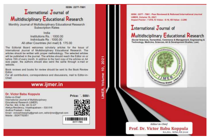
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A CRITICAL STUDY OF ISSUES AND CHALLENGES IN PRIVATIZATION OF INDIAN RAILWAYS

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ABSTRACT

If we look railways set up in India which started from 1853, when the first passenger train ran between the tracks of Bori Bundar (Bombay) and Thane in Maharashtra. Since then, the railways have been a public sector in India-funded & controlled by the Government in India. However, the twentieth century has witnessed the railways to go down in terms of funding and near bankruptcy in 2001. This is where, the need for foreign direct investment arises, to manage and maintain the railways. Apart from lack of funds, the Indian Railways nearly lose about $45 Billion in a year due to wastage as of poor infrastructure.

All of these challenges demand for a potential change with the controlling hands of Railways, from being a nationalized sector to a privatized one; our study will suggest whether privatization should be done in a phased manner or for the entire sector. Secondly the study will also examine, whether, before privatization is implemented, there should be a regulator to regulate the compatibility issues between government operator and Private operators, what could be the best mechanism to run so that the challenges phased in telecom sector are duly addressed

Domain of Study: The aim of this seminar paper is to evaluate the potential challenges and issues and further to highlight the possible outcomes. These issues may be categorized into three stages. First, the policy making stage, which would involve concerns like inter-connect ivy, use of existing fare regulations and market players, which would thereby attract a competition law aspect. Second phase would be the implementation stage, and the reaction of work force in the existing railway set up, possibility of strikes and lockouts as a reaction of opposition, attracting the labor code; and lastly, the dispute resolution mechanism.

Keywords: Closed-Sector, Indian Railways, Privatization, Regulated Sector, Regulator.

INTRODUCTION

Privatization seems to be a simple process, however in practice it is very much complex. This is especially in a case where railways are concerned. Indian railways are a 24x7 going concern, irrespective of an accident or whatsoever, this has been managed quiet well, apart from delayed services as one of a problem, by the Railway Board. However, transferring of control in multiple private hands would pose a problem in such smooth regulation. A high co-operation among the players and a regulator is the need for an hour. Apart from this, privatization of railway sector will definitely impact the economy as well, as it is not just passenger trains, but Indian Railways also hold the maximum percentage of cheapest freight /goods transport system[i].

As of now, we neither have an efficient regulation at the policy making stage nor do we have any mechanism that would make implementation of privatized railways a success. Thus, this paper identifies the need of privatization of Indian railways **[1]** and evaluates- the probable issues at the policy making stage, including competition law challenges, the dire need of a sectoral regulator and fair related concerns **[2]**; the possible issues at implementation stage**,** including the manner of implementation and impact on Industrial relations **[3];** the present position in the country **[4]**, and lastly, suggesting the way forward **[5].**

[1] NEED FOR PRIVATIZATION

The 166 year old rail network, India has the world's second largest railways in the world. It was started with an aim to ease public transport, and in line of the same it is still considered the backbone of transportation. However, the sector has suffered a chronic financial loss in last decade, while the government continues to struggle to make up for it. The reports by the Ministry of Indian Railways are a clear evidence of the same[ii]. It marks that, the surplus revenue earned by the Indian Railways in the Year 2018-19 have dropped to Rs. 1,665.6 crore, which is a recoded six year low. Notably, The Railways spent as high as Rs. 98.44 for every Rs. 100 it earned. The nationwide lockdown imposed to prevent Novel Corona virus have further contributed to such losses.

Meaning thereby, there is a lot that the railways along with the government is trying to improve upon to make the Asia's largest railways a more sustainable, economic, qualitative and up to passenger's expectations. However, all of these operations require funds, which the railways lack at this point of time.

There are multiple reasons behind this condition, first, poor infrastructure and high operating ratio. Railways lack new coaches and even if it is considered to be 'apt', the Ministry do not have sufficient capacity in terms of funds to repair old ones at the rate they are being unfit to run. Apart from this, especially in the passenger's trains, cleanliness is a major concern, where Billions of

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rupees are still trapped in various projects. The need for new trains and new coaches is very much evident in the everyday waiting list the reservation board releases, where the number sometimes strikes to a 300 on ordinary days and routes which have a comparative less traffic as compared to the traffic routes or festive times, where the reservation counter often shows 'REGRET'. Also, there is a need of technology that can be installed or used in order to enhance the speed of rolling stock and passenger trains.

