Nagoya University

Graduate School of Law

Doctoral Dissertation

THE DILEMMA OF PUBLIC-PRIVATE PARTNERSHIPS: BRIDGING THE INFRASTRUCTURE GAP IN LOWER-MIDDLE INCOME DEVELOPING COUNTRIES

L.L.D (Comparative Law) Program in Law and Political Science

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Date of Submission: 2019/ 07/ 30

Acknowledgment

The Ph.D. journey has truly been the hardest life-changing hurdle of my academic life. I dedicate my achievements to my dearest mother, whose strength, encouragement, and kindness inspired me to pursue this path.

I owe my sincere gratitude to Professor Reiko ARAMI, for undertaking the responsibility of becoming my academic supervisor and guiding me to complete the dissertation successfully. I am also, grateful to my former academic supervisor, Professor Fusao USHIRO, for his support to pursue research on the topic of my choice.

I would like to extend my gratitude for the academic sub-supervisors, Professor Hiroko TAKEDA, and Professor Tetsuki TAMURA for making time to provide me with the needed comments, guidance and support to complete my dissertation. Also, I am grateful for Professor Paul LEGE, for his dedication in assisting me to improve my academic writing skills.

I am eternally grateful for the Law Leading Graduate Program funded by the Ministry of Education, Culture, Sports, Science and Technology (MEXT), which is established under the purview of Professor Yoshiharu MATSUURA in the Nagoya University. I am grateful not only for the scholarships and funds I received from the program, but also for the opportunities and international exposure that broadened my world view and added value to my graduate school life.

I would also like to extend my gratitude for the NGK Scholarship program for their financial assistance and cultural exchanges, which contributed to expand my network further.

I am also sincerely thankful to Professor Saori OKUDA and Ms. Tomoe OGAKI from the Graduate School of Law office for their kind encouragement and support.

Finally, special thanks to my family and best friends, without whose presence and support, this journey would have been impossible.

With sincere gratitude,

DUMBARANGAGE Elisanka Diani Nandasiri

Abstract

This dissertation examines the implications of a declining trend, recently depicted in the use of Public-private Partnerships (PPPs) in lower-middle income developing countries. PPPs are a type of policy instruments developed primarily to enable the collaboration of public and the private sectors for infrastructure development and delivery of public services. Since the conceptualization of PPPs, driven by New Public Management reforms in the 1990s, countries in the West have relatively benefited from this policy instrument. In the West, however, PPPs are enabled under fairly resilient institutional, legal, and policy frameworks with grounded good governance principles. While the dilemma about how to cater efficiently for the ever-expanding public service and infrastructure demands of the people is ongoing, whether lower-middle income developing countries have enabled equally resilient PPP frameworks as the West, remains inadequately investigated.

This study focuses on the institutional, legal, and policy implications of the current PPP frameworks in three selected lower-middle income developing countries: Sri Lanka, Bangladesh, and the Philippines. The purpose is to instigate a need for these countries to reconsider and reform the existing conditions of their PPP frameworks to harness the full potential of PPPs and create a "win-win-win" situation for the governments, private sector, and the people. The primary research questions this dissertation explore includes: what conditions led to the introduction of PPPs in each country, what policy, institutional, and legal frameworks are currently in place, what are the actual PPP project outcomes, how the induced governance issues are constraining the existing PPP processes, and what remedial measures should be taken to address the situation in the contexts of the examined lower-middle income developing countries.

In order to address the research questions formed, this research examined fourteen PPP projects covering a range of infrastructure and public service projects such as electricity supply, port constructions, expressways, hospitals and prisons implemented in Sri Lanka, Bangladesh and the Philippines. The data analyzed were mainly acquired from archival documents such as procurement guidelines, reports by international aid organizations, former PPP related research studies, newspaper articles, and PPP related websites. In the case of Sri Lanka, meetings and informal interviews with

public sector bureaucrats and PPP agency officials helped in collecting data, which otherwise were inaccessible.

The case analysis of this study revealed the presence of a range of ailing governance issues, which include: lack of government commitment to enable and improve the capacities of PPP related institutions; lack of transparency in the decision-making process; difficulties in ensuring accountability; and susceptibility of the PPP frameworks to political instabilities and administration changes. Among the three countries analyzed, Sri Lanka represents the most problematic case because, all the above-mentioned governance issues exist within its PPP framework, and continue to distress the potential of PPPs to contribute for infrastructure development. In the case of Bangladesh, the projects reflect mixed positive outcomes in using PPPs, with most of its issues resulted due to a lack of government efficiency and commitment. Despite the longest involvement with PPPs in Asia, the present administration of Philippines is now reluctant to use this policy instrument, mainly because of the lack of efficiencies in the public sector has made the infrastructure development a more time-consuming process.

The identified governance issues highlighted the importance and the need for regulators in these countries to revisit and deepen the understanding of the underlying 'tensions' of PPPs, which are inclined to affect PPP project outcomes negatively. The theoretical analysis of the PPP concept, and implications inductively derived from the case studies of this dissertation revealed three inherent tensions underlying the concept of PPPs. First, the hybrid consortium built by combining the public and private dimensions is prone to clash due to the rooted suspicion that the profit-motivated private sector can neither provide public services equitably without raising prices and sacrificing service quality nor can it be as accountable to the general public as governments were traditionally required to conduct themselves. Second, the uncertainty of events that may occur during the long-term PPP project period causes difficulties in balancing a stable but flexible contractual relationship between the public and the private sectors. Third, tensions are created through the conflict of interests across PPP stakeholders such as users, tax-payers and aggrieved parties in terms of efficient and equitable resource allocation with regard to a piece of infrastructure or a public service delivered.

This dissertation proposes four remedial measures to mitigate the adversities contextually unique to lower-middle income developing countries, while attempting to overcome the conceptually underlying tensions of PPPs. First, the clear identification of PPP regulatory space is recommended to help set the boundaries within which the relevant stakeholders function in terms of the project goals, and to identify the techniques used to regulate these actors. Second, the incorporation of an adaptive management system aims to help identify the possible future problems that may occur in a PPP project in advance, through strategic planning, monitoring, and sharing of the learned experience from past projects. The third remedy of involving the general public in the decision-making process aims to help guarantee inclusiveness, transparency, and accountability within PPP procedures. As the forth remedial measure, this dissertation recommends a novel perspective on inculcating ethics of care among those who operate within PPP frameworks through capacity development programs. The rationale behind this recommendation is that irrespective of the public or the private sector, it is of utmost importance, to guide and direct the conduct and mindsets of those who operate PPPs. The aim is to help them understand the underlying objectives and principles behind these policy instruments; and the gravity of their actions and behaviors, which are inclined to adversities, unless executed with ethics and care.

Through the overall analysis, this dissertation makes three original contributions to the existing PPP literature. First, this study presents an examination of institutional, legal, and policy frameworks in three lower-middle income developing countries: Sri Lanka, Bangladesh, and the Philippines. The contexts of PPPs in these countries remain largely uninvestigated because PPPs are a distant and complicated topic diffused from the West, and not adequately understood by these recipient countries. Second, this study explores the practical and underlying conceptual constraints that have led the examined countries to deviate from implementing PPPs for developing infrastructure or delivering public services. Third, the proposed set of recommendations will be of some use for regulators to reform their existing PPP frameworks, and combat the identified governance issues, in a manner that harnesses the potential of PPPs. Moreover, the recommended remedial measures will be useful for developing countries affected by financial constraints, and interested in a 'third way' beyond privatization and traditional procurements, in pursuit of catering for the growing demands of people.

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List of Abbreviations

ADB	Asian Development Bank
AES	Applied Energy Services
AKL	AES Kelanitissa private Limited
ASEAN	Association of South-East Asian Nations
BII	Bureau of Infrastructure Investments
BIWTA	Bangladesh Inland Water Transport Authority
BLT	Build-Lease-and-Transfer
BOI	Board of Investment
BOO	Build, Own, Operate
BOOT	Build, Own, Operate, Transfer
BOT	Build, Operate, Transfer
BPDB	Bangladesh Power Development Board
BSBK	Bangladesh Sthala Bandar Kartripaksha
BTM	Build-Transfer-and-Maintain
CCEA	Cabinet Committee on Economic Affairs
CEB	Ceylon Electricity Board
CFSs	Critical Success Factors of PPPs
CHT	Cross Harbor Tunnel
CMport	China Merchants Ports
DBO	Design, Build, Operate
EU	European Union
GDP	Gross Domestic Products
GGP	Global Governance Practice
GNI	Gross National Income
GW	Gigawatt
HM Treasury	The Her Majesty's Treasury
IAOs	International Aid Organizations
IMF	International Monetary Fund
IRR	Implementation Rule and Regulation
IWT	Inland Water Transportation
JBIC	Japan Bank for International Cooperation
KPMG	Klynveld Peat Marwick Goerdeler Company

MW	Megawatt
NAPPP	National Agency for Public Private Partnerships
NEDA	National Economic Development Authority
NPM	New Public Management
ODA	Official Development Aid
OECD	Organization for Economic Co-operation and Development
PDMF	Project Development and Monitoring Facility
PFI	Private Finance Initiative
PICOM	Private Infrastructure Committee
PINAI Fund	Philippine Investment Alliance for Infrastructure Fund
PPI	Private Participation in Infrastructure
PPPC	PPP Center
PPPs	Public-private Partnerships
PSIDC	Private Sector Infrastructure Development Company Ltd
PSIDP	Private Sector Infrastructure Development project
PSIG	Private Sector Infrastructure Guidelines
QEQ	Queen Elizabeth Quay
RA	Republic Act
SAGT	South Asian Gateway Terminals
SDGs	Sustainable Development Goals
SIDI	The Secretariat for Infrastructure Development
SLFP	The Sri Lanka Freedom Party
UK	The United Kingdom
UNECE	The United Nations Economic Commission for Europe
UNP	The United National Party
USAID	The United States Agency for International Development
USD	The United States Dollars
WB	The World Bank

Chapter I: Introduction

1.1. Background

Over the past two decades, public service delivery has experienced substantial changes through innovative policy instruments in both the developed and the underdeveloped countries. Governments around the world have incorporated Public-private Partnerships (PPPs) as one of such prominent policy instruments for public service delivery in the recent past. Despite the existence of the public and the private sector collaboration practices over a long period of time in the past, PPPs were first conceptualized as an alternative policy tool in the developed countries, in order to tackle the ever-growing public service demands. As a policy instrument influenced by neoliberal ideologies, PPPs instigated the reconceptualization of governmental responsibilities, and a paradigm shift towards market involvement in traditional government responsibilities.[1] Moreover, PPPs were one of the New Public Management (NPM) reforms providing a means for governments to work in collaboration with the private sector to combat challenges faced in traditional methods of procurements, privatization, and nationalization programs in the late 1980s.[2]

Regardless of having been in practice for nearly three decades, PPPs do not retain a universal definition. Typically, a PPP can be defined as a policy instrument that encompass the type of a long-term contractual relationship, convened between a governmental authority and a private sector company or an organization. Characteristically, in such a relationship, risks and responsibilities are transferred to the party best at handling it, with the main goal of delivering a particular public service or infrastructure as stipulated in the contract. Governments faced with financial, technological or capacity constraints to deliver such public services are using PPPs as a tool to transfer the risks and

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[1] Suzan Ilcan, "Privatizing Responsibility: Public Sector Reform Under Neoliberal Government," *Canadian Review of Sociology/Revue Canadienne de Sociologie* 46, no. 3 (2009):207-234. See also, F. Miraftab, "Public-private Partnerships: the Trojan Horse of Neoliberal Development?" *Journal of Planning Education and Research* 24 (1): 89-101, Accessed June 10, 2019, https://urban.illinois.edu/images/miraftabPDFs/trojan-horse-JPER-2004.pdf

[2] Biljana Rakic and Tamara Radenovic, "Public-private Partnerships as an Instrument of New Public Management," *Facta Universitatis-series: Economics and Organization* 8 (2011): 2017-220. Accessed June12, 2019, http://facta.junis.ni.ac.rs/eao/eao201102/eao201102-08.pdf

burden of mitigating such constraints to the private sector, while retaining the authority to regulate the consortium.

More recently, PPPs assumed a prominent role in infrastructure due to the introduction of Sustainable Development Goals (SDGs) by the United Nations. Countries around the globe are facing a variety of issues in terms of meeting the demands of their people. Among the many estimations, a research conducted using micro-to-macro-economic methodology combining economics and management disciplines by McKinaey Global institute (2017) estimates that: about 3.8 percent of the Gross Domestic Product (GDP) is needed globally to be invested in power, transportation, telecommunication, water, and other infrastructure systems on which the world population and businesses depend daily.[3] These investments are equivalent to about USD 3.3 trillion per year.[4] The prominence given to using partnerships under the SDGs has prompted PPP advocates to launch a renewed push in using PPPs to bridge the prevailing gap.

PPPs are initiated in developing countries mainly through policy diffusion accompanied by the financial assistance provided by International Aid Organizations (IAOs). These IAOs, such as the World Bank, Asian Development Bank (ADB), and the International Monetary Fund (IMF), act as advocates for private sector involvement in government activities. However, there is a gap between the primary reasons which call for the application of PPPs in developed countries and the developing countries. In developed countries, the conventional view is that PPPs' potential profitability, which the language of PPPs refers to as 'value for the money' spent when developing infrastructure or public services, help provide better services to the public. In developing countries on the other hand, PPPs are often viewed as a financial tool to develop infrastructure out of the private sector entity's pocket. However, PPPs are only a temporary alternative source of finance, which lifts the initial financial burden temporarily, yet the governments are obligated to pay back to the private entity, over the project period as agreed upon by the two parties. Therefore, governments are still left with the responsibility of enabling a resilient PPP framework, which help regulate, monitor and lead to positive project

[3] Jonathan Woetzel, Nicklas Garemo, Jan Mischke, Priyanka Kamra, and Robert Palter. "Bridging Infrastructure Gaps: Has the World Made Progress?," *Discussion Paper in Collaboration with Mckinsey's Capital Projects and Infrastructure Practice* 8, (Mckinsey Global Institute: Mckinsey & Company, 2017): 4-7.

[4] Ibid.

outcomes in order to fulfill its contractual obligation towards the private entity as well as its duty towards the people, who rely on the government to make the best decisions on behalf of the people.

Nevertheless, the role of PPPs as a policy instruments to help governments combat their infrastructure gaps has long been debated in the academic discourse. For instance, Michael Klein (2015) asserts that the overall picture of PPP usage is one of waves of interest for PPPs followed by some disappointment and consolidation of interests of the involved parties.[5] Klein adds that assessments of PPP performance indicate that PPPs under resilient circumstances can perform better than firms in the public sector, but not certain whether PPPs are consistently better than public sector firms, in fulfilling infrastructure needs.[6]

On the other hand, skeptics of PPPs strongly assert that, well managed public firms perform equally or even better than PPPs, and thus PPPs are unnecessary tools, which complicate procurement practices.[7] In addition, as Hodge (2010) states, those who favor to retain government intervention in the delivery of public services views PPP as a mere 'tool' of language, not different from what the old general Margret Thatcherite's referred to as privatization.[8] Privatization was broadly criticized for its strong image of selling-off public property to private sector companies who prioritize profits over the welfare of the general public.[9] Scholars like Brühl (2006) argues that private participation through PPPs leads to distortions of policy objectives.[10] However, the criticisms against private sector

[5] Michael Klein, "Public-private Partnerships: Promise and Hype," *Policy Research Working Paper* 7340, (World Bank Group, 2015): 2-16. See also, Dieter J. Angerer, and Gerhard Hammerschmid, "Public-private partnership Between Euphoria and Disillusionment: Recent Experiences from Austria and Implications for Countries in Transformation," *Romanian Journal of Political Science* 5, no. 1 (2005): 129-159.

[6] Ibid.

[7] See for example, Judy Johnston, "Examining 'Tunnel Vision' in Australian PPPs: Rationales, Rhetoric, Risks and 'Rogues'," *Australian Journal of Public Administration*, 69, S61-S73; Maria Jose Romero, "Opinion: Public-private Partnerships Don't Work. It's time for the World Bank to take action," *Global views: World Bank Spring meetings, Devox* April 19, 2018, Accessed June 16, 2019. https://www.devex.com/news/opinion-public-private-partnerships-don-t-work-it-s-time-for-the-world-bank-to-take-action-92585.

[8] Graeme Hodge, and Carsten Greve, "Public-private Partnerships: Governance Scheme or Language Game?," *Australian Journal of Public Administration* 69 (2010): S8-S22.

[9] Peter Saunders, and Colin Harris, "Privatization and the Consumer," *Sociology* 24, no. 1, (1990): 57-75, doi:10.1177/0038038590024001006.

[10] Tanja Brühl, "Public-private partnerships: Unlike partners? Assessing New Forms of Regulation," *Globalization*, (Routledge, 2006): 159-177.

involvement appear to be more theoretical than evidenced-based, which makes the arguments against PPPs not very convincing. For the purpose of deviating from superficial arguments, there is a need to clarify what factual evidence from the actual infrastructure development projects reveals about PPPs' performance.

1.2. Research Problem

According to the World Bank's data of private sector participation including PPPs, 106 emerging economies around the world have adopted at least one PPP project during the past five years.[11] Among such economies, countries with lower-middle economic status[12] recorded a decline in using PPPs for public service delivery. For example, in 2011, lower-middle income developing countries had total projects worth over USD 100 billion.[13] However, by the year 2014, the total project worth had dropped below USD 40 billion, showing a continuous decline. Additionally, since the 1990s, 677 projects have been cancelled.[14] The cost of cancellations amount to USD 838.6 billion or 34.26 percent of the total investments.[15] Project cancellation or distress can have several negative impacts, including waste of transaction costs, reduction in overall social welfare, precarious investment climates, and perhaps preempting much-needed future collaborations to provide essential

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[11] The World Bank, "World Bank Private Participation in Infrastructure (PPI) Database," Accessed June 18, 2019. http://ppi.worldbank.org/data.

[12] According to the World Bank classification of countries by income level, countries with an income of GDP per capita ranging between USD 1,006 -3,955 are known as lower-middle developing countries as of July 1, 2017. The World Bank Blogs, "New Country Classification by Income Level: 2017-2018," July 1, 2017, Accessed June 23, 2019, https://blogs.worldbank.org/opendata/new-country-classifications-income-level-2017-2018.

[13] The World Bank, Private Participation in Infrastructure Projects Database (2016) Accessed June 21, 2019, http://ppi.worldbank.org/ quoted in Jomo, Kwame Sundaram, Anis Chowdhury, Krishnan Sharma, and Daniel Platz, "Public-private Partnerships and the 2030 Agenda for Sustainable Development," *The United Nations Department of Economic and Social Affairs Working Paper* No. 148 ST/ESA/2016/DWP/148, (2016): 8-10.

[14] The World Bank, Private Participation in Infrastructure Projects Database (2016), Accessed June 21, 2019, http://ppi.worldbank.org/ See also, Evgenia Nizkorodov, "Closing the Infrastructure Gap? The Role of Public-Private Partnerships in Water Sector Development and the Economic, Political, and Social Factors that Determine Project Success," *PhD diss*., (UC Irvine, 2017): 2.

[15] Ibid.

infrastructure.[16] What accounts for these project cancellations and distress in the lower-middle income developing countries leading up to a decline in the use of PPPs is little investigated.

This dissertation posits a connection with weak governance of PPPs and the resulted decline in PPP usage. A study conducted by Fourie (2015),[17] on the experiences of private financing in infrastructure, indicates that many scholars tend to overlook the significance of good governance in PPPs.[18] As mentioned above,[19] since tremendous advocacy and commitments are made globally to develop infrastructure through PPPs, this dissertation emphasizes the need to strengthen good governance in PPP frameworks. Presently, there is inadequate literature on how to integrate governance ideologies into PPP frameworks. Furthermore, a very few studies offer parameters for practitioners to properly fathom the essence of a 'good' Public-private Partnership. Hence, this dissertation examines how good governance principles could be integrated, and what remedial measures should be incorporated into the PPP frameworks of the examined developing countries to rectify the prevailing issues and harness the full potential of PPPs.

1.3. Significance and Objectives of the Research

This dissertation assesses the dynamics involved in enabling PPPs in developing countries with a lower-middle income status. The purpose is to encourage these countries to reconsider and reform the existing conditions of their PPP frameworks to harness the full potential of PPPs and create a 'win-win-win' situation for the governments, private sector, and the people. For that purpose, a qualitative inquiry is made on: under what conditions PPPs were introduced; what institutional and legal frameworks are in place; what are the actual PPP project outcomes; how the induced governance

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[16] Argentino Pessoa, "Reviewing PPP Performance in Developing Economies" *FEP Working Papers* No. 362. (Universidade do Porto, Faculdade de Economia do Porto, 2010): 12-18.

[17] David Johannes Fourie, "Good Governance in Public-private Partnerships Approaches and Applications: A South African perspective," *African Journal of Public Affairs,* Volume 8 number 1. (School of Public Management and Administration, 2015): 110-112.

[18] See also, United Nations Economic Commission for Europe (UNECE), *Guidebook on Promoting Good Governance in Public-private Partnership* (Geneva, United Nations University Press, 2008).

[19] See *supra* discussion in Section 1.1.

issues are constraining the existing PPP processes; and what remedial measures should be taken to address the situation in the contexts of the examined lower-middle income developing countries.

In general, the causes for negative outcomes of PPP projects are gaining attention in the literature on PPPs, but the diversity of contextual differences leave ample room for more research. Scholars like Liu and Wilkinson (2011)[20] assume that lack of knowledge on PPP implementation is the leading cause of PPP project failures, backed by academics like Hodge et al. (2010),[21] who highlight that the problems in PPPs begin with defining accurately what PPPs are. Davidson (2010)[22] finds a lack of a robust regulatory framework as the leading cause of failure, in addition to developing countries being vulnerable to complex institutional arrangements necessitated by PPPs. Furthermore, Zhang (2005)[23] highlights that while developing countries are making efforts to combat infrastructure deficiency, their weak capital markets make them susceptible to a variety of other issues, resulted through the involvement of foreign investors.

Moreover, the literature on the PPP phenomenon has attracted attention from various disciplines such as economics, law, engineering, and management sciences. However, the majority of these studies concentrate on the contexts of developed countries. For example, according to a study by Wang et al (2018),[24] which analyzed 186 PPP related articles distributed in Public Administration or Political Science journals, most of the journals concentrated on the United Kingdom (UK). The UK was the pioneer to conceptualize PPPs as a policy instrument under the term "Private Finance Initiative (PFI)."[25] Though PFIs differ marginally from PPPs in terms of funding, PFI is a term used to imply

[20] Tingting Liu and Suzanne Wilkinson, "Adopting Innovative Procurement Techniques: Obstacles and Drivers for Adopting Public-private Partnerships in New Zealand," *Construction Innovation* 11, no. 4 (2011): 452-469.

[21] Graeme A. Hodge, Greve Carsten and Anthony Boardman, "The PPP Phenomenon and its Evaluation," *International Handbook on Public-private Partnerships*, (Edw. Elgar Publisher, 2010): 4-5.

[22] Jamie S. Davidson, "Driving growth: Regulatory Reform and Expressways in Indonesia," *Regulation & Governance* 4, no. 4 (2010): 465-484.

[23] Xueqing Zhang, "Paving the Way for Public-private Partnerships in Infrastructure Development," *Journal of Construction Engineering and Management* 131, no. 1 (2005): 71-80.

[24] Huanming Wang, Xiong Wei, Wu Guangdong, and Zhu Dajian, "Public-private Partnership in Public Administration Discipline: A Literature Review," *Public Management Review* 20, no. 2 (2018): 293.

[25] Jason Anderson, "A Potted History of PPP with the Help of ELT Journal," *ELT Journal*, Volume 71, Issue 2, (2017): 218-227.

an equivalent concept as a PPP.[26] As a policy instrument used for infrastructure development and public service delivery, PPPs are more widely introduced and applied in various parts of the world.

While the debate on how to cater efficiently using PPPs for the ever-expanding public service and infrastructure demands of the people is ongoing, studies are mostly concentrated in the economics and business management disciplines. For example, one of the very few studies focusing on PPPs with evidence from Sri Lanka, by Appuhami and Perera (2016); published in a journal of accounting and organizational change, is useful in terms of identifying the types of risks and levels of management controls used in different phases of PPP projects from a private sector business management perspective.[27] Another study by Dabarera et al (2019), is also confined to road projects in assessing the suitability of PPPs for Sri Lanka, and focuses mainly on the models and types of PPPs.[28] Research on the context of PPPs in Bangladesh and Philippines are relatively available, but studies capturing the effects of governance issues on the declining trend in the use of PPPs is rare.

Moreover, the role that the public sector plays, representing the government, which is entrusted with public trust is more crucial and impactful. Public administrators in the governments are fundamentally vested with the responsibility of meeting the growing demands of the people. However, an analytical study by Wang et al. (2018) [29] reveals that research on PPPs in certain developing countries is left untouched by scholars, particularly in the public administration discipline. In that sense, this research becomes useful to gain an insight into public policy and administrative perspectives, and how governance issues are constraining the process of PPPs in developing countries with lower-middle income status.

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[26] In PFI, a project is funded through debt funding and private sector equity. In addition, the fund is channeled to the state, which directs it to the intended project. The state pays the cost of the intended project per month throughout the period of the project. In PPPs however, private sector involvement is not limited to financing, and PPP offers various other options depending on the type of PPP and the degree of private sector participation, which the government determines to involve. See for example, James Edwin Kee, and John Forrer, "Private Finance Initiative-The Theory Behind Practice," *International Journal of Public Administration* 31, no. 2 (2008): 151-167.

[27] Ranjith Appuhami, and Sujatha Perera, "Management Controls for Minimizing Risk in Public-private Partnerships in a Developing Country: Evidence from Sri Lanka." *Journal of Accounting & Organizational Change* 12, no. 3 (2016): 408-431.

[28] G. K. M. Dabarera, B. A. K. S. Perera, and M. N. N. Rodrigo, "Suitability of Public-private Partnership Procurement Method for Road Projects in Sri Lanka." *Built Environment Project and Asset Management* 9, no. 2 (2019): 199-213.

[29] Wang et al, "Public-private Partnership in Public Administration Discipline: A Literature Review," 293.

This dissertation focuses on the context of PPPs in Sri Lanka,[30] Bangladesh and the Philippines, and assesses factors hindering PPP projects from reaching their potential from public policy and administration perspectives. The focus is primarily on the governance issues constraining the public sector of lower-middle income developing economies. This dissertation examines 14 PPP projects implemented in Sri Lanka, Bangladesh and the Philippines, covering a range of infrastructure and public services such as electricity projects, ports, expressways and prisons. Data for the study were sourced mainly from archival documents such as procurement guidelines, reports by international aid organizations, former PPP related research studies, newspaper articles and PPP related websites. In addition, in the case of Sri Lanka, meetings and informal interviews with public sector bureaucrats, and PPP agency officials helped gather some of the data, which were not possible to gather from a distant study. The analysis of the data and information gathered was conducted using descriptive and interpretative approaches. The following section presents the structure of this dissertation in brief.

1.4. Dissertation Structure

The initial stage of this research gathered background information on the topic, formulated research questions, and identified research objectives. Thus, Chapter I of this dissertation introduces the background of the study, the research problem, objectives, and ends with a structure of this dissertation. The second stage involved a theoretical discussion based on previous studies related to historical evolution, developments and conceptualization of the notion of PPPs. Hence, in Chapter II, this dissertation presents a theoretical overview defining PPPs as a policy instrument through a literature review. Chapter III presents a case analysis of PPP projects in Sri Lanka, Bangladesh, and the Philippines. Through the case study analysis, Chapter III induced the common issues found in

[30] Note that after concluding the research presented in this dissertation, on July 1, 2019, Sri Lanka was elevated to the category of “upper-middle income” developing countries according to the Word Bank’s 2019 country classification release. Sri Lanka has earned USD 4,060 per capita passing the threshold little above GNI per capita USD 3,996 and earned its new classification. See, The World Bank, “World Bank Country and Lending Groups: Country Classification,” July 1, 2019, Accessed August 26, 2019, https://blogs.worldbank.org/opendata/new-country-classifications-income-level-2019-2020?fbclid=IwAR3gkSoxhIjTSuxJzaLmwI6rMKhLwOY-vT_-vIVutL1OoW_AQuvcuqw5Dww.

these three countries, and framed them as governance issues contextually unique to the lower-middle income developing countries. Chapter IV discusses possible remedial measures to combat the issues identified if PPPs are to avoid the current negative outcomes. The first part of Chapter IV revisits inherent tensions in PPPs as a preliminary step towards ascertaining what PPPs encapsulate as a policy instrument. The same part of Chapter IV addresses how discretion and accountability become problematic when implementing PPPs. The second part of Chapter IV recommends the clear identification of PPP regulatory space; establishment of an adaptive management system; involvement of the general public in the decision-making process; and supplementing the PPP frameworks with an ethic of care, as possible remedial measures that can enhance the outcomes of future PPP projects. Chapter V summarizes the research findings and limitations of this dissertation paving avenues for future research.

This dissertation ends with the conclusion that PPPs in lower-middle income developing countries are facing a decline in the use of PPPs, because the lack of resilience in PPP frameworks with grounded good governance principles, are leading the infrastructure projects to result in adverse outcomes. Thus, governments tend to recourse to other procurement methods or depend on alternative finances such as official development aids (ODAs) and foreign debts, which in turn create further long-term detrimental impact on their respective economies.

Overall, this dissertation makes three original contributions to the existing PPP literature. First, this study presents an examination of institutional, legal, and policy frameworks in three lower-middle income developing countries: Sri Lanka, Bangladesh, and the Philippines. The contexts of PPPs in these countries remain largely uninvestigated because PPPs are a distant and complex topic diffused from the West, and how to reap its benefits by effectively administering the essence of PPPs as a policy instrument, is not yet adequately comprehended by these countries. Second, this study explores the practical and underlying conceptual constraints that have led the examined countries to deviate from implementing PPPs for developing infrastructure or delivering public services. Third, the proposed set of recommendations will be of some use for regulators to reform their existing PPP frameworks, and combat the identified governance issues, in a manner that harnesses the potential of PPPs. Moreover, the recommended remedial measures will be useful for developing countries affected by financial constraints, and interested in a ‘third way,’ beyond privatization and traditional procurements in pursuit of delivering for the growing demands of people.

Chapter II: A Theoretical Analysis Defining Public-private Partnerships (PPPs)

In the 21st century, Public administration and the formulation of governmental policies have undergone dramatic changes due to globalization and the pluralization of service provisions. Policy problems faced by governments in the public service delivery are increasingly complex and diverse in both the developing and the developed worlds. Public services encompass a wide span of facilities with the potential to affect economic and socio-political contexts of a country, and therefore has been mainly considered to be dealt best by the governments. At the same time, public services have evolved to be one of the pivotal instruments available for governments to implement developmental goals aimed at creating an enabling environment conducive to economic growth.[31]

The post-Second World War public sector reforms of the industrialized countries' policy experiments and organizational practices have radically influenced developing countries struggling to provide for increasing public demands. The topic of this dissertation, Public-private Partnerships (PPP) is one such policy instrument, conceptualized in the developed countries and commonly used as a tool for infrastructure development and public service delivery. This chapter first examines how PPPs originated in the West as a policy instrument to cater for the public service demands of the people. Then, this chapter explores the debates that surround PPPs ambiguous definition and understanding how PPPs are different from privatization and traditional procurements, in order to comprehend the theoretical underpinnings behind the notion of PPPs. Further, the rationale for adopting PPPs, the arguments against the use of PPPs, and what factors are considered critical in the literature for the success of PPPs will be examined here. The overall aim of this chapter is to provide a comprehensive overview and an understanding of what PPPs are as depicted in the literature.

[31] S. B. Kyohairwe, "Unlocking Potential Initiatives for Retracing the Public Service Delivery in a Uganda's Case Amongst the African Countries," *International Conference on Public Administration and Development Alternatives 123,* (IPADA, 2018): 2-10. Accessed June 16, 2019, http://ulspace.ul.ac.za/handle/10386/2427

2.1. Paradigm Changes in the Post-World War II Public Service Delivery

After the end of the WWII until the late 1970s, the political and economic tenets of Keynesian-type policies triggered interventionist strategy to public services.[32] Keynesian theorists criticized classical economic theory, which represents the concept that the community and economy need to be organized based on market oriented decisions.[33] As Castells (1993) explains, in the pre-World War II period markets provided essential social needs to the public only if it was profitable for private capital to do so.[34] Keynesian policies, expanded the government and required it to assume responsibilities of the main sectors of the economy such as health by taking them away from the market. Under these policies, the governmental role was to create a welfare state which is responsible for delivering the primary services of the public and infrastructure like hospitals, roads, and housing.[35] In addition, Keynesian governments attempted to ensure accountability and direct democratic control by transferring the primary responsibility of delivering public services to the elected representatives of the people.[36]

The Keynesian governmental intervention policies, however, were blamed for the economic crises that occurred between the 1970s and 1980s.[37] People doubted the competence of the Keynesian governments inculcating welfare state ideologies to solve the myriad economic problems and increasing demand for public services. Administration under the welfare state was often perceived as inefficient. Theodore, Peck and Brenner (2011) highlights that there was little respect for customers, the general public, from public service providers.[38] Furthermore, there was rising criticism against the welfare state such as policy deficiencies, institutionalized corruption, and weak public services,

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[32] David Harvey, "Freedom is Just Another Word, "*A Brief History of Neoliberalism*. (Oxford University Press, USA, 2007): 21.

[33] Gerry Mooney, and Alex Law, "New Labour, 'Modernization' and Welfare Worker Resistance." *New Labour/hard Labour?* (2007): 1–22. doi:10.2307/j.ctt1t89h0z.6

[34] Manuel Castells, "European Cities, The Informational Society, And the Global Economy," *Tijdschrift Voor Economische En Sociale Geografie* 84, no. 4 (September 1993): 247–257. doi:10.1111/j.1467-9663.1993.tb01767.x.

[35] Ibid.

[36] Harvey, "Freedom is Just Another Word," 21-23.

[37] Ibid.

[38] Nik Theodore, Jamie Peck, and Neil Brenner, "Neoliberal Urbanism: Cities and the Rule of Markets," *The New Blackwell Companion to the City* 1625 (2011):15-25.

mismanagement of the economy, and low productivity.[39] All these led to a deterioration of the welfare state.

The US President Ronald Reagan and UK Prime Minister Margaret Thatcher were prominent critics of Keynesian policies.[40] Based on the neoliberal perspective, they argued that the effectiveness of the economy can only be accomplished via market competition.[41] Private management practices and policies were encouraged to enhance effectiveness and efficiency in government, which aimed at curbing the challenges of the old public administration approaches. Practices of the private sector were pursued to solve challenges of the public firms. The neoliberal political principles proposed by the administrations of Reagan and Thatcher encouraged dismantling of welfare states and the reduction of labor standards via the re-enactment of market initiatives like privatization.[42] As Peck and Tickle (2007) explains market initiatives were supported by the credence that private organizations are more resourceful, productive, and inexpensive than public firms in managing public services.[43] Therefore, the neoliberals concerted on promoting private sector involvement in public service and infrastructure provision led the formation of New Public Management (NPM) reforms.[44] The following section examines what NPM reforms inculcate in changing the paradigm of public service provisions.

2.2. NPM Reforms: An Approach to Minimal Government Involvement

NPM signifies the transfer of market and business management methods from the private to the public sector.[45] This transfer is associated with neo-liberal ideologies on the economy and state. The aim of NPM reforms was to reduce government involvement and to manage public activities by

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[39] David Harvey, "The Construction of Consent, "*A Brief History of Neoliberalism*. (Oxford University Press, USA, 2007): 56-63.
[40] Ibid.
[41] Ibid.
[42] Jamie Peck and Adam Tickell, "Conceptualizing Neoliberalism, Thinking Thatcherism." *Contesting Neoliberalism: Urban Frontiers* 26 (2007): 50.
[43] Ibid.
[44] Sophie EF Bessant, Zoe P. Robinson, and R. Mark Ormerod, "Neoliberalism, New Public Management and the Sustainable Development Agenda of Higher Education: History, Contradictions and Synergies," *Environmental Education Research* 21, no. 3 (2015): 418-419.
[45] Gernod Gruening, "Origin and Theoretical Basis of New Public Management," *International Public Management Journal* 4, no. 1 (2001): 12.

adapting business principles to enhance efficiency. Additionally, NPM is rooted in the belief that humans are mostly motivated by self-interest, which could substantially lead to profit maximization. Several theories influenced the origin of the NPM reforms. The following sections briefly examine how aspects of the two prominent political and public administration theories influenced the origins of NPM reforms.

2.2.1. Aspects of the Public Choice Theory

Hood (1991), states that the basis of NPM principles is linked to the upsurge of widespread and rational disenchantment with expansion of the state controls.[46] The origins of the NPM reforms was also associated with the growth of the government's role, taxation increases, pressures to avert government expansion, and a move towards privatization.[47] One of the public choice theorists, William Niskanen (1971), condemns the Weberian bureaucratic model and state that the Weberian model lacks cost-consciousness since it possesses a weak association between outputs and costs.[48] According to him the system of rewards in public organizations is not inclined towards enhancing public performance.[49] These discussions suggest there is a paucity of incentives for the self-interested bureaucrats and politicians to regulate costs, leading to over expenditure and waste. According to Buchanan (1984), originally such discrepancies happened because the public managers concentrate on delivery rather than on efficiency and productivity.[50] Particularly, according to public choice theory, public bureaucracies are lethargic to respond to changing circumstances and are often insensitive to service users. Therefore, the use of economic tools inherent to the private sector is seen by market advocates as a better approach to solve the traditional problems of the public sector. Thus, public choice is theory is one of the main political theories which instigated the development of NPM reforms.

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[46] Christopher Hood, "A Public Management for all Seasons?" *Public Administration* 69, no. 1 (1991): 3-19, https://doi.org/10.1111/j.1467-9299.1991.tb00779.x
[47] Ibid.
[48] William A Niskanen, "Characteristics of Bureaus," *Bureaucracy and Representative Government*, (1971): 4-22. doi:10.4324/9781315081878.
[49] Ibid.
[50] James M. Buchanan, "Politics Without Romance: A Sketch of Positive Public Choice Theory and its Normative Implications," *The theory of public choice II* 11 (1984): 11-22.

2.2.2. Aspects of the Principal-Agent Theory

Another profound theory, which instigated the formations of NPM reforms is the principal agent theory. According to Walsh (1995), under the Principal-Agent theory, bureaucrats and politicians govern as agents on behalf of their principal, the general public.[51] However, it is difficult for the public to hold bureaucrats accountable due to inadequate information, and the challenges of monitoring their behavior.[52] Consequently, the performance of the public sector governed by bureaucrats and politicians is inefficient to reasonably cater for the needs of the people, since they focus on their self-interests as opposed to the public interest.[53] Hence, more support to move away from the traditional approaches of government regulations were evidenced.

In addition, a study by Goebler and Osborne (1992) which addresses ways of enhancing governmental effectiveness and efficiency, had a substantial influence on the discussions of reinventing the role of the government during this time.[54] President Clinton, leading the government of the United States together with his vice President Al Gore in 1993, also emphasized the essential need for governmental reform.[55] These deliberations appear to have resulted in the identification of ways to combat budget deficits by reducing unnecessary spending, such as spending on bureaucratic staffing. NPM reforms can be identified as one of such mechanisms bringing private sector practices and involvement into the traditional government approaches to reinvent the role of the government, by expanding private participation in government activities. However, not all the NPM reforms gained acceptance, and some of them received outright criticisms and resistance. The next section examines one of the foremost NPM reforms highly contested during the reigning period of neoliberal policies.

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[51] Carl E. Walsh, "Optimal Contracts for Central Bankers," *The American Economic Review* (1995): 150-153.

[52] Judith D. Smyth, "Public Services and Market Mechanisms: Competition, Contracting and the New Public Management," *Journal of Policy Analysis and Management* 15, no. 3 (1996): 482-485.

[53] Ibid.

[54] David Osborne and Ted Goebler, "Earning Rather Than Spending", *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector,* (Perseus Books,1992):195-207, See also Sebahattin Gültekin, "New Public Management: Is it Really New?" *Journal of Human Sciences* 8, no. 2 (2011): 343-358.

[55] George A. Larbi, "The New Public Management Approach and Crisis States," *United Nations Research Institute for Social Development Discussion Paper* No. 112, (1999): 23-32

2.3. Privatization of Public Services: A Contested Past

Generally, privatization refers to the transfer of ownership rights from government-owned organizations to non-governmental firms.[56] The purpose is to regulate the firms transferred using market related mechanisms to be more efficient and effective in its operations. Based on the definitions given by English and Guthri (2003), privatization means liberalization of the economy via broadening the participation of the private sector in capacity utilization.[57] Accordingly, privatization is considered as an organization manifestation of NPM reforms that impedes or reverses government growth. Privatization is commonly perceived by scholars as well as the general public as the sale of assets owned by the government to open certain sectors to competition to the private sector. However, privatization began to be criticized by critiques of the market approaches within a short period. The outright criticism was that privatization does not necessarily lead to efficiency improvements.[58] For example, Broadbent and Laughlin (2003) states, privatization became so popular in countries such as the UK, Australia and New Zealand during the early 1990s that there was only little left to be sold off without generating considerable public concern. [59]

On the other hand, Schmidt (1996) reasons that managers in the private sector may not hesitate to embrace profit-making approaches or practices that make essential public services expensive or inaccessible to a majority of the population.[60] For instance, a profit-making firm may not choose to offer healthcare or education to unprivileged communities where they do not see profits incoming. Efforts to have unprivileged communities receive fair treatment are likely to need the intervention of the government. Thus, the efforts of privatization were becoming unpopular, even

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[56] See for example, ABL. Cheung, "Understanding Public-Sector Reforms: Global Trends and Diverse Agendas," *International Review of Administrative Sciences* 63, no. 4 (1997): 435-457. See also, Jonathan Boston, "Basic NPM ideas and their development," *In The Ashgate Research Companion to New Public Management,* (Routledge, 2016): 33-48.

[57] Linda English and James Guthri, "Driving Privately Financed Projects in Australia: What Makes Them Tick?," *Accounting, Auditing & Accountability Journal,* 16, 3**,** (2003), 493-494.

[58] Klaus M Schmidt, "The Costs and Benefits of Privatization: An Incomplete Contracts Approach," *The Journal of Law, Economics, and Organization* 12, no. 1 (1996): 1-24. doi:10.1093/oxfordjournals.jleo.a023354.

