

STRATEGIES TO CREATE AN ENABLING ENVIRONMENT FOR PUBLIC PRIVATE PARTNERSHIP (PPP) PROJECTS IN SRI LANKA

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ABSTRACT

Public Private Partnership (PPP) projects have become a proven method of infrastructure procurement to achieve higher rate of economic growth in the most developing countries. However, researches carried out in similar fields have identified that lack of enabling environments hinder implementation of PPPs. Thus, the purpose of this paper is to propose strategies to create enabling environments for PPP projects in Sri Lanka. Nineteen semi-structured interviews were conducted to ascertain viewpoints of experienced professionals in fields of strategic planning and PPPs. The collected data was analysed using content analysis techniques. It was revealed that creation of a national PPP policy, establishment of a national PPP unit, creation of a private sector infrastructure development fund and making necessary legislative amendments as key strategies to create an enabling environment for PPPs in any developing nation. This research gives a significant basis of long term and short-term strategies that have to be made in five fronts of policy, legal, institutional, financial and communication frameworks for enabling PPPs. The proposed strategic outline is probable to implement, however, it requires a detailed study and further validation prior implementation.

Keywords: *Enabling Environment; Infrastructure Procurement; Public Private Partnerships; Sri Lanka.*

1. INTRODUCTION

Public Private Partnership (PPP) implies a course of action between government and private sector to deliver high quality projects with an effective risk transferring mechanism to overcome budgetary constraints (Debela, 2022; Yuan et al., 2010). PPPs present a framework that, while engaging the private sector, acknowledge and structure the role for government in ensuring that social obligations are met and successful sector reforms and public investments achieved (Asian Development Bank, [ADB], 2008). It

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was confirmed that PPPs can deliver better value for money than other alternatives, where it was applied for an appropriate project (Alshahrani et al., 2023; Edwards & Shaul, 2003; Spiering & Dewulf, 2006). Moreover, PPPs practically provides a collaboration of different entities as shareholders with different interests and expectations (Grimsey & Lewis, 2004). Therefore, the Ministry of Finance-Singapore (2012) has confirmed that PPPs provide numerous advantages for different shareholders, namely, the government, public sector and the general public.

In that perspective, PPP projects have become a proven method of infrastructure procurement. Hence, most developing countries are seeking to adopt PPPs specially to facilitate development of public infrastructure (Ke et al., 2009). However, literature findings revealed many issues in the current practices that could limit the use of PPPs and could also lead to inefficient and unsuccessful projects. Implementing PPPs in Sri Lanka has a long history in its development of infrastructure. Central Bank of Sri Lanka (2011) stated that “State Owned Enterprises (SOEs) were expected to explore innovative PPP strategies and attract private investment to catalyse infrastructure development process” (p.60). Nevertheless, Sri Lanka had tried to establish PPP projects since early 1990’s, yet did not receive effective results (Shanika, 2012). As Kelegama (1999) further stated, a majority of developing countries have discouraged PPP experiences after having embarked on ambitious PPP projects without initially having a proper legal and regulatory framework in place. As mentioned by Madawala (2006), absence of a stable political and macro-economic environment, lack of basic legal structure, poor institutional and regulatory framework and weak risk management strategies can be identified as most important aspects hindering PPP implementation in most of the developing countries. Hence, establishing a strategic outline for PPPs is vital to encourage private equity holders and to effectively execute PPP projects (Borgstrom, 2008). Thus, this study is intended to propose strategic outline to create an enabling environment for PPP projects in Sri Lanka. Accordingly, as the initial step, this study identified impediments for PPPs in Sri Lanka. Then, the strategic measures that have to be taken in order to mainstream PPPs as a viable procurement method were identified and proposed a strategic outline to setup an enabling environment for PPPs in Sri Lanka. The scope of study was limited to strategic level changes that have to be made in five fronts of policy, legal, fiscal, institutional and communication frameworks of PPP implementation.