Second, the problem of overpopulation in the country which has led to overcrowding in the trains. Here emerges a need for more number of trains, more number of tracks and services. Further, even if we consider the present available number of passenger trains, one of the major contributing factors to losses incurred is reckless and careless behavior of the passengers, where they don't bother to buy a ticket. This indicates towards a two-faced problem, one could be the moral conscious of the passengers, other and relevant for this paper is poor regulatory framework. Although there are certain statutory penalties for such 'offence', however there is no proper implementation of such statutory rules. Thus, we may sadly say that the underlying gap between the improvements on the supply side is huge when compared to that of the expectation on the demand side, and such gap exists both in terms of quality of services offered and speed of the trains[iii]

Third, the careless behavior of the pedestrians, the passengers and even the train drivers for that matter towards the safety norms are the constant causes of railway fatalities. Although, the number of casualties has seen a positive decline when compared to approximately 195 deaths in the year 2016-2017 to being zero in 2019. However, these figures are just 'reported casualties', the exact number of suffered injuries is still unknown.

Another serious issue to address is the dependence of Indian Railways over the government ministry. The transactional / commercial relationship between the government and the Railways, ultimately, gives the control of railways to the government, attracting itself with the disadvantages of a government monopoly-based system. Some instances of this 'inter-dependence relationship' could be understood as, the passenger operations run upon the subsidy of freight operations. Meaning thereby, if we look at the average ratio of fright tariff and compare it to that of passenger tariff, the latter one is quiet ahead in its count, in fact that count is notable, the world's highest. Further, the consequence of such high count is certainly the freight trains rates are at a 40% hike, as compared to a gradual loss of freight tonnage.

Coming over to the 'along with' or 'tag along' disadvantages of a government monopoly, one of the most prominent is the issue of departmentalism. This showcases a flaw in the regulatory set-up as well. Departmentalism could be termed as a human resource management concept, wherein the employees are restricted towards their own respective departments. Such practice discourages organizational goals and encourages narrow or limited goals, the same arguments were kept by various committee reports formed under the Ministry of Railways, namely, The Debroy Committee, Khanna Committee[iv], Prakas Tandon Committee[v], Pitroda Committee. Practically accepting the recommendation and with an underlying aim to end departmentalism in the Railways, The Central Governmnet, took a move in December 2019, wherein, it mingled with of the pre-existing departments of railways including, the three civil services departments, the Indian Railways Traffic Services, Indian Railways Accounts Service and the Indian Railway Personnel Service and the five mechanical or technical departments, i.e., Indian Railway Service of Engineers, Indian railways service of Mechanical engineers, Indian railways service of Electrical Engineers, Indian Railways Service of Signal Engineers and the Indian Railway Stores Service.

This move might help in making of quick decisions, it is highly doubted that the people working under these different services are still government employees and workers, the objective of achieving an organizational goal is yet debatable.

Lastly, in the era of globalization where the world is striving towards a more competitive environment, competition also exists within a sector. Meaning thereby, it's not only the passenger trains versus the superfast trains, but it is also, roadways versus railways, i.e., within the Transport sector. 166 years back when the railways started, there was minimalistic road transport, or essentially public transport. Buses suffered a criticism on grounds of comfort and other like services in terms of long-distance travel and in fact, the comparative fare as to that of rails. However, the inter-state transport by road has come a far way; the problem of luxurious comfort is interchanged with Volvo like private services and private taxis. Even in the road transports, the private sector has made an impactful entry, however, doesn't mean, the roadways have been 'free' of control of government. Thus, the railways need to tackle such problems, which can be done when the masters of railways undergo a restructuring. The possible challenges and issues are hereby highlighted.

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[2] ISSUES IN PRIVATIZATION AT THE POLICY MAKING STAGE

Privatization is a gradual process and a systematic implementation is the need of the hour. However, there are various issues that have to be dealt before the privatization policy comes into force. These issues need to be resolved because, if not done, there could be various challenged that could be posed before the authorities, some akin to which it faced while privatizing the telecom sector. These issues are essentially, the need for an independent regulator with quasi-judicial functions **[2.1]**, Restructuring of railways and the related competition law concerns **[2.2]** and lastly issues related to high fair **[2.3]**.

