central Board is required to hold at least six meetings in a calender year and not less than one in a quarter.

There is an Executive Committee of the Central Board, comprising the Governor, Deputy Governors, an Officer appointed by the Central Government and three directors, so elected by the Central Board as to give representation to all the three regional groups of shareholders. "The Executive Committee is empowered to deal with and decide any matter within the competence of the Central Board when the latter is not in session."⁶⁸

Besides the Central Board and the Executive Committee there are three Local Boards with headquarters at Karachi, Lahore and Dacca. Each one of these Local Boards is comprised of five members. Three of the five members are nominated by the Central Government and two are elected by the shareholders registered in the area concerned. "The functions of a Local Board are to advise the Central Board on such matters as may be generally or specifically referred to it, and to perform such other duties as may . . . be

⁶⁸Government of Pakistan, Ministry of Finance, Financial Institutions: National and International (Rawalpindi, 1964), p. 8.

assigned to it by the Central Board."⁶⁹

It may be noted, here, that the elected directors of the Central Board and members of the Local Boards hold office for a period of three years. Nominated members, on the other hand, remain in office "during the pleasure of the Central Government".⁷⁰ The members of the Central and Provincial legislatures, salaried government officials (except the one nominated by the Central Government to represent the views of the Government), officers and employees of any bank, directors of any bank are debarred from becoming directors of the Central Board or members of the Local Boards.

The Governor of the State Bank, appointed by the Central Government for five years, is the Chief executive authority of the Bank. He presides over the meetings of the Central Board and the Executive Committee of the Central Board. "He is authorized to conduct the business, control the functions and manage the affairs of the Bank, subject to such regulations as the Central Board may, from time to time, prescribe."⁷¹ The Governor is assisted, in his duties, by two Deputy Governors, also appointed by the Central

⁶⁹Ibid., p. 8.

⁷⁰Ibid., p. 8.

⁷¹Ibid., p. 8.

Government for a period not exceeding five years. One of the Deputy Governors is stationed at the Central Directorate of the Bank at Karachi and the other at Dacca.

It may be noted that the constitution of the governing board of the Bank reflect the socio-economic and geographical conditions of the country. Unlike, however, the National Coal Board of the U.K., where the regional boards are not provided for in the Coal Industry Nationalization Act, the Local Boards and the Executive Committee of the Central Board of the State Bank of Pakistan are statutory ones.

The organization of the governing board of the Industrial Development Bank of Pakistan also reflect the concern of the Government of Pakistan about representation of interests. The Chairman, the Managing Director and six other Directors are appointed by the Central Government and three Directors are elected by the shareholders in such a manner as may be prescribed by regulations. In appointing the six Directors, the Central Government ensures that two are taken from the Central Government, one each from the Provincial Governments and "two non-officials of whom one shall be from each Province."⁷²

⁷²Ibid., p. 49.

However, the concern for representation does not dominate the constitution of governing boards of all public corporations in Pakistan. Some of them like the East Pakistan Industrial Development Corporation, the East Pakistan Water and Power Development Authority - have Governing Boards that fall within the category of 'Functional Board'. Members of the Board of Directors of both E.P.I.D.C. and E.P.W.A.P.D.A. - two of the major public corporations - have functional responsibility for finance, planning and projects. The dichotomy of policy and administration is lost in the arrangement; because members of the Board in a body make decisions and individually execute them. Even in case of the State Bank, the Governor, who is the Chief executive authority, presides over the meetings of the Central Board and the Executive Committee - the policy-making organs of the Bank - and thereby blurr the dichotomy. The effects of these arrangements are yet to be investigated; apparently, however, they disprove the contention that "Policy Board" is preferred to in developing countries. There is, in fact, different types of boards adopted to the requirements of different types of public corporations. In connection with the governing boards it may be noted that the appointed directors of public corporations in Pakistan

are taken mainly from the civil service. Although these directors enter into the pay-roll of public corporations, they retain their own rank in the civil service - and rejoin the civil service after their term of office with public corporations. In fact, "the Chairman, Directors, officers, adviser or employee of the Corporation shall, . . . be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (XLV of 1960)".⁷³

Unlike the Coal Industry Nationalization Act of the U.K., the ordinances establishing public corporations in Pakistan are silent about the qualifications of the persons appointed as directors of governing boards. If efficiency of a public corporation is related to the knowledge, skill and entrepreneurial qualities of the men who constitute governing boards and the hierarchy then the silence of these ordinances in this regard is deplorable.

