Chapter 4: Public Corporations

4.1 DEFINITION

A public corporation is a specialized arm of government responsible for performing functions and services that are public. It is a middle-of-the-ground establishment between the public sector, represented by the bureaucracy or red-tapism of the civil service, and the private sector whose major objective is profit-making. As its name suggests, public corporations are public properties.

This means that a public corporation's partial business or commercial orientation is expected to serve public ends. It is outside the civil service even though it is subject to public control. In a nutshell, a public corporation combines the characteristics of the private enterprise idea and the ideas of the public service. Public corporations represent socialized industries for the benefit of all citizens. To that extent, they represent an instrument of economic nationalism. Being outside government, public corporations are, in theory, capable of operating in a flexible manner. They are also capable of innovating and promoting close coordination of economic policies with the general policies and programmes of government. This is with a view to accomplishing the public purpose.

4.2 TYPES OF PUBLIC CORPORATIONS

One important point to note here is that, in the beginning, public corporations were associations for common purposes. There were then the universities, monasteries, boroughs, guilds, etc. Again, since the famous Industrial Revolution in Britain, the business corporations have become by far the most important form of corporations.

Basically, there are three types of public corporations. These are as follows:

(a) Statutory Corporations.

(b) State-Owned Companies

(c) Mixed-Economy Enterprises

Statutory Corporations

These are of three main types. In the first place, there are public utility corporations which are, strictly speaking, service-oriented. Examples include railway, water, telecommunication, ports and electricity corporations. However, they charge economic costs which, generally speaking, are expected to be within the reach of most citizens. Secondly, we have development and finance corporations. These are regulatory corporations and the most notable example in all modern states is the Central Bank. Insurance companies also fall within this category. Thirdly, there are social service corporations. The best examples are radio, television, and housing corporations. Sports commissions and library boards are also part of this group.

State-Owned Companies

These are corporations that are wholly owned by government. What this means is that both ownership and management are public in nature. The shareholders are the taxpayers. Examples in Nigeria are the Nigerian National Shipping Line (NNSL), the steel companies, oil refineries, etc. However, there are certain public enterprises entirely owned by government but which are established under company laws. What this means is that they are operated like incorporated private organizations. Perhaps the best example in Nigeria was the Nigeria Airways which enjoyed a monopoly.

Mixed-Economy Enterprises

These are enterprises or corporations where joint partnership exists between government and private entrepreneurs. Such partnership is what is called limited liability partnership. It entails the contribution of the state and private organizations or individuals to the funds of the enterprise. By the same token, the two parties contribute to its management. Africa abounds with examples of mixed-economy enterprises. In Nigeria, some of the examples include MTN Ltd; University of Ibadan Ventures Ltd, etc.

4.3 PURPOSES AND FUNCTIONS

There is no doubt that public corporations serve many purposes and also perform several functions. We can categorize these functions under four major headings:

(a) Ideological and Political

(b) Organizational

(c) Administrative

(d) Economic

Ideological and Political

As we have seen, the modern day origins of public corporations can be dated to the Industrial Revolution. This revolution promised a lot in terms of welfare of the masses. However, it achieved very little. The revolution resulted in capitalist arrangements in the economic life of nations. By definition, capitalist economies permit only a few persons or groups to have access to and enjoy the monopoly of ownership of vital and critical public utilities. Only top-flight businessmen, merchants, traders, etc. who had much capital could survive in such a system. The need was therefore felt for the state to intervene. The result has been the creation of infrastructure and services to provide for poor citizens. Areas where public corporations have been useful include ports, railways, airways, provision of electricity and water, marketing of export produce, etc. State intervention is meant to create and distribute wealth on the basis of social and economic justice. It is important to note that this lofty objective is not always attained in practice.

Organizational

Traditionally, a typical or normal government department or ministry was the organizational form of public enterprises. However, the general tendency was and still is that when it comes to activities of an individual or a commercial character, the performance of government departments is almost always poor. Thus public corporations are necessary for two main reasons. Firstly, traditional civil service organization, norms and procedures are not easily receptive to new ideas. The civil service is simply unable to absorb the demands made upon it by the new activities of modern nation-states. Secondly, and tied to the first reason, is that new structures and organizations are needed to carry out certain new activities which new states have assumed. The movement of world history has made the functions of the state to go beyond mere maintenance of law and order. Taxation has become insufficient to provide services and infrastructure. The State has to actively participate in business in order to obtain the funds needed to discharge the new and heavier responsibilities it now shoulders. In short, the State needs a new organization capable of combining public responsibility or accountability with the efficiency of a private commercial or business undertaking.