In case these issues are not resolved, neither the potential market players nor the general public would be able to adapt and understand the privatization policy. There could be possible strikes, lockouts a sense of disturbance. Apart from this, the privatized model could even fail, because the potential players would also have doubts and concerns over it, thus making it even more necessary to settle the underlying issues.

[2.1] NEED FOR A REGULATOR

The need for a specific sector regulator arises as soon as any sector aims of liberalizing itself, as someone who could ensure fair function and parity among the players. The reason for same may be traced back to the times, when an industry or sector is ruled by the governmental monopoly. This is so because, when the government does economic business in a sector, it is the one who makes the policy for it, works under that policy and keeps a check over that policy- all by itself. This system works quiet well, till it is only one player in the market, however, existence of multiple players, the policy-maker, i.e., the government being one among them, raises serious issues as to the need of a sectoral specific regulator.

The same is the case of Indian Railways, here, till date, the policy making, regulations, regulatory mechanism and operation of the business, i.e., running the trains, maintain the stations – all is done by the Ministry of Railways. Ideally, there do exists a railway board, which 'takes' the decisions, ultimately under the Railway Ministry, who them reports it to the high command. Thus, the Board, assumed to be an autonomous body does not exercise any autonomy. Keeping the same line of thought in Mind, the Committee of 2015 also recommended presence of two different bodies, one among them should supervise and regulate the infrastructure of railways and the other one should focus on the core operations, i.e., running the trains.

Further, this one-body approach is one of the primary reasons, the private players raise their brows upon, while asked about their interest in participation of privatization of railways. In absence of a sectoral regulator the entry of private players and in fact their survival, is quite difficult. Any private player entering into the market would require a fair access to the infrastructure. If they enter into the present regulatory scenario, ultimately, all the associated risks would be entrusted upon them. Thus, an independent regulator would suffice the function. The same issue was felt while the other countries were going through privatization and in fact, India's very own telecom sector.

Thus, a need arises demanding a paradigm shift, from government control to that of an autonomous regulator, who would regulate the basic fares, allot the routs and manage them, the utilization of infrastructure like tracks, stations, electricity wires etc. [Privatization of complete railways or just the partial operations is dealt in next part of this paper[1]]. It is suggested that the railway board should limit its role and could serve akin to a corporate board, and new independent regulator must determine other tasks. It would be entrusted with all the economic regulations, including the fair-access regulations, tariff regulations and safety regulations. Also, the role of the regulator would be that of a supervisory authority wherein he makes sure that the requisite approvals and scheduling [on high congestion routes] is done on a strictly non-discriminatory basis among all the players.

This independent regulator should also be entrusted with quasi-judicial powers, i.e., it may investigate any violation or dispute and settle it. The need for the same maybe elaborated as, in case of privatization multiple private players would enter into the market. The suggestion in this paper, which is dealt in the next section in detail, is just to privities the operations where the other infrastructure related activities would rest with the government. In such a scenario clashes are bound to occur; violations of policy are very much apprehended. It is a settle position for now, that our civil courts are already burdensome, within all other settles and attempt Is being made to disperse its work. The examples could be establishment of National Company Law Tribunal, Industrial Tribunal, Debt Recovery Tribunal etc. Thus, privatizing the railways without having a quasi-judicial body would just act like adding fuel to the fire.

[1] § 3.2 of the paper.

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Another important factor to consider is that in a population of 133 million, Railways is a bloodline of transport. Having a dispute always have an apprehension that the particular disputant part might pause or delay the operations. The railways are so inter-connected with each other, the delay of one train, would disturb the whole track. Even till today, any casualty on one track, does not strops the working of railways altogether. Some quick decisions and proper co-ordination are very much required to tackle such circumstances. This issue is managed now, because it's just one body which runs the operations and takes the decision, but in a case, there are multiple operations running players, handling chaos, quick decisions and keeping the transport bloodline going, becomes a challenge.

The issues of an independent regulator does not end in just making it in place. It must be made sure that it is independent in its true sense and do not have any direct or indirect influence of the government. Regarding this, a separate budget should be set-up, because, funding flowing from an entity bring with itself, the opinion of such entity.