2. LITERTAURE REVIEW

2.1 ENABLING SUCCESSFUL IMPLEMENTATION OF PPPS

Worldwide experience has demonstrated that successful implementation of a PPP program requires an enabling environment to be in place in order that PPP projects may be implemented effectively and with maximum benefits to the public sector. In the opinion of Cloverson and Perera (2012), global approach to PPP is driven by contextual differences and priorities at national level, which contribute to divergence on institutional structures and legislative approaches across jurisdictions. Accordingly, there is no exact formula to establish a proper enabling environment for PPPs, hence, countries will have to observe capacities and constraints appropriately to check whether existing legislations, bureaucracy, institutional frameworks and public attitude is favourable for PPPs. On the contrary, ADB (2008) identified five requirements to be fulfilled in order to successfully execute PPP projects. Accordingly, a legal framework complimentary on PPPs,

supportive political leadership, a dedicated national PPP unit, public and environmental preparation and a well proven risk allocation method were prerequisites of effective PPP projects. A review of literature by several other academics and institutions (Cheung et al, 2010; Li et al, 2005; Ministry of Finance-India, 2012) also indicate that similar requirements shall be met before PPPs can be implemented successfully.

Research on critical factors affecting implementation of PPPs in Hong Kong, Australia and United Kingdom by Cheung et al. (2010) revealed that PPP practitioners of Hong Kong highly value existence of a good legal framework, while PPP practitioners of other two countries considered it as a criterion with medium importance. Accordingly, if a country is not matured in PPP context, it is important to establish a PPP complementary legal framework to achieve success. Further, establishment of a dedicated PPP unit is seen as one such important mechanism by which governments can define, regulate and build public sector capacity with regards to PPPs (Cloverson & Perera, 2012; Kukah et al., 2023). Organisation for Economic Co-operation and Development (2010) identified that the dedicated PPP units as institutions set up with full or partial aid of government with all skills required. Further to the organisation, financial model must be flexible enough to accommodate a range of variables, allowing for an iterative process between financial modelling and PPP design. A key objective will be to ensure financial sustainability of a utility through efficiency gains and balancing of income and expenses (Zhang, 2005). Although they are methodologically sound; privatisation, PPP or private sector involvement in infrastructure programmes might fail if implementing agency does not pay much attention on trends of socio-economic environment and importance of public awareness. Moreover, policy and economic reforms succeed if stakeholders understand the necessity and effects of such initiatives.

2.2 OUTLINING ASPECTS FOR ENABLING PPP PROJECTS IN SRI LANKA

In Sri Lanka, as stated by Appuhami et al. (2011), adoption of PPP policy in Sri Lanka had been lagging due to various issues, such as lack of effective institutional structures, lack of political support, financial constraints etc. As Kelegama (1999) stated, Sri Lanka has a discouraging PPP experience after having embarked on ambitious PPP projects, without first having a proper legal and regulatory framework in place. As mentioned by Madawala (2006), absence of a stable political and macro-economic environment, lack of basic legal structures, poor institutional and regulatory framework, and weak risk management strategies were identified as most important factors hindering PPP implementation in Sri Lanka. Further, the public opposition, lack of confidence and distrust in the private sector and the higher charges to the end user has been influenced on the PPP implementation in Sri Lanka (Weththasinghe et al., 2016). As Weththasinghe et al., (2016) further found in their recent study, absence of proper PPP legal regime/ institutional framework and weakness in enabling policy and regulatory frameworks has become also become a critical issue in the Sri Lankan industry. Hence, lack of public sector project development funds, difficulties in obtaining long-term finance, conflicts of interest, corruption, unfavourable economic, and commercial conditions and constraints of local finance markets were identified as the economic barriers restricting the proper implementation of PPP in Sri Lanka. However, establishing a National Agency for Public Private Partnership and implementing a National Procurement guide for infrastructure projects in Sri Lanka has been identified as key initiatives in recent past (Ministry of Finance - Sri Lanka, 2017). Indeed, initiating strategic level changes which were proposed in line with the status of PPPs in Sri Lanka may create an enabling environment

for PPPs in developing countries, especially to encourage private equity holders and to effectively execute PPP projects.

