

AN ASSESSMENT OF PRIVATE PRACTICE IN PUBLIC TIME IN NIGERIA

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ABSTRACT

The issue of public or government employees using office time for personal purposes has become common practices in public organizations' settings. The aim of this paper is to provide a thorough understanding of the phenomenon of private practice in public time in the context of public service in developing countries, with focus on Nigeria. This is with a view to ensuring an efficient and effective public service to help translate government policies to meaningful actions for the benefits of the citizens in the country. The specific objectives were to conceptually assess forms of private practice in public time, prevalence of private practice in public time, drivers of private practice in public time, consequences of private practice in public and curbing private practice in public time. A theoretical approach is employed in the exploration of the subject through library type of research. Assessment of various studies showed some divergence and indicated that public service employees' indulgence in private practice in public time is growing daily and could have implications for both employees and public organizations. The study recommends the need to increase wages in the public service to encourage workers to be dedicated to duty in order to discourage them from private practice in public time. On the other hand, there should be a development of the informal sector to accommodate other individuals in order to reduce dependence on the public sector employment which is fundamental in developing countries like Nigeria.

INTRODUCTION

A common phenomenon among employees in the public service is their involvement in private practice in many developing and advanced countries (Ferrinho et al., 2004). On one side of the divide, the management, such a practice symbolizes a conflict of interest, while on the other, the employees, it is a coping strategy to improve income (British Medical Association, 2021; Guo & Parlane, 2023). The notion of the full-time civil servant exclusively dedicated to his/her public sector job is disappearing (Ferrinho et al, 2004).

The debate as regards private practice in public time continue to rage as to the desirability of those indulge in such a practice. There is evidence that private practices set up in public time especially in public hospitals tend to be a privilege geared towards senior, more experienced, consultants to attract and retain these high-profile professionals (Guo & Parlane, 2023; Queensland Government 2024). Though private practice in public time is more pronounce in the health (hospital) as a way to retain professionals (Cheng et al., 2013; Guo & Parlane, 2023). More worrisome is its possible effect on service delivery in public organizations and the society in particular. There are widespread perceptions that engaging in private

practice in public time can have significant negative effects; though other arguments support private practice in public time (Berman & Cuisson, 2004).

This paper examines private practice in public time. The objective is to provide an in-depth understanding of the phenomenon within the context of public service, particularly in developing countries. This is with a view to ensuring an efficient and effective public service to help translate government policies to meaningful actions for the benefits of the citizens in those countries (developing countries). In this context, it is hoped that management in the public service organizations and indeed, policy makers (government) will take appropriate steps to addressing the factors that predispose or motivate employees in the public service to engage in private practice.

The paper is theoretical in nature. However, it will form the basis for future empirical work by anyone interested in the subject. The first part is introduction. The remaining parts are structured as conceptual review of literature and conclusion.

CONCEPTUAL REVIEW OF LITERATURE

Private Practice

Most authors on the subject provide different definitions of the term – private practice. These definitions appear to be contextual in nature. Mosby (2008) opined that private practice is the engagement in one's profession as an independent provider rather than as an employee. On his part, Hornby (2005:1155) explains that it is the fact of working on one's own or in a small independent company rather than an employee of the government or a large company. Badejobi (2007) defines private practice in the context of the 1979 Nigerian Federal Constitution. Thus, according to her, part 11 of the fifth schedule of the constitution indicates that private practice is the rendering or order to render to any other person (not being the employer or any other person entitled in the course of his official duties) to receive such services – any service relative to the profession concerned whether or not it is executed after normal working hours or on work free days, for money's worth or for any other valuable consideration. This means that any public sector employee who offers his professional service for money consideration or money's worth to anyone outside his official duty is involved in private practice.

However, we will differ slightly from this definition. Thus, we may refer to private practice as the engagement of a public service employee, in a personal business in his/her formal organisation or external organisation, not being part of his formal organisation (while still in public employment) for either profit or non-profit. Indeed, as would be seen later, not all private practice activities are commercially oriented. The benefit of this definition is that it is not restrictive, ambiguous and provides a lead way to the discussion on the topic - private practice in public time. Note also that we do not consider only those who are deemed to be professionals.

The time of employment covers both the normal working hours and the total working life of the individual in the public organisation. We

exclude individuals who are formally in private organisations either as employees or self-employed, and have other jobs in the public service. Also, nothing suggests that this applies only to public health worker, though the latter is part of it.