[2.2] **THE ISSUE OF RESTRUCTURING THE RAILWAYS & CREATING A HEALTHY COMPETITION**

Learning from the other countries of the world, that have undergone the process of privatization of railways, there are typically two types of reorganization involved, horizontal restricting and vertical restructuring. The former one could be related to systems competition and the latter one to component competition. Since India is yet to decide on the take of privatization, a reference from other countries would help to draw a suggestive conclusion as to how India should proceed, if it takes a affirmative stand in favor of privatization.

The United State privatized its freight railways in the 90s and Canada also did the same. However, there exists a common similarity between both of them, i.e. Both the countries favor competition within a closed system. Looking towards Countries like Argentina, Mexico and Brazil have followed the horizontal approach while creating separate enterprises that are vertically integrated. Such enterprises are controlled by private players, who enter into a long-term franchise agreement among them[vi]. Such private players generally compete at a same point in the market with each other, however sometimes competition might occur at parallel routs as well. Further, countries like the Sweden, Europe and United Kingdom have either partially or completely adopted the vertical restructuring[2]. Their approach is to build a competition among the multiple players who operate the trains.

Apart from experiences of other countries it is pertinent to highlight here the respective advantages and disadvantages of horizontal restricting and vertical restructuring. The former one keeps a balance between the operations of trains and tracks with respect to its scope of economics. However, on the other side of the coin it raises concerns of the rail customers, as it leaves them with no competition and an alternate risk of system size economies. In fact, authors have mentions that such a system where an independent company runs the tracks and another independent company runs the train, could raise serious concerns of discrimination. Further, as far as the vertical restructuring is concerned, it just acts to the opposite of the disadvantage of discrimination as offered by the horizontal restructuring. It becomes apposite to note here that the advantage of horizontal approach is indeed a disadvantage to the vertical approach, additionally investment incentives are also lost somewhere. The result of such compilation of pros and cons means, that even if the countries adopting vertical integration invites entry of private players, the incumbent might have much lower cost.

As of now, The Indian Railways works on a monopolistic and integrated structure. Its organizational structure is highly criticized and have often been terms as against commercial orientation. Further, since it is a government monopoly in the Railways as of now, there exist no inter-sector competition. The only competition that the Railways is hit by is to that of other modes of transport, majorly the roadways. Even if we not talk about privatization here, the structure is so much disturbed that it has been often cites as a reason behind almost no private investment in the Railways, despite multiple attempts by the Ministry of Railways.

If we learn from the experiences of other countries, the British railways initially started on a good note where it separated its infrastructure and operations into two different parts. However, it privatized both of them, which lead to its failure, whereas, if we look at the countries like Germany and Sweden, they did a vertical separation, wherein they separated the ownership of infrastructure from the government.

In case, India takes an affirmative stand with respect to privatization, restructuring becomes another point of issue as India is pro-competitive country. Meaning thereby, India promotes healthy competition and for that matter, restructuring from the present monopolistic system becomes important.

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[2] Bradsaw, B.,"The Privatization of Railways in Britain", Japan Railways and Transport Review,1996.

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Another issue with respect to competition in the Railways that is often raised by potential private players is that, even after privatization, the Government would still be a player in the market. Further, an issue arises if the Indian Railway is able to subsidies the government player by not allocating costs the way it would do with a private operator. In such a scenario the private player would hold both costs and haulage charges, whereas the railways would just hold the cost and no haulage charge, which is discriminatory on the face of it.

[2.3] IMPACT OVER THE FAIR

When asked about privatization, one of the major issues the opponents have is that the railways are meant to be public transport. Its variety of services, essentially types of trains and their respective fares further distinguished into different classes, makes it attractive to almost every citizen of the country, be a lower-class citizen or a high-class person, based on his ability to make expenditure. Since, now the Railways operate in a monopolistic environment, the government is assumed to work in public interest[vii]. However, once the private players enter into the market, these prices might fluctuate and this is exactly what the concern is.

As far as infrastructure services in the domain of public sector is concerned, they could be divided into two types, fist, Open Access Services, which are so intrinsic that the general public could not be excluded from it, such as intra city roads, water supply etc. Second, Limited Access Services, which may exclude a certain sect of public or person as an individual based on certain grounds, for e.g., the user-pays principle, i.e., the one who pays enjoys the service, the one who can't, won't enjoy it. The Railways falls under the second category, for both its freight and passenger services. However, it has become a general notion, that railways are certainly a part of essential public service, i.e., who might not be able to pay in full or in part are also included to use them. It is pertinent to mention here that, concessions in passenger trains are also been a contributing factor in railways incurring losses.