[59] Jane Broadbent and Richard Laughlin, "Public-private Partnerships: An Introduction," *Accounting, Auditing & Accountability Journal* 16, no. 3 (2003): 334.

[60] Schmidt, "The Costs and Benefits of Privatization: An Incomplete Contracts Approach," 14.

though the social pressure to maintain an adequate level of public services delivery was rising.[61] However, the criticisms of privatization did mean private participation was rejected. Therefore, governments in developed countries continued to base their belief that collaboration with the private sector through innovative NPM reforms still has the potential to enhance public services.[62] As a result, PPPs were developed as a novel policy instrument integrating government and the market approaches together in delivering services to the public. Before examining the more recent development of PPPs after the criticisms against privatization, the following section first examines a detailed history of facts which led to the conceptualization of PPPs.

2.4. Evolution of PPP as a Policy Instrument for Public Service Delivery

The collaboration between state and non-government actors has existed since the formation of the government.[63] The earliest practices of marketization, contracting out, and partnership building dates back to imperial China and Rome roughly 2,500 years ago, with private taxes and toll road collections.[64] According to Wettenhall (2010), the phenomenon of PPPs, rather than mere collaborations of contracting out, dates back to the era of colonial expansion, with the most notable example being the East India Company which was initiated by Queen Elizabeth I in 1600 to serve as a force of expansion for the British Empire.[65] The East India Company consisted of power brokers, traders, conquerors, and bankers, who contributed splendidly to the economy and governance of Britain.[66] Even though the East India Company was considered the earliest and most powerful PPP, it was abandoned in 1858, when violent riots against British rule were uprising in Delhi.[67]

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[61] Stephan Linder, "Coming to the Terms with the Public-private Partnership: A Grammar of Multiple Meanings," *The American Behavior Scientist,* 43, 1**,** (1999): 35-51.

[62] Ibid.

[63] Roger Wettenhall, "Mixes and Partnerships Through Time," *International Handbook on Public-private Partnerships, chapter 2,* (Edward Elgar Publishing, 2010). 10-33

[64] John Forrer, James Edwin Kee, Kathryn E. Newcomer, and Eric Boyer, "Public-private Partnerships and the Public Accountability Question," *Public Administration Review* 70, no. 3 (May 2010): 475–484. doi:10.1111/j.1540-6210.2010.02161.x.

[65] Wettenhall, "Mixes and Partnerships Through Time," 14. See also, Nick Robins, "Loot: In Search of the East India Company, the World's First Transnational Corporation," *Environment and Urbanization* 14, no. 1 (2002): 79–88. doi:10.1177/095624780201400107.

[66] Ibid.

[67] Ibid.

According to De Vries (2013), PPP practices receded in the eighteenth century, as the modern-day nation-states were forming.[68] Particularly, towards the nineteenth century, the scale of public service provision by the governments in the developed countries improved significantly as a result of the expansion of the welfare state.[69] Functions such as healthcare and security were centralized by the government.[70] The inflated prices, monopolistic conditions and regulatory failures of the private sector also have contributed to increased acceptance of the welfare state concept. As Quadagno (1987), describes, the quintessence of the welfare state is provision of state-protected minimum standards of income, education, nutrition, housing, and health assured to each individual as a political right, rather than as a charity.[71] However, as described earlier, the expansion of the government to establish welfare state policies, gradually received criticism particularly during the times of Keynesian governmental intervention policies, because of the inefficiencies and lethargies the associated with bureaucrats.[72] Therefore, private sector participation in government activities gathered momentum with the rise of Neoliberals.

PPPs form one of such components of the neo-liberalization process, introduced first in the UK and subsequently expanded across the world. Examination of the related literature on PPPs show that PPPs have emerged between two groups that support forces of the market. The first group is composed of neoliberals who emphasized less governmental roles and more functions of private parties.[73] This group strongly believed that government is inefficient. The second group consists of neo-conservatives, who possess the same objective as neoliberals but on the belief that taxpayers should also bear the burden of public services.[74] Both these groups assert that the role of providing

[68] Piet De Vries, "The Modern Public-private Demarcation: History and Trends in PPP," In *The Routledge Companion to Public-private Partnerships*, (Routledge, 2013): 31-50.

[69] Edoardo Ongaro and Sandra Van Thiel, eds. "Introduction," *The Palgrave Handbook of Public Administration and Management in Europe*,(London: Palgrave Macmillan, 2018): 3-10.

[70] Ibid.

[71] Jill Quadagno, "Theories of the Welfare State," *Annual Review of Sociology* 13, no. 1 (1987): 109-128. doi:10.1146/annurev.soc.13.1.109.

[72] See for example, Claus Offe, "Competitive Party Democracy and the Keynesian Welfare State: Factors of Stability and Disorganization," *Policy Sciences* 15, no. 3 (1983): 225-246.

[73] E.S Savas, and Leonard Gilroy. "Contracting: Privatization and Public-private Partnerships." *Encyclopedia of Public Administration and Public Policy*, Third Edition (November 6, 2015): 1-6. doi:10.1081/e-epap3-120053563. See also, Gernod Gruening, "Origin and Theoretical Basis of New Public Management," *International Public Management Journal* 4, no. 1 (2001): 1-25.

[74] Ibid.

public services to citizens should not wholly be a responsibility given to the state. Moreover, the private sector and the citizens as taxpayers should take over certain responsibilities from the government. Hence, neo-liberals and neo-conservatives favored public-private partnerships as a market facilitating approach through which the role of the private sector is strengthened through regulations and monitoring of the government.[75] As mentioned earlier, the neoliberal ideologies encouraged the expansion of private sector participation and minimal government intervention through the formulation of NPM reforms.[76] PPPs evolved as a one of such NPM reforms when governments experienced the pressure of fiscal deficits, after experiencing the drawbacks of the welfare state and privatization policies that resulted in increasing public debts during the economic recession of the early 1990s.[77] As Kee and Forrer (2008) explains, when governments were looking for new institutional arrangements and began to move towards marketizing the state sector, the PPPs were innovated as a 'third way' and the direction forward to overcome the struggles of economies around the world.[78]

Within the PPP context, the move from privatization to modern PPPs started in the UK during the government of John Major, which introduced the concept of PFI in 1992.[79] This approach was initially opposed by the Labour party and did not receive approval until Prime Minister Tony Blair reframed the concept as a "Public-private Partnership" to tone down the conservative roots.[80] Following a number of successful PFI and PPP projects in the UK, NPM reforms speeded across Europe and soon extended to undeveloped economies.[81] Moreover, the influence from International Aid Organizations (IAOs) that pursued "Washington Consensus" also contributed to PPPs application

[75] Linda English and Mathew Skellern, "Public-private Partnerships and Public Sector Management Reform: A Comparative Perspective," 5.
[76] See *supra* discussion in Section 2.4.
[77] Ibid.
[78] James Edwin Kee, and John Forrer, "Private Finance Initiative—The theory behind practice," *Intl Journal of Public Administration* 31, no. 2 (2008): 151-167.
[79] Ibid.
[80] Anthony Wall, and Ciaran Connolly, "The Private Finance Initiative: An Evolving Research Agenda?" *Public Management Review* 11, no. 5 (2009): 707-724.
[81] Jane Broadbent and Richard Laughlin, "The Role of PFI in the UK Government's Modernization agenda," *Financial Accountability & Management* 21, no. 1 (2005): 75-97.

in many developing countries.[82] The Washington Consensus is a term, which refers to free market policies advocated by the US based IAOs such as the World Bank, the International Monitory Fund and the US Treasury.[83] The purpose of these policies was to assist developing countries combat economic crises through reforms, which increased the role of the market forces in return for immediate financial support.

As Appuhami et al (2011) states, there was an increased acknowledgment that Official Development Aid (ODA) had failed to improve infrastructure through loans and capital investments during the early 1990s.[84] ODA is a term used by the Development Assistance Committee of the Organization for Economic Co-operation and Development (OECD) comprised of high-income member countries.[85] The OECD offers aid from the developed governments to help enhance the development of the economy and welfare of developing countries as part of their organization's agenda. As advocates of PPPs, the IAOs incorporate PPPs as a mechanism to improve infrastructure provision, welfare, and efficiency, accompanied by the ODAs provided.[86] Policy makers in developing countries, who are in great need of financial inputs, applied PPPs proposed by IAOs and invited greater private sector participation in public service provision. However, each country has its own story on how PPPs were introduced and applied. Chapter III of this dissertation addresses how PPPs were introduced to Sri Lanka, Philippines, and Bangladesh in detail. Before further scrutinization is made, the following section examines what a PPP precisely means as a policy instrument.

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[82] Prateek Agrawal, "Washington Consensus," *Intelligent Economist*, Last updated May 3, 2019, Accessed June 16, 2019, https://www.intelligenteconomist.com/washington-consensus/

[83] Ibid.

[84] Ranjith Appuhami, Sujatha Perera, and Hector Perera, "Coercive Policy Diffusion in a Developing Country: The Case of Public-Private Partnerships in Sri Lanka," *Journal of Contemporary Asia* 41, no. 3 (2011): 433.

[85] The Organization for Economic Co-operation and Development (OECD) Data, "Definition of ODA," Accessed 18 June 2019, https://data.oecd.org/oda/net-oda.htm

[86] *The Unites Nations,* "Report of the International Conference on Financing for Development," (New York, NY: United Nations, 2002). Accessed June 17, 2019, http://archive.ipu.org/splz-e/ffd08/monterrey.pdf /

2.5. Definition of Public-private Partnerships: The Ambiguity

Generally, PPPs are partnerships between private and public sectors aimed at working together to manage resources for the provision of public services and goods. The extent of the collaboration is influenced by factors such as project scale, political jurisdiction, and public opinion.[87] Projects that commonly demand PPPs are public utilities like water, energy, and sanitation. In addition, PPPs extend investment to infrastructures for schools, airports, shipping ports, prisons.

PPPs have several alternative names such as PFI, P3, 3Ps, and P^3. PFI is a term used in countries like the UK, Japan and Malaysia. In PFIs, a project is funded through debt funding and private sector equity.[88] Such private funds are first channeled to the state budget, which is then distributed to be used for the implementation of the intended project. The state pays the cost of the intended project per month throughout the implementation period of the project. As Babtunde (2015) explains in PPPs, private sector involvement is not limited to financing, and offer various other options depending on the type of PPP and the degree of private sector participation. In general, P3, 3Ps, and P^3 are terms used in North American countries to mean private involvement in infrastructure and providing public services.[89]

Even though the PPP policy has been applied across the world using alternative names in public service provision, the policymakers and scholars have not agreed on a universal definition for PPPs.[90] Almost every scholar provides a version of their definition based on the criteria that they consider to be vital. For example, Bosso and Garvin (2008), described PPPs as a long-term contractual agreement that takes place between the private sector and public sector in which both sectors benefit from each other.[91] Usually, the private sector offers operating and management services, which put

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[87] Nizkorodov, "Closing the Infrastructure Gap? The Role of Public-private Partnerships in Water Sector Development and the Economic, Political, and Social Factors that Determine Project Success," 2-6.

[88] See for example, James Edwin Kee, and John Forrer, "Private Finance Initiative—The Theory Behind Practice," *Intl Journal of Public Administration* 31, no. 2 (2008): 151-167.

[89] Babatunde, Solomon Olusola, Srinath Perera, Lei Zhou, and Chika Udeaja, "Barriers to Public-private Partnership Projects in Developing Countries: A Case of Nigeria," *Engineering, Construction, and Architectural Management* 22, no. 6 (2015): 669-691.

[90] Nizkorodov, "Closing the Infrastructure Gap? The Role of Public-Private Partnerships in Water Sector Development and the Economic, Political, and Social Factors that Determine Project Success," 3-7.

[91] Michael J Garvin, and Doran Bosso, "Assessing the Effectiveness of Infrastructure Public-private Partnership Programs and Projects," *Public Works Management & Policy*13, no. 2 (2008): 162-178.

their finances at risk. Scholars like Greve and Hodge (2007),[92] and Weihe (2005)[93] have termed PPPs as one of the numerous distinctive collaborations that takes place between both the public and the private sector.

According to the international organizations advocating PPPs, such as the International Monetary Fund, PPPs signify engagements in which the private sector provides services and assets which were previously being provided by the state.[94] PPPs entail their distinctive characteristics with emphasis on private finance investments and service provision by the private sector. According to the World Bank's definition, PPPs employ long-term contracts between a government entity and private sector entity, for offering a public service or an asset.[95] Under such contract, the private entity is tasked with managing substantial risks. In addition, the remuneration of this partnership is associated with performance.

The definition of PPPs is highly diverse with minor changes playing a crucial role in promoting various agendas, either in favor or against the management methods of PPPs. While scholars like Miraftab (2004)[96] claim definitional imprecision can hinder PPP project success, others like Klijn (2010)[97] claim that uncertainty is important to inspire various performers. Klijn further claims that defining the collaboration specifically beforehand would result in disagreements between the parties.[98]

The purpose of this section of the dissertation however, is not to take on the claims of either side of the scholars, but rather to first identify and understand the nature of PPPs as a policy tool. When examining the related literature, overall PPPs demonstrate three fundamental features; First, the

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[92] Graeme A Hodge, and Carsten Greve, "Public-private Partnerships: An International Performance Review," *Public Administration Review* 67, no. 3 (2007): 545-558.

[93] Guðrið Weihe, "Towards a Process Perspective on Public-private Partnerships," *International Handbook on Public-private Partnerships,* (2010). doi:10.4337/9781849804691.00032

[94] APMG International, "PPP Introduction and Overview," Accessed 18 June 17, 2019, https://ppp-certification.com/ppp-certification-guide/11-defining-ppps-purpose-ppp-certification-guide

[95] World Bank Group PPP Legal Resource Center, "About Public-private Partnerships," Accessed June 16, 2019, https://ppp.worldbank.org/public-private-partnership/about-public-private-partnerships

[96] Faranak Miraftab, "Public-private Partnerships: The Trojan Horse of Neoliberal Development?" *Journal of Planning Education and Research* 24, no. 1 (2004): 89-101.

[97] Erik-Hans EH Klijn, "Public-private Partnerships: Deciphering Meaning Message and Phenomenon," *International Handbook of PPP*,(2010). doi:10.4337/9781849804691.00011.

[98] Ibid.

transfer of risks, which entail an exchanged distribution of risks between the private and the governmental sector. The main aim here is to pass the risk to a sector which can rightly handle it, protecting both sectors from taking full responsibility for the risks. Second, Long term contracting. PPP contracts extend over a period of between 10 to 35 years. Third, task bundling, which comes with different building designs for the PPPs which include the following types of PPPs as described in Table 1 below.[99]

Table 1: Description of PPP Types

Type of PPP	**Description**
Operations and maintenance	The public partner serves as the project's owner while the work of operating and maintaining the project is the responsibility of the private partners.
Design and construction	The role of funding and reserving assets generated from the facility's use is assumed by public partners who also retain the ownership of the project while private partners build and design it.
Designing Building and Operation (DBO)	DBOs consist of private parties taking on project operations together with designing and building PPPs while public partners fund the construction and operations retaining the installation ownership.
Designing, Building, Financing, and Operations (DBFO)	The private party designs, builds, operates, and funds the facility, whereas the public partner funds it only when it is being used.
The Building, Operating, and Transfer (BOT)	During the contract period, the private partner builds, operates, and owns the project, and eventually transfers it to the public partner upon completion of the contract.

[99] Edward R. Yescombe, "What are Public-private Partnerships? Introduction Public Infrastructure and the Private Sector Public-private Partnerships Development and Structures PPPs and Public Infrastructure Types of PPP" *Public-private Partnerships: Principles of Policy and Finance*, (Elsevier, 2011): 12-25.

The Building, Operation, and Ownership(BOO)	The role of building, operating, and owning the facility belongs to the private partners.
Build, Own, Operate, Transfer (BOOT)	Once the public partners build, operate, and own the facility for a certain period, its ownership is transferred to the public agency at no cost.
Building, Leasing, and Transfers (BLT)	The facilities will be first built by the private partner and then transferred to public partner. Thereafter, the private partner leases it from the government.
Concessions	The public service or infrastructure facility is usually operated under the private partner's domain. The private partner takes the responsibility of operating and maintaining it for a specified period while the public partners own the project. Ownership belongs to the public partner while possession of rights is entitled to the private partners.

Source: The World Bank Group: PPP Legal Resource Center, "PPP Arrangements/ Types of PPP Agreements," Accessed June 17, 2019, https://ppp.worldbank.org/public-private-partnership/agreements

As mentioned earlier, PPP scholars have adopted their own definition for PPPs. Gathering from PPP literature, this research also deduced the common features of a PPP and adopted its own definition. Henceforth, a PPP is a policy instrument that institutes the nature of a continuing contractual collaboration between a government authority, like the Ministry of Finance, and a private organization or a company, where the transfer of responsibilities and risks occur as a result of delivering a specific public service agreed upon between the involved parties.

Nevertheless, given the absence of a universal definition, the variety of types, alternative names, and the involvement of the multiple stakeholders have created a sense of ambiguity around the definition of PPPs. More specifically, the collaboration with the private organizations has often led to confusing PPPs with privatization, but the two notions encapsulate different principles. In order to maintain a clear distinction, the following section explores the differences between PPPs and privatization.

2.5.1. Differentiation from Privatization: Maximum Private Sector Involvement

In general, those who oppose the principles of market liberalization describe PPPs the same as privatization, and portray PPPs to be equivalent with privatization. The primary reason for such interpretation springs from the most straightforward description of privatization. In simple terms, privatization means the shifting of the government role of offering public services to its people to private organizations with the hope of solving budget constraint problems or increasing efficiency in service delivery.[100] Over the years, governments have been offering private institutions the opportunity to take over weak institutions until they stabilize.[101] However, privatization shifts all duties to the private sector without risk sharing of any type. Viktorija (2006) points out that liberalization and privatization should be differentiated.[102] Liberalization refers to reducing government control. In addition, it signifies that the economy is opening to competitive markets. Contrary to liberalization, privatization involves the exchange of ownership from public organizations to a private organization. Privatization may have liberalizing impacts on the economy, but not necessarily. Public monopolies may transform into private monopolies, which are against the principles of liberalization. Consequently, private monopolies may reject liberalization. PPPs, on the other hand, certainly are products of market liberalization, where government control is reduced, yet retained, and responsibility in delivering a public service is shared with the private partner.

Additionally, when a particular public service is privatized, the private sector has full control for some period, and then the government may take over in later stages.[103] In PPPs, the entire development phase is a shared responsibility of the private and public organizations. The extent to which the duties and responsibilities are shared, and the degree of private organization's involvement depends on the type of PPP adopted. The Figure 1 below illustrates the degree of private sector involvement and the extent of risks shared depending on the procurement mechanism adopted.

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[100] Hita Unnikrishnan, and Harini Nagendra, "Privatizing the Commons: Impact on Ecosystem Services in Bangalore's lakes," *Urban Ecosystems* 18, no. 2 (2015): 613-632. doi:10.1007/s11252-014-0401-0.
[101] Ibid.
[102]Viktorija Bojović, "Public-private Partnership as a Last Resort for Traditional Public Procurement," *Pano Economicus* 53, no. 3 (2006): 299-311. doi:10.2298/pan0603299b
[103] Unnikrishnan and Nugendra, "Privatizing the Commons: Impact on Ecosystem Services in Bangalore's lakes," 615.

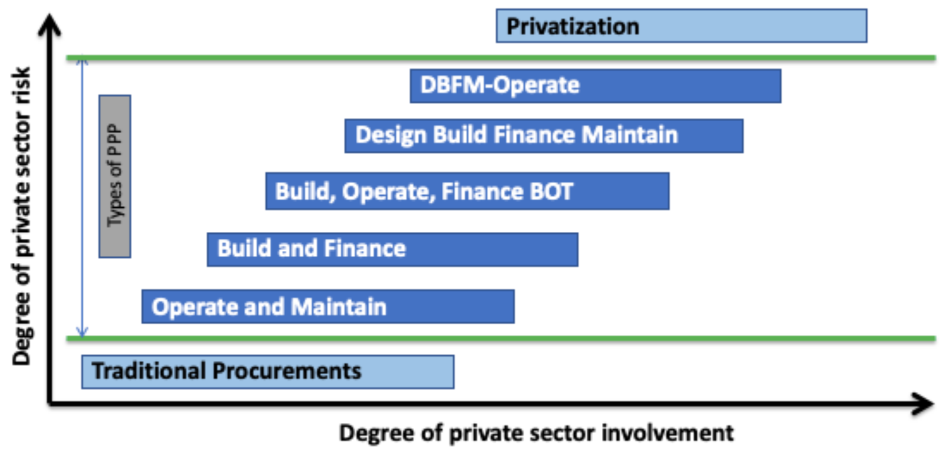

Figure 1: The Degree of Private Sector Involvement in PPP Models

Source: Canadian PPP Council, "Scale of Public-private Partnerships," Accessed June 14, 2019, https://www.pppcouncil.ca/web/Knowledge_Centre/What_are_P3s_/Definitions_Models/web/P3_Knowledge_Centre/About_P3s/Definitions_Models.aspx?hkey=79b9874d-4498-46b1-929f-37ce461ab4bc

As demonstrated the the Figure 1 above, privatization is located furthest from the degree of private secot and involvemt axes. Meaning, privatization undertakes the highest extent of risks and involvement in the delivering of public services. In general, there are several reasons a government may decide to devolve and share such risks and involvement with the private sector through privatization. The primary reason could be the financial challenges faced by the public sector. As Unnikrishnan and Nagendra (2015) describes, the government may not be able to adequately account for the finances due to political infiltration, making the enterprise not profitable.[104] Second, privatization mechanisms provide a means for the government to borrow money from the private sector, where the government leases out state-owned property to obtain finances for other projects of paying its debts.[105] However, privatization is not always an option, and it is difficult to implement

[104] Unnikrishnan and Nagendra, "Privatizing the Commons: Impact on Ecosystem Services in Bangalore's Lakes," 613-614.
[105] Ibid., 615.

due to strategic issues such as the sensitivity of the sector, as in the case of defense. Also, the strong image of privatization being a mechanism that sell off public property instigate public resistance in cases. In such cases, PPPs are promulgated as the better option by advocates of private participation in government activities.

Clearly, PPPs are not privatization, but the two concepts share a primary goal of replacing an ineffective, bureaucratic, and sometimes politicized public project with a more proactive and efficient mode of business operations.[106] This common feature with privatization has led to confusion and misunderstandings about the difference between PPPs and privatization. This study, however, maintains that in privatization, all responsibilities of delivering the particular public service are entrusted to the private organization without the distribution of profit or risk to the public organization. In contrast, depending on the type adopted, PPPs share risks and responsibilities between the private and public organizations within a fixed contractual duration and hence, different from privatization. Similar to privatization, PPPs are often mistaken as another type of traditional procurement. The following section examines how traditional procurements should be distinguished from PPPs.

2.5.2. Differentiation from Traditional procurement: The Conventional Approach

According to Grimsey and Mervyn (2009), traditional procurements, also referred to as public procurements, are the procedures a government or its entities such as Ministries undertake to make the purchase of services, goods, and work.[107] The process starts with the identification of a gap or a need in public service provision, followed by an announcement and a contract.[108] The determination of the particular need in this sense has to follow all the procurement guidelines enacted in the country. Thus, the state agency acting as the purchaser specifies what it requires, and defines the preferred service or product. Then it issues a request-for-proposal that permits private sectors to bid to provide

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[106] See for example, Darrin Grimsey and Lewis Mervyn, "Developing a Framework for Procurement Options Analysis," *Policy, Finance & Management for Public-private Partnerships* (2009): 398–413. doi:10.1002/9781444301427.ch21.

[107] Ibid.

[108] Adam Williams, "Public-private Partnerships and Questions in Public Procurement," *PhD diss.,* (Floida Atlantic University,2014: 20-36.

the requested goods and services.[109] The private companies or organizations are requested to provide proposals for offering the requested good or service in an efficient and cost-effective way, taking into account the governmental constraints and specifications. The goal in public procurement is the awarding of the contract to the contractors, service providers, and suppliers who meet the standards in a cost-effective and timely procedure. [110] Through such procurements, the government fills the particular gap in fulfilling the demands of the people within the governing procurement process and laws. [111]

In other words, traditional public procurement is demonstrated by a typical market situation where there are a vendor and a purchaser. The purchaser is the government entity. The vendor is a private organization. Once the transaction is completed between the two parties, they proceed to their sectoral responsibilities separate from the procurement, ending the relationship. In contrast, under PPPs, a mutual relationship between the private sector and public sector government entity continues to be in tact over a 10 to 30 years of long-term period.[112]

According to Grimsey and Lewis (2007), the main feature of PPPs entails integrating the responsibilities of building a facility and operating it by delegating to a specific private contractor.[113] In the traditional procurement approach, there is a necessity to have contractors for building and operating separately. As Burger and Hawkesworth (2011) clarify, the main difference between both techniques is the distribution of risk and the role of risk as an efficiency driver. [114] Moreover, in a traditional procurement method, the risk transfer to the participating private sector is minimal. Usually, one procurement encompasses one task and do not persist past the construction stage of the project.[115] However, PPP contracts can incorporate the construction tasks, maintenance and even operational aspects into a bundle under one contract. However, the thin line separating PPPs from traditional

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[109] John Forrer, James Edwin Kee, Kathryn E. Newcomer, and Eric Boyer, "Public-private Partnerships and the Public Accountability Question," *Public Administration Review* 70, no. 3 (2010): 475-484.

[110] Adam Williams, "Public-private Partnerships and Questions in Public Procurement," 20-36.

[111] Ibid.

[112] See also, Jonathan Avery Jenkins, "Multiple Case Examinations of Complex Decisions to Form Networked Public-private Partnerships," PhD diss., (Walden University, 2012): 6.

[113] Grimsey and Lewis, "Public-private Partnerships and Public Procurement,"174.

[114] Philippe Burger, and Ian Hawkesworth, "How to Attain Value for Money," *OECD Journal on Budgeting* 11, no. 1 (2011): 91-146.

[115] Ibid.

procurement and privatization is difficult to distinguish, and leads to misunderstanding and confusion not only in the eyes of the commoners, but also the non-expert regulators. For the purpose of this dissertation, the definitions as described in the Table 2 below are used.

Table 2: Distinction Between the Three Main Methods of Private Sector Participation in Public Service Delivery

Traditional Procurement	**Public-private Partnership** **⇐ (PPP) ⇒**	**Privatization**
The buying of services and goods by government organizations from a contractor to fulfill a specific need. High risk retained with the government party and the transfer of risk to the private contractor is restricted.	A policy tool encapsulating a continuing contractual collaboration between a private corporation and a state agency, where the transfer of responsibilities and risks take place for the reason of delivering a particular public service.	A private company takes over all the risks and owns the asset or public service provision for a pre-determined number of years.

Source: Arizona Department of Transportation, "What is a Public-private Partnership?" Accessed June, 2019, https://www.azdot.gov/business/programs-and-partnerships/Public-PrivatePartnerships(P3).

Despite the confusion of the closely related definitions of private participation avenues, the achievements developed countries have made due to the expansion of infrastructure using PPPs is justifiable enough for the attempts by the lagging states to follow suit.[116] Participation of the private sector in the mode of PPPs has gathered more momentum than the other two during the recent past. According to the World Bank, for example, out of 139 low and middle-income countries, at least 106 developing economies have adopted not less than one PPP infrastructure project in the past five years.[117] Why have PPPs been adopted by governments across the world as a way of supplying the

[116] Robert Osei–Kyei, and PC Chan Albert, "Developing Transport Infrastructure in Sub-Saharan Africa through Public-private Partnerships: Policy Practice and Implications," *Transport Reviews* 36, no. 2 (2016): 172.

[117] World Bank: Private Participation in Infrastructure Database, "Country Snapshots: 139 Countries," Accessed June 16, 2019, https://ppi.worldbank.org/data, See also, Swapnil Garg and Garg Sachin, "Rethinking Public-private Partnerships: An Unbundling Approach," *Transportation Research Procedia* 25 (2017): 3789-3807.

public needs of the people? The following section examines the commonly identifiable rationales for adopting PPPs by governments around the world.

2.6. The Rationale for Adopting PPPs in Public Service Delivery

Pfisterer et al. (2009), in their extensive review of PPPs, highlight that the rationale for PPPs can be found in state and market failure.[118] Market failure is described as private organizations failing to be innovative and to guarantee continuous enhancement in their development of the product when they consider it as not profitable.[119] Government failure is defined as the fiasco of the state to secure responsibility between the citizens, related industries, and decision-makers.[120] The objective, therefore, is striking a balance between the advantages the public and private sectors can provide, while taking the crucial steps to mitigate the weaknesses and limitations that may arise due to the inherent differences in the two sectors' motives.

According to Viktorija (2006), the main benefits of PPP are threefold. Firstly, the partnership offers the government an active role in coming up with policy initiatives.[121] Secondly, the partnership offers a way for the private organizations to supplement, but not to replace the government. Lastly, PPPs encourage the exchange of expertise between the private and public sectors. Research conducted by LSE Enterprise and Arthur Andersen (2000) indicate that PPPs provide significant benefits in reducing the cost and the time of project implementation.[122] PPPs claim to provide high quality at a fair cost with an average saving is about seventeen percent. Depending on the strategy incorporated, and the design and planning, projects can be completed within the stipulated time frame. Furthermore,

[118] Stella Pfisterer, De Boer Diederik, Mudde Huub, Pieter Van Dijk Meine, and Rob Van Tulder, "The Effectiveness of Public Private Partnerships in East African Export-Oriented Horticulture," *Final Report for the Dutch Ministry of Foreign Affairs and the Ministry of Agriculture, Nature and Food Security,* (Expert Centre for Sustainable Business & Development Cooperation, 2009): 9-46.
[119] Ibid.
[120] Ibid.
[121] Viktorija Bojović, "Public-private Partnership as a Last Resort for Traditional Public Procurement," 299-311.
[122] Arthur Andersen, and L. S. E. Enterprise, "Value for Money Drivers in the Private Finance Initiative, report commissioned by The Treasury Task Force," *London* 15 (2000) quoted in Parliament UK, "Forth Report: The Private Finance Initiative," Accessed June 16, 2019, https://publications.parliament.uk/pa/cm199900/cmselect/cmtreasy/147/14703.htm

PPPs claim to offer innovative and creative solutions, as PPPs are profoundly focused on the desired outputs rather than the process of achieving them. As a result of outcome-oriented nature, it is possible to come up with a unique and innovative strategies. Additionally, the government sector can acquire new skills, knowledge, and technology through the adoption of PPPs.[123]

Walker et al. (1995)[124] advocate that PPPs offer win-win solutions to combat the challenges faced by the public sector. Such as: relief on financial constraint, help address administrative challenges, minimalizing bureaucracy, provision of quality services to the public, encouragement of economic growth, and allows the state to focus and invest better in social issues like pensions, education, and health[125] The list of advantages the PPPs offer is long. Based on the existing literature, this dissertation categorizes three main reasons for choosing to adopt PPPs in the delivery of public services. They are namely; financial reasons, efficiency reasons, and political reasons. The following section will discuss them individually.

2.6.1. Financial Reasons: An Alternative Source of Finance?

Advocates of PPPs present several arguments from a financial and economic perspective to persuade governments and private organizations to embrace PPPs. According to Grimsey and Lewis (2004), the first projects which applied the PPP techniques primarily aimed at injecting private investments into public facilities and services.[126] The public services and facilities require substantial capital investments. Therefore, if the government alone is to fund these services and facilities, they would be faced with a myriad of financial burdens. Hence, the idea of using taxpayers' money to deliver the public demands while creating business opportunities for the private organizations was evolved through the conceptualization of PPPs. A systematic review[127] conducted by the Netherlands

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[123] Viktorija Bojović, "Public-private partnership as a last resort for traditional public procurement," 299-311

[124] C. Walker, J. Mulcahy, A. Smith, P. T. I Lam, and R. Cochrane, "Granting Authority's Perspective: The Win-win Solution," in *Privatized Infrastructure* (First ed., London, Thomas Telford, 1995):16-24,

[125] John B Miller and H. Evje Roger, "The Practical Application of Delivery Methods to Project Portfolios," *Construction Management & Economics* 17, no. 5 (1999): 669-677. doi:10.1080/014461999371277.

[126] Grimsey and Lewis, "Public-private Partnerships and Public Procurement,"178.

[127] Aarts De Jong, "Public-private Partnerships in Developing Countries," *A Systematic Literature Review,* (the Netherlands, 2013).

Ministry of Foreign Affairs in 2013, confirms this view and states that the main reason why PPPs are implemented is that the governments do not have sufficient financial resources to carry out public service delivery tasks on their own.

Empirically, on the macro-economic side, the International Finance Corporation confirms that 16.5 million people benefitted from essential services like telecommunication, transportation, energy, and water due to the implementation of PPPs.[128] For instance, Malik (2010), states that the Pakistan government agreed to implement PPPs in education because they did not have the required resources to achieve significant tasks in the provision of quality education to Pakistan's children.[129] Through collaboration with several private companies, the Pakistani government was able to successfully build schools and also provide relatively quality education, expanding the literacy rate of a large number of Pakistani children.[130]

According to a study by Jamali (2004), the Lebanese government also undertook a PPP in a macro telecommunication service provision project since they desired to reform public enterprises, but they lacked financial resources.[131] The case of Kinnegad-Kilcock Motorway project in Ireland also has shown that PPPs can aid the upsurge the funding allocated for infrastructure through revenue gained from asset utilization by the people.[132]Additionally, based on a study by De Jong et al. (2010), on PPPs used for the construction of subways in China, reveals that Public-private Partnerships in the development of infrastructure projects have risen as a result of states having inadequate financial resources.[133] According to the same study, local officials, in most cases, rely on the belief that only funding from the private sector can seal the enormous gap between the resources available to the

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[128] International Finance Corporation: World Bank Group, "Public-private Partnerships: Overview,". Accessed June 17, 2019 http://www.ifc.org/wps/wcm/connect/Industry_EXT_Content/IFC_External_Corporate_Site/PPP

[129]Allah Bakhsh Malik, "Foundation Assisted Schools," Public-private Partnerships in Education: Lessons Learned from the Punjab Education Foundation, (Asian Development Bank), (2010): 6-12.

[130] Ibid.

[131] Dima Jamali, "Success and Failure Mechanisms of Public-private Partnerships in Developing Countries: Insights from Lebanon," *Emerald the International Journal of Public Sector Management,* 17(5), (2004): 414-430.

[132] PricewaterhouseCoopers, "Delivering the PPP promise," *A Review of PPP Issues and Activity*, (2005): 19-24.

[133] De. M. Jong, M. Rui, D. Stead, M. Yongchi and X. Bao, "Introducing Public-private Partnerships for Metropolitan Subways in China: What is the Evidence?" *Journal of Transport Geography*, 18, (2010): 301-312. doi:10.1016/j.jtrangeo.2009.06.013.

public sector and the rapidly growing needs for sustainable urban infrastructure.[134] Thus, PPPs are seen as a financing mechanism to overcome budget deficiencies of governments. Also, private organizations are required by PPPs to compete with one another to deliver services over a long period of time by providing services at the fairest price to people. The expectation is that healthy competition will lead to efficiency as well as effective service delivery.[135]

However, according to Pfisterer et al. (2009), in infrastructure development projects, high transaction costs can transpire as a result of the project's complex nature and the public and private partner's negotiations.[136] If a PPP is adopted as the procurement method for infrastructure development projects, high 'start-up costs' could be reimbursed to the private sector who are willing to do business with the government, when the project is completed and open to the public. The utility fees collected will be paid back to the private sector over the time period stipulated in the contract. Therefore, at the initiation stages of implementing an infrastructure development project, PPPs bring in the alternative source of finance, which many developing countries lack. Hence, financial reasons rank as the foremost reasons for opting to use a PPP instead of the other procurement methods available. In addition, private sector involvement through PPPs claims to bring efficiency into the provision of public services.

2.6.2. Efficiency Reasons: An Alternative to Lethargic Bureaucracy?

The next most mentioned justification for governments to adopt PPPs is that they help increase the efficiency of the service delivered. Efficiency is expected to be gained by aligning the incentives of the involved parties. As profit motivated businessmen, the private sector stakeholders are expected to efficiently lower the expenses and deliver the services at a lower price so, that the

[134] Ibid.

[135] Graeme Hodge, "Public-private Partnerships: The Australasian Experience with Physical Infrastructure, *The Challenge of Public-Private Partnerships: Learning from International Experience*, (Cheltenham, 2005): 290-304.

[136] Pfisterer et al., "The Effectiveness of Public Private Partnerships in East African Export-Oriented Horticulture," (2009): 13-48.

utility attracts more users.[137] A variety of technical and theoretical studies on PPPs state that the factors of superior efficiency in the private sector originate from their high innovation, adoption of advanced management skills, and better-structured incentives.[138]McQuaid and Scherrer (2010) state that the government is enabled by PPPs to tap into the skills, incentives, expertise, and disciplines that the private sectors have developed throughout their day to day business activities.[139] When the two sectors collaborate, the expectation is that the positive aspects of the private sector such as efficient management methods and knowledge will be transmitted to the public sector.

The incentives for the private sector to act efficiently is created becase, generally in PPP contracts the government is only required to pay the private sector through an annual payment line. Therefore, if the services being offered are not delivered efficiently and effectively, the government holds the ipper hand to demand for the agreed efficiency. In other words, the equity returns to the private sector largely depend on the quality of the services, which enables a mechanism to ensure that the services are produced and supplied efficiently to the general public.

According to Walker et al., (1995) and Ghobadian et al. (2004), private investors are best known for managing tasks profitably when compared to public organizations.[140] In addition, the private sector is known to have good partnership management abilities together with access and ability to adapt to new technologies, which are made possible through the efficient management of finances. For example, in Kenya, the provision of household waste management services vested with the public sector was not very effective or efficient in managing the waste in the state of Kwara. The Kenyan government entered into a contract in 2004 with a private company, and handed over the task of formalizing the recycling process and keeping the state of Kwara clean. Thereafter, the Kwara State

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[137] Bing Li, Akintola Akintoye, Peter J. Edwards, and Cliff Hardcastle, "Critical Success Factors for PPP/PFI projects in the UK construction industry," *Construction Management and Economics* 23, no. 5 (2005): 459-471.

[138] A. Ghobadian, D. Gallear, N. O'Regan, and V. Howard, "Future of the Public-private Partnership", *Public-private Partnerships: Policy and Experience*, (Palgrave Macmillian, Chippenham, 2004) quoted in Esther Cheung, Albert PC Chan, and Stephen Kajewski, "Reasons for Implementing Public-private Partnership projects: perspectives from Hong Kong, Australian and British practitioners," *Journal of Property Investment & Finance* 27, no. 1 (2009): 81-95.

[139] Ronald W McQuaid, and Walter Scherrer. "Changing Reasons for Public–private Partnerships (PPPs)." *Public Money & Management* 30, no. 1 (January 2010): 27–34. doi:10.1080/09540960903492331.

[140] Walker et al, "The Practical Application of Delivery Methods to Project Portfolios,"(1999); and Ghobadian et al, "Future of the Public Private Partnership"(2004).

waste management council was established as the public partner, performing a supervisory role, while the private company actually handled the state's waste management using their technology and management methods. The priority for the policymakers of this project was combatting the challenge of ineffective and inefficient household waste management in Kenya. Thus, the PPP provided a means for the state of Kwara to achieve efficiency, effectiveness, and even improve the quality of the environment, which had been impossible until such collaboration. Hong Kong's Cross Harbor Tunnel (CHT) project was another renowned PPP project, in which the private sector's skills in efficient management of resources made the construction of the tunnel possible 3 years and 11 months ahead of the projected time. Additionally, the CHT project could pay back its total expenses within three and a half years through the tolls collected. Nevertheless, even if one of the better benefits offered by PPPs is its efficiency factor, that is not always on the top of the list for resorting to PPPs. Particularly at the level of policy-making in many governments, there are other concerns, such as political reasons as demonstrated in the next section.

2.6.3. Political Reasons: Priorities of the Administration in Power?

This section examines political reasons that stimulate the adoption of a PPP, when selecting a procurement method to initiate a public service delivery project. PPPs have been used to promote specific policies ranging from small scale infrastructure development projects of the local governments to more specific policies on sectoral development, such as transportation, electricity supply sectors and the like. In the UK for example, the Her Majesty's Treasury states that the extent of the PPPs use depends on the state's commitment to equity, accountability, and efficiency combined with various political reasons which are relevant for the time period in question and also the political parties in power.[141]

As previously mentioned in this chapter, the evolution of PPPs in the 1990s is connected to the international community, who strongly supported the views of minimal government intervention

[141] H.M. Treasury, "The Private Finance Initiative," Accessed June 17, 2019, http://www.hm-treasury.gov.uk/documents/public_private_partnerships/ppp_index.cfm

and economic liberalization. Some PPP commentators such as Jamali (2004),[142] Thomas et al. (2006),[143] and Appuhami et al. (2011)[144] affirmed that developing countries accept PPP policies accompanied with ODAs and loans sooner than the developed countries due to the political urgings of the ruling governments to provide for the people's demands. Engel et al. (2006) remarks that these policy views have resulted due to the governments' motive of maximizing its chances of getting reelected.[145] Engel et. al. further stresses that contract renegotiation allows the politicians in charge of a particular PPP project to replicate the effects of issuing debt, yet without incorporating it into the budget and thus evade parliamentary approval or opposition review.[146] In such circumstances, the private parties also benefit from the risk-taking, as it will improve their business gains.

In India, for example, many PPPs were implemented as a result of the efforts of the government to accommodate rural electorates, so that the government remains popular and wins in the coming elections.[147] A review by Kruesmann and Timmerman (2009) on Indian Women's Health Initiatives emphasizes the importance of partnering with both "for-profit" and "non-profit" entities the for governments to remain in power.[148] Thus, politically driven motives play an important role when deciding to adopt a PPP approach in delivering public services. Nevertheless, it could be argued that political reasons for adopting a PPP depend on if the PPPs can materialize other benefits such as efficiency and financial inputs, without which the politicians cannot propose to opt PPPs as the best option.

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142 Dima Jamali, "Success and Failure Mechanisms of Public-private Partnerships (PPPs) in Developing Countries: Insights from the Lebanese context," *International Journal of Public Sector Management* 17, no. 5 (2004): 414-430.

143 A. V. Thomas, N. Kalidindi Satyanarayana, and L. S. Ganesh, "Modelling and Assessment of critical Risks in BOT road projects," *Construction Management and Economics* 24, no. 4 (2006): 407-424

144 Ranjith Appuhami, Sujatha Perera, and Hector Perera, "Coercive Policy Diffusion in a Developing Country: The case of Public-private Partnerships in Sri Lanka," *Journal of Contemporary Asia* 41, no. 3 (2011): 431-451.