3. RESEARCH METHODOLOGY

The selection of relevant research approach is based on the type of research problem or problem being addressed (Creswell, 2014). The aim of this study is to identify measures that can be taken to prepare an enabling environment for public private partnership projects in Sri Lanka, thus qualitative research approach was selected. Accordingly, a comprehensive literature review was carried out to find out impediments for PPPs in Sri Lanka as well as to identify measures taken globally to overcome similar impediments. The qualitative approach focuses on interpretation and description which might lead to developing novel theories or concepts to evaluate an organisational process (Hancock et al., 2009). Under the qualitative approach, semi-structured interviews were conducted to collect the data. As Yin (2009) pointed out that, there are six sources of data collection can be identified under qualitative research, namely documents, archival records, interviews, direct observations, participant observation and physical artifacts. Among these techniques, interview was selected as the most reasonable data collection technique because it appears to be guided conversations rather than structured queries. Noor (2008) further stated that, semi-structured interview rather than structured interview enables sufficient flexibility to approach different respondents differently while still covering the same areas of data collection. Further, it enables to adapt the questions necessary, clarify doubts and ensure that the response is properly understood by repeating and rephrasing the questions. Proving appropriateness of collecting data on strategic measures related to PPPs, nineteen (19) semi structured interviews were conducted with experts of PPPs in Sri Lanka. Consequently, managerial level personnel of those institutions who have involved in delivering PPPs, such as policy makers, project financing officials and legal experts. The profile of interviews is given in Table 1.

Table 1: Profile of the interviewees

Sector	Expert Code	Years of Experience	Brief of Experience (Project Involved/Roles & Duties)
Government	GE1	8 years	Involved in Colombo Katunayake Expressway project
	GE2	15 years	Involved in Norochcholai Coal Power Plant
	GE3	9 years	Deputy Secretary
	GE4	10 years	Director
	GE5	10 years	Involved in Colombo Katunayake Expressway project
Private investor	PE6	30 years	Involved in Colombo Katunayake Expressway project
	PE7	15 years	Involved in Colombo Katunayake Expressway project
	PE8	15 years	Insurance company
	PE9	8 years	Private investor
	PE10	7 years	Insurance company
	PE11	12 years	Private investor

Sector	Expert Code	Years of Experience	Brief of Experience (Project Involved/Roles & Duties)
	PE12	15 years	Private investor
Donor agency	DE13	20 years	Fund officer
	DE14	25 years	Evaluator
	DE15	6 years	Coordinator
Banking sector	BE16	8 years	Manager
	BE17	12 years	Bank Officer
	BE18	7 years	Bank Officer
	BE19	8 years	Officer

The interview guideline was developed incorporating five major requirements of PPPs identified by literature survey. With the consent of interviewees, interviews were audio-recorded to secure an accurate account of conversations and avoid losing data since everything cannot be written down during an interview. The content analysis technique was adapted to analyse the data. Code-based content analysis technique was used to analyse the data using QSR.NVivo. Version 7 (Copyright © 2007 QSR International Pty Ltd) software. Coding structure was prepared focusing mainly on five fronts namely; policy framework, legal framework, institutional framework, financial framework and communication framework. The analysis was done by identifying probable strategies under each front.

This research was limited to PPP projects implemented in Sri Lanka during the last 35 years. Further, a strategic outline was developed to create an enabling environment for PPPs, which may need further justification through a detailed study prior to implementation in Sri Lanka.

4. RESULTS AND DISCUSSION

This section presents the key research findings of different strategic measures justifying with related literature. Section 4.1 presents specific implications for enabling PPP projects in Sri Lanka.

4.1 STRATEGIC OUTLINE FOR CREATING AN ENABLING ENVIRONMENT FOR PPPs

Through the findings of data analysis, it was identified that strategic outline should be formulated in five fronts, namely: policy, legal, institutional, financial and communication frameworks as presented in Table 2.