With the available data and resources at hand, suggest that, the impact of privatization of railways in Germany and Japan have been very much positive in terms of fair. Creating a competitive environment does not necessarily means, high prices for all, in fact, it means a continuous battle among the players in the market to attract more customers, one of such ground being low, appropriate and affordable prices in exchange of better services. In specific to India, how would such competitive market react to fairs, can only be examined once such competitive market exists.

Apart from this, the general statistics showcase that extremely low fares for passenger services in short duration or short distance travelled and extremely high freight charges have made the people shift to the roadways. This implies, rather than just price in passenger transport, the passengers are in search of better services, even if it costs them a bit high fair.

As far as fair regulations are concerned, it is suggested that the price should not be strictly regulated by the suggested independent regulator, whereas the haulage charge could be pre-decided by the regulator.

[3] ISSUES AT THE IMPLEMENTATION STAGE

It is true an effective, well planned and well addressed change in policy could be very efficient and purposeful for a sector, however, the same amount of caution must be taken at the implementation as well because it is not only the regulatory bodies or interested players that are being impacted, even the users form an essential part of the stakeholders of such sector. All of them must be well-informed and should hold participatory roles. Further, another important issue becomes, how to implement a policy, because unplanned implementation could sometimes turn out of be successful and could bring along with it various grave disadvantages, one example being the policy decision of Demonetization in India.

Therefore, the most essential issues that have the potential to pose a challenge at the implementation stage are hereby explained in detail as to the impact of privatization over the Industrial relations **[3.1],** and the process of privatization's implementation, phrased or complete **[3.2].**

[3.1] MANAGING THE INDUSTRIAL RELATIONS

Industrial Peace constitutes national important and privatization of any sector for that matter would not only involve a mere transfer of ownership and control or disinvestment by the government, it brings along various issues of employment, wagers, industrial relations collective bargaining etc. Other issues could be non-acceptance of privatization of the trade unions, the probable consequence of which could be strikes and lockouts. Thus, privatization have a serious impact over the Industrial relations and ways to manage the same must be included before implementing the privatized framework.

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The reason before such grave impact could be traced to the very concept of turned a public sector to a private one. The Industrial relationships in public sector are quite different from that of private sector. This difference becomes more prominent when a public sector is completely monopolistic in approach, it works with an objective of benefit of the people, whereas, the private players have an underlying objective of profit making.

The impact could be in form of limitation in representation of that of public sector employee's organizations. It's not just the government that leaves its control over a sector; it's the government's employees who are also forced to leave the sector. Another impact could be in form of membership rates and Industrial conflicts. As discussed above, it could not be reasonably expected from the trade unions and the works to adapt such a drastic change in policy and regulations overnight. Many of them would lose the respective jobs and many would have to face a pay cut. All of this would serve as driving force is creation of a dispute between the sector and workers. The obvious consequence of failure to collective bargaining being, strikes and lockouts. In case, this happens, this would have a devastating effect. It affects not only the sector, and its players but also its users. Many travelers depend upon railways for travelling to their work places in a nearby town on a daily basis. Indian railways are just not about the tourists but it is a need for many. This is further engraved by the presence of various essential professionals involved in the employment of railways like the train drivers, engineers etc.

As a generally perceived notion, privatization places the employer in a more superiors or dominant position to that of employees. This may be further elaborated as, the workers might be statutorily bound to leave the employment, accepts the changed terms of employment or even the pre-determined concessions as offered by the employer. Therefore, such situation would run against the very objective of India's approach towards various labor laws i.e., to balance out the objective.

Other issues could involve managing the minimum wage standards for the private employers, the earnings in public sector monopoly is quite protected and regulated, job security, budget constraints etc. These issues need to be address by way of letting the representative of industrial relations participate at the policy making stage, so that the change in policy does not comes as a complete surprise package to them.

[3.2] PHRASED IMPLEMENTATION OR COMPLETE IMPLEMENTATION

After looking the privatization process of railways in other countries and their respective experiences, there could be two modes, in which this process could be initiated and implemented. One being, privatize the complete railways, its operations, the engineering part, the services it offers, the infrastructure it has – everything! The mode is not to rush things up and reach out at a balanced position, by adopted a phrased or partial privatization.