145 Eduardo Engel, Fischer Ronald, and Alexander Galetovic, *Renegotiation Without Holdup: Anticipating Spending and Infrastructure Concessions*. No. w12399, (National Bureau of Economic Research, 2006).

146 Ibid.

147 H. Rao, "Evaluation Study on ADB Assistance for Public-private Partnerships in Infrastructure Development," *Infrastructure for a seamless Asia*, (Asian Development Bank, 2009).

148 Martina Timmermann, and Monika Kruesmann, "Partnerships for Women's Health-Striving for Best Practice within the UN Global Compact," *United Nations University Research Brief* 1/2009 (www. unu. edu)." (2009): 1-12.

However, political reasons are often not open for publication or open discussion, hindering the transparency of the valid reasons as to why a PPP is adopted in collaborating with a particular private company, to provide a particular type of service to a particular area. Therefore, if projects fail due to a reason underpinned by political reasons, then there is often a lack of direct evidence to prove their real reasons for failure. This dissertation in Chapter IV will examine the topic of accountability in detail. Despite the strong proposition for adopting PPPs for public service delivery, there are also arguments against opting for it.

2.7. Arguments Against the Use of PPPs: The Contested Pitfalls

Opponents of PPPs argue that the promises to overcome budgetary constraints, increase efficiency, and innovate through risk transfer are all theoretical. Markets have to be near-perfect, and governments must have systems in place to effectively address opportunistic behaviors of the parties involved. Loxley (2013) state that the use of a PPP as a "mega credit-card" may make short-term budgetary advantages available, but in the long run, they may also increase overall budgetary pressure.[149] Mani et al. (2013) explain that when resources are limited, public managers fall into a "scarcity trap."[150] Scarcity of finances for example, may make public managers acquire a tunnel vision due to the pressing need to fulfill short-term demands. Despite the long-term nature of public policy, concerns about payment methods or the institutional capacity are not sufficiently assessed before the initiation of project. Consequently, there is a tendency to overlook the costs that result from contract negotiations, managing the bidding process, and partnership maintenance, while creating unrealistic expectations of financial benefits.

Ball et al. (2007), conducted an investigation of a UK school which was procured through a PPP scheme.[151] The investigation revealed that the costs of bidding were more expensive in

[149] John Loxley, "Are Public-private Partnerships (PPPs) the Answer to Africa's Infrastructure Needs?" *Review of African Political Economy* 40, no. 137 (2013): 487-490. doi:10.1080/03056244.2013.817091.

[150] Mani, Anandi, Sendhil Mullainathan, Eldar Shafir, and Jiaying Zhao, "Poverty Impedes Cognitive Function," *Science* 341, no. 6149 (2013): 976-980. doi:10.1126/science.1238041.

[151] Rob Ball, Heafey Maryanne, and Dave King, "The Private Finance Initiative in the UK: A Value for Money and Economic Analysis," *Public Management Review* 9, no. 2 (2007): 289-310.

comparison to the traditional procurement approaches. In the school's case, the PPP's bidding cost was seven times higher than when equated to the traditional procurements where the total bidders cost reaches only about 3% of the total cost of the project. Therefore, Ball et al., (2007) claimed that if the cost of bidding was higher, that meant that the PPPs are only appropriate for relatively large-scale investment projects.[152] Ball et al., (2000) in another comprehensive exploration of PPP project, confirmed that the negotiation process of PPPs is considerably long and often may take 18 months or more.[153] These delays are caused because of the nature of PPPs' contracts, which are more complex to evaluate and design due to the variety of funding packages and types of PPPs that need to be selected depending on the needs of a particular project. Also, sometimes PPPs require consultations from external professionals, which may consume further time during the initial stages of the project.

Also, the long-term nature of PPP contracts typically reduces flexibility to adapt to economic, environmental, or political changes. According to Hodge and Greve (2007), the "lock-in effect," involves an investor not being able to exit his or her position due to taxes, penalties, or regulations, increases the possibility of project failure in the sectors with resource uncertainties.[154] The lock-in effect describes the difficulties in adapting to changing circumstances during the lifetime of a PPP project. As PPP projects usually last more than ten years, unless the changes that may take place during such time are accurately predicted and included in the contractual terms at the initial stages, adapting to such changes may cost financially, socially, and even politically. For example, matters such as government regime changes, local needs, and movements on human rights, are only a few examples of these changes. The assessing, planning, and implementing to adjust to these changes and their legal consequences are costly and time-consuming.

Using a case study approach, Adams et al. (2006) examine several PPP projects and highlighted that the lack of proper supervision in the implementation of PPP projects reduces

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[152] Ibid.

[153] Rob Ball, Maryanne Heafey, and David King, "Managing and Concluding the PFI Process for a New High School: Room for Improvement?" *Public Management an International Journal of Research and Theory* 2, no. 2 (2000): 159-180. doi:10.1080/146166700411210.

[154] Graeme A. Hodge and Carsten Greve, "Public–private Partnerships: An International Performance Review," *Public Administration Review* 67, no. 3 (2007): 552.

accountability to a greater extent.[155] For example, if the PPP framework is not well-equipped with effective monitoring and supervision mechanisms, outcomes may result in arrangements that are less desirable and can increase the overall project costs mainly due to contract renegotiations necessitated by the vulnerable circumstances.[156] To supplement the reduced accountability view, Loxely (2013) elaborates that PPPs reduce transparency because governments' open record files are now becoming private, limiting public involvement and increasing information asymmetry between service users and providers.[157]

In the context of developing countries Osei–Kyei and Chan (2017) focus on external financial assistance from organizations such as the International Monetary Fund, Asian Development Bank, foreign company investors, or the Wolrd Bank.[158] They state that the majority of the PPPs' success in unindustrialized countries depends on external financial assistance as the internal financial resources are limited.[159] Bhattacharya, Oppenheim, and Stern (2015) focuses on the vulnerability of local investors in developing countries and highlight that limiting external support creates an opportunity for local construction companies; however, in return it also reduces the scope of applying PPPs in developing nations due to the lack of domestic liquidity, making local companies not strong enough to finance mega public service delivery projects.[160] Thus, developing countries using PPPs are forced to depend on foreign investors, International Finance Organizations, or banks to get the needed finances. Also, as these private partners are sensitive to regulatory controls, they may demand favorable market conditions and commercial risks be transferred to governments parties, taxpayers, and users. Weak economies in developing countries may go to excessive extents in order to induce

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[155] John Adams, Young Alistair, and Zhihong Wu, "Public-private Partnerships in China: System, Constraints and Future Prospects," *International Journal of Public Sector Management*19, no. 4 (2006): 384-396.

[156] Nizkorodov, "Closing the Infrastructure Gap? The Role of Public-private Partnerships in Water Sector Development and the Economic, Political, and Social Factors that Determine Project Success," 17-27.

[157] Loxley, "Are Public-private Partnerships (PPPs) the answer to Africa's infrastructure needs?" 496.

[158] Robert Osei-Kyei and Albert PC Chan, "Implementation Constraints in Public-private Partnership: Empirical Comparison between Developing and Developed Economies/countries," *Journal of Facilities Management* 15, no. 1 (2017): 90-106.

[159] Ibid.

[160] Amar Bhattacharya, Jeremy Oppenheim, and Nicholas Stern, "Driving Sustainable Development through Better Infrastructure: Key Elements of a Transformation Program," *Brookings Global Working Paper Series* (2015): 262.

international parties to invest in their countries, for example by promising incentives such as government subsidies, full-cost recovery guarantees, or tax exemptions.

Also, in developing countries local companies capacitated with skills and experience in handling PPPs is lacking as well.[161] Especially, financial constraints force the states to partner with local companies that have no competence nor financial ability to participate in PPPs unless they were previously involved in some successful projects.[162] Using a questionnaire survey method, Li et al., (2005) research the perceptions of private and public sectors in the UK with regards to negative factors that may impact the adoption of PPPs undesirable as policy tool for public service delivery.[163] The outcomes show that both private and public sectors have the same views in regards to three issues which they find to be the most problematic in the adoption of PPPs. The three most common negative factors associated with PPPs include:lengthy transaction management time, high costs of participation,a nd negotiation delays. Cheung et al. (2010)[164] adopts the survey by Li et al. (2005)[165] to test perceptions of the industrial practitioners on issues hindering the adoption of PPPs in Hong Kong. The three noteworthy factors identified by the respondents of Hong Kong were long delays in negotiations, political debates causing lengthy delays, and low confidence as only a few proposals have reached the contract stage.[166]

Despite the arguments against the use of PPPs, as mentioned before, according to World Bank data, at least 106 developing economies in the last five years have had at least one infrastructure PPP project. Around the world, PPPs have now been in practice for over two decades, and countries globally are looking for additional means of improving the PPP frameworks and implementing more

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[161] Bhattacharya et al., "Driving Sustainable Development through Better Infrastructure: Key Elements of a Transformation Program," 267.

[162] Robert Osei–Kyei and PC Chan Albert, "Developing Transport Infrastructure in Sub-Saharan Africa through Public-private Partnerships: Policy Practice and Implications," *Transport Reviews* 36, no. 2 (2016): 170-186.

[163] Bing Li, Akintoye Akintola, J. Edwards Peter, and Hardcastle Cliff, "Perceptions of Positive and Negative Factors Influencing the Attractiveness of PPP/PFI procurement for Construction Projects in the UK: Findings from a Questionnaire Survey," *Engineering, Construction and Architectural Management* 12, no. 2 (2005): 125-148.

[164] Esther Cheung, PC Chan Albert, and Kajewski Stephen, "Suitability of Procuring Large Public Works by PPP in Hong Kong," *Engineering, Construction and Architectural Management* 17, no. 3 (2010): 292-308.

[165] Ibid.

[166] Cheung et al., "Suitability of Procuring Large Public Works by PPP in Hong Kong," 303-307.

PPP projects. The wide spread adoption of PPPs allows the proponents of PPPs to interpret that PPPs have been successful in delivering public services despite the complexities involved. Defining what success means in a PPP becomes relevant here. The following section examines the failure and success factors of the adoption of PPPs, as defined in the literature.

2.8. Defining PPP Success and Failure

In simple terms, a PPP's success depends on the objectives each project identified to accomplish. The literature discusses several criteria to be used as yardsticks in measuring the success of PPPs. According to Abdel Aziz (2012), a successful of PPPs project should run its full course through the stipulated concession period and achieve the goals intended. [167] His interpretation also involves the provision of public goods of satisfactory quantity and quality, the fulfillment of the environmental and societal objectives, the improvement of efficiency, and achievement of value for money. In addition, equitable outcomes, satisfaction of stakeholders, and protection of the environment and affordability for people with low incomes, are few other measurements.

Meng et al., (2015) defines success in PPPs as the realization of the conflicting interests of the government, the private partners, and the general public.[168] Network analysts have claimed that output-based yardsticks do not provide adequate measurements to identify a successful PPP, and that it is important to include long-run "performance domains" like democratic values, connectivity, coordination, and transformation. Thus, there is an absence of a one-size-fits-all yardstick to measure the success of PPPs, and each country with PPP frameworks needs to define and clarify their own targeted objectives to suit their contextual circumstances.

Similarly, PPP failures do not have a unilateral definition. According to Panayides (2015), in general, failure refers to PPP contract suspensions occurring due to conflicts between the parties,

[167] Aziz Abdel M. Ahmed, "Successful Delivery of Public-private Partnerships for infrastructure development," *Journal of construction engineering and management* 133, no. 12 (2007): 918-931.

[168] Xianhai Meng, Zhao Qi, and Shen Qiping, "Critical Success Factors for Tansfer-Operate-Transfer Urban Water supply Projects in China," *Journal of Management in Engineering* 27, no. 4 (2011): 243-251. See also, Wen-xiong Wang, Qi-ming Li, Xiao-peng Deng, and Liang-feng Shen, "Critical Influential Factors for Pricing in Urban Transportation Infrastructure PPP project," In *2008 International Conference on Management Science and Engineering 15th Annual Conference Proceedings*, (IEEE, 2008):1706-1712.

technical faults, legal proceedings, or performance failures caused by the early termination in the conveyance of public goods true to not delivering the expected quality and quantity.[169] In addition, nationalization of the project during the implementation process due to environmental and societal considerations is viewed as a failed project.[170]

However, when assessing the credibility of policy tools developed to address matters of public service delivery, a clear criterion is necessary to distinguish if a PPP project implemented is successful or not. This research will consider a PPP project successful if it achieves the intended aims within the expected time framework and budget, without causing distress to the environment or to the stakeholders involved. In other words, this research will consider a project that fails to achieve the expected aims within the estimated timeframe and budget, causing distress to the environment or stakeholders concerned as a failure.

As discussed above, PPPs are implemented due to a variety of reasons such as financial, political, or for efficiency gains. The PPP literature examines "critical success factors" relevant for PPP implementation. When defending PPPs against the arguments against using them in public service delivery, literature on PPPs portray the critical success factors as prerequisites of a successful PPP. In other words, the existence of these critical success factors in a PPP framework is a condition that affects the success or failure of the project. The following section scrutinizes what factors the literature considers to be most crucial in implementing PPPs, and reflect upon the nature of such factors and their influence on a PPP project.

2.9. Critical Success Factors of PPPs (CFSs)

Since the origin of PPPs in the 1990s, many researchers have used a variety of criteria for identifying factors which are critical to PPP success with the aim of enhancing their understanding,

[169] Photis M. Panayides, Parola Francesco, and Jasmine Siu Lee Lam, "The Effect of Institutional Factors on Public-private Partnership Success in Ports," *Transportation Research Part A: Policy and Practice* 71 (2015): 110-127.

[170] Mohsin Ali Soomro, and Xueqing Zhang, "Evaluation of the Functions of Public Sector Partners in Transportation Public-private Partnerships Failures," *Journal of management in engineering* 32, no. 1 (2015): 04015027:2-5.

and for determining what are the best PPP implementation modes for infrastructure development.[171] Research by Esteves and Pastor (2001) define the Critical Success Factors (CSFs) as the aspects which, if available, may ensure effective competitive behavior in any type of organization.[172] Kumaraswamy et al., (2001) viewed CSFs as the activities, practices, and approaches which should be taken care of in order to guarantee effective management of relationships between the relevant stakeholders aimed to accomplish the objectives of the project.[173]

Chan et al., (2010) showed that the CSFs for the PPPs could be categorized into five categories including: (i) Stable macroeconomic environment: (ii). stable social and political environments: (iii) transparent and efficient procurements (iv) private and public sectors shared responsibilities: (v) judicious control of the government.[174] According to Dulaimi et al., (2010), stable private consortium and political support are among the major critical success elements of PPPs.[175] Meng, Zhao & Shen (2011) found out that the foremost success elements for projects are fair allocation of risks, quality assets, the profitability of the project, a competitive process of procurement, the recruitment of professional advisors, the supervision of the projects developed by the government, and internal coordination of public interventions.[176] Various scholars have also come up with various factors which they claim to be essential towards the success of the PPP projects.

This study scrutinizes ten CSFs, which are frequently referred to in the PPP literature when discussing the fundamental reasons why PPPs were evolved after experiencing the drawbacks of traditional public procurement and privatization. The purpose of the analysis is to form the background

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[171] Junxiao Liu, ED Love Peter, Jim Smith, Michael Regan, and Peter R. Davis, "Life cycle critical success factors for public-private partnership infrastructure projects," *Journal of Management in Engineering* 31, no. 5 (2014): 04014073.

[172] José Esteves, and Joan Pastor-Collado, "Analysis of Critical Success Factors Relevance Along SAP Implementation Phases," *AMCIS 2001 Proceedings* (2001): 1019.

[173] M. M. Kumaraswamy, and X. Q. Zhang, "Governmental role in BOT-led infrastructure development," *International Journal of Project Management* 19, no. 4 (2001): 195-205.

[174] Albert PC Chan, Patrick TI Lam, Daniel WM Chan, Esther Cheung, and Yongjian Ke, "Critical Success Factors for PPPs in Infrastructure Developments: a Chinese perspective," *Journal of Construction Engineering and Management* 136, no. 5 (2010): 484-494.

[175] Mohammed Fadhil Dulaimi, Mohamed Alhashemi, Florence Yean Yng Ling, and Mohan Kumaraswamy, "The Execution of Public-private Partnership Projects in the UAE," *Construction management and economics* 28, no. 4 (2010): 393-402.

[176] Meng et al, "Critical Success Factors for Transfer-Operate-Transfer Urban Water Supply Projects in China," 243-251.

to examine the strength of the PPP framework in selected lower-middle income developing countries in chapter III. In other words, the presence of these factors strengthens the ability of PPP frameworks in implementing successful PPP projects. The Table 3 below indicates the selected 10 CSFs discussed individually with relevance to PPP success in the sections following. The order in which they are examined does not necessarily demonstrate the ranking of importance or the criticalness within a given PPP framework.

Table 3: List of Critical Success Factors Commonly Referred to in the Literature

Critical Success Factor (CSFs)	Authors Referred
Value for Money Assessment	Jin and Doloi, (2008), Burger and Hawkesworth (2011)
Risk Allocation	Hovy (2015), Cheung *et al.* (2012) Ismail (2013)
Transparency	Fabregas, Abdoulaye (2017), Jamali (2004)
The Legal Framework	Hwang, Zhao, Gay (2012), Jefferies *et al.* (2002)
Government Support	Jacobson and Choi, (2008), Babatunde*etal.* (2012)
Reliable Private Partners	Qioa *etal.* (2001), Osei-Kyei & Chan (2015)
Support from the general public and communities	Yong (2010), Nederhand and Klijn (2018)
Identification of Clear Objectives	Liang and Hongjun (2018)
Healthy Competition	Ameyaw & Chan (2014), Askar & Gab-allah (2002)
Capacity to Deliver Assessment	Khaleghi (2016), Zhang (2005)

Source: Created by the Author.

2.9.1. Value for Money:

Jin and Doloi (2008) point out that the sharing and allocating of risks are among the central components of the PPP phenomenon.[177] Risk allocation is what separates PPPs from conventional

[177] Xiao-Hua Jin and Hemanta Doloi, "Interpreting the Risk Allocation Mechanism in Public-private Partnership Projects: An Empirical Study in a Transaction Cost Economics Perspective," *Construction Management and Economics* 26, no. 7 (2008): 707-721.

procurement methods and is also the most prominent and unique feature. Pratap and Chakrabarti (2017) explains that theoretically, an effective and efficient risk allocation mechanism is at the heart of a PPP project.[178] The concept of value for money requires the projects appraisal to take not only costs into consideration, but also the quality of the services to be provided. According to Burger and Hawkesworth (2011), the government aims to increase the value for money of its projects through PPPs, although they face threats from traditional procurements in which the legal frameworks may hinder governments from engaging in PPPs.[179] Two forms are used in the evaluation of value, for either the total project costs, or as per the value stated in the contract.[180] However, determining the value for money for the whole project is often challenging because, in some instances, the preliminary assessments would not include cost such as land or capital investments. Therefore, it may mislead the government if it uses the contract perspective only to determine the value of the project against the money invested.[181] Hence, there is a need to evaluate all the underlying costs of investments in order to understand the value of money on the investment.

In other words, if the costs incurred are worth the outcomes achievable in the PPP project, one aspect necessary for success of the project is present. Also, governments should abstain from shifting all the associated risks of the project to the private party. This is because of the possible effects such transfer of risks may create on future projects with private investors. The public partners should take the responsibility to undertake risks that are beyond the private sector's capacity. Additionally, the private partners are obligated to have the decency to not demand unreasonable government guarantees that prevent the effective transfer of risks between the parties, leading to sabotage the whole purpose of adopting a PPP.

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[178] Kumar V. Pratap and Rajesh Chakrabarti, "Analysis and Case Studies of a Few Infrastructure in India: Public-private Partnerships in Infrastructure," *India Studies in Business and Economics* (2017): 289-361.

[179] Philippe Burger, and Ian Hawkesworth, "How to Attain Value for Money," *OECD Journal on Budgeting* 11, no. 1 (2011): 91-146.

[180] Ibid.

[181] Ibid., 122.

2.9.2. Risk Allocation

The PPP's rationality is that risks are allocated to the party best able to handle them.[182] Hovy et al., (2015) state that the investments made through PPPs is highly advantageous to the governments because PPPs provide a means to the allocate substantial government risks to the private sector which is capable of handling certain risks even with adverse implications involved.[183] Through PPPs for example, the government avoids risks associated with costs and delays, and also the costs of maintenance. With the risk being transferred to the private sector, the government is also associated with costs which could be allocated to risks such as maintenance. However, the cost of maintenance is expected to significantly reduce when transferred to the private partner. In addtion, sometimes risks could be shared between the private companies and the government to mitigate the associated risks.[184] The types of risks allocated include operations risks, demand risks, currency exchange risks, environmental, political, regulatory and on-time completion risks. The fundamental rational behind risk allocation is to transfer various risks that the government cannot handle to the private partner.

2.9.3. Transparency

According to the World Bank, PPPs advocate for high-quality services and projects that can benefit citizens and support the developmental process of the country.[185] However, transparency in PPPs is associated with various issues like the allegations of corruption and tendencies of delays in lengthy bureaucratic procedures. The absence of transparency is often caused because large data and information on PPPs cannot be comprehended by the general public and parties with no expertise on the subject. However, as PPPs handle projects with national it is crucial to make available every

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[182] Liang Shan, Michael J. Garvin, and Raman Kumar, "Collar options to manage revenue risks in real toll public-private partnership transportation projects," *Construction management and economics* 28, no. 10 (2010): 1057-1069.

[183] Pauline Hovy, "Risk Allocation in Public-private Partnerships: Maximizing Value for Money," *Risk* (2015): 2-6

[184] Ibid.

[185] Irene Portabales Gonzalez and Lincoln Flor, "Exploring Value for Money analysis in Low-income countries," World Bank Blog*,* June 30, 2015, Accessed 18 June 19, 2019, https://blogs.worldbank.org/ppps/exploring-value-money-analysis-low-income-countries

relevant information accessible by interested parties. Transparency helps removing confusions and misleading facts regarding PPP projects implemented.

The procurement process of PPPs requires transparency to be available throughout the process. Transparency does not only apply to the process of tendering, but also should be pragmatic throughout the PPP project delivery.[186] The World Bank Group has initiated programs through its branches such as global governance practice (GGP) which aims at publishing information regarding PPPs to improve transparency and help stakeholders assess the value for money.[187] It is also imperative for the government to ensure that there are no rumors or doubts concerning the PPPs project delivery in the public domain. The reason for such requirements should be made is because the negative perception of the public has high potential to affect the project's successful implementation.

2.9.4. The Legal Framework

According to Zhang (2005), favorable legal environments contribute to PPPs success where terms are clear and ensure a binding contract between the private companies and the government.[188] The government measures the success of PPPs accordingly when legal standards are adhered to by the PPP implementors. By setting up policies for PPPs, the government establishes laws that govern the institutions. Suitable laws and policies provide the institutions of PPPs with conducive and preventive measures to enforce the government's regulations and also acts to protect the people from adverse actions.

In supplementing the legal framework, currently there is an inclination to control PPPs with stand-alone PPP laws. For instance, Afghanistan, Argentina, and Pakistan, recently enacted stand-alone PPP legislation.[189] Even though stand-alone PPP laws may contribute to the efficiency and

[186] Robert Osei-Kyei and Albert PC Chan, "Review of Studies on the Critical Success Factors for Public-private Partnership (PPP) Projects from 1990 to 2013," *International Journal of Project Management* 33, no. 6 (2015): 1335-1346.
[187] The World Bank, "Governance," Accessed 18 June 2019, https://www.worldbank.org/en/topic/governance.
[188] Zhang, "Critical Success Factors for Public-private Partnerships in Infrastructure Development," 3-14.
[189] World Bank, "Procuring Infrastructure Public-private Partnerships," Accessed June 14, 2019, https://ppp.worldbank.org/public-private-partnership/library/procuring-infrastructure-ppps-2018

clarity of the regulatory framework, there is no guarantee of project success. The PPP stand-alone laws have positive effects on a country's PPP program, but their absence does not imply that the PPP framework is defective. For instance, if the law can simplify the legal framework, it can as well give rise to legal lacunas if other public procurement measures do not apply. However, the criticality of enacting a stand-alone PPP law is subject to debate, despite its potential to be contribute for the successful implementation of PPPs.

2.9.5. Government Support

As a tool of public policy, the host country's political setting has a direct influence on PPPs.[190] As Jacobson and Choi, (2008) state, expenditures on public projects may not be approved without appropriate government's commitment.[191] In addition, political leaders' support attracts more investors into the economy. According to the OECD, (2008), jurisdictions with weak political support, attract only limited tendering process competition, since investors prefer conducive environments for tendering.[192]

A good example of a country with significant political reception for PPPs is the UK. According to Kwak et al. (2009), PFI works continued despite certain criticism at the time by the ruling Labor party, making the current UK the home of PPP phenomenon with thousands of projects being implemented in various sectors across the world.[193] However, political support for establishing an enabling environment for PPPs rests on the government who now work together with private sector towards the delivery of public services to the citizens, which was traditionally the sole responsibility of governments.

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190 C. Hardcastle, P. J. Edwards, A. Akintoye, and B. Li, "Critical Success Factors for PPP/PFI projects in the UK Construction Industry: a Factor Analysis Approach," *Construction Management and Economics* 23, no. 5 (2005): 459-471.

191 Carol Jacobson, and Sang Ok Choi, "Success Factors: Public Works and Public-private Partnerships," *International Journal of Public Sector Management* 21, no. 6 (2008): 637-657.

192 Organization for Economic Co-operation and Development (Paris), *Public-private Partnerships: In Pursuit of Risk Sharing and Value for Money*, (OECD Publications, 2008). doi:10.1787/9789264046733-en.

193 Young Hoon Kwak, YingYi Chih, and C. William Ibbs, "Towards a Comprehensive Understanding of Public-private Partnerships for Infrastructure Development," *California Management Review* 51, no. 2 (2009): 51-78.

2.9.6. Credible Private Partners

Credible and well-structured private sector companies are essential for Public-private Partnerships' success. The PPP projects' complex nature makes them challenging for a single construction company to execute the project single-handedly. The selected private company's ability to perform the tasks required and its organizational structure affect the success of the project. Private companies that are unstable and poorly managed could lead the project to result in difficulties and thus failing eventually to successfully complete the project. In relation to this, Zhang et al., (2005) state that the private partners should be equipped with substantial operational, managerial, and technical capacity which will enable them to execute the project as stipulated in the contract.[194] In addition, governments in countries with weak local company structures have a responsibility to assist them by providing means to improve both technically and financially. For instance, some countries such as Bangladesh and the Philippines have established financing institutes to assist private companies to borrow financial loans particularly when the project aim is to exchange private sector management skills rather than financial resources.

2.9.7. Support from the General Public/ Communities

According to Yong et al., (2010), a host government is required to ensure that there is public support through education and the creation of awareness regarding the PPP process and its benefits for the public as a whole. [195] The public's understanding and acceptance in civil society, media, trade unions, and non-governmental organizations is of paramount importance to ensure smooth progress in PPP projects. Community and public support help to minimize various delays in issues such as land acquisition for developmental of projects.

Prior and adequate discussions with the end users and the relevant stakeholders of the project provides opportunity to ensure the rights of people to be heard. According to Nederhand and Klijn (2018), engaging stakeholders from the beginning of the project enables the success of PPPs in both

[194] Zhang, "Critical Success Factors for Public-private Partnerships in Infrastructure Development," 3-14.
[195] H. Kim Yong, Public-private Partnerships Policy and Practice: A Reference Guide, (Commonwealth Secretariat, 2010):105-112.

developed and developing nations.[196] The failure and delay of many PPPs, especially in developing countries, have resulted from opposition from stakeholders such as communities that reject the projects, because of lack of inclusion in the project procedures. Protecting public interest could take the form of providing employment opportunities or the provision of social amenities. Human capital development is also a method used to involve citizens in the planning and development of PPP projects. Community engagement in PPPs ensures support from citizens, as well as minimizes conflicts and decreases the probability of the projects being rejected.[197] Therefore, successful projects integrate and uphold public participation in developing policies and work on the actual projects through community empowerment, such as providing employment or business opportunities to the affected communities. Moreover, the involvement of stakeholders helps to develop innovative projects that are user-friendly, thus helping a PPP project to be successful without distressing the parties involved.

2.9.8. Clear Objectives and Output Specifications

Besides promoting social development, PPPs are established to make the government sustain the economy. According to Liang and Hongjun (2018), a successful project is defined by the ability to develop objectives and work within the set goals.[198] In a way, the government's goals are accomplished through the activities of the PPPs. This dissertation stated earlier that a successful PPP project is one that achieves its targeted aims within the speculated timeframe and the budget estimated. Therefore, identifying the project objectives from the initial stages of adopting a PPP through preliminary assessments is of utmost importance. Clearly identified objectives and outputs are essential for project assessments at the end of a project to determine the extent to which the project was successful in its goals or not.

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[196] José Nederhand and Erik Hans Klijn, "Stakeholder Involvement in Public-private Partnerships: Its Influence on the Innovative Character of Projects and on Project Performance," *Administration & Society* (2016): 3-12. doi:10.1177/0095399716684887.

[197] Khaleghi Kerahroodi, Mehraz, "Meaningful Community Engagement in Public-private Partnerships: a case study of Manhattan's Downtown Redevelopment Project," PhD diss., Kansas State University, (2016): 12-47.

[198] Yanhong Liang, and Hongjun Jia, "Key Success Indicators for PPP Projects: Evidence from Hong Kong," *Advances in Civil Engineering* 2018 (2018).

The outcomes of the project in PPPs is strongly dependent on the contract. However, the enforcement bodies must follow the set standards and design from the government authority as well as the timelines in which the project should be completed.[199] For example, in cases of roads, the private company must follow the guidelines and standards enumerated in the relayed roads policies, which would define the size of the road, standards, and locations. Hence, the private company is required to adhere to the expected verifiable standards within the authority in which the project is procured. This study also considers achieving output requirements as a critical factor to declare a PPP project successful, because output requirements help measure the outcomes achieved by a particular PPP.

2.9.9. Competitive Bidding Process

A competitive bidding process ensures that all the business activities are subjected to equal and fair competition, dismantling unnecessary entry barriers, enforcement, and appropriate commercial pressures. Competition in PPPs helps the development of competent private sectors, whereby they can deliver high-quality projects that can benefit the public.

However, the nature of PPPs, such as long term contracting and capital-intensive projects, hinder medium companies from tendering for the projects, which results in anti-competitiveness among multinational companies. Nevertheless, allowing auxiliary services, such as transportation of materials, recruiting of employees, and financial management, could bring on board medium size companies, sometimes from the local market, that could provide competitive services and thereby deliver the most optimal services. In other words, the presence of fair competition is crucial to allow the public partner to choose the best private partner suited for the successful implementation of a particular PPP project.

[199] P. T. I., A. P. C. Chan Lam and S. H. Chan, "A Best Practice Framework of Output Specifications for PPP Projects," In *Proceedings of TG72–Special Track held at the 18th CIB World Building Congress, Salford, CIB TG72-Public Private Partnership*, (2010): 10-13.

2.9.10. Assessment of Capacity to Deliver

The capacity to deliver is one of the critical success factors that require to assess the capacity of the relevant authorities responsible for the infrastructures. A company's capacity to deliver is based on facts such as affordability, the ability to manage risks, and the availability of funds to both the government and partnering company.[200] The delivery capacity of the private sector in developing countries has remained highly unexplored. Access to roads, telecommunications, medical facilities, sanitation, and necessary infrastructure are among the requirements needed for the achievement of sustainable development.

The private company which undertakes the project is required to show evidence of its ability to deliver the project objectives through well-developed plans that will allocate risks efficiently and ensure that the public benefits from the project.[201] The capacity of the entire project is mainly influenced by the collaboration between the public and private sectors. A study conducted on PPP barriers examined that 30% of barrier variance is accounted for by the capacity to deliver assessment factor.[202]

2.10. Chapter Summary

This chapter conducted a theoretical analysis defining the phenomenon of PPPs, drawing mainly from the existing literature. The examination of the PPPs evolution as a policy instrument revealed that they developed as an outcome of paradigm shifts in the way which public services were delivered. After experiencing the drawbacks of welfare states and privatization policies that resulted in increasing public debts during the economic recession of the early 1990s, PPPs were developed to exploit the know-how of the public and private sector under one consortium based on NPM reforms. In addition, this chapter revealed that although there is no definition that is universally accepted, a

[200] Edward Farquharson, Clemencia Torres de Mästle, and Edward Raymond Yescombe, *How to Engage with the Private Sector in Public-private Partnerships in Emerging Markets*," (The World Bank, 2011).
[201] Fahim Ulloa, Bilal Ayub, Siddra Qayyum Siddiqui, and Muhammad Jamaluddin Thaheem, "A Review of Public-private Partnership: Critical Factors of the Concession Period," *Journal of Financial Management of Property and Construction* 21, no. 3 (2016): 269-300.
[202] Ibid.

PPP is generally referred to as a collaboration among public and private sectors working together to provide public goods and services. Gathering from the common elements scattered in the literature, this research defines a PPP as a policy instrument that constitutes the nature of a long-term contractual relationship between a government authority, and a private sector company or an organization, through which the transfer of risks and responsibilities takes place for delivering a specific public service agreed upon between the two parties. Due to the absence of a universal definition, the difference between PPPs, privatization and traditional public procurement are often misinterpreted. The three concepts differ mainly in terms of the degree of private sector involvement and the extent of risks and responsibilities shared. The rationale for adopting PPPs by governments around the world are summarized into three main reasons: financial reasons, efficiancy gain reasons and political reasons. While the proponents of PPPs argue that PPPs help overcome budgetary constraints, increase efficiency, and encourage innovation through risk transfer, opponents argue that these promises are all theoretical and in practice, PPPs are much more costly and time-consuming.

The yardsticks for measuring the success of a PPP varies from scholar to scholar and study to study. This research considered a PPP project successful, when it achieved the intended aims of providing public infrastructure and services within the expected time framework and budget, without causing distress to the environment or to the stakeholders involved. On the other hand, this research considered a project that fails to achieve the expected aims within the estimated timeframe and budget, or causing distress to the environment or to the stakeholders concerned as a failure. In addition, this chapter identified ten factors considered most crucial for the success of a PPP based on the references in the literature, and drawing from the ideas related to the origins of PPPs. In other words, the selected ten factors reflect the main ideas the creators of PPPs expected to achieve and, overcome the challenges faced in privatization and traditional procurement methods. This dissertation uses the discussed ten critical success factors to measure the strength of the PPP frameworks in selected lower-middle income developing countries in chapter III.

Chapter III: Case Analysis of Selected Lower-middle Income Developing Countries

Governments around the world are increasingly looking to partner with the private sector due to financial constraints and high developmental costs. The expectation is that partnering with the private sector will bridge the prevailing infrastructure gap. The difference between the resources available and the investments necessary in order to combat the core infrastructure needs of a country is typically known as the "infrastructure gap." [203] Infrastructure is a component of public services and goods which help in fulfilling the people's basic needs, but the people alone cannot facilitate it for themselves. Therefore, governments undertake the responsibility of ensuring that infrastructure is available and accessible to people.

The advent of the United Nation's Sustainable Development Goals (SDGs) agenda also highlights the importance of investing in building resilient infrastructure under the goal number nine.[204] In terms of the theme of this dissertation, the SDGs further instigates an opportunity to reflect more broadly on the role of PPPs, prompting to view PPPs as viable solutions in closing the existing infrastructure gaps. Goal number seventeen of the SDGs "encourages and promotes the effective use of public, public-private, and civil society partnerships" to share knowledge, expertise, technology and financial resources in pursuit of the developmental goals.[205] In addition, the Addis Ababa declaration on Financing for Development in 2015 emphasized the role of PPPs in helping deliver the Sustainable Development Goals and persuade governments to continue using PPPs as a policy tool.[206] Thus, in recent years, the PPP notion is becoming commonly used in both developing and developed countries.[207] According to the World Bank, at least 106 emerging economies have had a minimum of

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[203] David Hilling, "The Infrastructure Gap," *The Third World*, (Palgrave, London, 1978): 84-92, Accessed June 16, 2019, https://doi.org/10.1007/978-1-349-16030-3_8

[204] The United Nations, "Sustainable Development Goals: Goal 9," (2015), Accessed August 26, 2019, https://www.un.org/sustainabledevelopment/infrastructure-industrialization/

[205] The United Nations, "Sustainable Development Goals: Goal 17," (2015), Accessed August 26, 2019, https://www.un.org/sustainabledevelopment/globalpartnerships/

[206] The United Nations, "Addis Ababa Action Agenda," Sustainable Developmental Goals Knowledge Platform," (2015), Accessed July 10, 2019, https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=2051&menu=35

[207] Yongjian Ke, ShouQing Wang, Albert P. Chan, and Esther Cheung, "Research Trend of Public-private Partnership in Construction Journals," *Journal of Construction Engineering and Management* 135, no. 10 (2009): 1076-1086.

one PPP infrastructure project in the last five years.[208] Liu et al. (2016), points out that for example China has pipelined more than 2,000 PPP projects in the recent past according to KPMG assessments.[209] The PPPs are also being promoted by global institutions and consultants worldwide. Subsidized funds are being provided by developmental banks, donor agencies, national governments, and regional organizations such as the EU, specifically for the implementation of PPPs.

However, when developing countries are categorized by income group, and according the total number of infrastructures projects undertaken over the past two decades, an interesting pattern can be found in each category of countries as depicted in Figure 2 below.

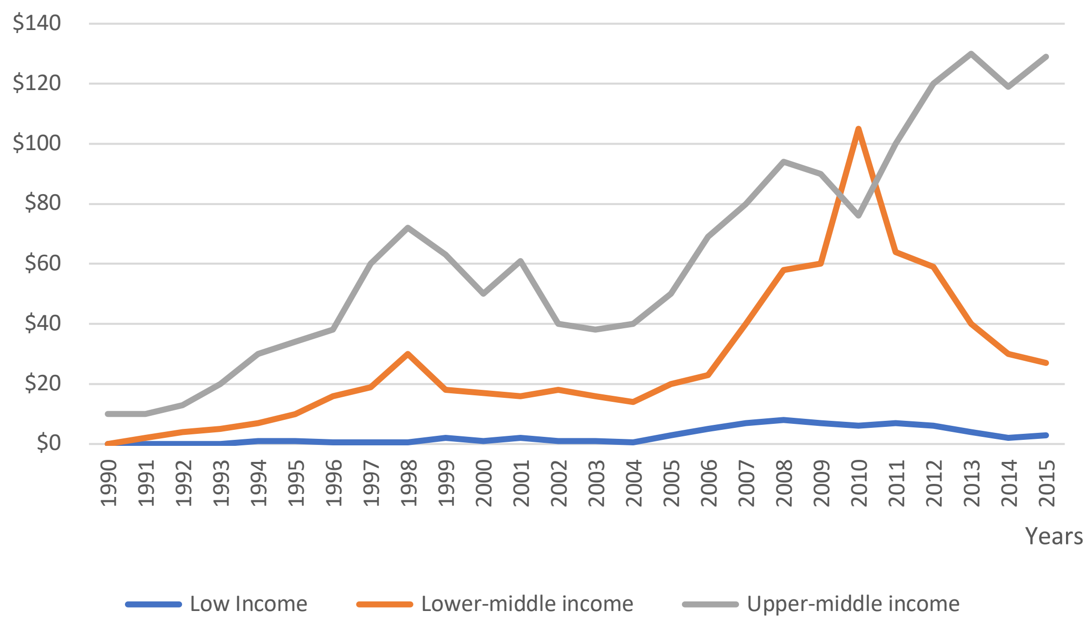

Figure 2: Private Participation in Infrastructure Projects by Income Categories of Developing Countries

Source: The World Bank, Private Participation in Infrastructure Projects Database (2016) Accessed June 21, 2019, http://ppi.worldbank.org/, See also, Jomo, Kwame Sundaram, Anis Chowdhury, Krishnan Sharma, and Daniel Platz, "Public-private Partnerships and the 2030 Agenda for Sustainable Development," *The United Nations Department of Economic and Social Affairs Working Paper* No. 148 ST/ESA/2016/DWP/148, (2016): 8.

[208] The World Bank, *Private Participation in Infrastructure Database*, last modified on June19, 2019, https://ppi.worldbank.org/data

[209] Tingting Liu, Yan Wang, and Suzanne Wilkinson, "Identifying Critical Factors Affecting the Effectiveness and Efficiency of Tendering Processes in Public-private Partnerships (): A Comparative Analysis of Australia and China," *International Journal of Project Management* 34, no. 4 (2016): 704.

According to the World Bank database, amongst the projects involving private sector participation, over 80% are PPPs with the remainder involving divestiture, management, and lease contracts. As the Figure 2 above indicates, the total investment in the emerging countries implemented through PPPs in 2011 reached $145 billion. There is a minor reduction from the previous year, but twice as much as the levels in 2004. Furthermore, a majority of the PPPs have taken place in the upper-middle income countries, which comparatively have higher socio-economic conditions within their countries, and accounts for about 60% of the total projects within the stipulated time period. The gap between the low-income countries and the upper-middle income countries is vast and the poorer countries account only for about 4% of the total projects implemented.

The focal point of this dissertation is the declining trend indicated in the lower-middle income developing countries. While the lower-middle income countries account for about 37% of the total projects, since 2010, these countries continue to show a declining trend in the use of private sector involved PPP projects. This trend unique to the context of lower-middle income developing countries remain insufficiently investigated in the PPP literature. This chapter aims to explore the causes of the decline in PPP mode of private participation, via selected country case studies. Based on the GDP per capita income, three countries which fall into the lower-middle income category of developing countries: Sri Lanka,[210] Bangladesh, and the Philippines are selected to trace the factors leading to the unique trend. According to the World Bank classification, the three countries locate their GNI per capita between USD 1,006 and USD 3,955 as of 1st July 2017.[211]

Fourteen PPP projects covering a range of infrastructure and public service projects such as electricity supply, port constructions, expressways, hospitals and prisons implemented in Sri Lanka,

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210 Note that on July 1, 2019, Sri Lanka was elevated to the category of "upper-middle income developing countries" according to the Word Bank's 2019 country classification release. Sri Lanka has earned its new classification as a result of passing the threshold little above GNI per capita USD 3,996 and earning USD 4,060 per capita. See, The World Bank, "World Bank Country and Lending Groups: Country Classification," July 1, 2019. Accessed August 26, 2019, https://blogs.worldbank.org/opendata/new-country-classifications-income-level-2019-2020?fbclid=IwAR3gkSoxhIjTSuxJzaLmwI6rMKhLwOY-vT_-vIVutL1OoW_AQuvcuqw5Dww. The remaining income disparities and depreciated local currency makes this elevation in the income category controversial. See *infra* discussion in Section 3.1.