Table 2: Proposed strategies

Aspect	Term	Strategy	Sector			
			Government	Private	Donor	Banking
Policy framework	Short-term	The requirement of private sector involvement in infrastructure projects	X			
		Establishing a national policy for PPPs			X	
	Having a political will or committed national leadership is a prerequisite to establish an effective policy framework				X	
	Long-term	Fiscal policy changes to encourage PPPs, such as tax structure, minimum revenue guarantee, debt guarantee and exchange rate guarantee	X			
		Create a contingent liability fund	X			
Legal	Short-term	Making amendments to existing legislations to cater PPP requirements	X	X		
		Eliminating ambiguities of various legislations and make them coherent	X		X	
	Making expressed provisions for tiered dispute resolution process in Board of Investment (BOI) Act			X	X	
	Long-term	Enacting a separate PPP Act	X		X	
Institutional	Short-term	Establishing a National PPP unit in Ministry of Finance	X			
		Bringing in qualified staff and remunerate them above normal public employee pay scale	X			
	Identifying the functions of National PPP unit	X	X	X		
	Long-term	Establishing PPP cells in line ministries, provincial councils etc	X	X	X	X
Finance	Short-term	Establishing a private sector infrastructure development fund	X		X	
		Establishing a viability gap fund, such as a form of capital grant, annuity payment or a combination of both forms etc	X		X	
	Long-term	National PPP unit in collaboration with multilateral donor agencies	X	X		X
		Training for banking professionals conversant about PPPs	X	X		X
Communication	Short-term	Improving public perception immensely influences the success of a PPP project	X			
		Maintaining communication amongst project stakeholders	X		X	
	Long-term	Inter department communication channel shall be established to disseminate the knowledge and gain efficiency	X			X

4.1.1 Policy Framework

As a short-term measure to create an enabling policy environment for PPPs, the research identified that Sri Lanka should create a PPP policy. Identification of the objectives of using PPPs as a procurement system is equally important. DE14 in Donor agency expressed his view on PPP policy of Sri Lanka as: *“If you take India, they have done many successful projects with PPPs. The main reason for success is that they have a clear policy to attract private companies in infrastructure development through PPPs. Sri Lanka does not have such a policy, but in its report the Central Bank has mentioned that they encourage state owned enterprises like water board and electricity board to get private sector involved in their projects”*. However, a relatively different judgment was offered by DE13 in Donor agency; *“Policy is not the most important factor here; political willpower is the most important. What is the use of a policy if there is no support from the leadership? If the political will is there, policymaking is not a question”*.

Accordingly, enforcement of a policy is always tied to political support; hence, a PPP policy is not necessary if there is a committed leadership. In the long term, Sri Lanka requires fiscal policy changes to encourage PPPs. The research identified that application of an arbitrary fiscal policy from one project to another is viewed as a discouraging factor by PPP stakeholders. GE2 in government sector revealed his opinion on necessary fiscal policy changes to accommodate minimum revenue guarantee funds in following manner; *“commissioning a PPP will have a strain on fiscal policy; primarily because the government will have to provide a minimum revenue guarantee to the investors. A fund has to be set aside to be used if such guarantees become due”*. In that regard, the country will have to establish a contingency fund by the budget, from which unexpected payments such as lower revenue, debt default and exchange rate risks can be met with. As identified in data analysis, there should be a coherent fiscal policy which shows aspects, such as tax structure, minimum revenue guarantee, debt guarantee and exchange rate guarantee at least for solicited proposals.