In a developing nation like India, where Railways operate as a public transport which is of the public and for the public, this remains an issue, i.e., whether to privatize the complete railways or whether to privatize just some part of railways. The Second issue remains, even if India undertakes any mode of privatization, how it should be implemented. Meaning thereby, do it need a complete implementation of the whole plan, or the plan should be implemented in a step-by-step process. All of these issues could possibly be answered after learning from the example of other nation who has undergone the process of privatization successfully.

One such good example is contemplated by the Japan. The Japan National Railways had the railways structure somewhat similar to India, before it decided to privatize its railways. Rather than rushing towards thing, it decided to undergo a gradual 'one after the other step' approach. It took its first step in the Year 1987, when it incorporated a temporary company, by the name of Japan National Railway Settlement Corporation, abbreviated as the JNRC. This company, which was a public sector company, bought most of the shares of newly developing privatized Japan Railways. The stocks were not hurriedly offered to the general public, because of many underlying anticipations the Japan National Railways. Some of the reasons could be mentioned here as, its negative reputation among its passengers and its assumed inefficiency. The Japan National Railways feared that these factors could negatively have an impact over the stock prices. Also, another fear was, the investor could show more potential and interest in holding shares of other newly established railways companies rather than JNRSC. At that point of time, the Japan National Railways were highly debt ridden, thus selling the shares at extremely high prices became a necessity. Thus, the JNRC continued to hold the shares till the other new players in the market established themselves, made a respectable reputation in the eyes of public and investors and created appropriate stock prices. All of this was done by giving efficient services and showing legit profits. Thus, we may conclude that Japan was never truly privatized in 1987, however, it started taking small yet effective steps and gradually mold their Railways to a privatized Japan Railways.

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Another approach which was followed by the other countries was bringing autonomous commercial bodies in place of their respective National Railways. Such autonomous bodies had realistic balance sheets, where the government could essentially just subsidize the public service obligation. Another interesting factor regarding this autonomous commercial body was, it was created completely independent.

Some other countries just replaced their management which was earlier working geographically to that of a multidivisional structure, operated by different private players under various business lines offering quiet different services.

Thus, we can understand that some countries adopt a slow gradual process which definitely takes time but substantially makes it a more systematic, realistic and adaptable procedure whereas, some other countries adopted a comparatively quicker process, which takes less time but a very careful implementation. This may be further elaborated as, Japan, as stated above and New Zealand, both very smooth in implementing the privatization process, they took it ahead in a phased manner, whereas, countries like United Kingdom and Argentina who rushed things up, entered into a relatively quick process, completing it in a mere 2 years of time frame, was an indeed drastic step, which in fact, is not termed as a reason behind United Kingdom's failed privatized Railway's story.

Further, there remains an underlying common strategy of generally all the countries, that all of them had a view to implement the policy in such a way that it makes the investors more and more interested into. One of another criticism of complete and quick privatization is that it required a sudden lot of change in the existing regulations, policy and laws the particular country follows. Although, it is obvious that even a bit of privatization or step-by-step privatization would require a change in laws and policy of a country, however, it would be a one-by-one. The stakeholders in that case would understand the implications and get sufficient time to adapt it and react to it. Whereas it's never a great idea to overnight change the complete policy and regulations, especially in a country like India, where such a huge population is introduced to the 166-year-old rail network as 'public undertaking'.

Furthermore, privatization affects not only the laws but many other related factors, some of them may be explained as, A shift in employment. If the Government monopoly makes a disinvestment in the sector and leaves its area to allow private player entry, its number of employees need to be reduced. However, inviting private players would mean multiple companies, with multiple job offerings and job profiles. The issue does not end at the swift change the employment, but it extends to the issue of addressing the former employers of nationalized railways too, the pension related concern of retired employees. Furthermore, acquiring the property for purpose of privatization, fixing the limits to those remains another issue.

[4] PRESENT SITUATION: THE PSEUDO PRIVATIZATION

The Modi-Government has been often said to be losing national assets and disinvesting in various sector, the first move among the same line of thought was in the year 2014, when it allowed 100% foreign direct investment in railways through the automatic route, while some criticized it on ground, that the government is on the track of 'slow privatization', some praise it on the ground of raising funds without giving up the ownership and control from the hands of government.