211 The World Bank Blogs, "New Country Classification by Income Level: 2017-2018," July 1, 2018, Accessed June 23, 2019, https://blogs.worldbank.org/opendata/new-country-classifications-income-level-2017-2018.

Bangladesh and the Philippines are selected to examine the existing conditions of PPPs in these countries. The data were acquired mainly from archival documents such as procurement guidelines, reports by international aid organizations, former PPP related research studies, newspaper articles and PPP related websites. In the case of Sri Lanka, meetings and informal interviews with public sector bureaucrats and PPP agency officials, helped in collecting data which would otherwise be inaccessible.

The overall aim of this chapter is to explore how PPPs were introduced to the three selected countries, the conditions of existing PPP policy, institutional and legal frameworks, the actual PPP outcomes, and factors that have led the projects to success or failure, which potentially provide traces for the declining trend in the use of PPPs in lower-middle income developing countries.

3.1. The Case of Sri Lanka

As of 2016, at the time this research commenced, Sri Lanka had a GDP per capita of USD 3,886 and belonged to the lower-middle income category of World Bank classification of economies.[212] However, in July 2019, Sri Lanka received an elevation as an "upper-middle income developing country." According to the new classification, Sri Lanka passed the threshold little above GNI per capita USD 3,996, earning USD 4,060 per capita as of July 1, 2019.[213] Sri Lanka belonged to the "lower-middle income" category for 22 years and it is encouraging that the country is promoted to a higher GDP per capita income level. However, the generalizability of the income level among the 21.7 million population is questionable due to the existing income disparity particularly across the regional provinces. According to a survey conducted in 2016 on household income and expenditure survey by the Department of Census and Statistics, the richest 20% of the population earn 51% of the

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[212] The World Bank, "GDP per capita (current US$)," Accessed June 10, 2019, https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?end=2016&locations=LK&most_recent_year_desc=false&start=1960. See also, The United Nations "World Economic Situation and Prospects 2019: Economies by per capita GNI in June 2018," Accessed June 20, 2019, https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/WESP2019_BOOK-web.pdf

[213] See, The World Bank, "World Bank Country and Lending Groups: Country Classification," July 1, 2019, Accessed August 26, 2019, https://blogs.worldbank.org/opendata/new-country-classifications-income-level-2019-2020?fbclid=IwAR3gkSoxhIjTSuxJzaLmwI6rMKhLwOY-vT_-vIVutL1OoW_AQuvcuqw5Dww.

country's total income, whereas the poorest 20% of the population only accounts for 5% of the country' total income.[214] In addition, according to the Daily FT (2019), during 1997-2018, the local currency of rupee depreciated its value by 3.4% annually against the US dollar.[215] There are criticisms of an overvaluation because, the depreciation of the rupee is not reflected in the true income levels converted to dollars as the World Bank has only used the average rupee-dollar rate of the past three years.[216] In addition, the living conditions of average Sri Lankans are highly affected by the constant price increases of essential goods and services. Particularly, in terms of infrastructure development and the delivery of public services, the country has much to progress in order to supply efficiently and effectively for the demands of the people. Hence, this dissertation attempts to rectify the prevailing issues in infrastructure development and delivery of public services via PPPs in a manner which contributes to the true improvement of living conditions and wellbeing of the Sri Lankan people.

Historically, Sri Lanka acquired independence from its British colonial rulers in 1948. The history of its colonial period had a huge influence on the administrative, political, legal, and economic structures of the country. Since independence, the number of political parties that governed Sri Lanka was limited to two. Namely, the United National Party, (UNP) and the Sri Lanka Freedom Party (SLFP). The SLFP heavily promoted national industrial bourgeoisie and favored nationalization of important public resources. [217]

In contrast, as the first political party to govern the country after independence, the UNP favored the import-oriented market mechanism, considering it as a means by which Sri Lanka could improve its international relations with foreign countries. However, after ten years, the UNP regime was defeated in the 1956 general election by the SLFP, who favored nationalization, and promoted the idea of self-sufficiency.[218] Even though the idea of self-sufficiency was quite popular at the

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[214] Daily FT, "Sri Lanka's Elevation to Upper-middle Income Status: Attainment is Welcome But Challenges are More," July 8, 2019. Accessed August 26, 2019, http://www.ft.lk/columns/Sri-Lanka-s-elevation-to-upper-middle-income-status-Attainment-is-welcome-but-challenges-are-more/4-681449

[215] Ibid.

[216] Ibid.

[217] Neil Dias Karunaratne and Yapa Bandara, "Inflation in Post-independence Sri Lanka," *Sri Lanka's Development Since Independence: Socio-Economic Perspectives and Analyses* (Huntington, New York: Nova Science Publishers (2000): 210-223.

[218] Ibid.

beginning, by 1965, most of the public enterprises had been making losses due to issues of mismanagement, corruption, and overstaffing.[219] In the meantime, Sri Lanka was facing deteriorating economic conditions and a severe foreign exchange crisis.[220] When the SLFP government became quite unpopular due to the country's poor economic conditions, the UNP won in the general election of 1976 by promoting their agenda of cooperation with the international community. They began to receive financial support from the IMF and the World Bank, which could be marked as the starting point for Sri Lanka's heavy dependence on the financial assistance of international aid organizations (IAOs).[221] In offering such assistance, these IAOs required Sri Lanka to adopt policy reforms developed in industrialized countries. If Sri Lanka was to obtain all or part of these IAO subsidies, it had to observe the diffusion of policies promoted by the IAOs.[222] One such policy that was introduced as a condition of financial assistance to Sri Lanka was privatization, which came along with NPM reforms liberalizing the market.

3.1.1. Experience with Privatization: A Difficult Past

Following the trends set by Ronald Reagan and Margaret Thatcher, international aid organizations projected that privatization would help reduce government's expenditure and also result in an increase of effectiveness and efficiency within state-owned organizations that were overtaken by a variety of issues. The main highlight was that privatization would help realize value for the money spent.[223] According to Appuhami et al. (2011), as mounting public debts were rising, IAOs such as the IMF and the World Bank were inclined to use coercion to get the Sri Lankan government to accept

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[219] Knight-John, Malathy and P. P. A. Wasantha Athukorala. "Assessing Privatization In Sri Lanka: Distribution and Governance." In Nellis, J, and N. Birdsall (ed.), *Reality Check: The Distributional Impact of Privatization In Developing Countries.* (Center for Global Development: Washington DC, 2005): 389.

[220] Ibid.

[221] Mahinda Siriwardeana, "An Analysis of Fiscal Sustainability in Sri Lanka," *Staff Studies*, (Central Bank of Sri Lanka,1998).

[222] Hetti Kovach and Yasmina Lansman, "World Bank and IMF Conditionality: A Development Injustice," *A report of the European Network on Debt and Development*, (Eurodad: Brussels, 2006): 6-7.

[223] Kemp Roger, *Privatization: The Provision of Public Services by the Private Sector,* (McFarland & Co., Inc., Publishers, Jefferson City, North Carolina, USA and London, England, UK. 2007).

their conditions, and introduce privatization programs in the late 1980s.[224] The recently established associations, such as the *Public Reform Commission*, have contributed considerably to the promotion of privatization programs, particularly in the plantations, telecommunication, and port sectors of the country.[225] The introduction of Privatization in fact did help the country's economy at the beginning. For example, the government divested 43 commercial enterprises which contributed to raise about USD 6.2 million during the first wave of privatization during 1989 to 1994.[226] However, adverse social implications with regard to privatization were gradually increasing and attracted the attention of many critics of privatization.[227] These critics argued that privatization gives rise to situations of social inequality when the profit-making government enterprises are privatized because then incomes usually shift from the tax paying citizens to a section of affluent investors.[228]

Even though the government of Sri Lanka expected that privatization would achieve the objectives of increased efficiency and reduced public debt, the programs failed to achieve the expected outcomes.[229] Knight-John and Athukorala (2005) state that the most common allegations against privatization resulted due to the increased bargaining powers of the private entities.[230] Many privatized companies had often established monopolistic conditions for their products, and were capable of arbitrarily increasing prices, leading to increased cost of living aggravating the poverty

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224 Ranjith Appuhami, Sujatha Perera, and Hector Perera, "Coercive policy diffusion in a developing country: The case of Public-Private Partnerships in Sri Lanka," Journal of Contemporary Asia 41, no. 3 (2011): 431-451.

225 See for example, Asian Development Bank, *Country Assistance Plans - Sri Lanka*. Asian Development Bank, (2009). Central Bank of Sri Lanka, (1998): *Economic Progress of Independent Sri Lanka 1948-1998*, (Central Bank of Sri Lanka, Colombo, 1998).

226 Saman Kelegama, "Privatization in Sri Lanka: An Overview," in A. Bennett (ed.), *How does Privatization Work? Essays on Privatization in Honour of Professor V.V. Ramanadham*, (Routledge, London, 1997).

227 See for example, Mahadeva Bhat and others, *Report of the Presidential Commission on Privatization*, (Ministry of Finance, Government of Sri Lanka, 1987); Saman Kelegama, "The Impact of Privatization in Distributional Equity: The Case of Sri Lanka," *Distributional Aspects of Privatization in Developing Countries*, (Routledge, London, 1995).

228 Venkata Vemuri Ramanadham, Constrains and Impacts of Privatization, (London: Routledge, 1993).

229 See for example Saman Kelegama, *Privatization in Sri Lanka: The Experience During the Early Years of Implementation*, (Sri Lanka Economic Association, 1993); G. Weerakoon, "Economic Liberalization and Workers Rights," Paper presented at the workshop on Labour and Economic Liberalization, (Business Development Centre, 1992).

230 Malathy Knight-John and Wasantha Athukorala, "Assessing Privatization In Sri Lanka: Distribution and Governance," In Nellis, J, and N. Birdsall (ed.), *Reality Check: The Distributional Impact of Privatization In Developing Countries.* (Center for Global Development: Washington DC, 2005): 389-423.

conditions. A good example of the negative effects of privatization can be seen in the Shell Gas Company case. When Shell gas company, which was run by the government, was privatized, the price of domestic gas cylinders increased dramatically, and the consumer had no choice but to buy Shell's gas because they had monopolized the gas business. The lack of service providers to create healthy market competition often led to the creation of monopoly situations in Sri Lanka, and that affected ordinary citizens. Therefore, privatization in Sri Lanka was quite unpopular by the early 1990s, and the infrastructure related projects were not considered as potential programs to be privatized.[231] The main concern was that infrastructure bears national importance, which may without adequate governmental intervention be susceptible to the private sector's profit motives. The situation of public services delivery gradually began to change towards 1990s. The following section examines how the PPPs were introduced to the context of Sri Lanka.

3.1.2. Application of PPPs in Sri Lanka

In the early 1990s, many countries in the west following the path of the UK, were marching forward in their search for a "third way" to popularize the importance of the private sector, but not sell-off the service provision altogether, as in the case of privatization.[232] As with many other emerging markets and developing countries, Sri Lanka, too, began to gather momentum on PPPs only when the international aid organizations began to promote the usage of PPPs as a new policy tool to enable services to be made available to the public and improve or create infrastructure frameworks for a better economy.[233] As a study by Lowrey (1991) observed, the introduction of PPPs took place through policy diffusion associated with the financial assistance from IAOs, in the same way as earlier policies on economic liberalization and privatization took place.[234]

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[231] See for example Ibid.

[232] Stephen Linder, "Coming to Terms with the Public-private Partnership: a Grammar of Multiple Meanings," *The American Behavior Scientist, 43*, 1, (1999): 35-51.

[233] Sadiq Ahmed, Saman Kelegama, and Ejaz Ghani, eds, *Promoting Economic Cooperation in South Asia: Beyond SAFTA*, (SAGE Publications, India, 2010).

[234] Tina Lowrey, "The Use of Diffusion Theory in Marketing: A Qualitative Approach to Innovative Consumer Behavior," *Advances in Consumer Research eds. Rebecca H. Holman and Michael R. Solomon, Provo, UT : Association for Consumer Research*, 18, 1, (1991): 644-50. Accessed June 20, 2019, http://acrwebsite.org/volumes/7230/volumes/v18/NA-18

In 1992, Sri Lankan Cabinet of the government allowed the introduction of PPPs as an NPM policy. In the cabinet decision, the policy was named "Private sector infrastructure development project," and the policy invited collaborations with various international organizations.[235] Among those organizations was the United States Agency for International Development (USAID), which through its technical assistance project, became the first international body to support the establishment of PPPs in Sri Lanka.[236] The project stipulations needed the government of Sri Lanka to initiate and support the establishment of institutions, conduct training, carry out market outreach, and organize evidence-based public education programs about the new policy.[237] The World Bank also recommended that an appropriate framework needed to be established to cater for regulatory and legal issues in support of private sector inclusion in providing infrastructure services.

The result of this initiative saw the establishment of a Secretariat for Infrastructure Development (SIDI) which was put under the ministry of policy and planning in late 1992. In addition, the SIDI was supplemented with the establishment of the Private Sector Infrastructure Development Company Ltd (PSIDC). The purpose of the PSIDC was the provision of long-term debt to private parties who get involved in PPP projects. The PSIDC was run by the government and was tasked with the duty of administering donor funds for the support of PPP projects. PSIDC was enabled to provide loan facilities of financing up to 40% of the overall cost of PPP projects in areas such as transportation, telecommunications, and public environmental services.[238] These measures made considerable efforts in integrating the private sector activities into the process of infrastructure development.[239]

However, according to a study conducted by Appuhami and others (2011), the World Bank was not convinced by the preliminary results and persuaded the then government of Sri Lanka to

[235] The World Bank, Private Sector Infrastructure Development Project: Staff Appraisal Report Sri Lanka, Report No. 15391-CE, (1996).

[236] Ibid.

[237] P. B. Jayasundara, "Key Policy Issues," *Public-private Partnerships, Best Way Forward for Sri Lanka*, (Research Intelligence Unit, 2007): 7-15.

[238] International Monetary Fund, "Sri Lanka: Selected Issues," *IMF Staff Country Reports* 06, no. 447 (2006):3, doi:10.5089/9781451823578.002.

[239] Ibid.

improve the PPP framework further.[240] As a result, the government of Sri Lanka established the Bureau of Infrastructure Investments (BII) in 1996 to work under the Board of Investment (BOI). Also, the country issued PPPs tender procedures in *Guidelines and Incentives for Participation in Economic Infrastructure Development*.[241] The BOI was positioned to act as the facilitator of the investors, as an autonomous statutory body that is directly answerable to the President of Sri Lanka. The Board of Directors was composed of members from the private and public sectors and received assistance from the investment promotion Ministerial Committee. The BII worked as an autonomous central statutory institution tasked to act as a coordination and facilitation body for infrastructure projects under PPPs, and enabled investors to optimize their time and money.[242] However, it took more than four years for Sri Lanka to finally sign its first PPP contractual agreement under the above institutional setup. The initial project was valued at USD 68 million and took three years to complete drawing up the contract following a long process of negotiation.[243] However, the civil armed conflict, which prevailed during this time raised many security problems and often obstructed the project process causing constant delays.

Once again in 2006, due to the lack of domestic liquidity in the country, meaning amount of cash and cash-equivalent securities circulating in the economy,[244] Sri Lanka sought for more international financial assistance. The Asian Development Bank proposed the establishment of a PPP Unit as a condition for their financial assistance. The PPP Unit was expected to perform as an institution aimed at providing support to enabling partnering of the public and private sectors.[245] The

[240] Ranjith Appuhami, Sujatha Perera, and Hector Perera, "Coercive Policy Diffusion in a Developing Country: The Case of Public-Private Partnerships in Sri Lanka," *Journal of Contemporary Asia* 41, no. 3 (2011): 431-451, doi:10.1080/00472336.2011.582713.

[241] Jeyaseelan Gnanaseelan, "A Discourse Analysis of Ethnic Conflict and Peace in the Editorials of English Newspapers A Case Study of Sri Lanka," *Sri Lanka Journal of Advanced Social Studies* 1, no. 2 (2012).

[242] *Kanes, "Public-private Partnerships for Growth and Development," The Island, (Colombo: Sri Lanka, July 31, 2005), Accessed June 22, 2019,* https://www.ceb.lk/ceb-projects/en.

[243] The World Bank, "Private Sector Infrastructure Development Project: Staff Appraisal Report," *Report No. 15391-CE,* (Colombo Sri Lanka, 2006). See also, Ceylon Electricity Board, "Private Power Projects," (2009), Accessed June 22, 2019, Available at: https://www.ceb.lk/ceb-projects/en.

[244] Business Dictionary. com. "Local liquidity," *Web Finance, Inc.* Accessed July 27, 2019, http://www.businessdictionary.com/definition/domestic-liquidity.html

[245] David J. Maurrasse, "Steps forward," In 01 *Strategic Public Private Partnerships Innovation and Development,* (Cheltenham, UK: Edward Elgar Publishing, 2013): 155-162. doi: https://doi.org/10.4337/9780857931986.00023

Commonwealth Secretariat also got involved in the ADB support for the establishment of a PPP Unit. Consequently, the proposal to establish a PPP Unit led to the re-definition of the role of the BII. The Cabinet Sub-Committee on Investment Promotion hence established a PPP Unit within Sri Lanka's Board of Investment. The mandate of this Unit was to conduct a process of transparent bidding in the selection of qualified and necessary private parties, and also to conduct assessments affordably on behalf of the government.[246] Also, the Unit prepared the bidding documents, helped with the evaluation of the proposals, prepared concessionary agreements, conducted due diligence on projects, evaluated unsolicited proposals, and provided marketing support to promote projects. Concurrently, the *National Procurement Guidelines* was implemented to offer guidance in the execution of the PPP projects.

However, the civil war diminished in 2009 and the country was speeding up its economic and infrastructure development. As the investments in collaboration with private sector was fast growing, the PPP Unit was abruptly dissolved, and the Commonwealth secretariat assistants left the country in 2012. Even though the reasons for the dissolution of the PPP Unit were left officially unpublished, two significant reasons can be implicitly identified. First, the focus of the government was on macro-economic development, and there was a sense of urgency in the government to implement infrastructure projects. The sense of urgency was partly because Sri Lanka had already lost three decades to a civil war, and there was much to be done to improve the country's infrastructure. As a result, the government which was in power then was keen to have policies that would help fast track project implementations and discouraged processes that could delay the implementations.[247] The PPP unit took a considerable amount of time in performing its role as a transparent facilitator beginning with the selection of the private parties up to the point of assessing project performances. Hence, the PPP Unit was considered as a body interrupting and hindering the smooth implementation of

[246] Eoin Reeves and James Ryan, "Piloting Public-Private Partnerships: Expensive Lessons from Ireland's Schools' Sector," *Public Money and Management* 27, no. 5 (2007): 331-338, doi:10.1111/j.1467-9302.2007.00604.

[247] Janaka Wijayasiri, "Balancing Economic Partnership for Growth in the Post-conflict Sri Lanka," *Managing Domestic and International Challenges and Opportunities in Post-conflict Development*, (2019), doi:10.1007/978-981-13-1864-1_8.

government's decisions.[248] Soon after the establishment of the unit, the World Bank had noted that the tasks of the unit were not efficient and the respective shift in government policy to support private participation was never reflected into real transactions.[249] Thereafter, allegations that the Sri Lankan government sacrifice values such as transparency for speedy implementation of infrastructure projects adopting a more output oriented approach, continued to rise.

Nevertheless, the ruling government at the time lost the elections in 2015, and the United National Party, who always favored private sector participation in its market liberalization agendas, became the new ruling party. They recognized that prioritizing PPPs would help deliver public services, by liberalizing the market on the one hand, and having the ultimate responsibility with the government parties on the other. Such possibility of utilizing market ideologies while retaining government intervention, motivated the formation of the new government's economic policy framework, "Vision 2025," that features PPPs as a primary tool for infrastructure development. Vision 25 describes how the government is committed to encouraging and supporting PPPs with the objective of strengthening the country's growth foundation, and recognizes the significance of empowering the private sector and discouraging reliance on public sector borrowing to provide public assets and services.[250] The following section will explore how the PPP institutional setting is currently set in order to implement the ruling government's agenda.

3.1.3. The Current Institutional Setting

In order to supplement the national policy Vision 25, and facilitate the PPPs in Sri Lanka, a National Agency for Public-Private Partnership (NAPPP) was founded as an independent entity within the Ministry of Finance in 2017.[251] This Agency was set up with World Bank funding for contractual arrangements involving public and private sectors to avail services to the public. Therefore, the

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[248] Ibid.

[249] OECD Publishing, Dedicated Public-private Partnership Units: A Survey of Institutional and Governance Structures, (OECD Pub., 2010).

[250] Prime Minister's Office: Sri Lanka, "The Changing Face of a Dynamic Modern Economy," *Vision 25*, Accessed June 17, 2019, http://www.pmoffice.gov.lk/download/press/D00000000061_EN.pdf

[251] National Agency for Public-private Partnership (NAPPP) Sri Lanka, *Mandate,* Accessed May 25, 2019, https://www.nappp.gov.lk/about.

Agency was designed to replace previous authorities that had been established to manage and monitor PPPs. According to the official website of the NAPPP, the body was formally established via a Cabinet decision (17/1425/719/003-II) on the 19th July 2017 to enable management of the selection and execution of PPP projects as well as provide transaction advice on behalf of the government.[252] As an independent body, it is expected that the NAPPP would save time, and be able to gather the required expertise better and in a more transparent way. The NAPPP aims at coordinating all the issues of PPP procurement and appraisal with close contact with other crucial stakeholders like the public utility commission. The NAPPP is also expected to act as the coordination point for relevant stakeholders including the government entities and private partners. Thus, the sole body to facilitate PPPs now in Sri Lanka is the NAPPP. However, the extent to which the NAPPP is independent is subject to criticism due to the fact that it is not only established within the Ministry of Finance, but also rests under the supervision of the Prime Minister's office.

3.1.4. Legal Framework on PPPs

Currently, like in countries such as the Philippines, Sri Lanka does not have a stand-alone law to govern PPPs exclusively. Sri Lankan PPPs rely on a section of the 1998 Procurement Guidelines Part II, which was enacted for Private Sector Infrastructure Projects, in general, involving all kinds of private sector participation.[253] However, globally there is no single approach for legally regulating PPPs. States have adopted different approaches taking into consideration the contextual technicalities of their socio-political circumstances. The main reason is because different countries around the world have their own authentic legal systems, which could affect the choice of legal frameworks enacted to regulate PPPs. For instance, countries operating under civil law legal systems are regulated using codified statutes and procedures. On the contrary, countries operating under common law legal

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[252] Ibid.

[253] The OECD, "An Overview of Public-private Partnership Units," *Dedicated Public-private Partnership units: A Survey of Institutional and Governance Structures,* (OECD Pub., 2010). doi:10.1787/9789264064843/.

systems are known to rely less on codified laws and statutes.[254] Common law countries use contracts, legal precedents, and judicial rulings are expected to govern PPP projects. Sri Lanka's legal system is known as a "mixed legal system" which include English common law, Roman-Dutch civil laws and Customary Laws.[255] Therefore, the relevant authorities have the flexibility to decide the adoption of a stand-alone PPP law. The cases analyzed in the following section were implemented according to the above-mentioned Procurement Guidelines Part II, 1998.

3.1.5. Analysis of PPP Case Studies

This section will analyze eight infrastructure related PPP projects implemented in Sri Lanka. Each case will be presented with a project description, followed by expected and actual outcomes. The purpose is to identify fact-based evidence on the performance outcomes of PPPs implemented in Sri Lanka.

3.1.5.1. <u>Case study 1: Hambantota Port Project</u>

- **Project Description**:

Sri Lanka is an island nation located in the dynamic shipping route separating the Malacca Straits and the Suez Canal, which also connects Asia with Europe. As Pothupitiyage et al (2015) reports, every year approximately 36,000 ships and 4,500 oil tankers utilize the route.[256] Thus, Sri Lanka's location is ideal to provide port related facilities for ships using the shipping route. However, Sri Lanka's main port is located in the heart of the capital city Colombo, and is not sufficiently

[254] Tetley William, "Mixed Jurisdictions: Common Law v. Civil Law (Codified and Uncodified)," *Louisiana Law Review* 60, no. 3 (Spring 2000): 677-738. Accessed June 18, 2019, https://heinonline.org/HOL/Page?handle=hein.journals/louilr60&div=32&g_sent=1&casa_token=__VGqTQhcSgAAAAA:9l_lyJMIm9nP5c3GyHZrIg0lOtTMffNnklAfWE-BV5kRdZ5-G4sQowv7e6ehpsLlCNmaSdiZQQWT&collection=journals

[255] Ibid.

[256] Pothupitiyage Dona Kalani Dilka, Sampath Amaratunge, and M. P. K. Withanawasam, "Development of Assessment Vehicle Transhipment in Sri Lanka: Case study of Hambantota Port," In *12th International Conference on Business Management (ICBM)*, (2015): 11-36.

equipped with container handling and other port facilities that can cater to the needs of international ships. Such deficit brought in the need to construct another large-scale port near the city of Hambantota. The area selected for the project has a natural harbor with the added advantage of being located on the southern side of Sri Lanka, bringing it near the international shipping route. The project was initiated under the government of President Rajapakse and at a time when his close diplomatic relations brought in large sums of Chinese investments to the country. The construction of the port commenced on 15th January 2008, and involved two Chinese companies, Sinohydro Corporation and China Harbor Engineering Company. The Chinese government agreed to fund up to 85%, and the public partner of this project, the Sri Lanka Ports Authority funded the rest of 15% investments needed for the project.

- **Expected and Actual Outcomes**

From the initial estimations, the port was to become Sri Lanka's largest port. According to Kumara and Weerakoon (2014), the target was to attend to the needs of ships traversing along the east-west shipping route passing six to ten nautical miles far south of Hambantota. The initial project stage included constructions for shipbuilding, ship repair, bunkering, and crew change facilities.[257] The next phases were expected to elevate the port's capacity up to 20 million cargo capacity every year. When completed, the port was expected to become the largest harbor port built on land in the modern history.[258]

Nevertheless, as Daily Mirror (2017) reports, despite the high expectations, the revenue from the port in 2016 was only USD 11.81 million, whereas the total expenses totaled USD 10 million. Therefore, reported just USD 1.81 million of operating profit.[259] In short, the port made a loss of USD 10.8 million, and the result of this occurrence was an increased debt payment burden falling on taxpayers. At the same time, there were changes in the government regimes, and China, who invested in Sri Lanka upon the invitation of the former government, never felt motivated in working with the

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[257] Y. G. Indika Saman Kumara and K. G. P. K. Weerakoon, "Interactive Relationship Between Port Development and Port City in Hambantota, Sri Lanka," *International Journal of Research in Social Sciences* 4, no. 3 (2014): 188.

[258] Ibid.

[259] Daily Mirror, "Hambantota Port Sale in Perspective," January 17, 2017, Accessed June 19, 2019, http://www.dailymirror.lk/article/Hambantota-Port-sale-in-perspective-122278.html.

new government. However, the new prime minister came to power in January 2015, negotiated with China to revive trade ties with Sri Lanka. Negotiations were made pertaining to the Hambantota port case to help complete the port to a level where it would produce the expected outcomes. Nevertheless, the government parties could not see a way of paying back the costs of the project it had already incurred as the port was not making sufficient profits.

According to Economy Next (2016), as a result of the above-mentioned problems, a proposal was made to lease 80% of the port in a debt-for-equity swap to the China Merchants Ports (CMport) holding company in 2016.[260] Daily Mirror (2016) reports that the CMport was to inject a USD 1.12 billion investment to revive the port under the PPP model.[261] The agreement further stipulated that CMPort will divest 20% of its shares to a Sri Lankan company within ten years. Additionally, CMPort was to allocate a budget of not below USD 700-800 million to elevate the port to the operational level.[262]

However, as the Economy Next further reports that in July 2017, the two parties changed the initial plans and entered into different pact in order to lease the Hambantota Port for a period of 99 years.[263] The lease agreement allowed to retain the ownership of the port with the government of Sri Lanka, yet all other operational and maintenance rights were transferred to CMPort. This lease agreement brought in USD 1.4 billion that was to be used for payment of the debt owed to China. In addition, the Economy next reports that agreement paved way to stop paying off the debt of Hambantota port from the profits of the Colombo port.[264]

The agreement of leasing the port to China, however, was delayed by several months amidst claims and criticisms that China would turn the port into a military concentration point. Additionally,

[260] Economy Next, "Sri Lanka's Hambantota Port Loses Rs18.8bn a year," November 11, 2016, Accessed June 19, 2019, https://economynext.com/Sri_Lanka_s_Hambantota_port_loses_Rs18.8bn_a_year-3-6606.html.

[261] Daily Mirror, "Agreement signed with Chinese Marchants to Develop H'tota Port on PPP Model," December 9, 2016, Accessed June 20, 2019, http://www.dailymirror.lk/article/Agreement-signed-with-Chinese-Merchants-to-develop-H-tota-Port-on-PPP-Model-120477.html.

[262] Ibid.

[263] Economy Next, "Sri Lanka's Hambantota Port Loses Rs18.8bn a year," November 11, 2016, Accessed June 19, 2019, https://economynext.com/Sri_Lanka_s_Hambantota_port_loses_Rs18.8bn_a_year-3-6606.html.

[264] Ibid.

the Sri Lankan Government faced serious opposition from trade unions and other political parties who viewed it as a sale of the country's assets to a foreign country.[265] The main allegation was that China may be practicing "debt trap diplomacy" on developing countries, and that Sri Lanka is becoming a victim of it.[266] Beijing's current projects, backed by extensive loan programs from the Chinese government, have attracted widespread opposition. A sense of speculative fears and assumptions is on the rise that China has ulterior motives of holding states captive using the long-term loan facility system. Opposing political leaders as well as residents who face the risk of being evicted to provide lands for these projects demonstrated their fears in wide-spread protests. According to critics and analysts, the Sri Lankan regime agreed on unnecessary and unprofitable projects which have pushed the country into a severe debt crisis, and that PPPs are frowned upon as a vicious mode of infrastructure development, worse than the privatization experiences in the early 1990s.

This case demonstrates potential adverse effects, which the political influence on the selection process of partners may bring. The resultant effect was a poorly done project that failed to meet expectations, and a considerable budget that left more burden on the taxpayers. The government parties have the discretion to make decisions that impact the country as a whole in the long-run. The absence of a unified government commitment, precise road mapping, absence of stand-alone laws, and corruption on the topmost decision-making organs of PPPs implementation in Sri Lanka have led to such outcomes and criticism. Thus, the question arises as to whether in a developing economy like Sri Lanka with political uncertainty and turmoil caused by party politics, the project could have produced better outcomes under the traditional public-procurement method than that of a PPP model.

[265] Ibid.

[266] Devirupa Mitra, "Despite Security Assurances, Chinese Consolidation of Sri Lankan Ports Remains a Worry for India," *Thewire.in*., July 30, 2017, Accessed June 21, 2019, https://thewire.in/diplomacy/hambantota-china-sri-lanka-ports

3.1.5.2. Case Study 2: AES Kelanitissa Private Limited (AKL) Project

- **Project Description**

The development of AES Kelanitissa Private Limited, an electricity project, was initiated in 2002 when a direct loan of USD 25.93 million was ratified by the Board of Directors of the Asian Development Bank (ADB).[267] As the ADB reports, the loan of USD 25.93 million was attached with a partial risk guarantee of USD 52 million.[268] The Ceylon Electricity Board in charge of the electricity regulation in Sri Lanka, partnered with the ADB, Australia, and New Zealand Banking Group under the PPP model. The ADB states that raised funds were projected to finance the construction of a diesel-fed combined-cycle electric power plant producing 163 MW.[269] During the initiation phase of the project, the country's electricity supply was insufficient and unreliable due to a lack of infrastructure to supply power.

The ADB explains that AKL was formed as a private limited liability company involving the partners as AES Corporation, an IPP company based in America, and Hayleys Limited, which is a locally based private company.[270] The AKL firm was established under the procedures of BOOT model PPP arrangement as agreed upon with the government of Sri Lanka. The ADB reports that after a period of 20 years, the ownership of the infrastructure entity will be transferred to the Sri Lankan government parties. This project constructions were delayed by 10 months, yet completed within the speculated cost estimations.[271]

- **Expected and Actual Outcomes**

The Independent Evaluation Department of the ADB published that the development impacts and outcomes of AKL on Sri Lanka's general performance was less than satisfactory.[272] The

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[267] Asian Development Bank, "Loans and Partial Risk Guarantee AES Kelanitissa Power Project (Sri Lanka)," *Extended Annual Review Repor*t, (2011), Accessed June 14, 2019, https://www.adb.org/sites/default/files/project-document/60161/34912-01-sri-xarr.pdf

[268] Ibid.

[269] Ibid.

[270] Ibid.

[271] Ibid.

[272] Independent Evaluation Asian Development Bank, "Sri Lanka: AES Kelanitissa Power Project," *Performance evaluation report* 2013, Accessed 19 June 2019, https://www.adb.org/sites/default/files/evaluation-document/35903/files/sri-aes.pdf

assessment of the ADB reported on the comprehensive and up-to-date effects of the project outcomes under these criteria: (i) effect on private sector development; (ii) level of business success; (iii) general economic development; and (iv) social, health, environmental and safety performance.[273] Based on such criteria, the ADB assessment did not indicate satisfactory performance outcomes. Poor administration related to screening, appraisal, structuring, monitoring, and supervision caused the project to have less than satisfactory outcomes. The poor assessment was also accompanied by lost revenues from delayed commissioning and abrupt power cuts due to inherent mechanical failures. More importantly, environmental factors such as the lack of rainfall and the limited resources of the country were not estimated methodically, failing to assess the PPP's capacity to deliver. Thus, the debt repayment to the ADB is cast upon the citizens through an increase in taxes and an increase in the price of electricity. There were also allegations of corruption involved with the loss of funds as establishing transparency was limited to theory and not given priority in practice. In summary, the failure to accomplish expected outcomes in the AKL project demonstrates the plausible administrative and management weaknesses prevailing in the PPP framework of Sri Lanka.

3.1.5.3. Case Study 3: Ambewela Aitken Spence Wind Farm Project

- **Project Description**

The Ambewala Aitken Spence wind farm was one of a few subsidiary power plants collaborated with local investor Aitken Spence. The project was commissioned in 2012 through a collaboration between the Sri Lankan government, represented by the Ceylon Electricity Board (CEB), and Aitken Spence Company in the form of a Build, Own, Operate (BOO) PPP.[274] The project was sponsored and managed privately by the local company, but supplied power based on the Ceylon

[273] Asian Development Bank, "Loans and Partial Risk Guarantee AES Kelanitissa Power Project (Sri Lanka)," *Extended Annual Review Report*, (2011), Accessed June 14, 2019, https://www.adb.org/sites/default/files/project-document/60161/34912-01-sri-xarr.pdf

[274] R. P. S. Chandrasena, G. Vikkitharan, A. Arulampalam, and J. B. Ekanayake, "Constraints for the Development of Wind Power Generation in Sri Lanka," In *First International Conference on Industrial and Information Systems*, (IEEE, 2006): 221-226.

Electricity Board power purchase plan, as the CEB is a government-run entity mandated with power regulation and marketing procedures.

- **Expected and Actual Outcomes**

According to a power generation performance assessment report of the Sri Lankan Power and Energy, the project was not up to international quality standards of wind power plants.[275] The report described that the private partners designed the plant in a hurry without considering future liabilities due to insufficient funds and the capacity to conduct the necessary assessments.[276] Additionally, the services provided by the plant were costly and unreliable. The public who receives electricity generated through the wind farm is charged slightly high rates compared to state-owned power suppliers despite electricity not being reliable.[277] Moreover, these problems have resulted due to a weak PPP framework that is ineffective in incentivizing quality improvement and cost control of the project outcomes. Also, residents near the power plant complain of not being able to access electricity. The project did not accommodate the needs of the neighboring residents, whose support is vital for the project's overall success. The reason for choosing to provide electricity to an area with relatively more affluent people and not the neighboring people was assumed to be bias on the side of government and the private company's discretion in deciding where the services would be delivered. This is an issue of the polycentric nature of PPPs whereby, satisfying all the needs of the multiple parties involved is near to impossible in PPP projects.

Overall, this case demonstrates a situation where limited domestic liquidity and local investors with insufficient financial resources to invest in quality infrastructure make it challenging to achieve desired positive outcomes. On the other hand, the argument that at least some of the

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275 Ministry of Power and Renewable Energy, "Development Division," *Annual Performance Report,* (2016), Accessed June 14, 2019, http://powermin.gov.lk/english/wp-content/uploads/2017/12/Annual-Report-2016-E.pdf

276 Carter B. Casady, "(Re)assessing Public-private Partnership Governance Challenges: An Institutional Maturity Perspective," *Public-private Partnerships for Infrastructure Development*, (2019), doi:10.4337/9781788973182.00019.

277 W. D. Wijayapala and T. N. Kankanamge, "Assessment of the Impacts of Electricity Subsidies in Sri Lanka," *Engineer: Journal of the Institution of Engineers, Sri Lanka* 49, no. 4 (2016): doi:10.4038/engineer.v49i4.7235.

communities got access to electricity, though not the immediate neighbors, could be viewed as a positive outcome of this project, implying that PPPs do have a potential to bring in private investments.

3.1.5.4. Case study 4: Uppudaluwa Wind Farm Project

- **Project Description**

The project, which is also known as Power-Gen Lanka Wind Farm, is owned and managed by Power Gen Lanka, which is a private agency.[278] The project agreement was signed by the Board of Investment in August 2010, as a result of direct negotiation with the BOI and the local private company. The construction of the wind farm commenced in the following month. The PPP type adopted was based on BOO model spanning for 20 years. The project was commissioned in June 2011, with the US contributing USD 18.5 million for the project which was estimated to generate 26.28 GW of electricity to create revenue every year.[279] The project management continues under the current NAPPP, which oversees and provides checks on the performance of the project. The project outcomes, however, are not up to the estimated quality standards and there are frequent power blackouts in the areas covered by the project.

- **Expected and Actual Outcomes**

When assessing the causes for unsatisfactory project outcomes, attention goes first to the time spent on the project's feasibility and capacity to deliver. The period between the direct negotiation and the construction commencement was only one month. The hasty nature of jump-starting mega projects of such a large scale showcases the enforcement weaknesses of the existing procedures. The current PPP framework of Sri Lanka appear to allow plenty of room for authorities involved to exercise discretion arbitrarily. In this particular project, the reasons for agreeing to commence the project within such a short time may well be frowned upon as favorisms towards the selected private company.

[278] The World Bank, "Powergen Uppuduwela Wind Farm," *Private Participation in Infrastructure Database*, Accessed June 19, 2019, https://ppi.worldbank.org/snapshots/project/Powergen-Uppudaluwa-Wind-Farm-6893

[279] Ibid.

Additionally, the project bears no penalties for the estimated standard failures. Hence, accountability is not ensured to rectify the resulted outcomes. The issues faced in the Uduppuwela wind farm project demonstrate the need for enforcing a transparent bidding process accompanied by adequate feasibility assessments, and mechanism to ensure accountability in the Sri Lankan PPP framework.

3.1.5.5. Case study 5: Trincomalee Coal-fired Power Plant (Sampur Power plant) Project

- **Project Description**

In 1991, the Sri Lankan government, represented by the Ceylon Electricity Board invited bids to undertake a project of developing a 350MW coal operated power plant to be commenced as a PPP project in Trincomalee, an area in the north-east of the country.[280] A rigorous selection process conducted by the Ceylon Electricity Board ended up with Mihaly International Corporation (a Canadian private company) being successful among 24 other proposals.[281] Mihaly International Corporation made arrangements to finance the project with funds from bodies such as the National Export Credit Agencies in the USA, Canada, and Italy, and submitted to the Sri Lankan government ahead of the scheduled date. In October 1995, preceded by eight draft proposals and a long wait period of two years, the new government came to power issued a notice on cancellation of the project. The reasons, though not officially published, were likely that the newly elected government was not in favor of private sector participations in the provision of public services. Even though the government announced that the cancellations were made to avoid environmental harm, official assessments of plausible harms were never presented or published at the time. The new regime revoked approaches liberalizing the market, which were particularly undertaken by the previous regime. However, Mihaly International had already invested in the preparation of the BOT agreement and the previous government also had issued a number of documents guaranteeing the exclusivity of negotiations with

[280] Alejandro A. Escobar, "Mihaly International Corporation v. Democratic Socialist Republic of Sri Lanka (ICSID Case No. ARB/00/2) Introductory Note," *ICSID review* 17, no. 1 (2002): 140-141.
[281] Ibid.

Mihaly International.[282] Therefore, Mihaly challenged the Sri ankan government, which resulted in litigation at the International Center for Settlement of Investment Disputes (ICSID) under ICSID Case No. ARB/00/2 Mihaly International Corporation v. the Democratic Socialist Republic of Sri Lanka.[283] Nevertheless, in 2002, the ICSID tribunal held that under the US – Sri Lanka Bilateral Investment Treaty, expenses on the preparations of the BOT does not constitute as an investment within the meaning of Article 25 of the ICSID Convention. Conclusively the tribunal ruled that the case lacked jurisdiction and Mihaly International lost the case.[284]

Four years after the dispute in 2006, a Memorandum of Understanding to relaunch the power plant was signed between the government of Sri Lanka, Ceylon Electricity Board and the state-owned National Thermal Power Corporation in India.[285] Agreements of power purchase, land lease, coal supply and the BOI agreement were signed in 2013 with an estimated cost of USD 600 million and a plan to commence operations in 2017. However, the Environmental Foundation Limited (EFL) of Sri Lanka filed a fundamental rights application to the Supreme Court in 2016.[286] The petition application claimed that the use of coal will bring long-term health effects to the people living in the area as well as to the environment. As a result, the Ministry of Power and Renewable Energy cancelled the construction of the power plant, and announced it to the public through Sri Lanka's Attorney General's Department.[287]

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[282] Organization for Economic Co-operation and Development, "Chapter 1. Definition of Investor and Investment in International Investment Agreements," *International Investment Law: Understanding Concepts and Tracking Innovations--A Companion Volume to International Investment Perspectives*, (Organization for Economic Co-operation and Development, 2008): 73-74.