4.1.2 Legal Framework

The prevalence of legislation on PPP can help attract financiers to a country by improving or clarifying legal aspects related to PPPs. The research identified that in the short term it is impractical and unnecessary to enact a separate PPP legislation. Most interviewees opine that this is not the prime opportunity to bring in a new law; however, in the long run a requirement of a specific PPP law might arise. This opinion was supported by PE7 who expressed his dissatisfaction on provisions of current legislation related to PPPs. *“If you look at Electricity Act it says that if the capacity of a private power plant is more than 25Mega Watts; more than 50% of the shares of Project Company shall be invested with the government. Then the private investor becomes a minor shareholder of the project company. With that we have to face many regulations”*. In line with majority of interviewees, the researcher believes that amendments to existing legislation will be sufficient to address short term legal barriers on PPPs. Further, due to complexity of PPP agreements and involvement of plethora of parties, disputes are inevitable. As long-term strategies, DE15 highlighted that Sri Lanka may require a separate PPP Act to integrate fragmented provisions in different legislations related to PPPs. A separate PPP legislation will demonstrate clear guidelines on public procurement, implementation and further steps of project life cycle. The study conducted by Kosycarz et al. (2019) in Poland have expressed that a special team in the Ministry of Development has been established for the

development of PPPs and legislative changes have been introduced. As stated by interviewees, PPP legislation can be introduced with provisions for procurement of PPPs, risk sharing among parties, grant of concessions, ownership and transfer of project assets after concession period and dispute management. Accordingly, various short term and long-term strategies, such as making amendments to existing legislations to cater PPP requirements, eliminating ambiguities of various legislation and make them coherent, making expressed provisions for tiered dispute resolution process in Board of Investment (BOI) Act and enacting a separate PPP Act, can be elaborated as stated in Table 2. As stated in key literature findings, legal framework should be given a high consideration when creating a suitable environment to PPPs. According to a study conducted by Cheung et al. (2010), the implementation of PPPs in Hong Kong, Australia, and the United Kingdom is influenced by several critical factors. The research found that PPP practitioners in Hong Kong place a high level of importance on having a strong legal framework in place, whereas practitioners in the other two countries view it as a moderately important criterion. However, the study pointed out that developing countries such as Sri Lanka should not go for new separate legislation only for PPPs due to lack of experienced and knowledgeable legislators.

4.1.3 Institutional Framework

As expressed by GE2 in government sector, identifying right functions and providing necessary authority to act on them is highly important for success of a PPP unit. *“When forming a national PPP unit, we must assign tasks that are achievable and must provide powers to work on them. If functions of such unit are to merely provide guidance, advice and knowledge dissemination, it won’t be effective in Sri Lanka. PPP unit shall actively participate in promoting PPPs, rather than being just a consultant”*. As a short-term strategic measure, it was identified that it is important to establish a national PPP unit under an authorised ministry. The study conducted by Neto et al. (2020) have focused on increase the efficiency of PPP units in Brazil which explains the existence for PPP units for the proper implementation of PPP projects. The functions of such unit shall be to develop a PPP policy, identify potential PPP projects, funding/managing feasibility studies, preparation of solicited proposals, marketing proposals, calling for bids, negotiation with private partner and concluding the deal and to act as a resource centre for PPPs. Accordingly, four proposals were developed to locate the national PPP unit and locating it within the Ministry of Finance was identified as the best way by majority of experts. Additionally, this research identified that proposed national PPP unit shall be staffed with people experienced in PPPs. As long-term measures, when experience is gathered and potential of PPP projects increase; in compliance with PPP policy, the national PPP unit shall help the government agencies to establish PPP cells within them. It will enable to make a web of PPP nodes that will help each other in capacity building, knowledge sharing, and ultimately will provide synergy in overall PPP programme. As stated by Cloverson and Perera (2012), establishment of a dedicated PPP unit has been seen as one such important mechanism by which governments can define, regulate and build public sector capacity with regards to PPPs.