Another contributing move to aforementioned criticism was inviting auctions as a part of public-private partnership of 23 railways stations including Indore, habibganj and others. Under this plan, the private players would obtain a tender to modernize the railways stations as a part of their auctions, in return, they could utilize the station's premises to create and commercialize malls, hotels, hospitals and cinema halls. The time frame for maintaining the station was set to be 15years and leasing rights of 45 years regarding the nearby constructions over the station's premises.

Yet another contributing move, which is criticized and celebrated at the same time is the notification of July 1, 2020. Herein, the government offered 151 trains and 109 routes to be operated by private players. The guards and drives would be provided by the Indian railways, whereas the private players are given the freedom to set prices, procure train and locomotives at their own end. This move is supposing to be started by April 2023, and is thus under great scrutiny by the opponents of privatization. If we examine this move critically, it is understood as a move of privatization without being termed as privatization!

[5] CONCLUSION AND WAY FORWARD

At present, India has partially privatized its freight railways, since it felt it was essential for smooth transportation among the business enterprises. Thus, present various big business houses own their freight trains, however such are restricted to limited and specific tracks. Also, the need for privatization with respect to services, speed and improved technology is felt in the passenger routes only. Thus, it is suggested that for now, India's freight railways system is not posing any problem and requires no reform, however, as far as passenger reforms are concerned, reforms at the earliest are essential.

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Further, even in the passenger's context, the whole railways need to be privatized. As the paper showcases the successful examples of Japan and New Zealand and the failed example of the United Kingdom, it is suggested that India should follow partial privatization. The present railway structure should be divided into two parts, one comprising of infrastructure and related active and one comprising of operations of trains. The former should remain under a monopoly of government whereas the latter should be privatized. The private player's hall be invited to run their own trains on the Tracks of Indian Railways. However, a fixed based on certain parameter preferable, on per kilometer bases, could be charged on the private players, upon the usage of Railways Infrastructure. This is also in line with the thought process of government behind the July 2020 notification. Thereafter, even in the operation of passenger trains, 100% disinvestment of the government is not suggested. It should continue to be one among the various private players. Also, this privatization of operations should also be in a phrased manner, akin to what Japan followed. The government should hold stock initially and should gradually disinvest as the laws, regulations and passengers adapt the process and it turns out to be efficient, reducing the potential industrial dispute concerns as well.

Furthermore, if we consider the Indian railways, one of the striking grounds on which The Indian Railways require privatization was its issue relating to intra-model competition, i.e., facing competition within the sector from another like services, herein the Road Transport. In that regard, times and often both of these transports are compared over their distance people wish to travel, i.e. The short route and the long route. It is to be noted that people prefer buses or taxis over short route just to have better services than railways at the cost of higher time and price. Thus, if the railways would provide better services, there could be a possible shift in the customer's preference. This is what makes the short-haul connectively more attracted to potential private players wishing to enter the market of privatized railways. Another supporting fact in this regard could be the $15 Billion annual market of busses, which is approximately $6 to $7 Billion higher than that of passenger revenues.

As far as an autonomous regulator is concerned, it should be allotted a dual role. A reference may be made to the role of the Competition Commission of India. It must be given the executive powers of a sectoral regulator and also quasi-judicial powers, to efficiently settle the dispute and give quick decisions. Also, the regulator should be truly independent to the Ministry of Railways, however, a limited yet responsible relationship shall be maintained between the two. Also, to simplify the legal machinery and to enable it more systematically, there must also be an Appellate tribunal, that would supersede such regulator. Any grievances from the decision of such regulator shall be preceded before the Appellate Tribunal within the stipulated time. Further to fasten up the process, the Tribunal may also be given a swift deadline to settle that dispute. The ultimate check over this process would lie with the Hon'ble Supreme Court of India, possibly under its extra-ordinary jurisdiction, The Special Leave to Appeal under Article 136 of the Constitution of India.

Apart from this, the Regulator would be asked to set basic tariffs, regulate the fairs and ensure a fair entry and survival to all the players. This is required because, if the privatization is implemented as suggested, the government would also be among one of the other players operating in the market. And since, it would continue to hold a monopoly in the railways' infrastructure there are high chances it could draw itself some anti-competitive advantages, which the other players would not get.

Therefore, such function of the regulator becomes essential. Thus, the probable framework could demand an effective coordination between the Ministry of Railways and the suggested regulator, where the Ministry would frame the policy and the Regulator would implement it.

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