Personnel Practices

In Pakistan, the provisions of the Acts and the Ordinances seem to be unequivocal about the fact that employees of public corporations shall be deemed as public

⁷³Government of Pakistan, Ordinance No. XXXVII of 1962, section 22. Also The East Pakistan Ordinance No. I of 1959, section 19(i).

servants'. The East Pakistan Industrial Development Corporation is empowered to "appoint such officers, advisers and employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may see fit".⁷⁴

Similar provisions are made with regard to the appointment of officers by the East Pakistan Water and Power Development Authority, which:

shall prescribe the procedure for appointment and terms and conditions of service of its officers and servants and shall be competent to take necessary action against its officers and servants.⁷⁵

The Acts and Ordinances that established other public corporations provide for the appointment, transfer and removal of officials and technicians according to rules and regulations, adopted for the purpose. But none of the public corporations in Pakistan seem to have personnel policy that is independent of the overall policy of the Government. This is so because of the fact that there is a dearth of qualified and trained personnel in the country.

The practice of 'deputing' government employees to the service of public corporations is wide-spread. In

⁷⁴Govt. of Pakistan Ordinance No. XXXVII of 1962, section 10(1).

⁷⁵The East Pakistan Ordinance No. I of 1959, section 18.

a country like Pakistan, where government employment is held in high esteem, this arrangement is needed to divert manpower resources to more productive purposes. But this affects the autonomy of public corporations in personnel matters. Special provisions are made for these 'deputed' employees, who retain civil service privileges while in the service of public corporations. Thus, the East Pakistan Water and Power Development Authority, which required the services of employees of the Provincial Government, provided "that the terms and conditions of service of any such person as aforesaid shall not be varied by the Authority to his disadvantage".⁷⁶ This is so with other public corporations as well. Special provisions stand in the way of a uniform personnel policy, which add to the efficiency of a corporation.

Despite disadvantages, public corporations in Pakistan depend more on the 'deputed' employees for supervisory positions. As M. Ayub, a former director of the Pakistan Industrial Development Corporation noted in 1959,

Large scale use of civil servants in state industrial enterprises is often not a matter of choice but of necessity. Experienced industrial and business managers and accountants are simply not available. Some stop-gap

⁷⁶The East Pakistan Ordinance No. I of 1959, Section 17(ii).

arrangements have, therefore, to be made if underdeveloped and backwards countries are to embark on industrial road.⁷⁷

Of late, public corporations have entered into a new phase so far as personnel policy is concerned. Some of the important public corporations arranged for training of their employees both at home and abroad. Training programs of the State Bank of Pakistan and the Industrial Development Bank of Pakistan are noteworthy.⁷⁸ The East Pakistan Water and Power Development Authority established its Institute of Accounts in Dacca and the Engineering Academy at Kaptai in the district of Chittagong for training its personnel.⁷⁹ Besides these, public corporations utilize the training facilities provided by the Government in its training institutions like the Staff College, the National Institutes of Public Administration and a host of other training institutions in Pakistan.

⁷⁷M. Ayub, "Some Aspects of Management of Public Industrial Enterprises in the ECAFE Region", paper prepared for the Seminar on Management of Public Industrial Enterprises, sponsored by the Government of India and the United Nations, New Delhi, December 1-11, 1959, p. 6. Quoted by Merle Fainsod, "The Structure of Development Administration", in Irving Swerdlow (ed.) Development Administration: Concepts and Practices (Syracuse, New York: Syracuse University Press, 1963), p. 17.

⁷⁸Govt. of Pakistan, Financial Institutions: National and International, op. cit., p. 54.

⁷⁹The E.P.W.A.P.D.A., Ensemble: 1963-64 (Dacca: E.P.W.A.P.D.A. Public Relations, 1964), pp. 6-7.

Financial Provisions

Public corporations in Pakistan have elaborate financial provisions. The authorized capital, issued capital, loans, grants, subsidies, and even servicing of loans of different corporations have been provided for in the Acts, Ordinances and Regulations that govern them. Apart from the statutory provisions, these public corporations receive annual appropriations made for the development schemes from the Government.