However, Merriam-Webster Unabridged Dictionary (2013) simply says that the term “public time”, is an objective time – time that is an objectively determinable order in which durations are measured and absolute presence is indifferent. This implies that public time is an identifiable period that is specifically determined over a certain range that governs activities or an activity. One can say that it is an institutional time/period within which activities are carried out – an ordered time period. This differentiates it from private time – time that is available to an individual determined by him subjectively (that is to say, subject to change). Formally, we may define public time as a dimension of period that is institutionally determined that can be taken as given. It thus becomes uncontrollable on the part of the other individual(s).

Most extant studies, for example, Ferrinho et al (1998); Dickey et al 2009), and Asma and Ahmed (2011) impliedly use the terms dual practice, multiple jobholding, or moonlighting. In this paper, private practice in public time is referred to as a phenomenon in which a full-time public service employee or worker engages himself or herself in a private or personal business for profit as well as nonprofit. This means that the practitioner may or may not derive additional incomes from the secondary employment to the incomes accruable from his primary job. Similarly, private practice in public time, dual jobholding or multiple jobholding here would be used interchangeably.

FORMS OF PRIVATE PRACTICE IN PUBLIC TIME

Private practice in public time can take on several forms. Eggleston and Bir (2006) noted that various forms of private practice in public time include:

Using public facilities to attend to private interest: When public offers use government facilities in their care for example, a computer operator in an office, uses the system to do private work at a profit during or even after office hours, this represents private practice in public time. Public officers also are known to use government vehicles for domestic assignments such as carrying their children to schools and or wives to markets and bringing them back.

Indeed, according to Eggleston and Bir (2006) and Biglaiser and Ma (2003), dual practice is not confined to physicians alone. They note that such a practice applies to other public officers such as public law enforcement officers working for private security firms or consumers, public school teachers offering private tutorial services, individual nonprofessional employees who are engaged in personal trading or other kinds of business services.

Public servants referring customers of their formal employers (governments) to their private businesses. In the case of physicians, they may choose to treat their own patients in government owned hospitals or refer government hospital patients to their own clinic (Biglaiser & Ma, 2003

Using government time to do private business: For example, some physicians are known to first attend to patients in their private clinics before reporting for work in their formal employment, while very skilled managers and technicians have private businesses offering services to clients during public time. But a report produced by the British Medical Association (2021), in the UK this privilege of private practice in public time especially in the hospital is based upon the consultant's ability, experience and references - and it must generally be approved by the hospital's Medical Advisory Committee

Engaging in noncommercial activities: This may include gratuitous or peer group social services such as women plaiting colleagues' hair, cracking of melon, gossiping, sleeping and playing all manners of games, drinking of beer, reading of novel, television viewing etc. This author has personally observed all these forms of activities taking place in several public institutions in the course of private visits at one time or the other.

Religious practices/worships: Particularly in modern times, it is being observed that religious activities are common phenomena in most public organisations for considerable periods in the course of official works.

PREVALENCE OF PRIVATE PRACTICE IN PUBLIC TIME

Although, private practice in public time is a common life feature in many countries of the world (Biglaiser & Ma, 2013; Ferrinho et al, 2004; Asma & Ahmed, 2011), official permit (legal authority) varies from some countries to another (Berman & Cuisin, 2004). In Nigeria, there are divided opinions in some circles over the prohibition or non-prohibition of private practice among some categories of public officers. For example, some public university law lecturers, contend that they are exempted from the provisions of the 1979 Federal Constitution that restricts private practice (Badejobi, 2006). These groups and their supporters are relying on the 1992 Regulated Profession (Law lecturers Exemption) Decree promulgated by the military in the wake of mass exodus of some professionals, to abroad when the government of the day tried to enforce the provision of the law (now, an Act) (Ketefe, 2008).

The other opinions say that the Decree frequently being referred to as the basis for argument in favor of private practice by some categories of individuals is ousted by the 1999 Nigerian Federal Constitution. Indeed, the 1979 constitution provision on private practice by all public officers is repeated in the 1999 constitution (as amended). Both opinions are contained in varying responses by samples of law lecturers in some Nigerian public universities in an interview conducted by Ketefe in 2008. A question then arises 'Which law is supreme in regulating private practice among public service employees in the country?' According to Ketefe, the issue of whether law lecturers could engage in private practice or not, is settled by the Fifth Schedule of the 1999 Nigerian Federal constitution – which is in the negative (that is, the section prohibits them since the constitution is supreme).