Administrative

Pubic corporations are created to grant bodies managing government business adequate autonomy for operational efficiency. It is an effective form of decentralization which ensures that decisions are made at the appropriate level by appropriate persons. Commercial and industrial enterprises require adequate autonomy from government to enable them take quick decisions based on business considerations rather than on civil service rules. The civil service is characterized by strict compliance with rules, regulations and procedures. This results in red-tapism, delay and inertia in government service. Public corporations are, therefore, created for services which are not suited for civil service mode of operation. Public corporations devise rules and methods appropriate for their peculiar services. This prevents red-tapism and delays and ensures quick decisions, fast operations, initiative and innovation.

Economic

Public corporations are extensions of the emergence of an administration that is concerned with development. Firstly, public corporations come in handy to fill in the gap created by the little presence or total absence of an indigenous private sector, particularly in developing countries like Nigeria. Secondly, public corporations, particularly those of a commercial character, can help generate revenue needed for financing projects. Thirdly, they can help government to perform its important functions of economic growth and welfare. Fourthly, they are capable of encouraging a planned economy. This is by ensuring governmental participation in actual management and in the regulation of industry and commerce. In the fifth place, public corporations are needed in developing countries to build the necessary industrial base. The state simply has to intervene. This is mainly because foreign capital and foreign entrepreneurs are unreliable. They are too quick to calculate risks and returns. Their main aim, naturally, is on profits and rapid turnovers. In addition, public enterprises are used to organize some extremely important activities of infrastructural and service character. These are sectors which, because they yield very low profits, are not attractive to private entrepreneurs. Public corporations also provide employment for citizens who would otherwise have no jobs to do. And finally, a public corporation is a viable instrument, when properly used, for promoting national economic development and national economic and social justice. In Nigeria, the framers of the country's 1979 Constitution had this objective in view. They, therefore, provided for a national economy in which the state would intervene in order to ensure three main things:

(i) that the material resources of the country are harnessed and distributed as best as possible to serve the common good;

(ii) that the economic system is operated or administered in such a way that the concentration of wealth or the means of production in the hands of few individuals or groups is disallowed and

(iii) that the national economy is controlled in such a manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity.

4.4 ORGANISATIONAL STRUCTURE

Public corporations generally have three-tier structures. At the apex is a board of directors. This board is responsible for laying down policy guidelines. Sometimes, it also has executive powers. Below it, we have an administrative class. This consists of the general manager who is the *de facto* overall administrative head, the secretary and other secretaries. Under the administrative class, like in a typical government department, there are the following classes of personnel: executive, clerical and manipulative.

At the same time, the functions of public corporations require the services of professionals competent in different areas of service. There are, therefore, various divisions made up of various professionals needed by the corporation. In addition, while in some countries, employees of public corporations are recruited, appointed, promoted and disciplined by the Board of Directors of the corporation; in some others, a new organ, Statutory Corporations Service Commission (SCSC) is created to specifically cater for such categories of state employees. In Nigeria, the SCSC was adopted nationwide between mid-1960s and early 1970s. It was the Udoji Commission on the Public Service that recommended its abolition in 1974. Today, each public corporation's Board of Directors appoints, disciplines and promotes its personnel.

4.5 CHARACTERISTIC FEATURES

Certain features differentiate the public corporation from the traditional civil service system and from a private company. These features or characteristics are many including the following:

(i) **State Ownership:** The public corporation is established and owned by the State. It is created by an Act of Parliament (Legislature) in a civil democratic rule or decree/edict in a military rule. The law establishing a public corporation sets out its structure, functions and powers. A public corporation, as a creation of the state, is a public property, run and controlled as a public enterprise.

(ii) **Legal Status:** A public corporation is a state creation with its own legal status. It has a legal personality. What this means is that it can sue and be sued. It can enter into contracts and acquire property in its own name.