[283] Henry Wijayakone Tambiah, *Sinhala Laws and customs*, (Lake House Investments, 1968). See also, H. H. Marshall, "Sinhala Laws and Customs. By HW Tambiah.[Colombo: Lake House Investments Ltd. 1968. xxxiii and 356 pp.]," *International & Comparative Law Quarterly* 18, no. 2 (1969): 508-509. doi:10.1093/iclqaj/18.2.508.

[284] Organization for Economic Co-operation and Development, *International Investment Law: Understanding Concepts and Tracking Innovations--A Companion Volume to International Investment Perspectives*, 74.

[285] Colombo Telegraph, "Controversial Coal Power Plant in Sampur Cancelled," September 13, 2016, Accessed June 19, 2019, https://www.colombotelegraph.com/index.php/controversial-coal-power-plant-in-sampur-cancelled/

[286] Ibid.

[287] Daily FT News Desk, "Sampur Scrapped," September 14, 2016, Accessed June 19, 2019, http://www.ft.lk/top-story/sampur-scrapped/26-567689

- **Expected and Actual Outcomes**

The Trincomalee coal power plant project has been one of the most controversial projects attempted to be implemented in collaboration with foreign investors. The causes for the cancellation of the project during the first attempt in the mid 1990s manifests how the investment climates including for those of PPPs in less developed countries like Sri Lanka are susceptible to changes in the government regimes with varying political ideologies. The government arbitrarily abandoned the project because of the influence from majority political party's hostility towards private sector involvements. Nevertheless, the litigation at the International Center for Settlement of Investment Disputes damaged the credibility of the country's investment climate at the time. The cancellation during the second attempt to construct the power plant, showcases the weaknesses in the existing infrastructure development framework including that of PPPs. If the reliable environmental assessments were made at the initial stages, perhaps the project constructions would not have come to an abrupt end. However, it is noteworthy that the plans to relaunch the project were made during the government of President Rajapakse in 2006, who lost in elections at the 2015 Presidential election. The Ministry of Power decided to cancel the project in 2016, before the Supreme Court made an official ruling on the fundamental rights application. There were allegations that the newly elected government arbitrarily cancelled projects launched during the previous government regime. However, the question whether the Trincomalee power plant was cancelled by the Ministry of Power solely upon the fundamental rights application or because of political discrepancies is subject to debate.

Nevertheless, as a principle, the credibility of any government should be characterized by its unwavering support and commitment to safeguarding the public interest and not acting to gain political advantage. However, the case of Sri Lanka demonstrates a politically volatile situation, which substantively affects the effective delivery of public services including infrastructure through PPPs.

3.1.5.6. <u>Case Study 6: Norachcholai Power Plant (Lakvijaya Plant) Project</u>

- **Project Description**

In the mid-1990s, the Sri Lankan government established a coal power plant in Norachcholai region in the Puttalam district of the Northwestern part of Sri Lanka's extended coastline to inject

900MW power to the national power grid.[288] The main objective of this project was to address the ever-increasing electricity demand and reduce reliance on thermal power plants in the country. The decision to establish the power plant took almost 20 years of scientific investigations assessing the feasibility of the project. The project was finalized to collaborate with the Japan Bank for International Cooperation (JBIC).[289] However, in early 1997, the former Roman Catholic Bishop of Chilaw openly opposed the project with an allegation that the project would have adverse effects on the environment of the region. [290] Consequently, the then president refused to accept the proposal from JBIC to finance the power plant. What ensued was a heated period between 1997 and 2004. The project on several occasions was approved and subsequently canceled or suspended by the Cabinet of Ministers, particularly when elections were approaching.[291] According to RMA Energy, the economic cost of the damage caused by the delays amounted to USD 86 million.

With the election of a new president in 2005, the project relaunched by partnering with China in 2006 and not Japan this time.[292] Even though the project was dragged seven years behind schedule, the power plant constructed by China Machinery and Engineering Corporation and funded by EXIM Bank of China was able to inject power to the national power grid from 2011.[293] However, the power plant experienced about 20 power breakdown incidents within two years of operations, leading to incur significant financial losses.[294] In 2013, opposition political parties and trade unions requested for a Parliamentary Select Committee to investigate the reasons for such power breakdowns. Additionally, local media reported that the coal power plant project was tainted with corruption when

[288] Sri Lanka Ministry of Power and Energy Website, "Norochcholai Coal Power Plant," Accessed June 14, 2019, http://powermin.gov.lk/english/?page_id=1517

[289] Ranjith Appuhami, Sujatha Perera, and Hector Perera, "Management Controls in Public-private Partnerships: An Analytical Framework," *Australian Accounting Review* 21, no. 1 (2011): doi:10.1111/j.1835-2561.2010.00122.

[290] Ibid.

[291] Ibid.

[292] Sri Lanka Ministry of Power and Energy Website, "Norochcholai Coal Power Plant," Accessed June 14, 2019, http://powermin.gov.lk/english/?page_id=1517

[293] Ibid.

[294] Rasika Jayakody, "Parliament Select Committee Sought on Norochcholai," *The Sunday Leader,* December 8, 2013, Accessed June 15, 2019, http://www.thesundayleader.lk/2013/12/08/psc-sought-on-norochcholai/

the Chinese contractor was selected.[295] According to such media, the contractor had to pay high amount of commissions, which led to low quality of project outcomes resulting in power breakdowns.[296] Nevertheless, the Chinese company project manager refused such allegations as baseless deliberative to sabotage the relationship between Chinese investors and Sri Lanka.[297] The power plant is currently continuing its operations, despite the absence of official investigations.

- **Expected and Actual Project Outcomes**

The initial stages of this project experienced certain similar issues with the previously discussed case of the Trincomalee Coal-fired Power Plant PPP project. There were no official reasons backed by scientific evidence before announcing the cancellation of the project at the initial stages. The weak feasibility assessments had failed to take possible resistance from interested parties and environmental impacts into consideration. Therefore, the cancellation and delays caused financial losses as well as damage to the government's credibility. When the project relaunched under the newly elected government, allegations and fears of partnering with Chinese investors began to rise. The absence of transparency in the procedures followed led to the rise of such allegations. The existing PPP framework of the country allows the exercise of discretion in many phases of a project by relevant public authorities. Hence, there is gaps for arbitrary exercise of discretion, which bring adverse impacts on the project outcomes causing mass losses for the economy. PPPs require highly transparent, unbiased, and responsible personnel to act with accountability. This project highlighted the need for educating the relevant stakeholders to act with ethics and care as they are handling projects with national importance, where no minimal arbitrary and unethical actions should be tolerated.

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[295] Namini Wijedasa, "Coal Power Chaos: Chinese Firm Fumes: Top Official Defends Norochcholai Plant, Dismisses Bribery Charge," *Sunday Times*, February 2, 2014, Accessed June 15, 2019, http://www.sundaytimes.lk/140202/news/coal-power-chaos-chinese-firm-fumes-82046.html
[296] Ibid.
[297] Ibid.

3.1.5.7. Case Study 7: Ace Power Generation Project

- **Project Description**

The Ace Power Generation project was proposed to contribute for the electricity generation of Sri Lanka in 2007.[298] The parties involved were the Ceylon Electricity Board and a local private company. The PPP type adopted for operations of the project was the BOO model for a time frame of 25 years. The partnership gave birth to a company project today known as a special-purpose vehicle, which was tasked with connecting various stakeholders, for example, lenders, equity investors, suppliers, and sub-contractors, related to the project.[299] Part of this PPP involved the transportation of imported turbines for about 15 km from the Colombo port located in the capital city to the project site. Since the turbines were heavy equipment, it was not possible to transport them along the prevailing road system.[300] Therefore, the private partner had to transport the turbines using water transport before transporting them by road. To do so, the private entity was tasked with repairing some roads along the river and the canal that was being used to provide water transport and finally set up a new jetty at the landing point. The additional tasks the private partners had to carry out led to increased costs and delays to implement the main project signed under the PPP. In addition, the contractors had to face land acquisition issues, as the newly repaired roads had to be built broader than they were before for the transportation of turbines.

- **Expected and Actual Outcomes**

The incidents took place in the Ace Power Generation project provides a classic example of common incidents that occur in developing countries due to lack of existing infrastructure facilities. The private partners are often burdened with undertaking new tasks of developing or repairing auxiliary infrastructure in order to proceed developing the new infrastructures stipulated in the PPP contract. Such additional tasks incur increased cost and time. However, issues of such nature are

[298] Ranjith Appuhami, Sujatha Perera and H. Perera H, "Management Controls in Public Private Partnerships: An Analytical Framework," *Australian Accounting Review,* 21, 1, (2011): 68-71.
[299] Ibid.
[300] Ibid.

avoidable, if adequate preliminary assessments were made with alternative approaches to implement the main project tasks in the most efficient manner. Nevertheless, developing countries are opting to use PPPs because they lack infrastructure facilities. Therefore, rather than avoiding the tasks of building or repairing exiting but poor infrastructure conditions, if the preliminary assessments consider such tasks also as part of the contract, the end results of making more infrastructure available to the public could be achieved.

3.1.5.8. Case Study 8: Queen Elizabeth Quay (QEQ) Port Expansion Project

- **Project Description**

In the late 1990s, the government of Sri Lanka decided to expand the Queen Elizabeth Quay (QEQ) port located in the heart of Colombo. The port expansion project was implemented on a BOT model PPP spanning thirty-year contract period through the South Asia Gateway Terminals (SAGT) partnership.[301] Partners of the project comprised of the Sri Lanka Ports Authority representing the public partner of the project, two private port management companies, a local investment group, three lending institutions, and a shipping company. A BOT type PPP was selected because the public partner lacked building and operation skills required for the construction of the project. At the same time, the government wanted to retain the ownership of the port, because the public partner strongly believed that a port is a nationally important asset which could not and should not be run by the private sector alone. BOT type PPPs facilitated the option of building, operating and transferring the facility to the government.

The SAGT partnership established the country's first modernized container terminal partnering with the above-mentioned entities.[302] Moreover, the project had several objectives, apart from developing a first modern container. Ideally, the first objective was to expand QEQ port's

[301] Daily Mirror (Sri Lanka), “Sri Lanka Port Expansion-A reform Story,” *Press Reader*, December 2, 2016, Accessed June 10, 2019, https://www.pressreader.com

[302] Xin Meng Liu, and Sheng Bo Chen, “Study on Transport Scheme for Easing Congestion in and around Port-Take Colombo Port as an Example,” In *Applied Mechanics and Materials*, vol. 505, pp. 675-682. Trans Tech Publications, 2014.

capacity to a 1.1 million cargo capacity from 250,000 per year.[303] The port expansion project was completed in August 2003, and its output increased by 350% within four years. Subsequently, the average quantity of cargo and passengers that can pass through the QEQ port increased by 30%.[304]

The contract stipulated SAGT to guarantee employment to all 500 employees working at the QEQ terminal at that time. This provision was meant to protect the workers' employment rights. Further, the agreement demanded that the partnership recruit local companies for the maintenance of the port facilities. Consequently, drivers, janitorial staff, and security personnel who were not SAGT employees at the time were recruited from local companies. The job opportunities created a positive image of PPP infrastructure projects within the general public.

- **Expected and Actual Outcomes**

The QEQ port expansion project is one of the very first PPPs considered in Sri Lanka, mainly because of its economic performance. Proponents of PPPs claim that the primary factor that led to the success of SAGT was the commitment and support it received from the government during its implementation.[305] A critical step that was made during its implementation was the establishment of the Bureau of Infrastructure Investment (BII) through the Board of Investment (BOI).[306] The BII assisted in promoting and facilitating the private sector investments in infrastructure development, and guided the partners through the smooth implementation of the project. Additionally, preceding the BII, the Cabinet Sub-committee on Investment Promotion established a PPP Unit in 2006 within the BOI.[307] The PPP unit successfully facilitated the projects and developed the procurement guidelines. The renowned success of the QEQ port expansion project boosted the confidence in the private sector to partner with the Sri Lankan government, and to recover the negative image of the government's credibility, which was adversely affected during the implementation of past PPP projects. The

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[303] Daily Mirror (Sri Lanka), "Sri Lanka Port Expansion-A reform Story," *Press Reader*, December 2, 2016, Accessed June 10, 2019, https://www.pressreader.com
[304] Ibid.
[305] Daily Mirror (Sri Lanka), "Sri Lanka Port Expansion-A reform Story," *Press Reader*, December 2, 2016, Accessed June 10, 2019, https://www.pressreader.com
[306] See *supra* discussion in Section 3.1.3
[307] Ibid.

highlight of this case was that PPPs require a committed government and institutional support to materialize the expected outcomes.

3.1.6. Overall PPP Performance Outcomes in Sri Lanka

Out the eight PPP projects analyzed above, the QEQ port expansion project has the highest positive outcomes achieving overall project objectives, and targets materialized when compared to the other projects. In addition, even though the Ambewela Aitken Spence Wind Farm case, the AES Kelanitissa Power plant case, and the Uppudaluwa Wind farm case gave rise to a number of negative outcomes, such as unstable electricity supply caused by poor technology, corruptive practices of bureaucrats, the three projects were able to provide access to electricity for people who did not have access at all.

The Hambantota Port case gave rise to a whole new set of issues in its involvement with the Chinese investors. The influence of the political changes on the PPP project caused the port asset to be subsequently leased for 99 years to China. The case demonstrated the negative outcomes a foreign investor involved in a PPP project could bring unless it is implemented in a manner that is resistant to political changes, and monitored and supervised by a well-equipped regulatory framework. The Trincomalee Coal-fired Power Plant case and the Norachcholai power plant case demonstrated similar issues of delay due to changes in the political climates. The Coal-power plant experienced delays for years behind the expected dates of completion.

However, it is evident that perception of the Sri Lankan governments towards private entities participating in the process of delivering public services has changed over the years. For example, the SLFP party which constituted the majority of the government since 1995 to 2015 speculated a total disapproval of private sector involvement in the 1990s. However, their perspectives seem to have gradually changed towards the early 2000s. Nevertheless, the existing political commitment to PPPs is still lower than needed, and government support and commitment should be taken as a foremost critical success factor in Sri Lanka.

Overall, the success rate of public-private partnerships in Sri Lanka could be rated as below average. The Sri Lankan PPP framework is weak and does not fully encapsulate critical success factors that have significant influence on the project outcomes. Moreover, the framework does not provide a mechanism to make PPP projects resilient to political climate changes. Additionally, the transfer of risks between the parties is vague, and it almost appears as if the public sector bears most of the risks during the whole project cycle. Hence, the country has to work significantly on equipping the PPP framework with the capacity to have assessments of project feasibility, identification of possible impending issues, the capacity to deliver. Furthermore, the establishment of clear objectives for each project, a competitive and transparent bidding process to select credible private partners, are factors that Sri Lanka needs to take substantive measures to improve. Additionally, the dependence on international investors and international aid organizations has to be addressed by aiming to improve the domestic liquidity of the country.

In summary, the primary reason why PPP's framework is not sufficiently resilient in Sri Lanka, takes back to the manner in which PPPs were introduced to the country. PPPs were diffused to Sri Lanka because, the government at the time had to agree to the conditionalities of the international aid organization, if they were to receive the financial assistance the country needed at the time. Therefore, not enough understanding was assured to receive and transplant the concept of PPPs inculcating western analytical perspectives. It has been over two decades since the first introduction of PPPs to Sri Lanka. The current government has accepted PPPs to be a primary tool for infrastructure development in their policy agenda "Vision 2025." However, not much has progressed in terms of strengthening the overall PPP framework to facilitate more PPP projects since the current government came into power in 2015.

As discussed in detail above, Sri Lankan PPP framework is not well equipped with critical factors necessary to acquire positive project outcomes. Therefore, the use of PPPs for infrastructure development is lagging and the potential of this policy instrument is currently not well harnessed in Sri Lanka. Table 4 below demonstrates what critical success factors examined in chapter II of this dissertation,[308] are present in the case of the Sri Lanka, to provide a summarized view of the measures taken to create a resilient PPP framework in the country.

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[308] See *supra* discussion in Section 2.9.

Table 4: Presence of Critical Success Factors in the Overall PPP Framework of Sri Lanka

Critical Success Factors	Presence of the Factors in the PPP framework
Value for Money Assessment	Δ
Risk Allocation	
Transparency	
The legal framework	Δ
Committed Government Support	Δ
Selection of reliable Private partners	
Support from the General Public/ Communities	
Clear objectives and Output Specification	Δ
Competition	
Assessment of Capacity to Deliver	Δ

Source: Created by the Author

Legend: O:Present, Δ: Present but not effective/functional, Blank: unable to identify or dysfunctional

The following section first explores the socio-economic and political contexts of Bangladesh and examines how PPPs were introduced and applied in the country. Then, follows an examination of the legal and institutional frameworks, before the analysis of three public services and infrastructure PPP projects.

3.2. The Case of Bangladesh

This dissertation selected Bangladesh as the next country to assess the performance of PPPs, because it falls into the same lower-middle income economic category examined in this dissertation.[309] Bangladesh is situated within the same South-Asian region as Sri Lanka. The objective of this section is to identify and discuss how PPPs are introduced, applied, implemented, and reformed in Bangladesh as a policy tool for infrastructure development and to find out if Bangladesh shares a similar experience as that of Sri Lanka.

[309] The World Bank, "GDP per capita (current US$)," Accessed June 10, 2019, https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?end=2016&locations=LK&most_recent_year_desc=false&start=1960. See also, The United Nations "World Economic Situation and Prospects 2019: Economies by per capita GNI in June 2018," Accessed June 20, 2019, https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/WESP2019_BOOK-web.pdf

Bangladesh is among the most densely populated countries in the world, and much of the population lives around river deltas draining their water into the Bay of Bengal.[310] The GDP per capita of Bangladesh is recorded is USD 1,401 as of 2016.[311] Before Bangladesh became independent in 1971, it was a part of Pakistan.[312] The bitter conflict that involved India was the result of the split. Even after splitting with Pakistan, Bangladesh did not find peace immediately as the country was under military rule for 15 years. The unstable socio-political climate is similar to Sri Lanka where it took a couple of years before the country gained stability after the end of a 30-year civil war. However, democracy in Bangladesh was restored in 1990, but the political landscape remains unstable.[313]

To make matters worse, Islamist extremism has been on the rise in Bangladesh. Radical Muslims have taken advantage of the tolerance of Bangladesh to propagate harmful extremism.[314] The acts extremists therefore, leaves the country at risk of terrorism. Historically, the citizens of this country have suffered from a lack of basic needs for a very long period of time, because of its weak public services delivery in the country. Nevertheless, the government has been experimenting with different ways of improving the situation; one such way is the adoption of PPPs.[315] The following section examines how PPPs were applied in Bangladesh.

3.2.1. Application of PPPs in Bangladesh

During the mid 1990s, like many other countries in Asia, Bangladesh also recognized the need to involve the private sector in infrastructure and public service delivery for the purpose of increasing efficiency and lowering the scarcity of public resources. To this effect, a workshop on project finance was held in September 1996 at Rajendrapur Dhaka focusing on developing a power

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310 Berenice Scandone, "Poverty Reduction Strategy in Bangladesh. Rethinking Participation in Policy Making.(Bristol: Policy Press)," *Journal of International Development* 27, no. 2 (2015): 307-308.

311 The World Bank Data, "GDP per capita (current US$)," Accessed June 18, 2019, https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?end=2016&locations=BD&start=1960

312 Scandone, "Poverty Reduction Strategy in Bangladesh. Rethinking Participation in Policy Making.(Bristol: Policy Press)," 307

313 EveryCRSReport.com, "Bangladesh: Political Turmoil and Transition," May 30, 2008, Accessed June 20, 2019, https://www.everycrsreport.com/reports/RL34522.html

314 Ibid.

315 Md Alam, and Md Rashed, "Private Sector Participation in Infrastructure Development: A Non-Resident Infrastructure Fund in Bangladesh," *Journal of Bangladesh Studies*, 13 (1), (2011): 34-38.

generation project.[316] Through this workshop, a coordinated policy framework was brought forward for PPPs together with a private sector power generation policy that was enacted to promote the participation of private entities in power generation infrastructure development. With the support of the ADB and backed by the World Bank, it was possible to construct and operate two large power plant projects. One of the two PPP projects; the Meghnaghat power plant produced 450MW, and the Haripur power plant produced 360MW.[317] These power generation projects could supply electricity to cover nearly 30 villages, creating a positive first impression of PPPs in Bangladesh.

Subsequently, the PPP projects received a huge boost when the World Bank introduced a Technical Assistance Project for Private Sector Infrastructure Development (PSID) Projects in 1997 to act as a vehicle in delivery of assistance to the private sector to boost participation.[318] The implementation period of the PSID project was designed for five years from 1997 to 2002. Later on, it was extended up to June 2004 as a result of its positive performance. To support the private participation enabling framework in different sectors of infrastructure development, the Bangladesh government enacted the Private Sector Infrastructure Guidelines in 2004.[319] Borrowing from the Philippines' model of the inter-ministerial council, these Guidelines paved the way for the creation of a national Private Infrastructure Committee (PICOM) operating under the Prime Minister's Office. The establishment of the PICOM denoted the beginning of the program-based PPP initiatives in Bangladesh. However, the outcomes of PPP projects at this period were below expectations as very

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[316] The Institute of Cost and Management Accountants of Bangladesh, "Continuing Professional Development Program on Infrastructure Development in Bangladesh: Future Prospects and Challenges," *Pen Portrait of Keynote Speaker Nazrul Islam*, April 27, 2017, Accessed June 20, 2019, http://www.icmab.org.bd/images/stories/resources/download_member/Infrastructure%20Development%20in%20Bangladesh.pdf.

[317] Power Engineering, "AES Completes Financing Agreements for USD 300 million Meghnaghat Power Plant in Bangladesh," December 4, 2001, Accessed June 19, 2019, https://www.power-eng.com/articles/2001/04/aes-completes-financing-agreements-for-300-million-meghnaghat-power-plant-in-bangladesh.html.

[318] S. M. Ishtiaque Shahriar, "Public-private Partnership in Bangladesh: A case study of Two Power projects," *Thesis submitted to the Public Policy and Governance (PPG) program,* December 2017, Accessed June 18, 2019, http://www.northsouth.edu/newassets/files/ppg-research/PPG_6th_Batch/Thesis_Ishtiaque.pdf.

[319] Public-private Partnership Authority Bangladesh, "Your Guide to Public-private Partnership in Bangladesh," Accessed June 18, 2019, https://www.pppo.gov.bd/download/ppp_office/Your-Guide-to-PPP-in-Bangladesh.pdf

few projects achieved their expected results.[320] For example, the Jamuna Bridge construction project exceeded its initial cost estimations; the projected budget was exceeded by USD 100 million from the initial budget of USD 600 million.[321] Even though the project made vital infrastructure available, there were certain negative outcomes. Hence, the PPP project outcomes were rated moderate and needed improvement.

Therefore, the government recognized that there was a need to revise its entire PPP program to align with the its long-term goals and vision of growth and prosperity.[322] However, due to the lapses in the administration and bureaucratic issues, it was not until 2009 that the Bangladesh government decided to implement a revised PPP program.[323] The policies were tabled and debated upon in the parliamentary budget session in October 2009. Consequently, in August 2010, *Policy and Strategy for Public Private Partnership (PPP)* was introduced with a comprehensive range of reforms that included tax incentives to support sustainable PPP programs across numerous sectors.[324] The reforms brought forth by the government were supplemented by allocating more than USD 300 million for PPP projects during its 2009-2010 budget in support of development and funding of PPPs. These improvements were executed through the Ministry of Finance by instituting a Viability Gap Fund for offering finances of up to 30 % of the total cost of PPP projects.

In 2010, the government released a Five-Year Plan that outlined its vision towards the improvement of the country's economic growth trajectory. The expectation is that enhanced level of prosperity will elevate the country to upper-middle income economic status by 2021, through economic development.[325] The Plan aims at infrastructure development through investing an

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[320] Md Alam, and Md Rashed, "Private Sector Participation in Infrastructure Development: A Non-Resident Infrastructure Fund in Bangladesh," 36.

[321] Cameron Gordon, "The Challenges of Transport PPPs in Low-income Developing Countries: A Case Study of Bangladesh," *Transport Policy* 24 (2012): 296-301.

[322] Ibid.

[323] Md. Joynal Abdin, "An Evaluation on the Proposed Budget 2017-18 of Bangladesh," *The Daily Sun*, (2017). Accessed June 14, 2019, https://www.researchgate.net/publication/317344279_An_Evaluation_on_the_Proposed_Budget_2017-18_of_Bangladesh

[324] Debapriya Bhattacharya, "Delivering Social Infrastructure through PPP," *OECD Global Forum on Development,* (Center for Policy Dialog, 2010), Accessed on June 16, 2019, http://search.oecd.org/dev/development-philanthropy/46236515.pdf .

[325] Ibid.

approximate 2-6% of GDP in PPPs as a main policy tool in meeting the prevailing infrastructure gap. The ultimate aim is to enable private sector investments to contribute to the country's growth potential. In order to achieve the ambitious goals through PPPs, the country has set up an institutional setting dedicated to handle PPP matters, and help ease the smooth implementation of PPP projects. The following section examines the present institutional setting of Bangladesh.

3.2.2. The Current Institutional Setting

The institutional bodies mandated to promote PPPs in Bangladesh include the PPP Advisory Council, PPP Office of Bangladesh and the Cabinet Committee on Economic Affairs (CCEA).[326] The Finance Ministry is tasked with the responsibility of conducting financial viability assessments of the PPPs. The Policy and Strategy for Public Private Partnership (PPP) 2010, provided the foundation to establish a PPP office to work under the Prime Minister. The office started to operate fully in January 2012. The PPP office is a pivotal institution to support the ministries relevant for each PPP project to identify, tender, develop, and finance PPP projects. The PPP Office also supports serving interested lenders and investors by operating as a central point of coordination offering transparent, professional services to all PPP projects. The composition of staff members is diversified, covering private and public sectors to ensure transparency, credibility, and trust while aiming at offering services to the general public. Additionally, Bangladesh is one of those countries with a stand-alone PPP law, enacted exclusively for regulating PPPs. The following section will examine the existing legal framework of Bangladesh in detail.

[326] M. Verougstraete and J. Sekiguchi, "South and South-west Asia" *PPP Policy, Legal and Institutional frameworks in Asia and the Pacific,* (Bangkok: Economic and Social Commission for Asia and the Pacific, 2017). Accessed June 15, 2019, https://www.unescap.org/sites/default/files/S4_PPP-Policy-Legal-Institutional-Frameworks_0.pdf.

3.2.3. Legal Framework on PPPs

Bangladesh enacted a stand-alone PPP law in 2015 to guide the PPP Office and other authorities in assessing and overseeing projects. [327] The PPP law, namely, the PPP Act 2015, replaces the earlier policies in this field. The formulation of the PPP Act started in late 2011 with the help of the Asian Development Bank. Accompanied by the actual enactment of the law, a separate unit for budget formulation was established through the Ministry of Finance to support PPP initiatives. [328] The government aimed to ensure that there was money set aside on an ad hoc basis annually so that PPP initiatives would be funded adequately.

3.2.4. Analysis of PPP Case Studies

The following section examines three PPP projects implemented in Bangladesh, which were initiated under the above discussed institutional, legal and policy framework of the country.

3.2.4.1. <u>Case Study 1: Khanpur Inland Container Terminal Project</u>

- **Project Description**

The Bangladesh Inland Water Transport Authority (BIWTA) is the sole government authority tasked with the responsibility of developing Inland Water Transportation (IWT) facilities. [329] Therefore, the BIWTA owns and operates all river terminals, including jetty facilities located in the country. One jetty concerned with this project is located in Khanpur, which is situated on the Shitalakhya river in the District of Narayanganj which has an area of approximately 14 acres. The facility is accessible through IWT infrastructure and has the advantage of commercial viability. Due

[327] Public-private Partnership Authority Bangladesh, "Government Policy," Accessed June 15, 2019, http://www.pppo.gov.bd/government_policy.php.

[328] Palash Kamruzzaman, "Poverty Reduction: Discourse or Commitment to Change," *Poverty Reduction Strategy in Bangladesh: Re-thinking Participation in Policy Making*, (Policy Press, 2014): 56-78.

[329] Public Private Partnership Authority Bangladesh, "Construction & Operation of Inland Container Terminal (ICT) at Khanpur," *Project Profile*, Accessed June 15, 2019, https://www.pppo.gov.bd/projects-inland-container-terminal-ict-at-khanpur.php.

to these advantages, BIWTA proposed redeveloping the inland river infrastructure facility to make the system more efficient and profitable. The project was planned to connect nine other major river ports to improve the inland transportation system. However, the redeveloping of the jetty with a container terminal was a new concept as compared to other PPP infrastructure initiatives of Bangladesh. In particular the containerized traffic volume in Bangladesh was unique and novel to the jetty constructors, as well as to the relevant administrators.[330] Nevertheless, the BITWA succeeded in entering into a thirty-year concession deal in 2015 under a BOT type PPP.

- **Expected and Actual Outcomes**

The project was expected to reduce congestion and transportation cost. The cost reduction model of the IWT, as compared to other models, was expected to reduce transport costs to less than half of the cost incurred through rail transport, and a quarter of the cost incurred in road transport. However, the planning and procurement process took over two years to conclude due to inadequate capacity in the bodies designated to handle this PPP project. As mentioned earlier, the concept of the project was unique and new to many individuals involved, and planning appropriately was time-consuming.[331] This problem of the delayed decision-making process caused by a lack of assessment capacities is a common feature in many developing countries. However, despite the time consumed, the container terminal project succeeded to make a vital infrastructure available to the people of Bangladesh.

3.2.4.2. Case study 2: AES Meghnaghat 450MW Power Plant Project

- **Project Description**

Handled directly by the Bangladesh power development board (BPDB), the AES (Applied Energy Services) Meghnaghat 450MW Power Plant project was planned to inject 450-megawatts of

[330] Palash Kamruzzaman, “Participation in Practice,” Poverty Reduction Strategy in Bangladesh: Re-thinking Participation in Policy Making, (Policy Press, 2014): 104-106.
[331] Ronald.Duclos, “Structured Analysis and Structured Design for the Logistic Support Analysis (LSA) Task, LSA Subtask 302.2. 5,” *Support System Alternative Risk Analysis*. No. APJ-966-237, (American Power Jet Co, 1991).

combined cycle gas-fired power into the country's power grid.[332] The project was designed to add baseload capacity to help solve Bangladesh's power shortages. The tendering process initially attracted six entities which were pre-qualified. Consequently, five of them submitted their tenders. After tendering, AES Meghnaghat quoted the lowest tariff and the contract was awarded to AES and the agreement was signed in mid-1999. Concurrently, the Board of Directors of the Asian Development Bank (ADB) signed a USD 50 million direct loan with another USD 20 million under its complementary financing scheme.[333] Two weeks later, the Board approved a USD 70 million political risk guarantee. Thereafter, the Bangladesh government issued a payment and supply guarantee, on behalf of the BPDP. In April 2001, financial closure of the project was reached and the project's commercial operation date was set to be 30 months after the financial closure date.[334] Additionally, AES promised and committed to supplying about 1.4 billion kWh of free electricity to BPDB, which was computed to be worth USD 34.75 million, equal to five months full-load production, as a measure of their corporate responsibility policies.[335]

- **Expected and Actual Outcomes**

This project came across several issues during its project cycle. The first problem the AES faced is that the private partner was granted only one-third of the total land by the government partner after being delayed for eight months. The reason for the delay was mostly due to difficulties in getting necessary procedures completed by the Land Ministry, which is often alleged to be plagued with bureaucratic lethargy. [336] Therefore, the private partner was unable to launch the project on time. These scenarios tainted not only the image of the public partner alone, but the overall potential of PPPs as a policy tool. The difficulty in holding the responsible parties accountable displays the complexities

[332] Power Technology, "Meghnaghat," Accessed June 15, 2019, https://www.power-technology.com/projects/meghnaghat.
[333] Ibid.
[334] Ibid.
[335] Ibid.
[336] Md Alam, and Md Rashed, "Private Sector Participation in Infrastructure Development: A Non-Resident Infrastructure Fund in Bangladesh," *Journal of Bangladesh Studies*, 13 (1), (2011): 34-38.doi:10.31219/osf.io/v2k3b.

prevailing in executing PPP projects. Nevertheless, according to the Asian Development Bank, Bangladesh's economy has grown through a more abundant supply of electricity. About 38% of the population now has access to electricity, compared with 18% before the Meghnaghath project's inception.[337] The positive outcomes achieved in this project demonstrates the potential of PPPs to make essential public services available to people. However, there is ample room for improvement to avoid the inefficiencies faced when implementing PPP projects in Bangladesh.

3.2.4.3. Case study 3: Development of Sonamasjid Land port Project

- **Project Description**

The Ministry of Shipping and the Bangladesh Sthala Bandar Kartripaksha (BSBK)[338] proposed to develop twelve additional land ports under (BOT) type PPPs to increase efficiency in its storage and cargo efficiency.[339] The project was enlisted on 20 April 2015 by the Private Infrastructure Committee (PICOM) after approval by the line ministry. The process of selecting the investor was done through bidding and followed the country's Private Sector Infrastructure Guidelines (PSIG). These investors, who are also the private party of the project had to operate and maintain the land port for 25 years. Additionally, the investors were awarded rights to charge the port users for services provided in cargo storage and port handling. Through the income gained, the investors paid royalties to BSBK, which helped the government to raise additional income. According to the contract, in 25 years, the investor would have to transfer the entire facility to BSBK, including fixed and movable assets.

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[337] Yih-Huei Wan, *Wind Power Plant Monitoring Project Annual Report*. No. NREL/TP-500-30032. (National Renewable Energy Lab, Golden, CO US, 2001).

[338] Bangladesh Sthala Bandar Kartripaksha (BSBK) established in 2001 by the Bangladesh government has the mandate to provide cargo handling and storage facilities in the land ports to facilitate trade with neighboring countries. Bangladesh Directory, "Bangladesh Land Port Authority - Bangladesh Sthala Bandar Kartripaksha," Accessed July 29, 2019, http://www.bangladeshdir.com/government/agencies-and-departments/bangladesh-land-port-authority/

[339] Infrastructure Investment Facilitation Center, "Development of Sonamasjid Land Port," December 2006, Accessed June 14, 2019,
http://www.iifc.net/publication/miscellaneous/Sonamasjid%20Land%20Port.pdf

- **Expected and Actual Outcomes**

The bidding process faced the major challenges in this project. The investor quoted a higher royalty, which amounted to 49% of the gross revenue from the port. Also, the royalties were comparatively higher and unreasonable. However, IDCOL, as the lead financer, failed to model a proper cash flow with the 49% offer. In addition, a significant portion of the loan was disbursed due to the weaknesses of monitoring the project progress. The Daily Star (2015) reports that even though the project had received a considerable amount of financial input from the IDCOL, the project goals and expected standards were not fulfilled.[340] This case demonstrates the incapacity of the responsible bodies in conducting accurate project feasibility assessments. Despite the presence of some of the most crucial factors such as the presence of an institution dedicated for PPPs, and a stand-alone law to regulate PPPs in the Bangladesh's PPP framework their effectiveness is evidently weak.

3.2.5. Overall PPP Performance Outcomes in Bangladesh

The Bangladesh government demonstrates a fair amount of commitment to private sector participation in the delivery of infrastructure services. The efforts made in establishing an enabling institutional and regulatory framework to attract private investors for PPP projects are somewhat evident. Particularly when compared with Sri Lanka, Bangladesh's PPP framework is far better equipped with critical success factors to accommodate PPP projects.

In terms of the manner in which PPPs were introduced to Bangladesh, information is inadequate to clarify the underlying factual reasons that instigated their government to apply PPPs with the assistance from international aid organizations. However, clearly, as concept developed in the West, PPPs need far more resilient framework than which exists currently in Bangladesh. The Table 5 below demonstrates what critical success factors examined in chapter II of this dissertation,[341]

[340] The Daily Star, "The Business Leaders Call for Better Services at Land Ports," *Star Business Report*, September 7, 2015, Accessed June 18, 2019, https://www.thedailystar.net/business/business-leaders-call-better-services-land-ports-138934

[341] See *supra* discussion in Section 2.9.

are present in the case of the Bangladesh, to provide a summarized view of the measures taken to create a resilient PPP framework in the country.

Table 5: Presence of Critical Success Factors in the Overall PPP Framework of Bangladesh

Critical Success Factors	Presence of the Factors in the PPP Framework
Value for Money Assessment	O
Risk Allocation	Δ
Transparency	
The legal framework	O
Committed Government Support	O
Presence of reliable Private partners	
Support from the General Public/ Communities	
Clear objectives and Output Specification	Δ
Competition	
Assessment of Capacity to Deliver	Δ

Source: Created by the Author

Legend: O:Present, Δ: Present but not effective/functional, Blank: unable to locate or dysfunctional

Therefore, the projects implemented through PPP procedure have resulted in negative outcomes. For further analysis of the situation of PPPs in lower-middle income developing countries, the section below explores the Philippines.

3.3. The Case of the Philippines

The Philippines is the third country selected in this study to examine the performance of PPPs in developing infrastructure in the lower-middle income developing economies. According to the classifications of the World Bank, Philippines has a GDP per capita of USD 2,941 as of 2016.[342] Therefore, the country belongs to the category of lower-middle income developing countries.[343] The

[342] The World Bank, "GDP per Capita (current US$)," Accessed June 10, 2019, https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?end=2016&locations=LK&most_recent_year_desc=false&start=1960.

[343] The United Nations "World Economic Situation and Prospects 2019: Economies by per capita GNI in June 2018, " Accessed June 20, 2019, https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/WESP2019_BOOK-web.pdf

Philippines was governed by Spanish colonial rulers for approximately three centuries. The country also received its name after the Spanish king in the 16th century. Later, in the early 20th century, the US conquered the Philippines after the protracted revolution opposing the Spanish sovereign. The influence from the rulings by the Spanish and the US continue to be present even today, particularly in terms of government, religion, and language. The US in particular is a close associate to the Philippines and has continued to give military support in combatting domestic issues such as communist and extremist Muslim insurgencies.

Philippines' economy is one of the vibrant economies in the Pacific and East Asian region. The increase in urbanization, a growing young population, as well as the strong middle-income class, have contributed to the Philippines' economic robustness. Additionally, business practices in the Philippines are buoyant with a remarkable service delivery sector, business process outsourcing, and with healthy real estate, finance, and insurance industries. A globally renowned competitive workforce and sound economic essentials strengthen the growth thrust of the country.

Nevertheless, the present infrastructure status of the country ranks amongst the lowermost ASEAN[344] countries as depicted in the World Economic Forum.[345] When comparing the country's ranking in terms of infrastructure availability in the years of 2010-2011 and 2017- 2018 there is no difference in its status. In other words, Philippines has failed to achieve significant infrastructure growth within the past six to seven years. However, both the current President Rodrigo Duterte and former President Aquino paid attention to the lagging infrastructure matter and took drastic measures to change the situation through private sector participation. The following section examines how PPPs were introduced and applied in the Philippines to combat issues on the lack of public service delivery, including infrastructure.

[344] Abbreviation for Association of South East Asian Nations.

[345] Global Economic Index, "Global Competitiveness Index 4.0," Accessed June 20, 2019. http://reports.weforum.org/global-competitiveness-report-2018/competitiveness-rankings/

3.3.1. Application of PPPs in the Philippines

The Philippines was the leading nation in Asia to embrace the concept of PPP as a policy instrument for developing infrastructure. The introduction of PPPs accompanied the implementation of a PPP legal framework under the Republic Act (RA) of 1990. [346] The country has over 20 years of experience as a pioneer in Public-Private Partnerships. Build-Operate-Transfer (BOT) type PPPs were commonly adopted in the 1990s. Build-Lease-Transfer (BLT), Build-Own-Operate (BOO) and Build and Transfer (BT) models were introduced through the Amendment of Republic Act implemented in 1994. [347]

The government of President Benigno S.Aquino III reviewed the infrastructure development policies existing after taking office in 2010. The administration highlighted that infrastructure development projects are primarily financed by the ODA and government budget. President Benigno S.Aquino III's administration, after a review, highlighted that PPPs should be the public service delivery policy tool dedicated for infrastructure development. [348] In November 2010 President Aquino's government started a PPP program recognizing ten significant projects to be implemented under the PPP model. These projects targeted approximately USD 4 billion in private capital. The administration was determined to ensure that the concept of PPP would gain resonance in the country and help address the poverty levels of the country.[349] The president emphasized that his administration

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[346] Accessible on The Law Phil Project, An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for the Other Purposes, Republic Act No. 6957, July 9, 1990, last modified on June 20, 2019. https://www.lawphil.net/statutes/repacts/ra1990/ra_6957_1990.html

[347] Bruno Werneck, and Mário Saadi, "The Public-private Partnership Law Review," *Law Business Research Limited*, (2015), Also available on Republic Act No. 7718 The Philippine BOT Law, 5th May 1994, Accessed June 20, 2019, https://ppp.gov.ph/wp-content/uploads/2013/02/BOT-IRR-2012_FINAL.pdf.

[348] Ito Susumu, "A Study on Dutertenomics: Drastic Policy Shift in PPP Infrastructure Development in the Philippines," *Toyo University Departmental Bulletin Paper* No.10, (2019): 7. http://id.nii.ac.jp/1060/00010480/

[349] Suci L Yuana, Frans Sengers, Wouter Boon, and Rob Raven, "Framing the Sharing Economy: A Media Analysis of Ridesharing Platforms in Indonesia and the Philippines," *Journal of Cleaner Production* 212 (2019), 1154-1165.

was committed to supporting profitable PPP relationships for both the domestic and foreign private firms.[350]

The Aquino administration restructured the Build-Operate-Transfer center, founded in 1993 under the Trade and Industry Department, and created the PPP Center in 2010 by Executive Order No. 8.[351] The PPP Center was shifted to be governed by National Economic Development Authority (NEDA). The PPP Center's primary responsibilities involve PPP Policy advancement and support in preparation or formulation, application, and monitoring of the PPP projects. Additionally, a Project Development and Monitoring Facility (PDMF) was initiated within the PPP Center with the main task of monitoring PPP projects. The Australian government and the Asian Development Bank (ADB) assisted the establishment of the PDMF worth USD 42.90 million. Also, the Aquino administration managed to establish the Philippine Investment Alliance for Infrastructure Fund (PINAI Fund), which was the country's chief private fund worth of USD 625 million, targeting the improvement of PPPs in 2012.[352]

In June 2016 however, after the presidential elections, President Duterte's administration took office and made several changes with regard to how PPPs are utilized in the country. In one of his first government agendas, PPPs were considered as a priority policy instrument used in improving the annual infrastructure expenditure to account for 5% of the GDP.[353] However, changes were made in April 2017, when "Dutertenomics" was announced. Dutertenomics is a term coined to imply the economics of president Duterte.[354] The plan contains infrastructure investment acceleration, and investment promotion together with sustainable development achievements. However, as the supreme pillar of Dutertenomics was substantial infrastructure enhancement, it was also named as the "Build, Build, Build program."