Part 1 section 2(b) of the fifth schedule of the code of conduct for public officers in the 1999 Constitution of the Federal Republic of Nigeria, bans public officers from carrying out private practice apart

from farming (Badejobin, 2007). The section states as follows: "Without prejudice to the generality of the foregoing paragraph, a public officer shall not, except where he is not employed on full-time basis, engage or participate in the management or running of any business, profession or trade, but nothing in this subsection shall prevent a public officer from engaging in farming". This provision notwithstanding, many professionals (for example, lawyers, teachers) including other public sector officers can be said to still engage in private practice while in public employment. We contend therefore that law lecturers in public universities are prohibited from engaging in private practice.

Berman and Cuisin (2004) indicate that private practice in public time is legal and thus prevalent in countries such as Bangladesh, Indonesia, Poland, Egypt, Kenya and Mexico; but not sure in Zambia, just to mention a few. In Germany, there is evidence of private practice in public time. Rich and MacGuire (1999) point out how physicians, for example, admit patients into their private hospitals, charge them fees and then reimburse public hospitals.

At the individual levels, the phenomenon is widespread among the following groups of workers (Biglaiser & Ma, 2003):

Public law enforcement officers. These officers even while they are in public employment, offer private services to other security firms.

Public school teachers offering private tutorial services or working for private test preparation firms.

Academicians in public universities consulting for private firms and the government.

Business professionals: These are managers in public employment who offer private consultancies or work for other private agencies (Asma & Ahmed, 2011).

Engineers who are in public employment but have their own workshop and do consultancy services for other firms.

DRIVERS OF PRIVATE PRACTICE IN PUBLIC TIME

Many studies have been done by a number of researchers on the motives or underlying reasons why some public sector employees engage in private practice. Biglaiser and Ma (2003) studied moonlighting activities of public service physicians in the United States of America; Berman and Cuisin (2004) examined multiple public-private jobholding of health care providers in developing countries; Theisen (2006) explored multiple jobholding in Africa using Tanzania as a reference point. Dickey et al (2009) also carried a study in the United Kingdom to find out why public officers engage in private practice. Although their researches focus primarily on the physician's dual practice, we contend that there are no fundamental differences between the employment conditions of public service employees call them lawyers, teachers, pharmacists, engineers e.t.c and the physicians, particularly in developing countries. This point is already highlighted in the ongoing discussions (see Biglaiser & Ma, 2003, Eggleston & Bir, 2006).

There are thus varieties of drivers/motives for practice by employees in the public service (Asma & Ahmed, 2011; Ferrinho et al 1998; Ferrinho et al 2004; Chue, 2007; Theisen 2006; Dickey et al, 2009)

The drivers are examined as following:

Pecuniary Motive. One of the frequently cited causes of private practice by public employees is the need for the workers to earn extra income to support their living(British Medical Association, 2021). This is also referred to as coping strategy. Ferrinho et al (1998), observe that monthly public sector salaries are well known to be grossly inadequate in many African countries (but also a common feature in the world over). The employers deliberately offer lower wages since they believe that they can provide incentives for employees' experience through regular training as a compensation for the low wages.

Lerberghe et al (2002), in a survey conducted among a sample of workers (physicians) from various low and middle-income countries, note that dual practice would generate additional 50 to 80% to their public sector salaries. However, this pecuniary motive to engage in private practice by public service employees is strongly criticized by Asma and Ahmed (2011). In their analysis of the dynamics of moon lighting in Pakistan, they observed that those who engage in secondary jobs to earn extra income almost earned the same amount of money as those who do not. We also observe that the introduction of minimum wage in Nigeria few years ago have not discouraged public service employees from engaging in private practice.

However, it is to be noted that the minimum wage in Nigeria is not across the board and even then, it is marginal to have any desirable effect on the beneficiaries.

Hour(s) constraint: This is the earliest and traditional view of why private practice occurs among some categories of public sector personnel. It is based on the dynamics of the labour market. According to this explanation, there are individuals who ordinarily would want to work longer hours but are constrained institutionally. In order to maximize their utility (satisfaction) through obtaining higher incomes in addition to their current jobs, they now decide to engage in a secondary job (Moses, 1962; Perlman, 1966).