(iii) **More Flexibility and Autonomy:** Public corporations enjoy considerable autonomy. They are, in fact, more flexible and more autonomous than other types of organizations performing similar functions for government. For the commercial ones, they have greater freedom to acquire and dispose of property than ordinary ministries or departments. This is because they are part of the commercial world that enjoys flexibility and freedom from red tape. The commercial-oriented public corporations ensure flexibility in their day-to-day operation and hiring of staff through their boards.

(iv) **Authority to Raise Revenue and Make Expenditure:** Public corporations have their own separate sources of revenue. The acts setting them up empower them to raise loans. To that extent, they have self-sustaining organizations. A public corporation has the power to determine the character of, and the necessity for, its expenditure. It also determines the manner in which this expenditure is incurred, allowed and paid. It is also exempted from most of the statutes that regulate and prohibit expenditure of public funds.

(v) Business-like Accounts and Budgets: The accounting system of public corporations follows private commercial practice. On its part, a business-like budget is a plan of operation which gives enough room for flexibility. This type of budget shows, among other things, a statement of income and expenses, a statement of sources and application of funds, etc.

(vi) **Personnel outside the Civil Service:** Employees of public corporations are not civil servants. They are therefore recruited, disciplined and remunerated under terms and conditions determined by the corporation. In fact, corporation laws recognise the need for greater flexibility in the handling of personnel. This explains why civil service rules and conditions do not apply to most public enterprises.

(vii) **Doctrine of Responsibility of Minister:** Public corporations do not have shareholders with monetary or financial interests as in the private sector. Taxpayers are shareholders. It is the minister under whose ministry or department the corporation is supervised who holds brief for them. In other words, it is the minister who assumes full responsibility for the corporation. He also accounts for all its acts and omissions. In this respect, the minister is a symbol of state involvement. He is a channel of accountability to the corporation.

(viii) **Renders Public Services:** A public corporation serves the public as a quasi-commercial enterprise. It sells services, even though at low prices and at the reach of almost everybody.

(ix) **Instrument of Government Policy:** Governments have the tendency to use public corporations as instruments of policy. They use them to direct and control the provision of social services. In this respect, the upper cadre of management is used to control day-to-day functions of public enterprises.

(x) **Independently Financed:** The public corporation is independently financed. This is to ensure its autonomy and efficiency. It has power to raise loans for its operation. It however, receives subventions from the government.

4.6 CONTROL: REASONS FOR AND TYPES

As a creation of the government, a public corporation necessarily has to be controlled by the government. There are three main reasons why this has to be so. Firstly, the government needs to ensure accountability. In this respect, it has to see to it that strict business methods of management are adhered to. Secondly, there is the need to ensure that public corporations do not fall into normal work-a-day government delay and bureaucracy red-tapism. Thirdly, there is the need for continuous supervision of the surveillance over the activities of the corporation and its board. This is to ensure that all societal classes and interests have a sense of belonging in the production and distribution of services and goods. The overriding concern is to see to it that the corporation would not be used to satisfy the desires and aspirations of only a class or a few members of the society.

There are basically seven types of control. They are as follows:

(a) **Political or Ministerial**

The supervising minister is the link between the government and the corporation and ensures that government's interests are maintained in the corporation. He is empowered to approve the corporation's major policies and projects. Nevertheless, the minister does not interfere in the day-to-day management of the

corporation. He also makes regulations and issues directives. But these directives are expected to affect only board policies of the corporation. Public corporations send annual reports to the minister for the appraisal of their performance. The minister can institute an investigation into the operations of corporations.

(b) **Control through the Law**

The public corporation is established by the law of the state which sets out the limit of its functions and powers. The public corporation cannot exceed the limits of the law that established it. The government which established the public corporation has the power to review, alter or revoke the law with which it established the corporation whenever it discovers that the corporation is not performing in accordance with public interests.

(c) **Control Through Appointment and Removal of Board Members:** Members of the Board of Directors of public corporations are appointed by the head of the government (chief executive) on the recommendation of the Minister/Commissioner supervising the corporation. The board members remain in office at the pleasure of the government of the day. The chief executive has the power to remove any board member at any time and replace him/her with his favorites. This is a powerful instrument of control as board members would be forced to run the corporation in a manner that will satisfy those who appointed them.