It is interesting to note the provisions for authorized capital of different public corporations. The authorized capital of the East Pakistan Industrial Development Corporation is "one crore of rupees," but the Corporation is authorized to increase "its capital with the previous sanction of the Government."⁸⁰

It has been provided that,

The Water and Power Development Authority Fund shall consist of:

- (a) Grants made by the Government;
- (b) Loans obtained from the Government;
- (c) Grants made by local authorities;
- (d) Sale proceeds of bonds issued under the Authority of the Provincial Government;
- (e) Loans obtained by the Authority with special or general sanction of the Government;
- (f) Foreign aid loan obtained with the sanction of and on such terms and conditions as may be approved by the Provincial Government;

⁸⁰The Government of Pakistan Ordinance No. XXXVII of 1962 section 4, (i) and (ii).

- (g) Improvement or betterment levy, water rate, sale proceeds of electricity and toll as may be prescribed by Government; and
- (h) All other sums received by the Authority.⁸¹

With its paid up share capital of Rs. 30 million, the I.D.B.P.,⁸¹

has the following sources for obtaining and replenishing its capital available to it:

- (a) Borrowing from the Central Government;
- (b) Borrowing from the State Bank of Pakistan secured by the guarantee of the Central Government;
- (c) Rediscounting of Bills with the State Bank of Pakistan;
- (d) Time issues; and
- (e) Issue and sale of Bonds and Debentures.⁸²

Government Control

Public Corporations in Pakistan are under the overall control of the Government. The Government exercises absolute power with regard to the appointment of the Chairman and Directors of Governing Boards. Government's approval is also necessary for some essential matters like approval of annual budget, development schemes, financing arrangements, the terms of the sale of projects to private parties and auditing of accounts.

⁸¹The East Pakistan Ordinance No. I of 1959, section 22(ii).

⁸²Govt. of Pakistan, Financial Institutions: National and International, op. cit., p. 49.

The provisions for the appointment and removal of members of the board of directors and chairman of different corporations by the Government are quite elaborate. "The Government may, by order in writing, remove the Chairman or a Director"⁸³ of the E.P.I.D.C. under certain circumstances. Likewise, "the Provincial Government may, by notification remove the Chairman or any member" if he "refuses or fails to discharge . . . his responsibilities", or he is "declared insolvent" or "disqualified for employment in . . . or dismissed from the service of Pakistan".⁸⁴

The budget control over the public corporation like the Railway Boards in Pakistan is important. Like their counterparts in India, the two Railway Boards present their budgets to the Provincial Assemblies, in East and West Pakistan, for discussion, amendments and approval. Both the E.P.I.D.C. and the E.P.W.A.P.D.A. have to present their Annual Budget Statements to the Provincial Government.⁸⁵

As regards audit the provision of the E.P.I.D.C. is such that auditors "shall be appointed with the approval

⁸³The Government of Pakistan Ordinance No. XXXVII of 1962, section 9(2).

⁸⁴The East Pakistan Ordinance No. I of 1959, Section 6.

⁸⁵The Government of Pakistan Ordinance No. XXXVII of 1962 section 16 and The Government of East Pakistan Ordinance No. I of 1959 section 27.

of the Government by the Corporation" for actual audit and "a test audit . . . shall be held" by the Auditor General.⁸⁶ The accounts of the E.P.W.A.P.D.A.

shall be audited every year by the Comptroller and Auditor General in such manner as may be prescribed. Copies of the Audit report shall be sent to the Authority and with the comments of the Authority, to the Provincial Government and shall also be available for public inspection. The Authority shall carry out any directive issued by the Provincial Government for rectification of an audit objection.⁸⁷

However, in the absence of objective information, the effectiveness of Government control is to be viewed with reservation. In the words of the Pakistan Planning Commission:

The ability of corporations and authorities to plan and execute programmes has effectively been demonstrated The general problems, which arise, are specially in the area of effective policy control by the Government and coordination with other agencies and departments engaged in other departmental activities.⁸⁸

⁸⁶Government of Pakistan Ordinance No. XXXVII of 1962, section 19.

⁸⁷The Government of East Pakistan Ordinance No. I of 1959, section 28.

⁸⁸The Second Five Year Plan, 1960-65, op. cit., p. 118.

CHAPTER VII

CONCLUSION

The growth of Public Corporation, in all its variety of forms and purposes, is the direct result of the emergence of public enterprise.

Public enterprise on the other hand is adopted in different countries for different causes. It has been shown that practical necessity was at the root of creation of public enterprise in most of the countries. Adherence to political philosophy was however, the cause of the growth of public enterprise in socialist countries like the U.S.S.R. In the U.K. both practical necessity and political philosophy contributed to the nationalization program launched by the Labor Government in the post World War II period. But the Atomic Energy Authority (1954) and the B.B.C. (1926) were established by the Conservative Government for reasons of practical necessity rather than for political adherence to socialism.