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[350] Ibid.
[351] Ibid.
[352] George Inderst, "Pension Fund Investment in Infrastructure," *SSRN Electronic Journal*, 2009. doi:10.2139/ssrn.2389704.
[353] Ito Susumu, "A Study on Dutertenomics: Drastic Policy Shift in PPP Infrastructure Development in the Philippines," 7.
[354] "DuterteNomics" is a catch-all term referring to the socioeconomic policies of President Rodrigo Duterte. A significant part of the policy includes the development of infrastructure and industries., Retrieved from "Build Build Build," *Philippines Infrastructure Transparency Portal*, Accessed June 21, 2019, http://www.build.gov.ph

Dutertenomics created a radical shift from prioritizing PPPs as the main source of financing infrastructure projects to utilizing ODA and government budget for infrastructure development.[355] According to Ito (2019), the main reason for this policy shift was that during the former president, Aquino's administration, although 28 PPP projects were approved, only 12 projects were concluded, and only 3 PPP projects were finalized by the time his administration ended.[356] The weak performance of PPPs during the former administration was primarily triggered by delays in the bidding process which included numerous inquiries extracted from private parties occasionally associating judicial division when confronted with disputes by involved parties. However, in some circumstances, contract negotiations often lagged even after the post bidding phases. Moreover, the disagreements between the parties regarding the contract awarding processes for important transport infrastructure projects became controversial, affecting the decision-making process of the public-sector. Also, the entire procedure related to PPP implementation was often time consuming. Such weaknesses compelled to view PPPs as inefficient under the national policy framework of "Dutertenomics," which targets faster infrastructure development.[357] Nevertheless, it is essential to note that Dutertenomics did not entirely move away from PPPs to ODAs and the public sector.[358] While the changes made were significant, the PPP framework of the Philippines remains vital in infrastructure development and public services delivery. The following section examines the institutional setting prevalent in the Philippines.

3.3.2. The Current Institutional Setting

As discussed before, the administration of President Aquino regrouped the then Build-Operate-Transfer center, founded in 1993 under the Department of Trade and Industry, and created PPP Center (PPPC) by 2010 No. 8 series Executive Order.[359] The PPP Center was instructed to

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[355] Ito Susumu, "A Study on Dutertenomics: Drastic Policy Shift in PPP Infrastructure Development in the Philippines," 7.
[356] Ibid.
[357] Ito, "A Study on Dutertenomics: Drastic Policy Shift in PPP Infrastructure Development in the Philippines," 8.
[358] Ibid.
[359] Malakana Palace, *Executive Order No. 136 by the President of the Philippines,* Accessed June 20, 2019, https://ppp.gov.ph/wp-content/uploads/2015/01/Executive-Order-136.pdf

facilitate the Philippine's PPP Program on infrastructure projects implementation. Notably, the PPP Center serves as the principal monitoring and coordinating agency for specific PPP projects. The Center is mandated to enabling all project preparation aspects of the Project Development and Monitoring Facility (PDMF). Additional tasks performed by the PPP Center include: assistance in managerial aspects, offering facilitation services and projects advices. The following section will examine the legal framework through which PPP related matters are regulated in the Philippines.

3.3.3. Legal Framework on PPPs

The BOT law (Republic Act 7718) and its Implementation Rule and Regulation (IRR) regulate the PPP projects implemented in the Philippines.[360] During the administration of President Aquino, the enactment of a PPP law based on the existing BOT law was seriously considered to promote and clarify the legal matters relevant to PPPs. As Ito (2019) reports, the draft bill on the proposed PPP law included measures to strengthening the institutional framework of PPP by incorporating already introduced measures such as; simplifying and clarifying PPP procedures, strengthening government support mechanism including review of risk sharing, and the prohibition of implementation of PPP project by regulatory agencies.[361] Also, the bill attempted to elevate the position of the PPP Center to a secretariat level, from the current departmental level. However, the bill did not pass into a law during the Aquino administration and the current Duterte administration does not display an intention to enacting a PPP law in the near future. Therefore, the BOT law and the IRR remains as the main legal instruments regulating PPPs in the Philippines. The following section explores how these existing laws and institutional settings are currently at progress in implementing PPP projects in the Philippines.

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[360] Public-private Partnership Center: Republic of the Philippines, "Legal and Regulatory Frameworks," Accessed June 22, 2019, https://ppp.gov.ph/ppp-program/legal-and-regulatory-frameworks/

[361] Ito, "A Study on Dutertenomics: Drastic Policy Shift in PPP Infrastructure Development in the Philippines," 16-17. See also, Lorenz S. Marasigan, "Golden Age of Infrastructure Not Possible sans PPP Act," *Business Mirror,* May 5, 2018, Accessed June 18, 2019, https://businessmirror.com.ph/2018/05/05/golden-age-of-infrastructure-not-possible-sans-ppp-act/

3.3.4. Analysis of PPP Case Studies

The following section examines three PPP projects implemented in the Philippines, which were initiated under the above discussed institutional, legal and policy framework of the country.

3.3.4.1. Case study 1: Nueva Ecija Regional Prison Facilities Project

- **Project Description**

The Nueva Ecija Regional Prison Facilities project brought forth the first ever construction of a regional prison facility through the PPP model in the Philippines. The project purposed to upgrade the poor conditions of the targeted prisons. The PPP type to be adopted was Build-Lease-and-Transfer or Build-Transfer-and-Maintain (BLT or BTM) worth USD 895.33 Million.[362] The implementing agency was the Department of Justice, with the approved private sector bidders of the facility, GMR Infrastructure Singapore Limited Company, San Miguel Holdings, and Citocore Megawide Consortium Incorporated.[363] The project's feasibility study commenced in 2013 and was approved in the following year. However, the procurement process began only in 2015, and the project team was able to get only three credible bidders. Furthermore, the project went overdue because the prison facility that was designed to contain only 9,000 inmates already had 22,000 prisoners.[364] When the administration of the country changed in the meantime, the Chief of the PPP Center, Andre Palacios expressed his expectation that the newly elected administration will undertake the successful implementation of the project.[365] Nevertheless, the facility was postponed by the Department of Justice until further notice and the project did not materialize as of date.

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[362] Public-private Partnership Center: Republic of the Philippines, "Regional Prison Facilities through PPP," February 24, 2014, Accessed June 20, 2019, https://ppp.gov.ph/in_the_news/regional-prison-facilities-for-ppp/

[363] Stephen Schuster, Joven Balbosa, Christine Tang, Takuji Komatsuzaki, and Shanaka J. Peiris, "Scaling Up Infrastructure Investment in the Philippines: Role of Public-private Partnership and Issues," *ADB South East Asia Working Paper Series No. 13*., (2017): 4-13.

[364] Ibid.

[365] David Cagahastian, "Pernia: PPP Center Chief Palacios to Keep His Post," *Business Mirror,* Jul 05, 2016, Accessed June 20, 2019, https://issuu.com/businessmirror/docs/businessmirror_july_06__2016

- **Expected and Actual Project Outcomes**

According to Justice Secretary Vitaliano Aguirre II, the government canceled the construction plan of the Nueva Ecija project due to cost related issues. The building would have cost USD 2.89 billion over twenty years, which also required the assignment of a preliminary amount of USD 96 million.[366] In addition, the time-consuming nature of the PPP procurement process, lagged the efficient implementation of the project. Within the two years' time taken between the project feasibility assessment and the procurement process, the situation in prisons had changed. The existing PPP framework of the Philippines seem to lack efficiency and hinder the fast implementation of infrastructure projects.

3.3.4.2. Case study 2: Laguna Lakeshore Expressway Dike Project

- **Project Description**

The Public Works and Highway Department proposed to build a 47 km expressway in 2016, worth USD 2.73 billion, the most expensive PPP deal in the Philippines to date.[367] The contractual period of the deal which entailed connecting Los Banos to Taguig city was 37 years. The project's purpose was to ease traffic flow, as well as to mitigate flooding along Laguna Lake through the provision of a high-standard highway. The project was terminated on March 28, 2016, by the Department of Public Works and Highways because of a lack of submission of offers from all three approved bidders. According to one of the bidders who conducted their own feasibility assessment, the project was not practically feasible. The feasibility study conducted by the government parties did not encapsulate such practical difficulties. The potential private investors later claimed that the project

[366] Evelyn Macairan, "DOJ Drops Plan to Build Mega Prison in Nueva Ecija," November 18, 2017, Accessed June 20, 2019. https://www.philstar.com/headlines/2017/11/18/1760366/tg9ZS6IcL1Z3LEWL.99.

[367] Public-private Partnership Center: Republic of the Philippines, "The Laguna Lakeshore Expressway Dike: Building Infrastructure to Rebuild Lives," September 3, 2015, Accessed June 22, 2019, https://ppp.gov.ph/press_releases/the-laguna-lakeshore-expressway-dike-building-infrastructure-to-rebuild-lives/

was not a viable one and withdrew their bids.[368] At the time, the Chief of the PPP center said that the government will have to revisit their assessments and redesign the project.[369] Moreover, he also stated that contractual structure would be reexamined because he suspects that the bidders may have been discouraged by the contract terms and conditions. The Chief of the PPP office was keen to revive the project because he understood how beneficial it would be for many people once the highway was completed. Nevertheless, the project never commenced as no private partner showed interest in implementing the project targets.

- **Expected and Actual Outcomes**

The leading cause of this project getting canceled in the middle of the procurement process was the government's incapacity to conduct reliable assessments on the capacity to deliver. Hence, the project cancellation consumed a substantial sum of cash and time. The ideal scenario could have been to have a public procurement to assess the feasibility and capacity to deliver, instead of moving along with weak assessment results. One of the reasons why private participants claimed that the project was not viable was because it entailed three components that the government party did not pay sufficient attention to: flood control, reclamation, and existing road conditions. Subsequently, the technical explanations for the deal were challenging; therefore, the costs of the project nearly doubled from the initial estimations of the government. Bidders were uncomfortable with the complexities that the three elements of the project would bring, and abandoned the signing of the project. Even though the PPP Center was committed to implementing the project, this case shows that their assessments were not up to the standards. PPPs often attract sensitive projects that demand highly-technical and skilled capacity. Nevertheless, not every project is feasible under the PPP model, because sometimes the existing technologies and the capacities of even the private sector know-how might not be sufficient to address specific technical issues.

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[368] Chrisee Dela Paz, "Failed Bidding: No Takers for Laguna Lakeshore Expressway Dike," March 28, 2016, Accessed June 21, 2019, https://www.rappler.com/business/industries/208-infrastructure/127322-laguna-lakeshore-expressway-dike-failed-bidding.

[369] Schuster et al., "Scaling Up Infrastructure Investment in the Philippines: Role of Public-private Partnership and Issues," 7.

3.3.4.3. Case Study 3: Philippine Orthopedic Center Project

- **Project Description**

The Department of Health in the Philippines awarded the contract to Megawide World Citi Consortium, incorporated in 2013 to modernize an Orthopedic Center to construct a 700-bed capacity facility.[370] However, the project did not commence because the contract between the Department of Health and a subsidiary of Megawide Construction Corporation terminated the deal in November 2015.[371] One of the reasons that contributed to the project termination was that the Department of Health did not handover the certificate of possession to Megawide Corporation years after the signing of the contract. Megawide had targeted to complete the project by 2017, but the Department of Heath did not accomplish the most crucial task needed for the project implementation. Thus, the private company did not want to waste their time or resources on a matter that the public partner was not committed enough to materialize, and terminated the contract. After the Department of Health and the Philippines administration received the contract termination notices from Megawide, there were no responses or anticipation to re-launch the project as a PPP. Currently, there are no plans that the execution of the project will be undertaken either.

- **Expected and Actual Outcomes**

This case showcases a situation where the discretion of the public authorities is arbitrarily exercised, and as a result, the project led to distress and failure. Even after the process moved forward smoothly up to the project implementation stage, the government party ignored its duty to support the process until the expected outcomes were realized. The Department of Health never announced the actual causes for not submitting the certificate of possession. These acts led to damage the government bodies' reputations, hindering future collaborations with the private sector. Critiques of PPPs could

[370] Economic Analysis by ICC Evaluation Team, "Modernization of the Philippines Orthopedic Center" Accessed June 18, 2019, https://ppp.gov.ph/wp-content/uploads/2014/08/POC-NEDA-Sept-2012-Final.pdf

[371] Chrisee ela Paz, "Megawide Terminates PH Orthopedic Modernization Project," Rappler, November 17, 2015, Accessed June 18, 2019, https://www.rappler.com/business/industries/208-infrastructure/113067-megawide-terminates-ph-orthopedic-ppp

argue that PPPs are policy tools that allow opportunity and lacuna for different kinds of issues due to its complex nature of multiple-stakeholders involved. Hence, making PPPs unfeasible in many developing countries with lethargic bureaucratic mindsets that need substantive capacity and attitudinal improvements.

3.3.5. Overall PPP Performance Outcomes in the Philippines

The situation of the Philippines demonstrates an interesting case of PPPs. The government embraced PPP initiatives as the first country to implement PPP policy initiatives in Asia.[372] Ever since PPPs were introduced to the Philippines; some infrastructure related PPP projects have been successful while some were failing to achieve the intended objective.

The analysis of the Philippines PPP framework demonstrates that the Philippines is equipped with many of the critical success factors identified in section 2.9 of this dissertation.[373] The below given Table 6 demonstrates what critical success factors are present in the case of the Philippines, to provide a summarized view of the measures taken to create a resilient PPP framework in the country.

Table 6: Presence of Critical Success Factors in the Overall PPP framework of the Philippines

Critical Success Factors	Presence of the Factors in the PPP framework
Value for Money Assessment	O
Risk Allocation	O
Transparency	Δ
The legal framework	O
Committed Government Support	Δ
Presence of reliable Private partners	O
Support from the General Public/ Communities	O
Clear objectives and Output Specification	O
Competition	O
Assessment of Capacity to Deliver	Δ

Source: Created by the Author
Legend: O:Present, Δ: Present but not effective/functional, Blank: unable to locate or dysfunctional

[372] Schuster et al., "Scaling Up Infrastructure Investment in the Philippines: Role of Public-private Partnership and Issues," 7.
[373] See *supra* discussion in Section 2.9

However, the overall performance of PPPs in the country remains uncertain. As discussed in the previous sections, the country's political changes have influenced the PPP framework to a great extent. The environment for PPPs in public service delivery in the Philippines is influenced by significant policy shifts from the Aquino to the Duterte administration. The Aquino government concentrated on PPP based development as its primary infrastructure related policy, by establishing the PPP Center and enacting the BOT Laws together with funding institutions. However, after two decades of experimenting with PPPs, the Duterte government introduced Dutertenomics, which is a large-scale infrastructure development plan that principally depends on the national budget and Official Development Assistance to gain the necessary financial resources for infrastructure development, instead of PPPs.

The apparent shift from PPP prioritization in a developing country comprising of many factors considered critical for the PPPs success, make one question the PPPs performance outcomes. However, it is evident that the PPP framework is overly susceptible to the political climate changes in the country. PPPs require a more independent and resilient institutional setting to shield this potential policy instrument from administration changes.

3.4. Inductions from the Case Analysis

Overall, the analysis of the cases from these three lower-middle income countries demonstrates both positive and negative outcomes. Most importantly, the analysis reveals that PPPs are highly complex policy tools, which demand a resilient policy, legal and institutional framework if they are to avoid giving rise to adverse outcomes.

Out of the eight projects in Sri Lanka, only one project had no negative outcomes. Three out of the eight projects faced minor negative outcomes, yet they made vital infrastructure such as electricity accessible for the public. The remaining four projects were tainted with influence from political climate changes, and inefficiencies of the public partners. Political instability is one of the primary factors that was consistently hindering the effective functioning of measures taken to establish an enabling PPP framework in Sri Lanka. Corruptive party politics affected the smooth functioning of already launched projects as the administrators assuming power, terminated or postponed the projects to pursue their own political party agendas. Nevertheless, the study also revealed that during the two decades of time Sri Lanka utilized PPPs, perspective towards private sector involvement in the public services delivery and infrastructure development is changing positively. Yet, the PPP framework is highly fragile and lacks many critical success factors essential to achieve better project outcomes.

Bangladesh on the other hand , is equipped with various critical success factors within its PPP framework. However, the effectiveness of such factors is not well ensured to create the kind of a resilient framework that help negate adverse outcomes in PPP projects. The Philippines is the pioneer in Asia for adopting PPPs for over 20 years. Yet it still experiences distressed, cancelled, or terminated projects. Significantly, all three countries lack the capacity and skills to conduct quality feasibility assessments and identify potential issues beforehand.

More importantly, the common factors hindering the potential of PPPs in the examined lower-middle countries are found mostly in the public sector representing government of the respective countries. Governments as an entity entrusted with public trust, has a more crucial role and a responsibility to ensure the improvement of mechanisms that help cater for the demands of the people. Their failure to do so means that governance system has issues; hence, governance issues.

The United Nations Economic Commission for Europe (UNECE) PPP Alliance claims that if governments around the world are to climb up the ladder of efficient public service delivery, they must dedicate substantial effort to enhancing "governance."[374] The case studies analyzed in this chapter also confirm the perspectives of Hodge and Greve's (2005) on PPPs introducing an altered governance structure.[375] Nevertheless, unless an appropriate framework is in place, the PPP projects are exposed to pathologies that might not merely diminish their positive outcomes on infrastructure development, but similarly open the door to opportunistic, discretional, and corrupt exploitations, which can eventually jeopardize public funds, as well as the social security of a country.[376] The following section

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374 The United Nations Economic Commission for Europe, *Guidebook on promoting good governance in public-private partnerships*. Vol. 8. (United Nations Publications, 2008).

375 Graeme Hodge and Carsten Greve, "17. Public-private Partnerships: A Policy for all Seasons?" *The challenge of Public-private Partnerships: learning from international experience* (2005): 332.

376 The World Bank and Department for International Development of the United Kingdom, "Good Governance in Public-Private Partnerships*," A Resource Guide for Practitioners* 70846, (2009).

presents a summation of the common governance issues found in the examined lower-middle income developing countries.

- **Lack of Government Support and Commitment**

Conventionally the infrastructure development and provision of public service was one of the pivotal responsibilities of the government. The introduction of PPPs, which encompass market-oriented NPM reforms, required change of perspectives towards involving the private sector in public service provision. The above analysis demonstrates that even though PPPs were introduced about two decades ago, the perspectives of trust and reliance on profit motivated private entities providing public services is not yet fully accepted as a positive phenomenon in the examined countries. For example, in the case of Sri Lanka, the arbitral shutting down of the PPP unit and PSIDC by administrators to fast-track their political agendas showcased the lack of commitment to strengthening private participation in government activities. The authorities lack understanding and awareness of the PPP phenomenon and its significance and difference from other modes of public procurements. Even though over the past two decades, there seem to be slight changes in the perspective towards private sector participation. Yet, the private sectors' profit-oriented nature and fears of privatization are still some of the prevailing factors hindering the smooth functioning of PPPs in Sri Lanka, Bangladesh and the Philippines.

- **Lack of Institutional Capacity and the Know-how**

Overall, the examined cases demonstrated that the absence of required experience and skills in handling PPPs have often led to interruptions, inefficiencies, terminations, cancellations, and distress of infrastructure projects. Additionally, weak project development and feasibility assessment skills of the public sector in the project preparation phases resulted in project designs and structures becoming unfeasible to private investors. Furthermore, weak capacity within the public sector has reduced governments' capability to negotiate, as well as to communicate efficiently with private corporations. Such weak negotiation skills have prejudiced the effective risk allocation process in

PPPs as well. Risk allocation is one of the core purposes of implementing PPPs in order to transfer the execution of tasks that one party alone cannot accomplish. Enhancing the capacity of the human resources is essential to ensure the effective transfer of risks as well to enable the procedures are observed organically and efficiently.

- **Susceptibility to Political Instabilities**

Public administration in the examined countries is fragile and has failed to ensure rule of law, checks and balances, and accountability. Distortions in the administrative structure have regularly been witnessed throughout their history. For instance, changes in government regimes after elections resulting in factional strife have always given birth to narrow partisan interests, which have in turn made PPPs vulnerable. The ideologies and perspective of ruling parties were sometimes divided between market liberalization and pro-government and welfare state ideologies. Hence, when a political party partial to market liberalization comes into power, PPPs frameworks are meticulously improved. On the contrary, if the ruling political party encompasses a more conservative perspective towards PPPs, there is less support and commitment provided for successful project implementation. Therefore, PPP are vulnerable to ideologies of the ruling party in the government. There is a need to inculcate a mindset in the authorities that come into power to give importance and priority for delivering efficient infrastructure and services to the general public, despite their perspective differences.

- **Lack of Transparency in the Decision-making Process**

Ensuring transparency throughout the processes of project design, initiation, procurement, and all other procedures until the project completion is pivotal to prevent the practices of bribery and corruption. PPPs use the public money, whether it is paid at the initial phase or at later phases. Therefore, governments have a paramount responsibility to take measures such as publicizing the details of financial allocations. The examined three lower-middle income developing countries do not encapsulate such mechanisms to ensure transparency in their PPP frameworks. The reason for difficulties in making the information on PPP transactions public could be related to the involvement of the private companies' interests. Private companies do not in general reveal their techniques, unique skills, technology and operations to the public as it will adversely affect their businesses. The asymmetry of information between the public and the private sectors weaken the bargaining powers of the public sector to a considerable degree, because most developing economies are pressured by financial constraints, and without the private sector contribution, it is highly difficult for the public sector alone to cater for the demands of the public. In the midst of such obstacles, the likelihoods of ensuring transparency is relatively very low. Hence, scholars and opponents of PPPs frown upon this policy tool, claiming that PPPs are instruments clouding matters that affect the public at large, but remains a mystery throughout most parts of their implementation.

- **Difficulties in Ensuring Accountability**

The involvement of multi-stakeholders in PPPs has resulted in difficulties to hold the responsible party accountable when something goes wrong. The PPP frameworks in Sri Lanka, Bangladesh and the Philippines lack institutional bodies (i) to supervise the PPP planning and execution process; (ii) to review project performance; (iii) to make available the project related information open to the public expressly on matters connected to financing.[377] Private companies are often reluctant to disclose their transactions as disclosures will affect their business competition in the market. However, accountability and transparency are closely related and almost inter-dependent matters. The legal as well as institutional frameworks of the examined countries need reforms to mitigate the issues caused by difficulty to ensure accountability.

Also, PPPs require governmental bodies and departments to work in harmony because of the overlapping roles and responsibilities mandated by the respective legislations. However, the involvement of multiple entities bring complexity to the project, together with the difficulty to identify who precisely should be held accountable. Further, when various departments are not directly held

[377] Ashby H. B. Monk, and Raymond E. Levitt & Michael J. Garvin & Andrew J. South & George Carollo, "Public-private Partnerships for Infrastructure Delivery," Chapter 1 in: *Public-private Partnerships for Infrastructure Development*, (Edward Elgar Publishing, 2019): 19-34.

accountable, there is an uncertainty of each entity's responsibilities as well. Hence, the personnel with authority are likely to exercise discretion erroneously and arbitrarily, creating adverse effects on the project outcomes.

3.5. Chapter Summary

This chapter examined the practice of PPPs in three lower-middle income developing countries with GNI per capita between USD 1,006 and 3,955 as of 1st July 2017. The case studies from Sri Lanka, Bangladesh and the Philippines present an overview of each country in general, how PPPs are applied, how the existing policy, legal and institutional settings are established, and what factors are hindering the potential of PPPs.

Overall, the study revealed that PPPs are introduced to the examined developing countries through policy diffusion accompanied by financial assistance from international aid organizations. Therefore, the limited understanding of the ideologies underlying the concept of PPPs, have made it difficult for these countries to lend themselves readily, to western analytical perspectives inculcated in the origins of PPPs. Furthermore, the case analysis revealed the presence of a range of ailing governance issues, which include: lack of government commitment to enable and improve the capacities of PPP related institutions; lack of transparency in the decision-making process; difficulties in ensuring accountability; and susceptibility of the PPP frameworks to political instabilities and administration changes.

In general, PPP projects implemented in the selected three lower-middle income developing countries experienced both positive and negative outcomes. The projects which successfully achieved their expected goals had relatively ensured measures to mitigate the effects from the identified governance issues. Such projects provided the general public to access infrastructure and public services, which were not available before.

Therefore, if well managed under a resilient framework, PPPs have more potential to bring about positive outcomes. Nevertheless, it is important to note that there is no single approach or technique, which alone will produce successful PPP projects, but rather a broader spectrum of developing and improving the institutions, procedures, and processes for effective and efficient public service delivery. Ensuring that the PPP framework is robust and continuous monitoring are significant catalyst for a successful PPP project, and at the same time is a crucial responsibility of the public sector representing the government. Even though the private sector participation in government activities has significantly increased during the past few decades, the ultimate entity accountable for the delivery of public services to people remains with the government. Therefore, combatting the identified governance issues associated with the PPP frameworks is a crucial necessity, to prevent a futher decline of a potential instrument such as PPPs within the countries of lower-middle income economies. Overall, with the case study findings, this chapter attempted to lay a foundation for a discussion on possible remedial measures in the next chapter to strengthen the PPP frameworks of these countries.

Chapter IV: Evaluation of Possible Remedial Measures

This chapter conducts an evaluation of suitable remedies to combat the governance issues ailing the PPP frameworks of the lower-middle income developing countries analyzed in the previous chapter. The cases examined highlighted the need to address governance issues when establishing a resilient PPP framework if PPPs are to effectively and efficiently contribute for infrastructure development and cater to the increasing demands for public services. Drawing from the UNECE Committee on PPPs, this chapter first explores what governance in PPP is, and how important good governance is to create a well-performing PPP framework. The objective of examining the notion of good governance is not to develop a new discussion of what governance is, and instead, to understand how governance issues can be remedied with compatible measures.

The stakeholders involved in PPPs, particularly in those of developing countries, lack the understanding of what PPPs encapsulate as a policy tool and are often unable to address some of the PPPs' conceptually underlying inherent tensions. These tensions are also the very same peculiarities unique to the potentials in PPPs as policy instruments to help deliver public services better. Therefore, to deepen the understanding of the inherent tensions, the second section of this chapter explores three conceptual tensions inherent to PPPs: the tension as hybrids of public and private dimensions, the tension between stability and flexibility resulted through the long-term contractual relationship, and the tensions created by the involvement of multiple stakeholders. Further, this chapter examines how the exercise of discretion and ensuring of accountability by the public authorities is challenged when implementing PPP projects.

The latter part of this chapter focuses on remedial measures recommended to be incorporated into the PPP frameworks of the targeted lower-middle income developing countries if they are to continue utilizing PPPs by mitigating the negative outcomes. First, this dissertation proposes the positioning of the relevant stakeholders within a clear PPP regulatory space. Then, it proposes to adopt an adaptive management system to run in parallel to the lifecycle of a PPP project as a monitoring mechanism mainly to address the uncertainty issue of long-term PPP contracts. Thirdly, the chapter presents the involvement of the public throughout certain phases of the project to provide opportunity for inclusiveness to the general public and relevant communities. Finally, this study proposes the establishment of a set of ethics of care within the PPP environment through reformed capacity building programs.

This dissertation emphasizes that the recommendations made should be implemented alongside a credible institutional and legal framework, without which the lacunas for project failures indeed increase. In other words, this chapter proposes how PPP institutional and legal frameworks should be strengthened with the recommended remedial measures to combat the unique governance issues identified in the lower-middle income developing countries.

4.1. Framing Good Governance in PPPs

Governance is an extensively used but rarely defined term.[378] From a public administration viewpoint, governance symbolizes the shift from regulation by formal government bodies to governing via non-governmental actors and informal networks.[379] Such perspective encourages improved inter-dependence among actors from multiple sectors, and the blending of their resources.[380] Governance should be differentiated from government because governance is the practices of government.[381] According to Christensen (2012) governance can be attributed to NPM reforms, evolved with the aim of restructuring public sector organizations.[382] Therefore, governance help encourage management efficiency to ensure the delivery of public services to people, when it is inculcated into PPP frameworks.

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[378] Roderick Arthur William Rhodes, "The New Governance: Governing Without Government," *Political studies* 44, no. 4 (1996): 652-667. doi:10.1111/j.1467-9248.1996.tb01747.x

[379] Roderick Arthur William Rhodes, "Governance and Public Administration," Debating governance 54 (2000): 90.

[380] Ibid.

[381] David Johannes Fourie, "Good Governance in Public-private Partnerships Approaches and Applications: a South African perspective," *African Journal of Public Affairs Volume* 8, No1, (2005). Accessed June 12, 2019 https://repository.up.ac.za/bitstream/handle/2263/52474/Fourie_Good_2015.pdf?sequence=1

[382] Tom Christensen, "Post-NPM and Changing Public Governance," *Meiji Journal of Political Science and Economics*, no. 1 (2012): 1-11.

Hodge and Greve (2007) states that PPPs present an "altered governance."[383] first because PPPs require methods for selecting the procurement choices and infrastructure service delivery options. Secondly because PPPs demand a participatory relationship in public administration, affected shareholders and private entities. Third, the institutionalization of the partners and shareholders for managing the long-term PPP contracts is also a crucial factor for PPP projects. Finally, PPPs introduces an altered governance because, generally PPPs involve long-term infrastructure service contracts, which creates and requires its own regulations to be enforced over the stipulated long period of time.[384]

As demonstrated in the case studies in chapter III, PPPs display a strict institutional as well as an organizational challenge for the public sector. PPPs are convoluted; they need diverse skill sets and new enabling institutions, which lead to modifications of the public sector's role and status. If PPPs are to operate effectively without giving rise to governance issues, they require measures that function effectively with transparent practices, enforced by accountable private and public sector stakeholders, in other words, good governance.

Good governance as a concept gained attention in the 1980s when economic crises began to confront Third World countries.[385] Since then, many organizations such as the UNDP,[386] the European Commission, and Regional Commissions of the UN have promulgated guidelines and recommendations on the introduction of good governance as a measure to regulate the PPPs. For instance, the guidelines of the UNECE,[387] are characterized by ethical governance principles such as promoting open, collaborative decision-making, accountability, citizen inclusion, participation,

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[383] Graeme Hodge and Carsten Greve, "Public-private Partnerships: A Policy for All Seasons?" *The Challenge of Public-private Partnerships* (2007). doi:10.4337/9781845428082.00022.

[384] Ibid.

[385] Fourie, "Good governance in Public-private Partnerships Approaches and Applications: a South African Perspective," (2005).

[386] The United Nations Development Program, "Governance Principles, Institutional Capacity and Quality," *Towards Human Resilience: Sustaining MDG Progress in an Age of Economic Uncertainty*, (2011), Accessed June 20, 2019, Available at https://www.undp.org/content/dam/undp/library/Poverty%20Reduction/Inclusive%20development/Towards%20Human%20Resilience/Towards_SustainingMDGProgress_Ch8.pdf.

[387] The United Nations Economic Commission for Europe, *Guidebook on Promoting Good Governance in Public-private Partnerships,* Vol. 8, (United Nations Publications, 2008). Accessed June 18, 2019. Available at https://www.unece.org/fileadmin/DAM/ceci/publications/ppp.pdf

receptive, and the rule of law. The UNECE elaborates that lack of governance makes PPPs more expensive for the governments and less attractive for potential private sector investors. Lack of governance reduces the fiscal, social and economic benefits that can be drawn through PPPs and increases political, contractual and financial risks. Further, the UNECE propagates that improving governance can help amplify the benefits and curtail the risks of PPPs. In order to achieve such benefits, governments will have to focus on supervision and regulation, rather than on direct ownership and controls. The guidelines of the UNECE are characterized with good governance principles such as promoting open, consensual decision-making, citizen engagement, participation, transparency, responsiveness, accountability, and the rule of law.[388]

The three countries analyzed in the previous chapter, Sri Lanka, Bangladesh, and the Philippines, do not adequately encapsulate these principles related to governance in their PPP frameworks. This dissertation argues that the rise of negative outcomes in PPP project outcomes is related to the lack of sound governance principles in the case of lower and middle-income developing countries.

Countries like the UK, have built up adequate measures over almost three decades of experience with neo-liberal ideologies coupled with well-structured standard related to property rights and legal compliance.[389] Asian countries' socio-political aspects differ from those in Europe and the US, and therefore PPP governance should be tailored to fit into their contextual situation. Otherwise, as evidenced through the case studies in chapter III, PPPs are open to challenges that may not only lessen their positive impacts but also create an avenue for discretional, unaccountable, incompetent, unethical behaviors. Such adversities ultimately risk the public funds and affect the credibility of PPPs as potential instruments for infrastructure development and public service delivery.

This dissertation portrays governance as the directives that describe who should enforce, implement, and be held responsible for the execution of PPPs, for instance by holding discussions

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[388] See also, The United Nations Economic Commission for Europe (UNECE), "Governance in Public Private Partnerships for Infrastructure Development (draft, 2004)," Available athttps://www.unece.org/fileadmin/DAM/ie/ppp/documents/botguidegov.pdf.

[389] Stephen Osborne, "The East Asia region: Do Public-private Partnerships Make Sense? RICHARD COMMON," In *Public-private Partnerships: Theory and Practice in International Perspective*, (Routledge, 2002): 15-23.

with concerned parties and ensuring transparency in the decision-making process.[390] Those directives or rules can be defined in advance by national or local government regulatory bodies, an international aid organization, or some other legally authorized actor such as a PPP Unit. The directives may also transpire more informally as regular practices of PPP stakeholders become institutionalized. As Skelcher et al (2005) states, the outcome is a situation where publicly legitimate measures sit alongside those that are determined privately.[391] More importantly, the design of appropriate governance measures gives directives in which the public interest can be safeguarded despite the delegation of authority to business approaches. The design must lower possibilities for self-interested behavior of private actors at the cost of the government.[392] On the other hand, a well-designed governance structure should act as a restriction to the government or public partner, helping private stakeholders to realize the unprecedented capacity that PPPs are meant to promote by merit of not being part of the complicated bureaucracy. In a nutshell, PPPs advocate avenues for self-governance of public activities by private stakeholders at an arm's length from the state.[393]

In this dissertation, as mentioned under section 2.5,[394] PPPs are considered as policy instruments, in other words, governance tools, substantiated on the mutual commitment which goes further than what is implied in every standard contract between private and public entities.[395] Therefore, the issues identified in chapter III case analysis, namely;[396] difficulties in ensuring accountability, absence of transparency in the decision-making procedures, influence from political instabilities, lack of institutional capacity and the know-how, lack of government support and commitment can all be interpreted as governance issues. This dissertation proposes that countries implementing PPPs must take governance issues into account and take serious measures to tackle if they are to avoid negative outcomes.

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[390] Chris Skelcher, Navdeep Mathur, and Mike Smith, "The Public Governance of Collaborative Spaces: Discourse, Design and Democracy," *Public administration* 83, no. 3 (2005): 573-596.
[391] Ibid.
[392] Ibid.
[393] Ibid. See also, Keith Baker, Jonathan B. Justice, and Chris Skelcher, "The Institutional Design of Self-governance: Insights from Public-private Partnerships," *The Politics of Self-governance* (2009): 77.
[394] See *supra* discussion in Section 2.5.
[395] Tony Bovaird, "Public-private partnerships: from Contested Concepts to Prevalent Practice," *International Review of Administrative Sciences* 70, no. 2 (2004): 199-215.
[396] See *supra* discussions in Section 3.4

The argument in favor of adopting good governance principles does not mean that lower-middle income countries must receive assistance from the International Organizations. More importantly, at least the three countries analyzed in this dissertation have the foundational institutional and legal settings established in the PPP frameworks. What is required is the polishing and reforming the frameworks through efficient allocation of the available resources in a manner that helps advance the capacity and mindsets of personnel in charge of handling PPPs.

However, before discussing the specific ways in which the identified governance issues can be tackled, it is vital to scrutinize the PPPs inherent and inalienable status and nature as a concept. As evidenced through the case studies, the three countries lack a clear understanding of what the inherent characteristics of PPPs are, what possible tensions they should expect, and what precautions they should take to mitigate negative outcomes. Therefore, the following section elaborates what tensions PPPs may bring to the table, to emphasize that lower-middle income developing countries need to revisit and deepen their understanding of the inherent characteristics of PPPs.

4.2. Revisiting the Inherent Tensions of PPPs

This section emphasizes the importance of understanding the conceptually underlying inherent tensions in PPPs as a precondition to strengthening good governance, without which the PPPs are prone to trigger negative outcomes. The following section examines three tensions unique to PPPs: tension as private and public hybrid dimensions, tension between flexibility and stability deriving from the long-term relationships, and tension of polycentrism resulting through the involvement of multiple key stakeholders voicing their rights. These tensions were selected and identified by exploring the literature[397] on the foundations and origins of PPPs. The discussion below attempts to demonstrate how the main characteristics of PPPs with potential for positive outcomes are also the creators of the critical problems in the practice of PPPs. After the discussion of tensions inherent to PPPs, this chapter

[397] See for example, Darrin Grimsey and Mervyn Lewis, *Public-private partnerships: The Worldwide Revolution in Infrastructure Provision and Project Finance*, (Edward Elgar Publishing, 2007)., Graeme A., Hodge and Carsten Greve, "Public-private Partnerships: An International Performance Review," *Public administration review* 67, no. 3 (2007): 545-558., Erik-Hans Klijn, "Governance and Governance Networks in Europe: An Assessment of Ten Years of Research on the Theme," *Public Management Review* 10, no. 4 (2008): 505-525.

examines how discretion exercised by public actors and accountability are challenged as a result of attempting to combat the inherent tensions in PPPs.

4.2.1. Tensions as Hybrids of Public and Private Dimensions

The first defining feature of PPPs is their hybrid nature of bringing together private and public actors. As mentioned elsewhere in this dissertation, public refers to the government authority such as the Ministry of Finance, whereas private refers to private sector companies or an organization.[398] Following this interpretation, Osborne, D., & Gaebler, T. (1995), highlight that public organizations are related stereotypically with public equity, stability, solidarity, interest, democratic processes, and public law.[399] On the other hand, private organizations are stereotypically linked with a financial interest, business risks, competence, financial interest, competition, entrepreneurship, and incomes as well as corporate goals realization.[400]

The proposition is that both the private and public spheres are so diverse that a clear line can separate both spheres. Frederickson (2016), for example, proposes a sharp division between the two spheres, emphasizing that the two sectors' have different management styles, ethics and values. Frederickson further argues that there is a likelihood of corrupt and unethical behaviors if public organizations are governed in the same manner as private entities. [401] The reasons of Frederickson are backed by the nature of instinctive of each partner trying to prioritize, protect and pursue their own interests.[402] For example, the governments presume that the private sector wants to partner to take advantage of the powers the administration holds. On the other hand, the private sector presumes that the government's bureaucratic procedures are burdensome and often a waste of time. The conflicts of

[398] Zeger Van der Wal, and Leo Huberts, "Value solidity in government and business: Results of an Empirical Study on Public and Private Sector Organizational Values," *The American Review of Public Administration* 38, no. 3 (2008): 264-285.
[399] Janet A. Weiss, David Osborne, Ted Gaebler, and National Performance Review, "Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector," *The Academy of Management Review* 20, no. 1 (1995): 229. doi:10.2307/258896.
[400] Ibid.
[401] H. George Frederickson, "Public Ethics and the New Managerialism: An Axiomatic Theory," In *Ethics in Public Management*, (Routledge, 2016): 173-191.
[402] Ibid.

perspectives are clearly exhibited. However, as the case studies in chapter III suggested, these interests may overlap at times, but not always. Therefore, it is possible argue that PPPs still have the potential to contribute for the delivery of public services if managed well.

Furthermore, empirical research demonstrates that whereas both private and public institutions entail different values to a certain degree, some values are shared. Huberts and Van der Wal (2006) for example, maintains that it appears arbitrary to attribute precise values to a particular sector as well as a particular system of government on theoretical grounds only.[403] Based on this aspect, Dicke and De Bruijn (2006) correspondingly stipulate that public values are not merely acted upon or owned by public administrations or public officials. Private actions can protect public values as well.[404] For example, the corporate social responsibility notion of contributing to the general public's welfare is a widely applied practice in private sector organizations.

Also, as observed in the case studies in chapter III, one of the reasons why PPP initiatives are complicated is that most establishments prefer to execute tasks the way they are accustomed to apart from the willingness to work with organizations that operate like them. In PPPs, several organizations from various sectors such as banking, construction, insurance and legal, come together to participate in a PPP project. Thus, it becomes difficult to adopt different dynamics brought in by organizations from different sectors. For example, banks prefer to work with institutions that are related to finance, whereas construction firms would also prefer to work with other construction organizations rather than trying to adapt to how banks carry out their business functions. Government institutions also prefer to work with organizations that are accustomed to the government way of doing business. Meanwhile, non-profit organizations can usually get along well with other non-profit organizations rather than business-oriented institutions. Nonetheless, governments and private firms have always tried to work together for a common goal through a variety of arrangements.

From the perspective of PPPs, a shared mission is created through hybrids that allows partners from both the private and public to work on different responsibilities.[405] The scale of use is also

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[403] Van der Wal and Huberts, "Value Solidity in Government and Business: Results of an Empirical Study on Public and Private Sector Organizational Values," 266.
[404] Hans De Bruijn, and Willemijn Dicke, "Strategies for Safeguarding Public Values in Liberalized Utility Sectors," *Public Administration* 84, no. 3 (2006): 717-735.
[405] Ibid.

enabled by the hybrid design, whereby the establishment uses a web-based structure involving every partner to accomplish shared goals. However, running a PPP based project is more challenging than running a mere business organization.

Aligning the public and private partner's interest is a complex task, resulting in conflicts of interests. As mentioned in Chapter III, domestic liquidity has led developing countries, for instance, Sri Lanka and Bangladesh, to depend on international aid organizations. More specifically, most low to lower-middle income countries are unable to finance PPP projects as local commercial banks have no enough liquid flow to withstand long-term loans. In regards to the excessive returns that private investors get at the expense of the taxpayers, administrations are empowered to fashion policy objectives to secure the private sector's profit interests. Private investors argue that they are entitled to profits because of the initial capital and expertise they add to PPP projects. Private investors also claim that there are huge risks linked to such projects, mainly due to political instabilities, and that investing in infrastructure projects does not always guarantee satisfactory profits. In addition, accusations are on the rise that certain private partners are using PPP initiatives as new agents of a second colonialism, such as in the allegations against Chinese investors in Sri Lanka.