Berman and Cuisin (2004), however differ on this driver of private practice in public time. To them, practically, there may not be monitoring of actual hours worked and a relationship between hours worked and payment of workers. However, the hour(s) constraint may be relevant in the developed countries where there is strict control on working time for individuals and hence, individuals who prefer extra time for extra income, would decide to engage in dual job practice. But whereas in the developing countries such as Nigeria, the same cannot be said to be true where public service workers do not have sufficient time to engage in meaningful extra jobs, even when they choose to. For example, the institutional time of opening for work is fixed for 8 O' clock in the morning and closure, 4pm in the evening; some closing unofficially 5pm and beyond. It is unlikely that any substantial benefit would be derived from engaging in private practice in public time.

We observe that, in spite of this obvious limitation on the part of the public sector workers in Nigeria, in terms of workers (teachers, physicians and lots more), still take out time during the working hours to engage in private practice as evidenced in their lateness to work, absenteeism, and irregularity at work. Perhaps further research would be required to validate this observation.

New skills and experience: Private jobs can be used by workers to gain experience and learn about new occupations or techniques (Chue, 2007). Individuals are willing to engage in a second job in order to obtain additional skills and experience beyond the scope of their primary job(Brekke & Lars, 2006; Garattini & Padula, 2018). This applies to a number of professionals such as physicians, teachers (lecturers in higher institutions) just to mention a few.

Entrepreneurial opportunity is a factor for an individual to hold or seek a private job in public employment, particularly, in the developing countries (Dickey et al., 2009; Panos et al, 2009: Theisen, 2006; Guarigha & Kim, 2006). In Nigeria, where public service jobs no longer offer prosperity, there is the likelihood that this is a factor for individuals in the public service to engage in private practice in public time.

Insurance device against job insecurity in the primary job. To diversify human capital as well as hedge against unemployment, employees who perceive job insecurity in their primary job may decide to engage in private practice in public time (Pouliakas et al, 2009)

If eventually, they are thrown out, they become full employees as well as employers in their secondary (now, primary) jobs. This is closely related to the entrepreneurial opportunity just imagined.

Job heterogeneity. Also known as job portfolio motive, individuals may derive different satisfaction from primary and secondary jobs that are dissimilar. Some jobs offer safety, comfort while others do not. Thus, people may want comfort in the secondary job, for instance, a good environment.

CONSEQUENCES OF PRIVATE PRACTICE IN PUBLIC TIME

We may examine the consequences of private practice in public time specifically at three levels: Individual (the practitioner), organisation (the Government as the employer) and the public service beneficiaries (the society).

The International labour Organization (ILO) (2004) identifies the consequences of private practice in public time at the individual level as follows:

Provides the practitioner(s) with supplementary incomes.

On the long run, dependence on primary job is de-emphasized. This (notwithstanding the observation of Asma & Ahmed, 2011) increases the income of the practitioner.

There is diversification of work activities. When repetitive tasks are performed in the primary job, then, engaging in private practice may widen the scope of work – this may broaden the skills of the individual.

Independence/personal fulfillment. If the private job is connected with the workers' hobby or other personal interests, then, the individual may be fulfilled – doing what he is interested in (even if the earnings are lower). The foregoing presents the positive consequences of the individual.

Personal inconveniences (if on-call duty). According to ILO, workers may be called on to work at any time and thus, may be prevented from adequately planning their domestic or other responsibilities.

High expenditure of time. There is also a probability of spending too much time (and money) to organize movement between primary and the secondary job.

AT THE ORGANIZATION LEVEL:

There is conflict of interest. The Organisation of Economic Cooperation and Development (OECD, 2003:14, in Checkaya, 2009), says that in the context of the public service, a conflict of interest involves a conflict between the public duty and the private interest of a public officer, in which the public officer's private-capacity interest could improperly influence the performance of his/her duties and responsibilities. The ILO (2004) therefore contends that there is a possibility of conflicts between the demands of an individual worker's primary and secondary jobs. This implies a possible divided loyalty on the part of an individual worker towards the organisation. This will possibly limit the attainment of the organizational objectives.