The growth of Public enterprise in India and Pakistan was the outcome of the practical necessity. Although India professed socialism and Pakistan did not, public sector investment in both these countries were to supplement and not to supplant private enterprise.

However, there remains some inherent causes for the growth of Public enterprise in every country. The overall growth of governmental powers and functions, the trend toward nationalization and the importance attached to planning for development remained at the root of public enterprise.

The scope of public enterprise is wide; it covers such fields as public utility, transport and communication, banking, credit and insurance, multipurpose development projects, basic established industries, new industries or services and even cultural activities. Naturally, public enterprise had to take one of the several forms viz., Departmental organization the Joint Stock Company and the Public Corporation.

As this study has shown the Public corporation has been preferred over other forms of public enterprise because of the fact that it provides for the best of both public and private aspect of enterprise. In other words, in Public Corporation the business efficiency of private enterprise is blended with public accountability.

These two virtues of Public Corporation are ensured because of some inherent characteristics. Of these characteristics the autonomy of operation is the most important one. The reasons for granting autonomy to Public Corporations

are to be found in the inadequacies of established departmental forms of government and the necessity of flexible management practices.

However, the normative characteristics of Public Corporations enumerated and discussed in chapter III, were not to be found in all public corporations in all countries. It was postulated in this study that they are the norms, which public corporations in different countries strive to attain. But practices differ. Even in the same country Public Corporations differ in many details. Thus, it was found that even the Governing Board was formed differently for different Public Corporations in the U.K. and other countries. Whether the Governing Board should be a 'Functional' or 'Policy' Board remains a question to which there is no single answer.

In this study, two aspects of Public Corporations were dealt with in considerable details. One of them was management and the other was public accountability. It may be shown from the practices in different countries that there was great importance attached to these aspects. But the forms of management and accountability were quite diverse.

In the light of the discussion made in chapters IV and VI it may be concluded that the management of public corporations is to be viewed within the overall

societal environment. Collective leadership by a group of persons who have outstanding experiences in different aspects of an industry - production, finance, personnel, marketing - remains the ideal form of management of public corporations. Such collective leadership is ensured by a Governing Board only when the members accept their jobs with a cooperative spirit. The virtue of a governing board is not in its being a 'functional' or a 'policy' one, but in its being the source of entrepreneurship. Thus, the efficiency of the National Coal Board in the U.K., which is established on the basis of functional speciality of its members, is to be viewed within its overall achievements, which is far from being satisfactory. The comparatively higher degree of success of the East Pakistan Industrial Development Corporation cannot be ascribed to the functional speciality of the board members; it may be due to other factors like the sense of competition with other wing of the country, the nature of industry, specially jute, and the monopolistic element of the industries like paper, sugar and fertilizer. The staggering success of the East Pakistan Water and Power Development Authority, also with a functional board, disproves the contention that functionalism of the board is the virtue. The policy type governing board of the State Bank of Pakistan, which seems to have attained its objectives, is not either the best form because of the inadequacies of such boards

discussed earlier in chapter IV. Any dogmatism vis-a-vis the form and compensation of the Governing Board is untenable.

The personnel policy of public corporations, as shown in chapter IV should be geared to the need of the type of enterprise. There should be maximum amount of flexibility vis-a-vis personnel. The attempt at assimilation with the personnel practices of government, despite virtues of such attempts, may not be useful. The success of any enterprise including those under public corporations, depend on the possibility of utilizing entrepreneurial zeal and extraordinary capabilities of the employees, rather than on the rules and regulations that govern them. The efficacy of the elaborate provisions for the 'deputed' employees of the East Pakistan Water and Power Development Authority, is yet to be proved; they should rather be weighed against the overall success of the Authority. In fact, the 'enterprise' aspect of public corporations demand more flexibility in regard to personnel as well as financial matters. The practices of public corporations in Pakistan in regard to personnel, as shown earlier, is far from being satisfactory. Even in case of the National Coal Board in the U.K. the widespread absenteeism has been soring spot.

It has been shown in chapter VI that the existence of instruments for ensuring public accountability does not necessarily prove that public corporation operate in the best interest of the people, who are termed as the disguised shareholders. The spirit with which these instruments - viz., the Parliament, the Auditor General, the Review Boards and the Consumer Councils - work is more important. However there seems to be a concensus of opinion that a separate parliamentary committee for public enterprises would be an effective instrument of public accountability.

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