(d) **Legislative Control**

In a democratic civil rule, the legislature enacts the laws which establish public corporations. As the lawmaker, the legislature can amend the law which establishes a public corporation by limiting or expanding its powers. The legislators also criticise the performance of public corporations on the floor of the legislative assembly. It is the responsibility of the legislature to examine the annually audited accounts of the public corporations. The legislature is empowered to set up an investigation into the activities of any public corporation that performs unsatisfactorily.

(e) **Judicial Control**

As we noted earlier, the public corporation is a legal personality. Thus, whenever it fails to perform its duties, it could be dragged to court by citizens. The court can then compel it to perform its duties through the *writ of mandamus.* The court can declare an action of a public corporation *ultra vires* and therefore, null and void if such action is beyond its power. The court can also prohibit a public corporation from performing a certain action under the *writ of prohibition.* A citizen whose fundamental rights are violated by a public corporation can take it to court for redress.

(f) Technical and Hierarchical

The public corporation also controls itself internally. This is done in two ways. Firstly, superior officials and technical experts supervise their subordinates. Secondly, the Board of Directors ensure that the corporation operates in accordance with government objectives and public interest. It is empowered to appoint, promote and discipline personnel and make policies for the corporation. Through these activities, the board exerts a lot of internal control over the corporation.

(g) Public Criticism

In all modern states, the mass media, particularly newspapers, provide a very important avenue for the educated and enlightened citizens to regularly evaluate the performance of public corporations. The press investigates the operations of public corporations to expose corruption, abuse of office, financial mismanagement and maladministration. Citizens have the right to criticize the public corporations and offer suggestions.

The degree of usefulness of this medium varies from one state to the other. It is more useful in developed countries than in developing ones. In Africa, where there are one-party states and military regimes, governments do not always tolerate criticism by informed public opinion. This is so, no matter how objective or useful the criticism may be.

4.7 PUBLIC CORPORATION VERSUS THE CIVIL SERVICE

These two public sector organizations are both part of what is called the public service. However, they perform different functions.

The civil service has two main functions. One, it advises the executive (the political class) on policy matters, basing its advice and argument on facts, figures and experience. Secondly, it implements whatever decisions the political executive arrives at, even when the initial advice of the civil service is rejected on a given policy matter.

We have seen that the public corporation performs two basic activities. First, it runs government business under business management style. Secondly, it provides basic services.

4.8 PROBLEMS OF PUBLIC CORPORATIONS

Public corporations have many problems, the degree of manifestation of which varies from one corporation to the other. We will discuss the problems under the headings below.

(i) Control versus Autonomy

Government and public corporations are always at loggerheads on how much capital public enterprises need and on the price tags to be put on goods and services. The issue here is how to strike a balance between control and autonomy in such a way that the corporation would still perform efficiently and effectively. This is because while the board clamours for more autonomy, the minister emphasizes the need for more control.

(ii) Public Accountability versus Social Responsibility

These two important features of democracy can best be guaranteed when the major sectors of a country's economy are managed by officials ultimately answerable to the people who are sovereign. However, it is not always the case that public officials serve the people. They often pursue their own interests and fill their private purses with public funds. Thus, there are instances of corruption and financial mismanagement.

(iii) Danger of Political Influence and Partisan Politics

Appointment of ministers and board members are expected to be on merit. But other criteria always come into play. One of these is partisan politics. This makes appointment to be based more on political loyalty and sympathy than on competence or expertise of appointees. There is, therefore, the danger of the board becoming a forum for the formulation and execution of party policy. Goods and services of the corporation become a booty for those who voted and are likely to vote the party into power. They also become an instrument of punishment for political enemies. This explains why, in several countries, public corporations are political establishments serving political ends.

Under military regimes, those appointed into boards may be errand boys or yes-men for military politicians. Politicizations impairs efficiency.

(iv) **Inability to Attract Top-flight Personnel**

As a result of excessive political influence and partisan politics, competent hands are reluctant to accept appointments, particularly on full-time basis, into corporation boards. The lives of boards are, in most cases, tied to the lifespan of governments which appoint them. This is particularly true in several African States where political instability is a common feature of government.