Potential negative health impacts: Long hours of work, resulting from dual job holding is possible of generating negative impact on the worker, which in turn could lower productivity. This goes to affect the contribution of the worker in the primary organisation.

Absenteeism and job shirking of the practitioners in public service: This could result from workover load and other extracurricular activities. Since the affected individuals are subtly protected by their extra jobs (particularly in the case of those with pecuniary motives), the likely tendency would be for them to be lackadaisical in their first jobs.

Incentives for corruption: This may derive from the safety needs of the practitioner for their primary jobs; thus, they could be tempted to bribe whoever is their boss. Often time, reports reveal ghost workers in some public establishments in some developing countries including Nigeria.

Exploitation of public clients: The fact that dual job holders have opportunities to woo clients from public organisations that they (dual job holders) have primary employment, to their private (secondary job), such public clients are charged higher fees (rents). This phenomenon is observed to characterize most physicians (and other individuals) that engage in dual holding. This has the potential to hindering the smooth provision of social services to a nation's citizenry. This is because the poor may not afford to pay such higher fees.

Brain-drain: There is brain drain from the public sector to private sector. The resultant effect is a lack of access to quality of public services, especially in the health (and the education) sectors,

particularly in the developing countries. In recent time, there is a growing trend among some individuals in public service in Nigeria to seek higher pay in the financial and technological sectors. Such practice no doubt would deplete highly experienced personnel in the public service. Furthermore, we observe that frequent strikes (which are traced to low remunerations and other forms of incentives in public universities) among lecturers and non-lecturers are further impetus to brain-drain away from the public service. This is by way of seeking extra income-yielding jobs outside their primary engagements.

CURBING PRIVATE PRACTICE IN PUBLIC TIME

Our analysis suggests that many of the drivers of private practice in public time stem from institutional factors (whether they be hour(s) constraint, pecuniary need or a transition to self-employment). As a professional phenomenon (health perspective), writers for example, Berman and Cusion (2004) recommend a policy that should harmonize the interests of health workers in public service (their primary job) and those of health workers in the private sector. To this end, government should increase the benefits to these professionals while attempts should be made to reduce the costs that may result from this. Biglaiser and Ma (2004) recommend price fixing so that there would be no incentives for dual jobholding. However, this may not be of general application since there is no uniform pricing in all the sectors of the public service where private practice in public time thrives. As Gonzale (2004) observes, price fixing can lead to poor service delivery by the physicians and other health workers. As a general phenomenon, evidence points to a paucity of literature on curbing private practice in public time (Eggleston & Bir, 2006). However, in addition to our recommendation at the end of the discussion, we request further studies to unfold various options for tackling this phenomenon.

Conclusion and Recommendations

This paper focuses on private practice in public time. This phenomenon is widespread mostly in the developing countries like Nigeria compared to developed countries like United Kingdom (UK). Although, not every public service worker engages in private practice. However, the activity is common among individuals such as health personnel, the judicial workers, the academicians, professional managers, technicians and other professionals. With or without permit, it flourishes, primarily as a result of the need to earn more incomes from a secondary job, acquire knowledge and experience, hedge against possible job loss and transit to self-employment. The consequences of this phenomenon are multifaceted – negatives and positives – which cut across the individual practitioner, the organisation (public sector organisation in which the individual holds the first job) and then, the society. At the individual level, more saddled responsibilities may incur additional expenses (in terms of attending to one job or the other), although extra incomes could be obtained to ameliorate the lower regular income from the primary job. Besides, the individual has a platform to transit formally, to self-employment.

On the other hand, the organisation may suffer the shirking of responsibilities of the private practitioners; nevertheless, by the

engagement of the employees in private practice while in public employment, more knowledge is acquired which can be used in the formal organisation. The society may suffer a negative consequence from dual job holding – exploitation of the citizenry by the practitioners; however, it benefits from better services which are not available in the public service. Thus, private practice in public time has become prevalence that needs urgent attention in order to ameliorate the practice.

The paper recommends as follows:

All tiers of government, ministries, agencies and departments should maintain time keeping and management of staff in and out of offices at regular interval. The time keeping should commence right from the security post or entrance gate of government establishments and should be closely checked by the heads of departments regularly.

Salaries of public service should be increased to encourage workers to be dedicated to duty, thus discouraging them from private practice in public time

The informal sector should be developed to accommodate other individuals to reduce their dependence on the public sector employment.

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