Therefore, the hybrid nature of PPPs needs to be taken seriously. Hybridity of the public and private dimensions can fragment the decision-making process and bring complexity to the relationships involved. Public policy objectives should be developed in such as a way that they safeguard the interests of the public as well as enable private parties to generate adequate projected profit returns. However, evidence from case studies does not support the view that PPPs can produce expected public services unless the frameworks governing PPPs are structured with the foundational understanding and the commitment to embrace the differences in the two dimensions. The governments intending to utilize PPPs need to stress the fact that the organization design of PPPs is the first source of tension when the public and the private parties join to form a partnership.[406] The following section examines the tension of PPPs related to the difficulties in balancing flexibility and stability when tackling issues that occur during the long-term PPP contractual period.

[406] Yseult Marique, "PPPs in Regulation," *Public-private Partnerships and the Law: Regulation, Institutions and Community*, (Edward Elgar Publishing, 2014): 14-23.

4.2.2. Tensions Between Balancing Flexibility and Stability

PPPs are usually signed for a period over ten years. Therefore, changes in various aspects are inevitable. Government regime changes, local need changes, and new statutory movements on human rights are only a few examples of these changes. Scholars such as Koppinen and Rosqvist (2010), grouped uncertain changes into four comprehensive groups: (i) market-oriented changes; (ii) societal changes; (iii) changes in networks; and (iv) technological changes.[407] The assessing, planning, and implementing to adjust to these changes, and their legal consequences are costly and time-consuming. As demonstrated in the case of the prison construction in the Philippines,[408] the initial facts assessed changed during the procurement period of the project. The rise in the number of prison members could not be forecasted with the available resources at the time, leading to abandoning the project even after it incurred the costs of arranging bidders to invest in the project.

Contract law offers more or less appropriate solutions to address this issue, depending on the seriousness of the changing circumstances. Essentially, these changes are supposed to be endowed at the time of the contractual agreement. On the other hand, relational contract theory highlights that parties tend to maintain their relationship by adapting to agreed commitments to changing circumstances.[409] In other words, a balance is struck for the parties to get what they hoped for by adapting to supervening events. However, public authorities are not entirely free to deviate from the contractual commitments. They are subject to control over the use of public money in PPPs, limiting how contractual rights may be waived to preserve the partnership.

PPPs challenge contract laws, particularly when the changing circumstances are related to the public interest. Public authorities have to serve the public good, which can change over a period. For instance, the construction of a new railway transportation system has to take the mobility of disabled people's rights into account. Making the contractor bear the burden of changes in a long-term

[407] Tiina Koppinen and Tony Rosqvist, "Dynamic Project Portfolio Selection in Infrastructure Sector," In *Definitions, Concepts and Scope of Engineering Asset Management*, (Springer, London, 2010): 311-326.
[408] See *supra* discussions in Section 3.3.5.3.
[409] Oliver Hart, "Incomplete Contracts and Public Ownership: Remarks, and an Application to Public-private Partnerships," *The Economic Journal* 113, no. 486 (2003): C69-C76.

partnership would affect the price paid for the service provided. Therefore, private contract law alone does not solve the issues arising from contextual changes.

In projects related to PPP, there are high chances of even small issues magnifying. According to Hart (2003), legitimately enforceable contracts signed by the relevant parties are regarded as the agreements that protect the interests of the private and the public entities in the projects.[410] However, such contractual agreements strain the flexibility of the project, subsequently limiting the chances of adaptation to changing situations. More importantly, since PPPs are innovative, there are high chances of uncertainties, and everything is unfamiliar. In regards to the uncertainties, rigid and legally bound contracts are not suitable since they affect the outcome of projects apart from severely limiting deliverability. Unfortunately, the current trend dictates having rigid and complete contracts. Viegas (2010) argues that it is critical that the administration isolates disputes that may have resulted in contractual terms to ensure that they do not happen again.[411] Economists argue that it is an impossible endeavor to have complete contracts.[412] Economists apprehend the significance of how incomplete contracts become as uncertain events will continue to appear during a long-term contractual . Even when certain events are predictable, economists do not advocate for complete contracts. Project partners must understand that is illogical to have contracts that are complete.

De Neufville and Stefan (2011) conceded that PPP projects are likely to render positive outcomes when contract flexibility is applied to a PPP project at the contract design phase.[413] However, overall, contract flexibility may make PPP outcomes vulnerable. A study by Barton et al., (2014) insisted that flexible contracts help in adjusting with uncertainty in PPPs.[414] Contract flexibility is examined in many fields like finance, contract law, business, social, and systems design. All of these areas have different perspectives. In general, a contract is not resilient enough to account for the

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[410] Ibid.

[411] José M. Viegas, "Questioning the Need for Full Amortization in PPP Contracts for Transport Infrastructure," *Research in Transportation Economics* 30, no. 1 (2010): 139-144.

[412] Efraim Sadka, "Public-private partnerships—a Public Economics Perspective," *CESifo Economic Studies* 53, no. 3 (2007): 466-490.

[413] Richard De Neufville and Stefan Scholtes, "Flexibility in Engineering Design," (2011), doi:10.7551/mitpress/8292.001.0001.

[414] Thomas D. Barton, Helena Haapio, and Tatiana Borisova, "Flexibility and Stability in Contracts," *Flexibility in Contracting* (2014): 8.

changes brought in by the long-term nature of projects. In other words, mechanisms for dealing with every possibility of future occurrences are practically not containable in a contractual document. In the case of personal transactions, however, sometimes there are individual who transact business deals without contracts, mainly due to the flexibility it provides. However, in mega projects such as PPPs, contracts hold considerable weight because the dynamics of such projects cannot be handled only through a good personal relationship. Government officials may be friends with private investors, but their relationship cannot be used to guarantee the effectiveness of a project. On the other hand, such relationships may be used to foster corruption that may stifle the outcomes of a PPP project. Therefore, striking a balance to adjust to inevitable and uncertain changes during a long-term PPP project is extremely sensitive.

Studies have pointed out that there is a need to distinguish the contract flexibility from business and legal perspectives to bring clarity to the contract flexibility definition. For example, Barton et al. (2018), state that issues related to contract flexibility can be minimized through closer collaboration between the drafters and implementers of the contract.[415] Therefore, it is imperative that regulators give sufficient weight to the contract design phase.

4.2.3. Tensions of Multiple Conflicting Interests

PPPs often entail nationally significant sensitive projects, such as hospitals, electricity projects, water supply projects, and transportation. The decision-making process regarding how best to allocate and manage these resources between competing needs is a vigorous challenge. The long-term nature of PPPs involves a wide range of individuals to voice their interests and expectations about the infrastructure provided. Highly differentiated categories of users and individuals are brought into competition, and their needs and interests are challenging to balance. This dissertation identifies three categories of individuals as the third parties relevant in PPP projects: taxpayers, users, and wronged or aggrieved parties. Taxpayers seek value for their money from the services delivered. The users expect the services they pay for to satisfy precise needs. Aggrieved parties demonstrate their

[415] Ibid.

entitlements and expectations in contrast to what was delivered. Given the series of decisions involved in PPPs, changes that take place throughout a PPP project cycle may have many repercussions on these parties and need an ongoing redefinition of the project needs to avoid tensions between these key stakeholders.

In some circumstances, users and tax-payers are unable to pay for the infrstructure and public service utilities due to poverty. The Commonwealth Secretariate confirms that people in low to lower-middle income countries cannot afford public services provided through PPP consortiums, because the prices of such services reflect the high costs of construction and maintenance. [416] Also, some users, tax-payers or aggrieved parties are unwilling to pay for such services, because they are accustomed to long-existed welfare policies, which provided essential services like health for free. For example, in South Africa, the culture of non-payment or essential public services is the accepted norm in many parts of the country.[417] When a province in Johannesburg required paying e-tolls if people were to use 187km of the highway, people conceived it as a politically corrupted measure implemented by politicians to marginalize the poor.[418] People continue to use the highways with no payments, and they expect the ruling administration to lose in the upcoming elections, because they are acting against the accepted culture of non-payment. However, governments are under the obligation to pay the private partner for the costs incurred in developing the project as stipulated in the contract. In such cases, governments will have to look for substitute sources of finance, such as subsidies to fulfill its contractual obligations.

According to the UN Special Representative on Business, there are substantial costs related to shareholder challenges and resistance to companies' or public sector operations.[419] Stakeholders encounter might lead to notable project delays, higher costs funding, and even project cancellations. Further, this challenge is exacerbated under PPPs because the involvements of the public sector as

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[416] H. Yong, Public-private Partnerships Policy and Practice: A Reference Guide, Commonwealth Secretariat, London, (ed.)(2010), Accessed June 14, 2019, https://doi.org/10.14217/9781848590694-en.
[417] Lameez Omarjee, "Non-payment of E-tolls Could Affect Service Delivery ? Treasury Official," Budget 2019, November 4, 2018, Accessed June 21, 2019. https://mybroadband.co.za/forum/threads/non-payment-of-e-tolls-could-affect-service-delivery-%E2%80%93-treasury-official.986507/
[418] Ibid.
[419] John H. Knox, "The Ruggie Rules: Applying Human Rights Law to Corporations," *The UN Guiding Principles on Business and Human Rights* (Radu Mares ed., 2012) (2011).

partners alter the subtleties of public accountability in government's decision-making and project outcomes.[420] Sometimes, the mere fact that private corporations are taking over government activities might produce public hostility.[421] However, sometimes taking public resistance into account may result in positive outcomes. For instance, in the Hambantota port case of Sri Lanka,[422] the public was aware that the port was built in the selected area only because Hambantota was the hometown of the then president. Experts were aware that the project will not produce the expected profits unless the port is built with higher technology to accommodate the large international ship harboring.

Theoretically, good governance does not only advocate consultation and involvement of the multiple stakeholders under the conventional stakeholder theory.[423] Instead, good governance as a concept supports the view that the requirement to be consulted is a fundamental right of the citizens as owners and ultimate users of the project. PPPs comprise a partnership by their nature, therefore, the governments are conferred with additional responsibility on to guarantee active participation of multiple stakeholders concerned and keeping them well-informed.

As discussed under the previous section on contract flexibility,[424] conventional legal contract is not always able to account to meet the interests of all the parties in full. As Brown and Van Slyke (2009), elaborate, PPPs comprise partial specifications of private and public responsibilities, which can vary with time, and that PPPs are relational because of the terms and activities of dispensing the agreement extend beyond the written contract.[425] Thus, PPPs are challenged to seek ways to coordinate their interests, as well as the possible changes they may undergo alongside the interests the PPP partners may pursue. Governments around the world are using legal and non-legal techniques to tackle this question. The following section examines how discretion is exercised when faced with the tensions inherent to PPPs.

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[420] Ibid.
[421] Terje I. Vaaland, "Improving Project Collaboration: Start With the Conflicts," *International Journal of Project Management* 22, no. 6 (2004): 447-454.
[422] See supra discussions in Section 3.3.5.3
[423] George Nwangwu, "Stakeholder Opposition Risk in Public-Private Partnerships," *International Journal of Economics and Financial Research* 5, no. 2 (2019): 36-42.
[424] See supra discussion in Section 4.2.3
[425] T. L., M. Potoski Brown, and D. M. Van Slyke, "Contracting for Complex Products," *Journal of Public Administration Research and Theory* 20, no. Supplement 1 (2009), i41-i58. doi:10.1093/jopart/mup034.

4.2.4. The Arbitrary Exercise of Discretion

Public authorities or regulators in power are required to exercise discretion throughout the developing, maintaining, and terminating processes of PPPs. Discretion plays a significant role particularly, when they attempt to mitigate the tensions related to public and private dimensions, flexibility vs. stability of the contractual relationship and the balancing of conflicting rights of the multiple stakeholders. In other words, discretion is used to help implement and proceed with the projects at hand by adjusting and attending to issues which are not addressed explicitly in contractual terms.

This research defines discretion as "the freedom to decide what must be done in a particular situation."[426] Most importantly, PPPs are embedded in a sphere of public discretion as they are developed through a sequence of choices from a general policy level to their day-to-day implementation. For example, the Finance Ministry of a particular country decides at the policy level that PPPs should be considered as a part of the economic planning strategy underlying the establishment of modern infrastructure in the country. It then depends on the Department of Health to decide that 100 new hospitals will be in operation thanks to PPPs by 2025, or on the Department of Education to renovate schools through PPPs. In turn, the local governments or councils also might decide to modernize its housing estates or its schools through PPPs to achieve the targets of the finance ministry.

These public authorities involved need to choose between the different procurement processes (open, limited, or competitive discourse measures), and select the one which will best allow them to realize the expected objectives. Public authorities then need to award the contract to a private contractor/company, choosing, for instance, between Company A and Company B. Finally, by exercising the discretion vested in them the public authorities have to always decide, how and when to best handle changing circumstances, failing private partners, monitoring compliance and performance, prospects of the termination. However, they are not only contextualized according to the

[426] Jodi R. Sandfort, "Moving Beyond Discretion and Outcomes: Examining Public Management from the Front Lines of the Welfare System," *Journal of Public Administration Research and Theory* 10, no. 4 (2000): 729-756.

specific phase of the PPP process but also constantly have to balance various constraints and interests. These choices involve varying scopes of discretion. Choosing a contracting partner and setting other candidates aside has an impact on the long-term relationship to come. At certain times it would even require forcing the contracting party to behave according to the agreed terms to be up to date with expected schedules, budgets. The Figure 3 below attempts to illustrate the role of discretion in attempting to balance the tensions inherent in PPPs.

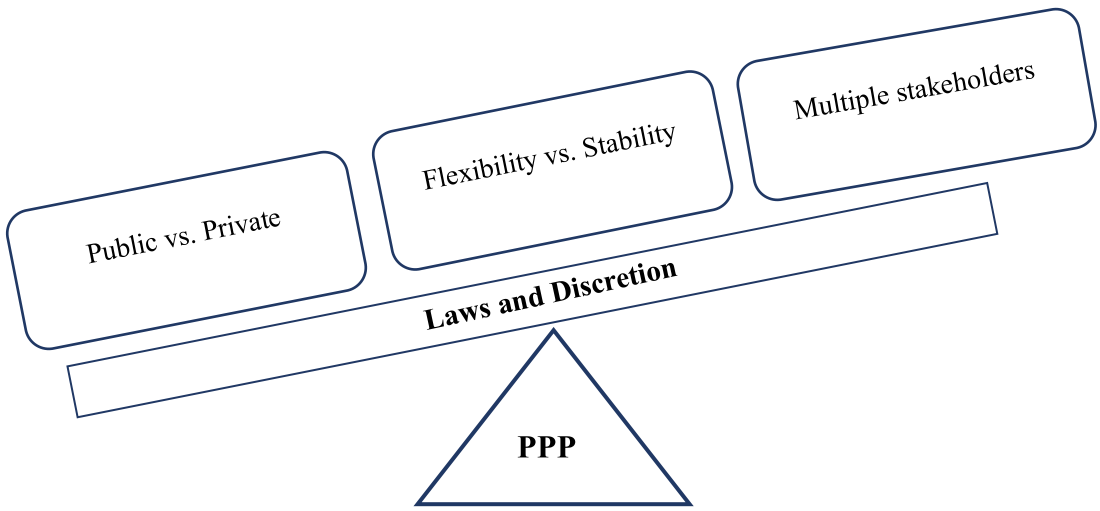

Figure 3: Illustration of Discretion and Laws Attempting to Balance the Pendulum with Inherent Tensions of PPPs

Source: Created by the Author

Discretion is also seen as a danger, as the antithesis of law[427] because, discretion in PPP collaborations can lead to tensions, especially when corruption is rampant, and parties do not adhere to ethics throughout the procurement practice or the execution of the project. Both the government and private agencies can be affected when a few individuals in a partnership are corrupt. For example, in the event where a private agency gets awarded with a contract through corruption, other private investors lose trust in government deals after realizing that the procurement process is not fair, which

[427] Tony Prosser, "Towards a Critical Public Law," *Journal of Law and Society* 9, no. 1 (1982): 1-20, doi:10.2307/1410343.

hampers future collaborations with the private entities. Sometimes, there are also private companies that bribe policy-makers to be selected as the executing private candidate for the PPP project. These private agencies do not want to follow the due process that they consider to be cumbersome, or they doubt their competence in the face of competition from other bidders.

Furthermore, sometimes government officials with ulterior motives do not hesitate to take bribes offered by private parties because rule of law is not assured to take actions against their behavior. When projects fail to materialize expected goals due to the incompetence of the private corporation, the government parties unaware of the corruptive practices or those who overlook such activities start blaming the PPP arrangement altogether and do not necessarily question the parties accountable. Questioning and interrogating are important aspects to hold responsible parties accountable, when something goes wrong. But in the underdeveloped world, laws and regulations are not comprehensive enough to enforce such mechanisms, often it is up to the authorities to decide investigations or not. Such decisions again vest discretion upon the public authorities, bringing the problems into a cycle. However, the reasons for non-action against the arbitrary exercise of discretion leading to corruptive practices could be results of many causes. One of the leading causes is that PPP arrangements require multiple tools to strengthen its regulatory framework. Developing countries lacking financial resources and know-how have often overlooked the necessity of strengthening accountability as an essential tool, hence giving rise to corruptive practices.

Overall, in PPP contracts the public authorities are required to act in the interest of the general public and although theoretically answerable, have discretion over aspects such as budget and standards of the services to be delivered. Levy et al (1994) have contended that establishing mechanisms that restrict the extent of regulatory discretion is quite challenging.[428] Stern and Cubbin (2005) supports the viewpoint that a given level of discretion is inevitable and even desirable.[429] Therefore, the fundamental challenge for governments around the world is how to develop governance

[428] Brian Levy, and Pablo T. Spiller, "The Institutional Foundations of Regulatory Commitment: A Comparative Analysis of Telecommunications Regulation," *The Journal of Law, Economics, and Organization* 10, no. 2 (1994): 201-246.

[429] Jon Stern and John Cubbin, "Regulatory Effectiveness : The Impact of Regulation and Regulatory Governance Arrangements on Electricity Industry Outcomes," *Policy Research Working Paper*s (March 2005). doi:10.1596/1813-9450-3536.

arrangements and measures that provide approaches to avert abuse of discretion.[430] The next section defines what accountability in PPPs is and discusses how accountability is often challenged in PPPs.

4.2.5. The Contested Accountability

Accountability has extensively been described as the foundation of effective public management.[431] Dewitt et al, (1994), emphasizes that "a government is just as good as its ability to hold public actors accountable." [432] Light (1993) states that accountability has been narrowly described over a long time as "restricting governmental discretion via conforming with strict rules and regulations." [433] Such definition needs adjustments as PPPs cannot be regulated or governed using the same tools used to regulate traditional government activities. As mentioned earlier, PPPs bring private partners focused on retrieving their investments by generating profits, while public partners are expected to work for the general public. In an environment of utilizing partnerships for public service management and delivery, the gears of government required to uphold accountability are not similar to those required for traditional government undertakings. PPPs alter the subtleties of communal accountability by linking private associates in government policymaking and public service delivery.[434]

Additionally, PPPs have a disparity of roles between allies, wherein public corporations frequently carry more significant accountability as the representatives of the general public.[435] The elected representatives such as the President, the members of the Parliament are vested with the

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430 Colin Scott, "Accountability in the Regulatory State," *Administrative Law*, 2018, 397-419. doi:10.4324/9781315183770-17.

431 DeWitt John, Donald F. Kettl, Barbara Dyer, and W. Robert Lovan, "What will New Governance Mean for the Federal Government?" *Public Administration Review* (1994): 170-175. doi:10.2307/976526.

432 Ibid.

433 Morris S. Ogul, "Monitoring Government, Inspectors General and the Search for Accountability: Paul C. Light," *The Journal of Politics* 56, no. 3 (1994): 828–830. doi:10.2307/2132199.

434 John Forrer, James Edwin Kee, Kathryn E. Newcomer, and Eric Boyer, "Public-private Partnerships and the Public Accountability Question," Public Administration Review 70, no. 3 (2010): 475-484. See also, Paul L. Posner, Shin Kue Ryu, and Ann Tkachenko, "Public-private Partnerships: The Relevance of Budgeting," *OECD Journal on Budgeting* 9, no. 1 (2009): 1-26.

435 John Friend, "Partnership Meets Politics: Managing within the Maze," *International Journal of Public Sector Management* 19, no. 3 (2006): 261-277.

responsibility of ensuring that the public sector works to serve the people. Lynn (2006) emphasizes that not all who works in the public sectors are elected representatives of the people. [436] Responsibilities are devolved to non-elected public servants who generally serve the public in a close proximity than many elected representatives. Therefore, conferring accountability on non-elected public officers and maintaining authority over their actions are relatively challenging. As established in the case studies, however, it was not only the non-elected members who were unaccountable for their actions, but clearly the elected members in high positions of the governments neglect their duties. The more power a particular government representative holds, the more distant he is from the general public and higher the possibility of abusing it. With regards to partnerships, Brinkerhoff (2002), highlights that;

> "unlike the principal-agent relationships that are inherent in hierarchical organizations or in contracts for services, the idea of a partnership encompasses mutual influence, with a careful balance between synergy and respective autonomy, which incorporates mutual respect, equal participation in decision-making, mutual accountability, and transparency." [437]

Therefore, PPPs as partnership instruments require techniques that can ensure accountable actions not only of the public officials, but also the private entity managers. The nature of the relationship is not vertical or like that of the principal-agent theory anymore, but rather a horizontal one.[438] Hence, governments are vested with additional responsibility to take these differences into account when drafting regulations and policies with regard to PPP consortiums. In the literature, Dicke and Otts (1999), presents ten methods of managing relationships of PPP nature.[439] Namely, they are

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[436]Laurence E. Lynn Jr, Public management: Old and new, (Routledge, 2006). doi:10.4324/9780203964774.

[437] Jennifer M. Brinkerhoff, "Government–nonprofit Partnership: A Defining Framework," *Public Administration and Development: The International Journal of Management Research and Practice* 22, no. 1 (2002): 21. See also, John Forrer, James Edwin Kee, Kathryn E. Newcomer, and Eric Boyer, "Public-private Partnerships and the Public Accountability Question," Public Administration Review 70, no. 3 (2010): 475-484.

[438] Ibid.

[439] Lisa A Dicke, and J. S. Ott, "Public Agency Accountability in Human Services Contracting," *Public Productivity & Management Review* 22, no. 4 (1999), 502. doi:10.2307/3380933.

conducting regular audits, market rules, code of ethics, licensing, monitoring bodies, judicial settlement measures through courts, outcome-based assessments, whistleblowing and maintenance of registries.[440] The Public partner needs to be aware that its responsibilities do not end when the risks are transferred to the private partner as agreed upon in the contractual agreement. PPPs demand continuous monitoring and oversight before and after the formation of the contract. However, as PPPs typically experience several elections during its lifetime. The individuals in power change overtime and the nature of decisions they make sometimes differ drastically. Therefore, accountability becomes a matter that is heavily dependent on a resilient framework which enables comprehensive legal, institutional and disciplined task force. The following section presents remedial measures which can be recommended for combatting the identified governance issues, which are conceptually connected to the inherent tensions in PPPs, that are further challenged by arbitrary exercise of discretion and abuse of accountability.

4.3. Remedial Measures

When developing a PPP framework, Smith, Mathur and Skelcher (2006) argue that governance designs ought to be planned involving those groups and bodies related to the partnership's strategic objectives and policy goals.[441] Also, the governance structures ought to inculcate risks and responsibilities shared among the relevant partners. In addition, PPPs incur substantial financial costs and have a decisive effect on the society in general as public resources are involved.[442] Thus, the challenging tasks of balancing the rights of the involved stakeholders and creating an enabling PPP framework are essential for the successful implementation of PPP projects. As presented in the previous chapters of this dissertation, this dissertation focuses on the context of lower-middle income developing countries. The following section examines four remedial measures that could be incorporated into the frameworks of Sri Lanka, Bangladesh and Philippines in particular to reform

[440] Ibid.
[441] Mike Smith, Navdeep Mathur, and Chris Skelcher, "Corporate Governance in a Collaborative Environment: What Happens When Government, Business and Civil Society Work Together? *Corporate Governance: An International Review* 14, no. 3 (2006), 159-171. doi:10.1111/j.1467-8683.2006.00496.x.
[442] Ibid.

their existing frameworks and harness the potential of PPPs in developing infrastructure and providing public services.

4.3.1. Identifying the PPP Regulatory Space

As the first remedial measure, this dissertation emphasizes the need for clear identification of PPPs' regulatory space. In order to ensure accountability, it is of paramount importance to identify the role and responsibilities of the stakeholders involved, in addition to the scope within which they operate. Authors such as Hancher and Moran (1989) presents the notion of 'regulatory space' as an analytical tool to assess the array of regulatory issues subject to the public decision.[443] The concept of regulatory space underlines the defining characteristics of the social relations between the occupants of that space. Within such a regulatory space, discretion may seem to be regulated by rules. In the case of PPPs, the boundaries are merely a tightly knitted together collection of rules combined with legal and non-legal techniques. The boundaries are set through the discretion available to the public and private actors when designing the contract for a particular PPP project.

Identifying the PPP regulatory space is useful because it helps to detach a range of practices, norms, and choices especially connected to PPPs as distinct from other procurement activities. Also, Marique (2014) suggests that a regulatory space is useful, as it helps identify various players in the specific light of PPPs and the constraints they bear.[444] As Figure 4 below demonstrates, the regulatory space explains how relationships are designed in PPPs amongst public and private allies together with the third-party category of the general public.

[443] Leigh Hancher and Micheal Moran, "Introduction: Regulation and Deregulation," *European Journal of Political Research* 17, no. 2 (March 1989): 129–136. doi:10.1111/j.1475-6765.1989.tb00186.x.
[444] Yseult Marique, "PPP in Regulation," 23.

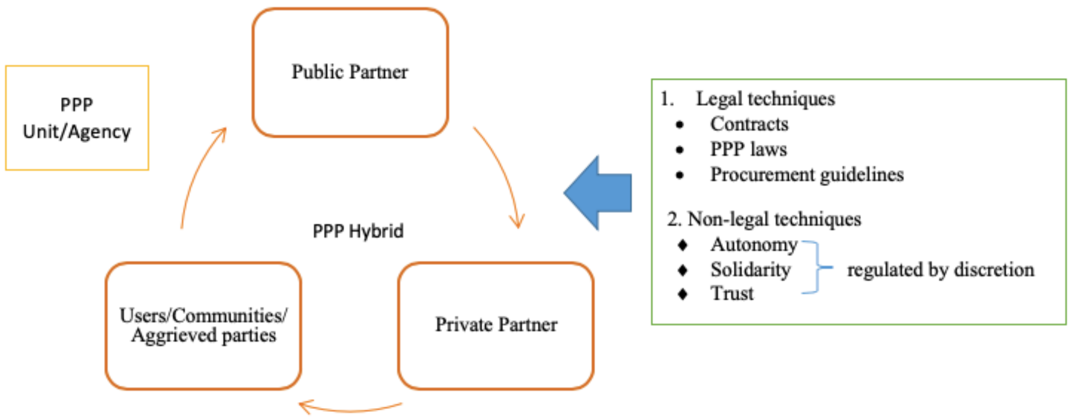

Figure 4: Regulatory Space in PPPs

Source: Created by the Author

The public partner, as discussed elsewhere in this dissertation, is typically a government representative. For instance, the Ministry of Finance or an administrative body such as an Electricity Board authorizes the regulation of electricity in a particular country. The private partner is typically a private sector company engaged in a profit-motivated business and theoretically possesses more financial skills than those of the public partner. Users, communities, aggrieved parties belong to the third partner category. PPP units or agencies were theoretically expected to function independent of all the other parties and facilitate the smooth implementation of a PPP project. Therefore, ideologically, their role was to monitor that relevant parties carry out the expected responsibilities and duties vested upon them. Hence, within the regulatory space, PPP unit or agency is located in isolation. However, in practice, as examined in Sri Lanka and Bangladesh, the PPP Unit is developed under the powers of the Prime minister or within the Ministry of Finance. While reasons for not isolating PPP units as independent bodies differ from nation to nation, the question of whether these bodies can accomplish the initially expected task and fulfil its role as independent monitoring and facilitating bodies is highly debatable.

The relationships between the three parties are connected within a space regulated by legal techniques such as contracts, and non-legal techniques such as autonomy, solidarity, and trust.[445] The

[445] Ibid.

non-legal techniques are not necessarily decisive and often affiliated with the exercise of discretion. Autonomy in the sense of PPPs refers to the rights of each party at the individual level, rights conferred by the contractual terms or rights inherent by the nature of their status. For example, users as tax-payers, communities, and aggrieved parties have rights to expect the public partners to pursue the authority vested in them to deliver public services and cater for their demands as elected legislatures of the people. Solidarity is the collective dimension towards the project, relying on the assumption that the contracting parties will behave in similar ways. Solidarity is more relevant for the relationship amongst the public and private actors. As the main active parties of a PPP project, government officials and private company managers have to act in solidarity with a united aim of accomplishing the targets and objectives of the project, without pursuing their own competing self-interests. In that sense, trust becomes relevant to continue a long-term contractual relationship. As Hardin (2002) explains, trust is more multifaceted with links to discretion, giving prudence to another to affect one's interests.[446] The general public as the third party entrusts the public partner to act on their behalf, while the public partner and the private partners have to trust and rely on each other's competence in pursuing the goals of the PPP project.

The purpose of identifying the regulatory space is to help locate the key stakeholders within the light of PPPs and identifying the dynamics that need strengthening within a resilient governance structure. However, locating the stakeholders and the techniques required to regulate them, itself is not sufficient to combat the prevailing governance issues. Identification of the regulatory space only serves as a preliminary requirement to help creating an enabling environment for PPPs. The following section proposes the inclusion of an adaptive management system into the PPP framework to be adopted in parallel to individual PPP project cycles.

[446] Russell Hardin, "Trust," Trust and Trustworthiness, (Russell Sage Foundation, 2002): 1-4. Available at http://www.jstor.org/stable/10.7758/9781610442718.

4.3.2. An Adaptive Management System

Once the regulatory space of PPP is clear, it is necessary to supplement the existing legal and institutional setting with a mechanism that helps mitigate the inherent tensions in PPPs through preventative measures. In other words, as discussed in the former parts of this chapter, tensions are inevitable. Therefore, taking precautions and mitigating the impact created by the conceptual tensions is a necessity. This dissertation observed that PPPs are long term contracts with multiple stakeholder involvement. Thus, identifying possible occurrences within the contractual period and planning, assessing, and monitoring are essential prerequisites in a PPP framework. This section examines an adaptive management system to provide for such a mechanism.

Barton et al. emphasize that there is a need for establishing an adaptive management system when it comes to larger infrastructure projects due to the potential PPPs have in hampering accountability.[447] Adaptive management is an organized technique for enhancing the management of resources by learning from management strategies. The general norm is that only by monitoring activities and frequently altering them, one is doing adaptive management.[448] On the contrary however , adaptive management is much more than just tracking and altering management direction in the face of failed strategies, and in fact, such an approach might be maladaptive.[449] According to Ehler (2014), an adaptive mechanism comprises of exploring alternate approaches to meet management objectives, forecasting the outcomes of alternatives grounds based on the present state of understanding.[450] Also, monitoring to study about the influence of management actions, and the utilizing of outcomes to update the understanding and modify management actions should be taken

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447 James E Barton, Cecil L. Selness, R. J. Anderson, Donna L. Lindberg, and Norman S. Foster, “Developing a Proposal for a Multi-User Intermodal Freight Terminal as a Public-private Partnership: Lessons Learned About Public and Private Perspectives, Timing, and Roles,” Transportation Research Record: Journal of the Transportation Research Board 1659, no. 1 (1999): 145-151. doi:10.3141/1659-18.

448 Craig R. Allen and Ahjond S. Garmestani, “Adaptive Management” Adaptive Management of Social-Ecological Systems (2015): 1-10. doi:10.1007/978-94-017-9682-8_1.

449 Ibid.

450 Charles Ehler, “A Guide to Evaluating Marine Spatial Plans,” Program and Meeting Document, (UNESDOC Digital Library, 2014), Accessed June 16, 2019, https://unesdoc.unesco.org/ark:/48223/pf0000227779

into consideration when designing an adaptive management system.[451] The University of Melbourne emphasizes and discusses in a Sustainable Infrastructure Systems course that to generate and uphold a sustainable PPP project, an effective adaptive management system is required.[452] The purpose of an adaptive management system is to lessen the lacuna for the exercise of discretion by conceptualizing the scope of the project, determining relevant partners and identifying possible negative outcomes from the initial stages. The system should continue to plan, monitor, analyze and learn throughout the lifetime of the project. In other words, it is not a 'one time, finish all mechanism.' The adaptive management framework needs to run parallel to the project, as an adaptive management process. The phases of adaptive management include five stages. [453]

Figure 5 below illustrates different phases of an adaptive management system, which this dissertation proposes the lower-middle income countries to incorporate into their PPP frameworks.[454] First, under the conceptualization phrase, define and form the team/partners, the project's scope, vision, and targets. The partners or the team relevant are the public sector actors related to the execution of the project, private actors, not excluding subcontractors, and the potentially aggrieved parties whose rights might be prejudiced as a result implementing the project. Also, communities like labor unions need to be considered as the project team. Then, recognize the probable negative outcomes that might arise during the lifetime of the project, as a part of the situational analysis. In the second stage, under the planning actions and monitoring phase, goals, objectives, assumptions, and strategies should be developed to mitigate identified potential negative outcomes. The purpose of developing the operational and monitoring plans is to elucidate what will be supervised, by whom, and how regularly. The key is to work according to a timeline in all the discussed phases. Also, refining budget and management styles of the finances by persons skillful with financial management abilities need to be recruited. The fourth stage of the adaptive management scheme is quite crucial because, it is phase that require repetitive and ongoing execution throughout the lifecycle of the project. This is where all

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[451] Ibid.
[452] Centre for Spatial Data Infrastructures and Land Administration, University of Melbourn, "Public Policy Instruments," , Accessed June 11, 2019. http://www.csdila.unimelb.edu.au/sis/Infrastructure_Theories/Adaptive_Management.html
[453] See the Figure 5 below.
[454] Ibid.

that plans come into execution. As the final stage of the adaptive management system, those lessons learned from preceding stages are recognized, and shared amongst the PPP team.

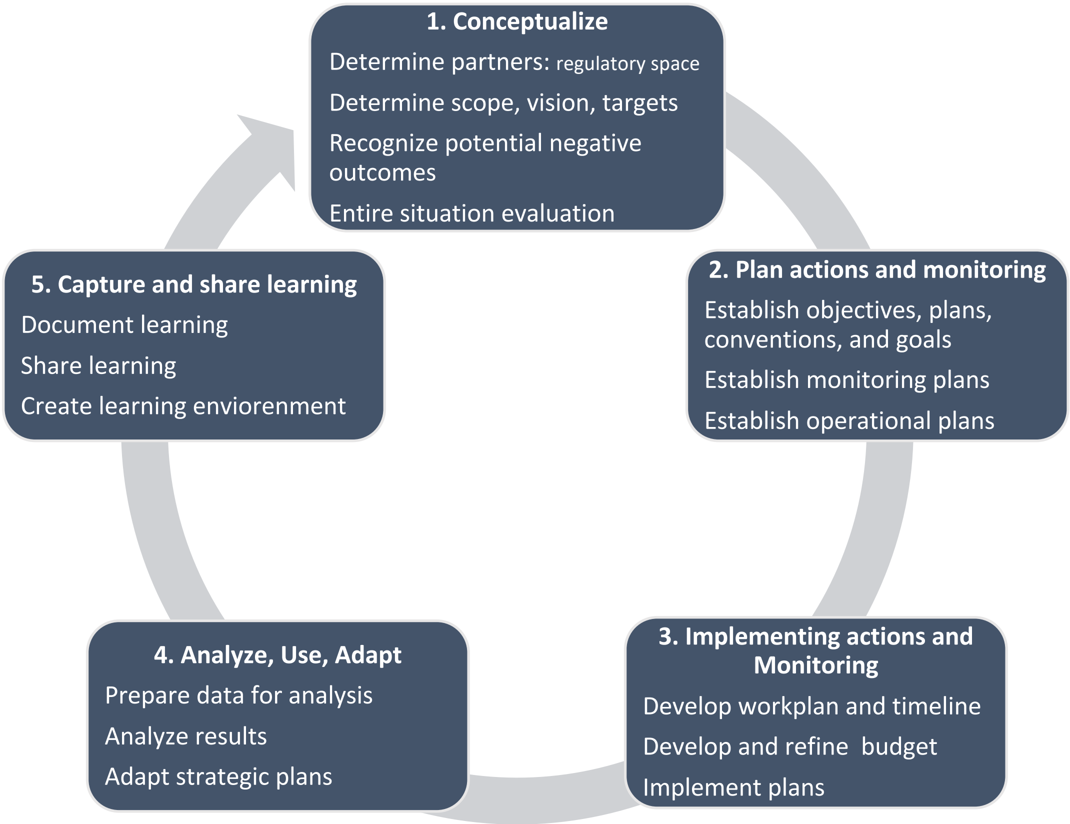

Figure 5: Adaptive Management Framework
Source: Centre for Spatial Data Infrastructures and Land Administration, University of Melbourne, "Public Policy Instruments," , Accessed June 11, 2019. http://www.csdila.unimelb.edu.au/sis/Infrastructure_Theories/Adaptive_Management.html

As an ongoing mechanism, an adaptive management system enables one to recognize how certain situations in PPPs should be dealt with. When previous project experiences are documented, such documents become a reference tool for not only future projects, but also for the same project to tackle potential issues better. In other words, these documented materials can be utilized in the development of an adaptive management system for another project. Adaptive management is characterized by observing and assessing results as the contract is executed. Active learning in adaptive management is realized when there is constant feedback between monitoring and policymaking process. Therefore, the regulators have to implement and run such a mechanism parallel to the lifecycle of a PPP project, so that it helps fill the lacunas where discretion will be exercised by public authorities. This dissertation proposes that an adaptive management system could be executed by incorporating it into the institutional setting of PPPs such as a PPP unit or agency required to act as a mediating unit amongst the public and private parties, to supplement the procedures of PPP laws. The next section examines another supplementary remedy this dissertation proposes to include into the PPP framework of lower-middle income developing countries.

4.3.3. Public Involvement

In addition to the above-discussed remedies, this section focuses on the involvement of the public, particularly to help solve the tension of multiple stakeholder interests. The literature highlights the importance of public involvement in PPP decision making. For example, Kweit and Kweit (1984) stress that through public involvement, if citizens can support their government programs, the project could be accelerated by "selling the project as one which is determined rationally and supported by citizen requirements." [455] On the other hand, however, Sharma et al (2010) point out that PPPs become a difficult 'sell' because of the large-scale project size, generation of private profits at the expense of the public expense often lower PPPs ability to "sell." [456]

Many industries have trade unions organized by the workers and they possess the ability to influence the decisions of the management. Boyer et al. (2015), conducted an empirical study on public participation in PPPs of the US. [457] His study noted that for instance trade unions in the construction industry oppose PPPs they are not selected to work on, and unions in the trucking industry for instance, condemns tolls initiated by PPPs without their consultation. Thus, execution and implementation of

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[455] Mary Grisez Kweit, and Robert W. Kweit, "The politics of policy analysis: The role of citizen participation in analytic decision making," *Review of Policy Research* 3, no. 2 (1984): 234-245. doi:10.1111/j.1541-1338.1984.tb00117.x.

[456] Deepak K. Sharma, Qingbin Cui, Lijian Chen, and Jay K. Lindly, "Balancing private and public interests in public–private partnership contracts through optimization of equity capital structure," *Transportation Research Record* 2151, no. 1 (2010): 60-66.

[457] Eric J. Boyer, David M. Van Slyke, and Juan D. Rogers, "An empirical examination of public involvement in public-private partnerships: Qualifying the benefits of public involvement in PPPs," *Journal of Public Administration Research and Theory*26, no. 1 (2015): 45-61.

certain types of infrastructure are often faced with public or union resistance, unless their participation and involvement in the decision-making process are guaranteed.

Public involvement can start with organizing community members to discuss project components so that they can gain in-depth knowledge of initiatives which they may have little knowledge about. Public participation refers to several activities that seek to engage citizens in the decision-making process among the elected leaders indirectly, and public administrators directly. Direct participation includes physical presence on occasions such as citizen juries, public hearings, citizen panels,[458] or public meetings.[459] There is ample of opportunity to develop mechanisms that help guarantee inclusiveness of the interested communities or the general public.

However, in practice, little is known about the impact which community-generated inputs and participation can have on the decisions of the public sector authorities.[460] Various studies, for example by Garvin (2010) has noted that PPPs enhance the effectiveness of the public infrastructure project, when financial support, project design, building, and operations are negotiated and implemented in collaboration with one private entity.[461] Involvement of multiple parties into the contract is viewed as complicating the project process and slowing down the smooth enforcement of contractual terms. The point of concern therefore is the degree in which public participation can practically help improve the effectiveness of PPPs. Also, one may think that public opinions are only applicable when seeking references and aspects such as social, economic, environmental, political and technical barriers are ultimately determined by the authorities in power. However, it should be noted that the ultimately outcomes of the project will largely impact the general public. Therefore, this research emphasizes that guaranteeing inclusiveness through a mechanism where the public voice will be heard should be of utmost importance.

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[458] Lyn Kathlene, and John A. Martin, “Enhancing citizen participation: Panel designs, perspectives, and policy formation." *Journal of Policy Analysis and Management* 10, no. 1 (1991): 46-63.

[459] John Gastil, and Peter Levine, eds the deliberative democracy handbook: Strategies for effective civic engagement in the twenty-first century, (San Francisco: Jossey-Bass, 2005).

[460] Donald P. Moynihan, “Normative and instrumental perspectives on public participation: Citizen summits in Washington, DC,” *The American Review of Public Administration* 33, no. 2 (2003): 164-188.

[461] Michael J. Garvin, “Enabling development of the transportation public-private partnership market in the United States,” *Journal of Construction Engineering and Management* 136, no. 4 (2009): 402-411.