What this means concretely is that except in few cases where a political appointee is also a man of expertise, public corporation boards do not usually attract men and women of high expertise. More significantly, corporations also lose seasoned and balanced expert advice. As the public sector expands, top-flight financial experts become more scarce. Thus, there is a dearth of budget experts, auditors, accountants and professionals in other fields. Such people naturally prefer the private sector where highly-skilled personnel are adequately remunerated.

(v) Implications of Financial Dependence

Most public corporations are public-financed and therefore dependent on government for all kinds of subventions. This financial dependence makes corporations vulnerable to direct control by government through the minister-in-charge. The independence and field of maneuver of corporations are thereby limited.

(vi) **Negative Effects of Ministerial Control**

The controlling ministry often issues directives and regulations which tend to make corporations a carbon copy of the civil service. In other words, public corporations are made to manifest the bureaucratic norms and structural defects of the civil service. The result is a corporation that finds it difficult to take quick decisions on critical issues.

(vii) **Financial Constraints**

As already noted, public corporations are financially autonomous. However, this can be so if there is enough and realistic capital for the corporation, and if the corporation has power to raise enough funds in the open market. This is not always the case though. An important point here is that the free capital market is not always prepared to provide funds for enterprises which are mainly social service-oriented.

There is even a debate on the degree of operation and financial flexibility in a corporation established by a government. This is particularly so in developing states where governments tend to constantly look over the shoulders of management.

(viii) **Inadequate Supervisory Role**

In both developed and developing countries, but more in the latter, government ministries are often unable to effectively supervise the management of public enterprises under them. What is more, civil servants in ministries lack the expertise and experience needed to play this supervisory role.

(ix) **Little Worker Participation**

There is little or no worker participation in the running of their corporations. At best, workers are consulted on how best to manage the affairs of their workplace. However, states with a collectivist or centrally planned economy in Eastern Europe and in some parts of Africa (Algeria, Malagasy, Tanzania, etc.), have made some progress in making workers part and parcel of activities in their work place. Lack of workers' participation lowers the commitment, productivity and efficiency of the workers in the public corporation.

(x) **Lack of Managerial Autonomy**

Competent hands in public corporations do not really have enough freedom to pursue, let alone achieve laid-down plans. It is important to stress that the degree of management autonomy varies with the level of appointment. Those in the upper echelons of management as well as the director or chairman can influence policies more than others. Managerial autonomy is indispensable to the effective management of corporations. There is also a high incidence of government interference in the day-to-day management of public corporations which adversely affects their effectiveness and productivity.

(xi) **Lack of Continuity**

As already said, frequent cabinet turnovers do not allow policies to take root before they are replaced by others. This phenomenon creates lack of continuity. This is because each government that comes has a different set of priorities from those of the predecessor. Government departments and corporations sometimes need to always begin again as short-lived military regimes replace themselves. This trend is very visible in Nigeria.

KEY POINTS

Meaning of a Public Corporation

It is a statutory semi-autonomous body established by government to provide specialised economic and social services which are public-oriented.

Types

(a) *Statutory Corporations* with three sub-types:

(i) Public Utility (Railway, Water, Telecommunication, Ports and Electricity Corporations)

(ii) Development and Financial Corporation (Central Bank, Insurance Companies, etc.)

(iii) Social Service Corporations (Housing Corporation etc.)

(b) *State-Owned Companies* (Nigerian National Shipping Lines, former Nigeria Airways, etc.)

(c) *Mixed-Economy Enterprises* (MTN Ltd., University of Ibadan Ventures Ltd, etc.)

Purposes and Functions

(a) *Ideological and Political:* The State's intervention is necessary to provide infrastructure and service for poor citizens who are often in the majority.

(b) *Organizational:* The traditional structure, organization, norms and procedures of the civil service are not suitable for activities of an industrial or commercial character. There is therefore the need to set up public corporations. This is meant to do two things:

(i) Undertake commercial activities on behalf of the state; and

(ii) combine public responsibility or accountability with the efficiency of a private commercial undertaking.

(c) *Administrative:* It provides for decentralization which makes quick decision possible in management-oriented enterprises.

(d) *Economic:* Public corporations are an extension of an administration that is concerned with development. In this direction, public corporations serve the following economic purposes:

(i) Fill the gap created by the absence of indigenous investors.

(ii) Generate revenue for government,

(iii) Encourage a planned economy.

(iv) Help to build an industrial base, particularly in developing states,

(v) Organize important activities of infrastructure and service character,

(vi) Help government perform function of economic growth and welfare,

(vii) Provide employment for citizens,

(viii) Serve as a viable instrument for promoting national economic development and social justice.

Organizational Structure

Public corporations have a three-step structure.

First step: Board of Directors

Second step: Administrative class led by Chairman/General Manager, etc.

Third step: Divisions made up of various categories

Features

(i) It is state-owned.

(ii) Has its own legal status.

(iii) Enjoys more flexibility and autonomy than ordinary government departments.

(iv) Has authority to raise funds and make expenditure,

(v) Its accounts are run like those for business or commercial enterprises,

(vi) Hires and fires personnel outside the framework of the civil service.

(vii) The relevant minister supervises the corporation's activities,

(viii) Serves the public as a quasi-commercial enterprise.

(ix) Used by government as an instrument to direct and control the provision of social services.

Control: Reasons and Types

(a) Government controls public corporations for three reasons:

(i) In order to ensure accountability,

(ii) To prevent .corporations from falling into the usual government practice of delay and bureaucratic red-tapism.

(iii) To ensure that all societal classes and interests have a sense of belonging in the production and distribution of services and goods.

(b) There are seven types of control:

(i) Political or Ministerial, this is, control by the minister-in-charge.

(ii) Parliamentary control,

(iii) Judicial control.

(iv) Technical, hierarchical, that is, internal control,

(v) Control through the law.

(vi) Public opinion that constantly puts the searchlight on public corporations,

(vii) Control through appointment and removal of members of the board of directors.

Public Corporation vs. the Civil Service

These two sectors are part of what we call the public service, but they perform different functions:

(a) Civil service

(i) Advises government on policy matters,

(ii) Implements government policies.

(b) Public corporation

(i) Runs government business on commercial lines,

(ii) Provides basic services to the people.

Problems of Public Corporations

(i) Lack of public accountability and social responsibility, which results in corruption, abuse of power and financial mismanagement.

(ii) Danger of political interference and partisan politics.

(iii) Inability to attack top-flight personnel.

(iv) Financial constraints and dependence make corporations vulnerable to direct control by government through the minister-in-charge.

(v) Danger of the corporation duplicating the civil service,

(vi) Ineffective supervisory role by government departments.

(vii) Inadequate workers' participation in the running of corporations.

(viii) Lack of managerial autonomy,

(ix) Lack of continuity in the department or corporation due to cabinet turnovers.

SAMPLE EXAMINATION QUESTIONS

Essay Questions

1. Using specific examples, discuss the various types of public corporations.

2. What purpose do public corporations serve?

3. What are the features of the public corporation?

4. Examine:

(a) reasons for control of the public corporation; and

(b) the various types of control.

5. Discuss the problems faced by public corporations.

Objective Questions

1. A public corporation is

A. a specialized private sector enterprise. B. an arm of the local government. C. synonymous with privatization of public bodies. D. statutory semi-autonomous public body. E. controlled and managed by the minister who can hire and fire its staff.

2. Which of the following is a public corporation? A. Local Government B. Federal Ministry of Health C. Nigerian Ports Authority D. The Nigerian Council of States E. The Commercial Bank

3. Which of the following is not applied in the control of public corporations? A. Writ of mandamus B. Writ of prohibition C. The press D. Writ of habeas corpus E. Public accounts committee

4. Which of the following activities is not performed by the public corporation?

A. Generation of revenue for government B. Filling the gap created by absence of indigenous investors C. Taking over functions of government ministries/ departments as and when necessary D. Helping the government to perform functions of

economic growth and welfare E. Provision of public services

5. Which of the following is a problem of public corporations? A. Public opinion B. Political interference C. Parliamentary contro D. Coup d'etat E. Privatisation

Answers

1. **D**
2. **C**
3. **D**
4. **C**
5. **B**