This study proposes that public participation can be introduced in to the PPP project process in three instances. First, in the policy development phase. Consultation and involvement of community leaders or representatives could help design the project in a manner that satisfy the public at large. Second, during the project development phase, consultations with the public will help identify grievances of the aggrieved parties, and design measures to mitigate adverse effects on the people as well as the environment. The best way to safeguard public interest is to prioritize the policy objectives of the project. Finally, during the project building and commencement phase, it is necessary to provide mechanisms for user feedback and grievance resolutions. Above all, information disclosure is the key for the public to engage and participate in the PPP process. On a general level, dissemination of information through media and other means will help create awareness about the project goals, objectives and benefits to the public. However, at the consultation and active engagement level, it is essential that all relevant information is exposed to the participating party to help remove any misgivings and facilitate effective public participation.

Nevertheless, PPPs often do not meet the interests of all the parties. Some parties are forced to adapt their life span according to new perceptions brought in by PPPs. Compromises of some sort are needed to be made by all stakeholders, i.e., public partners, private partners, taxpayers, users, and wronged or aggrieved parties for greater benefit of the public at large. The regulators should maintain integrity and respect for the interest and values brought in by each party. Governments, as the representatives of people's power, need to act with accountability to mitigate the negative effects that may result through public private collaborations. In order to suggest a more sophisticated approach to the question of accountability and integrity of PPP stakeholders, insights drawn from an ethic of care will be discussed in the next section. Ethics may well be highly disputable, yet may allow for further scrutinization of how to regulate discretion exercised by public authorities when coordinating public, private, and individual interests in PPPs.

4.3.4. Inculcating Ethics of Care

This section recommends a novel perspective on establishing ethics of care among the PPP stakeholders through capacity development programs. The rationale behind is that irrespective of the public or the private sector, it is of utmost importance, to guide and direct the conduct and mindsets of those who operate PPPs. The aim is to help them understand the underlying objectives and principles behind these policy instruments; and the gravity of their actions and behaviors, which are inclined to adversities, unless executed with ethics and care.

According to Held (2006), an ethic of care is both an exercise and a value which is defined by its attention to meeting the necessities of specific individuals for whom somebody has accountability.[462] In the sense of PPPs, public officials have a responsibility towards the people that they are to serve. A set of ethics of care is meant to highlight the importance of developing relationships with these particular individuals who will enable the projects to progress well for greater benefits. Also, ethics of care rejects abstract reasoning and universal values to evaluate how decisions are made to achieve these needs in favor of reasoning based on the specific circumstances of each case.

Initially developed in feminist thinking, the ethics of care concept is now expanding from private relationships such as mother-child to reach collective relationships and to feed into political theories.[463] Indeed, similarities may be found between the actions and values involved in caring for children and their development towards autonomy on the one hand, and the attitudes and values involved in the relationships between the state and individuals in need within society on the other hand. As PPPs are one tool for addressing the needs of the society, they may provide an interesting understanding of how ethics of care could operate to frame public discretion's possibility to turn into authoritarianism.

The primary influence of PPPs on the ethical discourse of public actors starts from the fact that PPPs encourage a new kind of governance as a substitute to the conventional types of decision-making through politically-oriented bureaucracies. Most importantly, ethics go beyond management, organizations, or individual behaviors. Indeed, for the private sector, horizontal management generally refers to the need to organize different units coherently for efficiency purposes. For the public sector, although efficiency remains an objective, making sure that the overall structure is coherent is not enough. Special attention needs to be paid to harmonizing policy development and policy

[462] Virginia Held, "Caring Relation and Principles of Justice," *The Ethics of Care: Personal, Political, and Global*, (Oxford University Press on Demand, 2006): 90-105.
[463] Ibid.

implementation across jurisdictions as a way to ensure the relevance and the effectiveness of governmental action. In such a sense, an ethic of care may help align the policies in accordance with effectively fulfilling the needs of the people.

For this dissertation, an ethic of care should take the form of a moral framework where decisions are not be taken arbitrarily on the grounds of personal interests. What matters is the well-being of the particular individuals involved in the relationship, as well as the well-being of the relationship itself.[464] From the perspectives of values, an ethic of care challenges the idea that individuals are entirely autonomous and self-supporting. Indeed, throughout our lives, all of us go through varying degrees of dependence and independence, autonomy, and vulnerability. Care focuses on attending to the requirements of specific others for whom we take accountability, developing the relationships of caring that enable them to make progress in their physical and social development.[465] Typically, those who consciously care for others do not seek to pursue their private interests further. Indeed, their interests are entangled with those of the persons they care for.

Hence this dissertation proposes that an ethic of care be built based on three grounds: the importance of relationships with particular others, the transformation possible within these relationships, and the practice of care and the values involved in these relationships. Instead of valuing the autonomy and independence of individuals, an ethic of care focuses on the interdependence between people and the differences between them. These considerations should reflect the importance of maintaining relationships in PPPs and the position of public authorities entrusted with the provision of welfare to individual users.

As discussed under the remedy of identifying the PPP regulatory space, the non-legal techniques of values such as autonomy, solidarity, and trust can be strengthened when the ethics of care towards the relationships in PPPs is established. In other words, when the relevant stakeholders of PPPs act with care for the goals and the relationships in the PPP project, it helps ensuring accountability for the decisions made and actions taken. Nevertheless, an ethic of care should be

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[464] Virginia Held, “The Ethics of Care as Moral Theory,” *The Ethics of Care: Personal, Political, and Global*, (Oxford University Press on Demand, 2006): 9-28.
[465] Joan C Tronto, “An Ethic of Care: Moral Dilemmas in the Practice of Care,” *Moral Boundaries: A Political Argument for an Ethic of Care*, (New York・London: Routledge, 1993): 125-155.

supplemented by laws, particularly because non-legal techniques are limited in their enforceability, development, and implementation.

In practice, this dissertation proposes four ethical components to answer the question of how caring responsibilities should be met: i) attentiveness, (ii) responsibility, (iii) competence, and (iv) responsiveness. Attentiveness suggests the acknowledgment of a necessity to be cared about. This means the necessity to be selfless, in a sense, to give up one's own aims, determinations, strategies, and apprehensions, to recognize and to be attentive to others.[466] From the perspective of PPPs, public officials need to prioritize objectives of the project in question and act with care towards meeting the demands of the people. Responsibility looks beyond formal or legal obligations. Faced with a need to be taken care of, people are moved to act upon it, to take responsibility to meet it either because they contributed to the need for care or because there is no other way for the need to be taken care of than us meeting it. Competence means that the care is adequately performed, and that there is concern about the result of the care provided. The quality and standard of what was served depends on the competence of the persons who delivered the service. If they acted with care, the quality of products or services may improve as well. The responsiveness of the care receiver to the care highlights that care involves relationships of power. In the case of PPPs for example, the public authorities hold an upper hand compared to the general public who receives the public services. The vulnerability of the care receivers leads to inequality, relationships of authority, domination, and subordination.

Fundamentally, Tronto (1993) distinguishes between reciprocity and responsiveness.[467] Responsiveness suggests that we seek to comprehend the need for others. Yet, we should not do this as if we were in the other's shoes, but rather as the others express their need for themselves in their own ways. This is what is expected of the government partners. Exercise the powers vested in them to deliver as needed by the people, and not involve their personal apprehensions into the decision-making process. Therefore, unless the ethics are well understood and practiced habitually, opportunities for abuse are abound in the sphere of public service delivery.[468]

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[466] Celia Wolf-Devine, "Moral Boundaries," *International Philosophical Quarterly* 35, no. 1 (1995): 115–117. doi:10.5840/ipq199535171

[467] Joan C Tronto, 1952. Moral Boundaries: A Political Argument for an Ethic of Care. New York: Routledge, 1993.

[468] Ibid.

The above discussed four components of an ethic of care offer different approaches based on the pursuit of self-interest in the longer term or accountability for the efficient spending of taxpayers' money. The aim is to provide a basis to maintain the relationships involved in PPPs, particularly that of the government and the general public to whom the authorities are answerable according to the foundational values of public administration and constitutional laws. If the foundation of such ethics is clearly structured and well-funded in regard to the privileges and responsibilities of the involved actors, the PPP contract might develop into a "self-enforced" agreement, in the sense that a self-imposing contract amongst two allies lingers in force as long as every ally trusts himself to be better off by enduring the contract than he would be by terminating it.

One critical problem, however, in PPPs lies in the nature of relationships amongst PPPs and individual users. State-analogue and market-analog models of PPPs only consider users and third parties in their abstract capacity as taxpayers.[469] However, it is possible to pinpoint categories of vulnerable users (e.g., hospital patients, pupils) and third parties (e.g., residents in the surrounding of waste PFIs, disabled children) who are treated collectively due to their shared characteristics. PPPs raise the question of the coordination of these users and third parties. A community-analog model may organize this coordination within the PPP regulatory space.[470] It would develop a narrative of a common project pursued by PPPs. The success of this common project would allow all parties involved, public authorities, private corporations, and individuals, to further their interests. In such a model, the relationships between individuals and communities are embedded in an ethic of care. The well-being of a caring relationship involves the cooperative well-being of those in the relationship as well as the relationship itself.[471] There would thus be prioritization between and integration of competing interests during the decision-making process, but this should not exclude or harm other rests definitively. A balance over time would be needed to ensure that PPPs are understood as a

[469] Yseult Marique, "PPPs in Regulation," *Public–Private Partnerships and the Law: Regulation, Institutions and Community*, (Edward Elgar Publishing, 2014): 14-23.
[470] Ibid.
[471] Krasimira Daskalova, Caroline Hornstein Tomić, Karl Kaser, and Filip Radunović, eds. *Gendering Post-Socialist Transition: studies of changing gender perspectives*. Vol. 1. LIT Verlag Münster, (2012): 125-132.

genuinely common enterprise. Otherwise, the projects would cause adverse effects as evidenced through the case studies in chapter III.

However, ethic of care presents limits to how it works in practice. Firstly, ethics of care may well be criticized as being minimalist. The role of the state may have to go beyond providing for people's individual needs to include means of developing the stakeholder capabilities. However, at this stage, an ethic of care already gives some clues to what may need development. Secondly, the identification of the vulnerability and needs to be provided for remains an issue. Under an ethic of care, this may be shared responsibility across public authorities and communities or may depend on concrete and specific circumstances of the projects. Finally, an ethic of care seems to suggest a self-governing system where the execution of ethical values occurs spontaneously. A fully workable ethic of care should make enforcement redundant.

From a practical perspective, the relevant stakeholders identified within the PPP regulatory space should be informed, educated, and be reminded of the necessity and importance of maintaining and ensuring ethics of care through capacity building programs. There are two options in which the ethic of care could be practically implemented. First, project by project basis and secondly, on regular basis. Most importantly, there is a necessity to identify two categories of personnel who become relevant within a PPP regulatory framework. As depicted in the Figure 6 below, they are project specific stakeholders, and regular stakeholders.

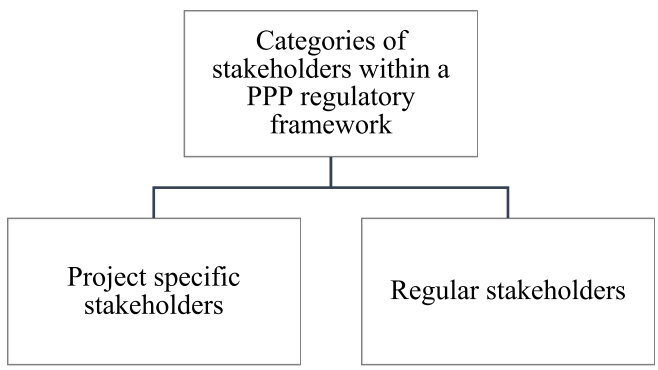

Figure 6: Categories of Stakeholders Relevant within the PPP Regulatory Framework

Source: Created by the Author

Project specific stakeholders get involved in the PPP framework on a project by project basis. Each PPP project invites a variety of stakeholders depending on the field of infrastructure or the public service facility under consideration for development. For example, managers from Company A may be selected as the representatives of private partners in PPP project A, whereas Company B will be selected for project B. Hence, some stakeholders change from project to project. When developing a capacity building program, it is important to tailor make the program by taking all relevant factors unique to the project into consideration. Meanwhile the main attempt should be to inculcate the aspects of ethic of care into the mindsets of the participants. A few aspects that need substantial awareness within the relevant stakeholders are; the purpose of the project, its national importance, vitality in terms of economy, people's right to basic needs.

On the other hand, some stakeholders may be the regular officials who are fundamentally based within the general PPP framework of the country. For instance, some personnel from a PPP unit or agency are mandated to be involved in every PPP project that is implemented within the country. Also, a departmental unit in the Ministry of Finance, who are tasked with funding management of overall PPP projects can be viewed as regular personnel involved in the PPP procedures. Such entities are defined as regular stakeholders. The capacity building programs catering for regular stakeholders need to incorporate the expectation of building PPP experts and robust leadership within the PPP field as they will ultimately hold the authority to monitor the operations of the fellow stakeholders. Foremost, the recruitment process becomes important. Persons with educational backgrounds on PPPs, or persons with practical experience within the PPP field are important human resources to be recruited to the regular stakeholders' positions. While the knowledge on PPP legal frameworks and institutional settings are mandatory aspects of the capacity programs, the broader aim should be to develop a sense of care towards the project goals. As in the feminist thinking discussed above, rather than a principal-agent relationship, more of a mother-child relationship between the stakeholders and the general public needs to established. Such thinking however, is subject to controversy and monitoring the outcomes is highly difficult. Yet, ethics of care are integral components that need comprehensive consideration when considering how to improve a country's PPP framework.

In addition, the incorporation and implementation of the ethics of care in developing economies may face several technical difficulties. Generally, the credence is that capacity building often requires large investments. The question then is can the developing countries afford to establish such ethically bound environment, when the very reason these countries adopted PPPs was their lack of financial resources.

4.4. Chapter Summary

This chapter evaluated possible remedial measures to overcome the governance issues identified in the case analysis of Sri Lanka, Bangladesh, and the Philippines in chapter III. First, this chapter examined the correlations between good governance and establishing a resilient PPP framework. When combatting governance issues found in the PPP frameworks, this chapter highlighted the need to revisit the inherent characteristics of PPPs. The discussion on tensions related to hybridity of public and private dimensions, the tension between balancing flexibility and stability in terms of the long-term contractual relationship, the tensions of multiple stakeholder rights revealed that these tensions are conceptually underlying the notion of PPPs. These tensions can only be mitigated and not entirely diminishable, because the nature of the PPPs is defined by the very same characteristics of these tensions. As mentioned elsewhere of this dissertation,[472] the standing of this dissertation is that PPPs do have the potential to contribute for infrastructure development, if appropriate measures are taken to mitigate the inherent tensions of PPPs. Therefore, by looking at the weaknesses in the institutional, legal and policy frameworks of these three countries, how their PPP projects are implemented, and relevance of the underlying inherent tensions of PPPs, the later part of this chapter discussed four main remedial measures to help strengthen the PPP frameworks of Sri Lanka, Bangladesh and the Philippines resilient against the inherent tensions. The following Figure 7, attempts to present an overview of the proposed remedial measures.

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[472] See *supra* discussion in Section 3.5.

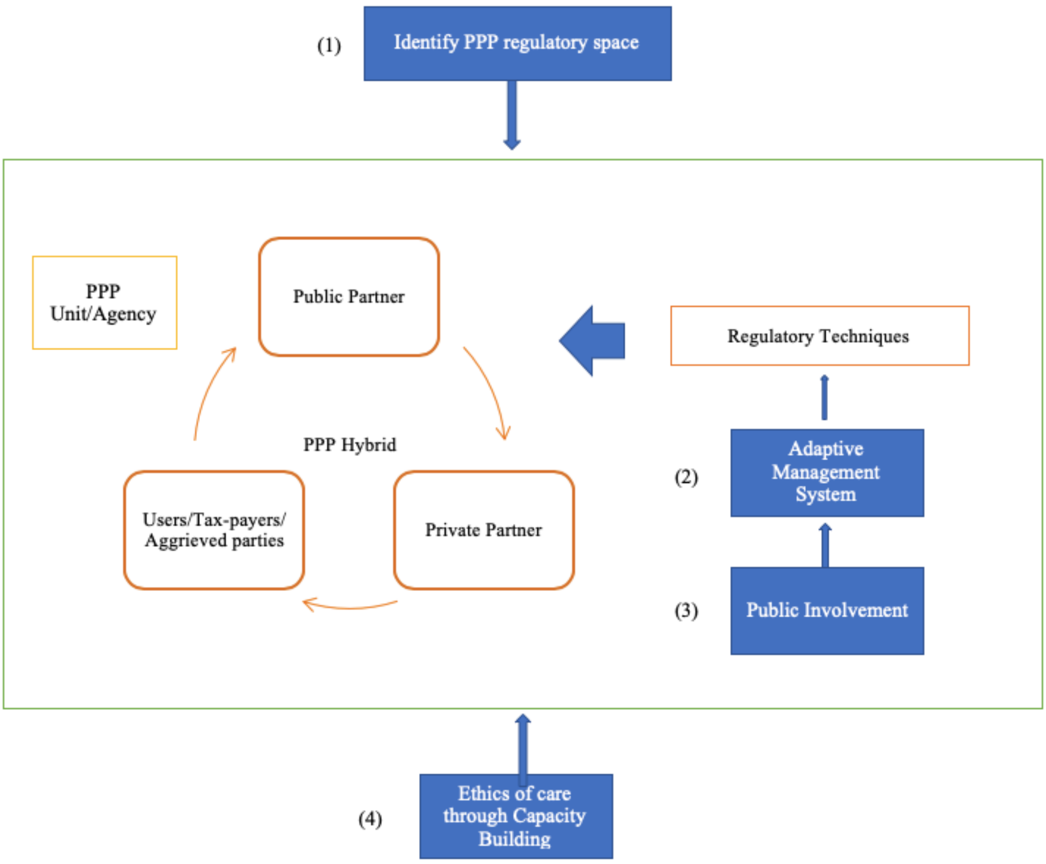

Figure 7: Proposed Remedial Measures in a Nutshell

Source: Created by the Author

The first remedy indicated in the Figure 7 as (1) is the identification of PPP regulatory space. In general PPP regulatory space involves the public partners from government departments, private partners from private companies, users, tax-payers, aggrieved parties from the general public, and project facilitating units such as the PPP units or agencies. The regulatory space, includes techniques which are used to regulate the hybrid aspects of PPPs, which include both legal and non-legal techniques. The purpose of the regulatory is to help set the boundaries within which the relevant stakeholders function in terms of the project goals, and to identify the techniques used to regulate these actors. The clear identification of a regulatory space is the corner stone of establishing a resilient framework. Secondly, depicted as (2) in the figure 7 above, this dissertation proposes to strengthen the techniques available to regulate PPPs with an adaptive management system to be run in parallel to each PPP project. The incorporation of such an adaptive management system aims to help identify the possible future problems that may occur in a PPP project in advance, through strategic planning, monitoring, and sharing of the learned experience from past projects. The third remedy indicated as (3) in the above Figure 7, discusses how the involvement of the general public in the decision-making process should be encouraged to help guarantee inclusiveness, transparency, and accountability within PPP procedures. Finally, this chapter recommended the inculcation of ethics of care, depicted as (4) in the above Figure 7, through reformed capacity building programs targeted at the relevant stakeholders on a project by project and regular basis. The rationale behind this recommendation is that irrespective of the public or the private sector, it is of utmost importance, to guide and direct the conduct and mindsets of those who come within the identified regulatory space (1). The aim is to help the identified PPP stakeholders to understand the underlying objectives and principles behind the PPP policy instruments; and the gravity of their actions and behaviors, which are inclined to adversities, unless executed with ethics and care. Overall, the proposed set of remedial measures will be of some use for regulators to reform the existing PPP frameworks, and combat the identified governance issues, in a manner that harnesses the full potential of PPPs.

Chapter V: Conclusion

Since the early 1990s, many lower-middle income developing countries have attempted to use the path of PPPs for infrastructure development and public service delivery. The initiatives have been significant and innovative, but the future that holds for PPPs is tainted with uncertainty as the recent data indicate a declining trend in the use of PPPs. The current PPP literature on lower-middle income developing countries such as Sri Lanka, focuses primarily on risk sharing and managerial aspects, and lacks the scrutinization of constraints in the public sector. This lacuna in the literature is regrettable as PPPs associate matters of public interest through their contribution to delivery of public services, which traditionally was one of the core responsibilities of the government. In that sense, this dissertation adds value to the prevailing literature, as it investigated the plausible causes for the declining trend, from public policy and administrative points of view.

As Mariateresa and Calabro (2018) also point out, PPPs as policy instruments avoid the common negative effects of exclusive public ownerships of public services, on the one hand, and outright transfer of such ownerships to the profit-oriented private sector through privatization, on the other.[473] Theoretically, PPPs combine the best of both domains: the public sector with its regulatory actions and protection of the public interest; and the private sector with its resources, management skills and technology. This balanced approach has portrayed a silver line in the development of infrastructure and the delivery of public services for many governments. However, in practice, PPPs are typically large-scale projects embedded with complex financial, contractual and legal frameworks, which if not resilient, may create adverse effects not only on the project outcomes, but also on the socio-economic contexts of a country.

Based on the archival research and case analyses, this dissertation identified a range of governance issues as plausible causes for the declining trend in the use of PPPs in lower-middle income developing countries. The public sectors of the examined countries were tainted with: lack of government commitment to project completions; susceptibility to political instabilities and

[473] Mariateresa Torchia and Andrea Calabrò, "Increasing the Governance Standards of Public-private Partnerships in Healthcare. Evidence from Italy," *Public Organization Review* 18, no. 1 (2018): 93-110.

administrative changes; lack of institutional capacity and the know-how; lack of transparency, and the difficulties in ensuring accountability.

This dissertation concludes that if PPPs are to overcome the challenges which the examined countries currently face, PPP policy instruments require a resilient regulatory framework, which consists of not one, but a bundle of techniques and measures. The identifying of a clear PPP regulatory space, adaptive management system to ensure effective and efficient accomplishment of project goals, involving the general public to guarantee inclusiveness, and inculcating ethics of care among the stakeholders identified within the PPP regulatory space are some of the contextually important remedies for the examined lower-middle income developing countries. For the purpose of designing such remedial measures projecting good governance principles, this dissertation began with an examination of how PPPs evolved as a policy instrument and how they are defined in the extant literature.

5.1. Clarifying the Interpretation of Public-private Partnerships as a Policy Instrument

The history of post-World War II PPPs revealed that they evolved as a result of paradigm changes in the way which public services were delivered.[474] The Keynesian governmental intervention policies, with welfare state ideologies focused on government expansion and assumed greater responsibility for the delivery of public services. However, these governmental intervention policies were increasingly criticized of inefficient bureaucracy, institutionalized corruption, and ultimately were blamed as the causes of the economic crises in the 1970s. The free-market advocates of neoliberalism, for instance Margaret Thatcher in the UK and Ronald Reagan in the US, promoted the espousal of market sector management methods to combat the challenges of the old government-oriented public administration. The proposition of neoliberalism was that the private sector is more efficient, effective and profitable than the public sector in serving and regulating the economy and

[474] See *supra* discussion in Section 2.1.

society.[475] Furthermore, NPM reforms shaped by aspects of public choice theory and principal agent theory were developed to enforce the neo-liberal market theories. [476]

The first and most widely known NPM reform was privatization, which initially gained popularity as a notion of liberalizing the economy through increased private sector participation.[477] However, the conveyance of ownership from the public sector to privately-owned companies received outright criticism for its potential to instigate a new set of problems such as monopolization of essential services and products, and increase of their prices. Nevertheless, countries in the developed world realized that private sector involvement in government activities is beneficial if the governments can still retain authority to regulate the consortium. Hence, the collaboration of the two sectors resulted in the conceptualization of PPPs to utilize the expertise of both the public and private sector under one consortium.[478]

The examination of the PPPs' evolution revealed that the idea of governments working with the private sector itself is not novel. However, the conceptualization of PPPs as a policy instrument was first pioneered by the UK, where John Major's conservative administration introduced the Private Finance Initiative (PFI) approach in 1992. Following the UK's lead, developed countries across the world introduced PPPs, mainly to be used for infrastructure development projects. Developing nations alternatively were introduced to PPPs through international aid organizations, who provided official development aid to help improve the policy frameworks of the underdeveloped world. The PPP literature depicts the manner in which PPPs were introduced to developing countries as "policy diffusion," and some scholars such as Appuhami et al, (2011) criticized it as the cause for weak PPP environments, because the recipient developing countries had not taken adequate measures to establish a resilient framework to accommodate the diffused policies.

In addition, the lack of understanding about what PPPs encapsulate as a policy tool, was aggravated by the absence of a universal definition. As there is no single definition for PPPs, scholars and studies have adopted their own definitions for this policy instrument. This dissertation defined its

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[475] Jamie Peck and Adam Tickell, "Conceptualizing Neoliberalism, Thinking Thatcherism." *Contesting Neoliberalism: Urban Frontiers* 26 (2007): 50.
[476] See *supra* discussion in Section 2.2.
[477] See *supra* discussion in Section 2.3.
[478] See *supra* discussion in Section 2.4.

own definition of PPPs drawing from the extant literature. Accordingly, a PPP is a policy instrument that constitutes the nature of a long-term contractual relationship between a government authority, such as the Ministry of Finance, and private sector companies or associations, in which the transfer of risks and responsibilities take place for delivering a specific public service or infrastructure agreed upon between the two parties. Additionally, for the purpose of expanding the understanding of the diverse nature of PPPs as a policy instrument, this dissertation examined nine types of PPPs that vary depending on the type of risks transferred to the private partner. The discussion also revealed that the absence of a universal definition of PPP, and some of its similarities have created lacunas to misinterpret PPPs with privatization or traditional public administration.

The analysis on privatization and traditional public procurements of this dissertation helped differentiate the conceptual and practical differences between the two notions and PPPs. This dissertation maintains that traditional procurement means the buying of goods or services by government organizations from an outside contractor to fulfill a specific need.[479] The governments retain a high risk when buying a service in that manner, and the extent of risk transferred to the private contractor is minimal. On the contrary, in privatization, a private company takes over all the risks, and receives the ownership of the asset or public service for a pre-determined period of time.[480] The decision of a government to choose between privatization, traditional procurements, or PPPs depend on the extent of risks the government is expecting to transfer to the private entity and the degree of private involvement it aims to maintain. In addition, governments base their decisions to implement PPPs in a variety of reasons.

Three main types of reasons were identified when examining the rationale behind resorting to PPPs in general. Namely; financial reasons, efficiency gain reasons, and political reasons.[481] First, governments faced with financial constraints in delivering public services or developing infrastructure are able to make use of private sector finances brought in through PPPs. These policy instruments help shift the burden of having to invest large sums of money from the government budget at once, because PPPs provide many avenues to pay back to the private sector over a pre-determined long project period,

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[479] See *supra* discussion in Section 2.5.1.
[480] See *supra* discussion in Section 2.5.2.
[481] See *supra* discussion in Section 2.6.

such as through user pay method. Second, the long term nature of the PPP contractual period and its after service payment method, are expected to trigger the efficiency of the profit oriencted private sector. The incentive for governments is that unless the private sector performance is efficiently delivered according to the required standards, government may choose to withstand payment until the situation is rectified. There is a strong notion that the profit oriented private sector is inherently efficient than the public sector in the countries with a history of welfare state practices, where public firms are heavily criticized for their lethargic and lagging performance. Third, PPPs allow administrations to pursue their political agendas in favor of market liberalization. By making use of PPPs for infrastructure development or delivery of public services, politicians have a chance to remain popular and be reelected if the PPPs successfully cater for the needs of the people. On the contrary to these factors in favor of using PPPs, there are mounting criticisms against the use of PPPs. The most common criticisms were that PPPs cause lengthy delays in negotiation, and require high maintenance costs and performance skills.[482]

In order to ascertain the yardsticks for measuring the success or failure of a PPP, this dissertation conducted an evaluation of the success and failure definitions as depicted in the literature. As a result, this research considers a PPP project successful when it achieves the intended project goals within the expected time frame and budget, without causing distress to the environment or stakeholders involved. On the other hand, if a project does not achieve its expected goals within the stipulated time, causing distress to the relevant stakeholders or the environment, such project will be considered a failure.[483] Further, to set the basis for assessing the resilience of PPPs' institutional, legal and policy frameworks in selected lower-middle developing countries, this dissertation, conducted an evaluation of ten critical success factors observed in the PPP literature. Critical success factors are pre-conditional aspects which, in general if established within a PPP framework will help measure the extent of resilience of a PPP framework.[484]

[482] See *supra* discussion in Section 2.7.
[483] See *supra* discussion in Section 2.8.
[484] See *supra* discussion in Section 2.9.

5.2. Examination of PPPs in Practice

As depicted in recent PPP data, countries with lower-middle income indicate a declining trend in the use of PPPs. For the purpose of assessing the causes behind such decline, this dissertation selected three developing countries in Asia, categorized as lower-middle income economies under the World Bank classification. Sri Lanka, Bangladesh and the Philippines have their GDP per capita income ranging between USD 1,006 to USD 3,955 as of July 1, 2017.[485] The first country analyzed, Sri Lanka, has undergone dramatic changes in the application of PPPs for infrastructure development. Since the adversities faced during the trend of privatization, private participation in the delivery of essential public services is treated with hostility in general.[486] Thus, among the three countries, Sri Lanka had the most significant number of governance issues. Out of the eight projects in Sri Lanka, only one project had no noticeable negative outcomes, and achieved its project goals causing no harmful distress to the environment or the involved stakeholders. Three out of the eight projects had a few specific negative outcomes such as delays in project implementation or costs overruns, yet made accessible vital infrastructure, such as electricity for its people. The remaining four projects were tainted with political influence and inefficiencies of the public partners. Political instability is one of the significant factors that consistently hinder the effective functioning of measures taken to establish an enabling PPP framework in Sri Lanka. Corruptive party politics are affecting the smooth functioning of projects, as the administrators assuming power terminate or postpone projects launched by previous regimes to pursue the political or personal agendas which they represent.

In the case of Bangladesh, the PPP framework is far more equipped with critical success factors to accommodate PPP projects than that of Sri Lanka, yet there are projects with negative outcomes.[487] The regulators in the public sector are inefficient in enforcing the existing contractual, legal and the institutional techniques and measures. Thus, the project outcomes depict mixed results, not helping much for PPPs to contribute to infrastructure development. The Phillipines has the longest experience of implementing PPPs in Asia. However, the examination of the existing PPP frameworks

[485] See *supra* discussion in Chapter III introductory section.
[486] See *supra* discussion in Section 3.1.
[487] See *supra* discussion in Section 3.2.

and the case analyses revealed that the most serious governance issue is that PPPs are overly susceptible to political instabilities and administration changes. The current administration of the Philippines is evidently reluctant to use PPPs amongst other procurement methods for infrastructure development, and public service deliver projects leading to a dclining use of PPPs in the lower-middle income countries. [488]

Across the case studies analyzed, five common causes tainting the PPP frameworks of Sri Lanka, Bangladesh and the Philippines were identified.[489] First, in all three countries, the government parties lack consistent support and commitment to the PPP process. There is no guarantee that the governments will continuously commit to a project till it reaches completion and fulfills its policy targets. Oftentimes, the support required from the government is beyond the contractual terms, and only if the government prioritizes peoples' needs, and paves the way for a project to move forward, it will reach the expected goals. Further, the lack of understanding about what PPPs conceptually are, how they work and how different they are from traditional procurements or privatization are also obscuring governments' capacity to provide the necessary support.

The second most common issue found was the lack of institutional capacity and know-how. The project development phase is weak, with no efficient mechanism to conduct reliable feasibility assessments. Hence, many projects are later faced with un-estimated issues they struggle to overcome. The lack of know-how also has reduced the government's capacity to negotiate with private partners without compromising much of their demands, or without providing government guarantees to get the private actors to agree to basic terms and requirements. In other words, this lack of capacity has reduced the bargaining powers of governments.

The third issue is that the PPP frameworks are susceptible to influence from changes and instabilities of the political environment. As government regimes change, the perceptions towards PPPs change, and several projects were delayed, postponed, or cancelled. This dissertation views that the three countries analyzed have not taken necessary measures to shield the PPP frameworks from

[488] See *supra* discussion in Section 3.3.
[489] See *supra* discussion in Section 3.4.

political instabilities. Despite administration changes, a right mindset with ethical care and commitments to ensure the smooth functioning of the project is of paramount importance.

The fourth common issue was that the decision-making process and the PPP transactions lack transparency to a detrimental extent. Public services and infrastructure, being matters of public interest remain distant from interested parties, as information are not sufficiently declared open to the public. The involvement of private companies and their preference to keep business matters undisclosed, further challenges PPPs to ensure transparency. Fifth, one of the more critical common issues found in the examined three countries is the difficulty to ensure accountability by imposing liabilities upon those who may do wrong, or neglect their duties. The multiple stakeholders brought together via PPPs are accustomed to the practices of the respective public or private sectors. Yet, they now have to work together, with a certain degree of compromise and adaptability. The PPP contract has to be designed systematically, clarifying the responsibilities and duties of each entity involved to attend to this matter.

However, the multiplicity of stakeholders, and the long-term nature of PPP projects make it such a difficult task for a contract alone to define the liabilities of all involved parties. Difficulty in ensuring accountability is further aggravated by the lack of institutions to oversee and monitor the procedure of PPP strategies and execution, the lack of performance appraisals, and the lack of unrestricted information flow to the public, which is related to the transparency issue in return.

This study focuses on combatting the identified governance issues because, even though PPPs enable the sharing of responsibility of tasks which traditionally were performed by the government alone, the ultimate duty of ensuring rights of the general public is still vested with the public sector. Therefore, it is important that lower-middle income developing countries commit to combating the issues hindering the public sector from harnessing the full potential of PPPs. The common issues identified in the case studies revealed that they are classifiable as "governance issues," which some of the international organizations such as the UNECE, are attempting to tackle by developing principles of good governance. However, in contrast to general principles, this dissertation emphasizes the need to provide contextually relevant solutions reflecting good governance at least on the basis of economic status, because the issues identified cannot be generalized to all countries that are utilizing PPPs for infrastructure development.[490] In narrowing the focus to the context of lower-middle income developing countries, first, this dissertation highlights the need for the countries analyzed to deepen and clarify their understanding of what PPPs are, and what tensions they inherently inculcate.[491]

5.3. Ascertaining Inherent Characteristics of PPPs

This dissertation observed three types of tensions inalienable from the concept of PPPs. First, the tensions as hybrids of public and private dimensions defines the foremost feature of PPPs, which amalgamates the public and private actors together.[492] The hybridity instigates difficulties in aligning the interests of both public and private allies, and necessitates the structuring of PPPs with the foundational understanding and the commitment to embrace the differences in the two dimensions. Secondly, the tension between balancing the flexibility and stability in the long-term contractual relationships of PPPs challenges the extent to which PPP partners can deviate from contractual terms to adapt to uncertain events that may trigger within the long project period.[493] Contract law seems to provide more or less appropriate solutions to address uncertainty issues. However, a contractual agreement alone cannot encapsulate all the possible challenges such as political movements or environmental changes which a PPP project may face throughout its life-cycle. Thus, there is a need to establish an ongoing mechanism to adjust to changing circumstances while maintaining a balance of not deviating unnecessarily from the contractual terms. Third, the tensions brought in by the conflicting interests of multiple stakeholders involved in PPPs identified three main stakeholders relevant: taxpayers, users, and wronged or aggrieved parties.[494] Taxpayers pursue value for money for the services they pay taxes for. Users presume the infrastructure or the services provided through the PPP project will be delivered to meet their specific needs. Aggrieved parties demonstrate their entitlements and expectations in contrast to what was delivered. PPPs are constantly challenged to seek ways to coordinate competing interests these parties.

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490 See *supra* discussion in Section 4.1.
491 See *supra* discussion in Section 4.2.
492 See *supra* discussion in Section 4.2.1.
493 See *supra* discussion in Section 4.2.2.
494 See *supra* discussion in Section 4.2.3.

In order to tackle the conceptually inherent tensions of PPPs, regulators often exercise the powers vested in them to use discretion.[495] In the absence of laws or contractual terms to solve a specific issue faced in a project, public officials exercise the powers to decide what must be done in that particular situation, *inter alia* discretion. The dissertation highlighted how such discretion is seen as a danger and detrimental to a transparent PPP project, mainly in the contexts of developing nations who lack a robust mechanism to ensure accountability. Accountability is intertwined with almost all the aspects discussed in this research: the inherent tensions of PPPs, governance issues, and the exercise of arbitrary discretion.[496] Therefore, this dissertation highlighted the importance of ensuring that accountability is strengthened, when designing or reforming the PPP institutional and legal frameworks.

5.4. Proposition of Remedial Measures

Chapter IV of this dissertation discusses possible remedial measures for lower-middle income developing countries to consider implementing if they are to continue using PPPs for infrastructure development.[497] As the first step towards remedying the issues, this dissertation proposed the clear identification of a PPP regulatory space.[498] Such space is expected to capture the related stakeholders and the legal and non-legal techniques used in regulating PPPs within a single boundary. In doing so, the regulatory space enables one to identify who, and what will need to be regulated during the life cycle of a PPP project, and what techniques are available to regulate the relevant stakeholders. The regulatory space help set the boundaries relevant to a particular project and the role of each actor in the light of the specific project goals to help ensure accountability and transparency of actions.

Second, this dissertation proposed the incorporation of an adaptive management system to help tackle the issue of uncertainty and uninterrupted project progress. The idea is to run an adaptive management mechanism in parallel to the lifecycle of a PPP project. The proposed mechanism requires the conceptualization of project scope, targets, vision and determine partners in

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[495] See *supra* discussion in Section 4.2.4.
[496] See *supra* discussion in Section 4.2.5.
[497] See *supra* discussion in Section 4.3.
[498] See *supra* discussion in Section 4.3.1.

correspondence with the identified regulatory space. Overall, the aim of the proposed system is to help identify the possible issues beforehand through strategic planning, monitoring, and sharing of the learned experience from past projects.

The third remedy proposed is the involvement of the general public to guarantee inclusiveness in the making of decisions that ultimately affect them.[499] This study proposed the involvement of the public in three instances: during the PPP program design phase; during the project development phase, and finally, when drafting contractual terms and managerial measures to address claims and feedback from the user communities. Nevertheless, one may argue that public opinion will only be employed for references, and therefore ultimately, regulators are the ones to make substantial judgements considering technical, financial, social, environmental and political constraints. However, the general public as users, tax-payers or aggrieved parties are the clients receiving the services delivered by the PPP consortium. Therefore, this dissertation emphasizes that incorporating a mechanism to involve the public's opinion is of utmost importance to additionally help mitigate the power imbalance between regulators and the general public.

As the final remedial measure, this dissertation proposed the inculcation of ethics of care as an integral part to help improve the conduct and mindsets of those who operate within the identified PPP regulatory space.[500] Caring responsibilities should be met through attentiveness, responsibility, competence, and responsiveness. From a practical perspective, this dissertation proposed the inclusion of ethics of care through reformed capacity building programs targeted at the relevant stakeholders on a project by project or regular basis. This study also pointed out how ethics of care in developing economies may face several technical difficulties in terms of financial investments needed to implement such capacity building programs.

5.5. Conclusive Contributions

Through the overall analysis, this dissertation makes three original contributions to the existing PPP literature. First, this study presents an examination of institutional, legal, and policy

[499] See *supra* discussion in Section 4.3.3.
[500] See *supra* discussion in Section 4.3.4.

frameworks in three lower-middle income developing countries: Sri Lanka, Bangladesh, and the Philippines. The contexts of PPPs in these countries remain largely uninvestigated because PPPs are a distant topic diffused from the West, and not adequately understood by these countries. Second, this study explores the practical and underlying conceptual constraints that have led the examined countries to deviate from implementing PPPs, for developing infrastructure or delivering public services. Third, the proposed set of recommendations will be of some use for regulators to reform their existing PPP frameworks, and combat the identified governance issues, in a manner that harnesses the potential of PPPs. In addition, the recommended remedial measures will be useful for developing countries affected by financial constraints, and interested in a 'third way' beyond privatization and traditional procurements in pursuit of catering for the growing demands of people.

5.6. Limitations of the Current Study and Avenues for Future Research

Primarily, the hybrid nature of PPPs does not allow one single study to grasp and help solve all the issues that may arise in a range of developing countries. Thus, there are remaining issues not encompassed by this dissertation, yet require further exploration in the future. The foremost limitation of this study is the generalizability of the case study findings to all developing countries with a lower-middle income status. This study selected Sri Lanka, Bangladesh and the Philippines based on their economic status categorized under the World Bank classification.[501] Yet, there are differences in their socio-political contexts that become apparent only when detailed scrutinization is made. Thus, the extent of generalizability of the case study findings is subject to debate. In addition, the number of PPP projects analyzed in this dissertation is in total limited to fourteen cases. The difficulty in acquiring data was the most challenging technical task of this study. There is a need to conduct more detailed case evaluations, in terms of the number of cases to derive a more substantial understanding of the PPPs in practice at these countries.

As avenues for future research, this dissertation recognizes that the concept of "governance" covers a vast area of disciplines. This dissertation attempted to propose a mechanism to integrate good

[501] See *supra* discussion in Chapter III introductory section.

governance principles through the proposed remedial measures. Yet, further research can be conducted to deepen the understanding of governance in terms of PPPs as a policy instrument. Additionally, the role of the government in PPPs can be analyzed in further detail. In the case of Sri Lanka in particular, there is an urgent need to uplift the standards of the political sphere particularly by revisiting the standards on how a person is qualified to contest in an election and become government authorities representing the people who democratically vest their public trust in. Additionally, the interdependencies between various critical success factors found in the PPP literature, how such factors can be evaluated in terms of project outcomes, and what link can be drawn to principles of good governance need to be studied further. Furthermore, in this era of rapid globalization and climate change, studies on comprehensive measures to integrate environmental and social sustainability deliberations into the process of PPP procurements should be further conducted.

Finally, as George Washington once said, "to form a new government requires infinite care and unbounded attention; for if the foundation is badly laid, the superstructure must be bad."[502] Viewing PPPs also as a form of government, countries choosing to implement PPPs for infrastructure development must first focus on laying the foundations for resilient institutional, legal, and policy frameworks strengthened with principles of good governance.

[502] George, Jr. Washington, "The Scourge of Liberty," *George Washington : A Collection*, edited by W. B. Allen, (Liberty Fund, Incorporated, 1988): 69-70. Accessed July 29, 2019, https://ebookcentral.proquest.com/lib/nagoyauniv/detail.action?docID=3327334.

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