4.1.4 Financial Framework

This research identified that Sri Lanka lacks a financial institution that can stimulate PPP projects take-off. Although project financing is done by local banks; they are not really encouraging private sectors to invest in infrastructure. Bank loans are the most common

and the main source of funds for PPP projects in China (Ngoc Linh et al., 2018). The PE7, a private investor expressed his dissatisfaction on the local commercial banks as follows; *“To do project financing for PPPs you need to do a lot of preparatory works. And it requires considerable amount of time, money and human resources. I wonder whether banks have people who can carry out risk assessment, cash flow calculation and all. You need to have specialised banks or any other kind of funding institutions to do those works. Our banks are not accustomed to do them. In my opinion the lending rates of the commercial banks are not favourable for investors. They are too high”*. Thus, the researcher suggests that as a short-term strategy Sri Lanka should establish a private sector infrastructure development fund. However, it should initiate concurrently with the short-term strategies of other PPP enabling frameworks to make it real. Further, to attract private parties for such projects, it was suggested that a viability gap fund shall be established. In the view of experts, viability gap funding would either be in the form of capital grant, annuity payment or a combination of both forms. Experts from government sector, private sector as well as donor agencies identified lack of knowledgeable professionals in commercial banks as a detrimental issue to attract local debt funding to PPPs. Therefore, as a long-term measure on enhancing financial environment for PPPs, national PPP unit in collaboration with multilateral donor agencies can train and make banking professionals conversant about PPPs as stated in Table 2. The findings confirmed literature synthesis by showing the suitability of establishing a private sector infrastructure development fund in developing countries such as Sri Lanka as a short-term strategic measure whereas in the long run, private investors should be encouraged with number of facilities. Moreover, policy and economic reforms succeed if stakeholders understand the necessity and effects of such initiatives (The World Bank, 2008).

4.1.5 Communication Framework

The success of a PPP project is related to positive relationship between PPP project stakeholders themselves as well as stakeholders and civil society. A PPP project might get to a standstill at the outset if the community goes against such an initiative or if the project stakeholders do not have a good relationship. As short-term measures to counter this issue, this research identified public perception management should take an important role in PPP project development. Even if there are no genuine reasons for the public to averse to a particular PPP project, a simple misconception might be enough to create a huge uproar. As GE4 in government sector stated, *“If we consider these mini-hydro projects, most of the time a lot of resistance comes from the community. They are annoyed about the usage of water sources by private companies. If we can communicate effectively the value of such projects and their requirement, I’m sure people won’t resist. That will become a requirement of high priority if we are going to use PPP procurement system for sensitive sectors such as health and education”*. Hence, this research identified that PPP project implementing agency shall take the initiative to prepare a communication strategy that involves all important parties whenever they are required. Hence, short term strategies of improving public perception immensely influences the success of a PPP project and maintaining communication amongst project stakeholders can be proposed while establishing an inter department communication channel to disseminate knowledge and gain efficiency is proposed as long term strategies as presented at Table 2. As the key findings derived through this research, the requirement of private sector involvement in infrastructure, establishing a national policy for PPPs, having a political will or committed national leadership is prerequisite to establish an effective policy framework.

Fiscal policy changes to encourage PPPs such as tax structure, minimum revenue guarantee, debt guarantee and exchange rate guarantee and creating a contingent liability fund were identified as strategies pertaining to policy framework while making amendments to existing legislations to cater to PPP requirements, eliminating ambiguities of various legislations and making them coherent and enacting a separate PPP Act were proposed as legal strategies. Consequently, institutional, financial and communication strategies were also proposed. The outcome addressed the research problem by demonstrating a strategic outline to create an enabling environment which includes facets of policy, legal, institutional, financial and communication frameworks with both short term as well as long term measures. Further, the consideration of some strategies under the national initiatives attested that the research findings are more worth to implement in other developing countries. Thus, the proposed outline can be used as a basis to overcome existing issues that hinder implementation of PPPs in Sri Lanka, as it covers all long and short-term strategies. However, it requires a detailed study and further validation prior to implementation, as this research proposal is an outline indicating only probable strategies.

5. CONCLUSIONS

This research is about a new era on infrastructure procurement of developing country like Sri Lanka. One of the major concerns of low and middle-income countries is improvement of infrastructure to stimulate growth. In that regard, PPP projects have become an innovative method of infrastructure procurement that allows off-balance sheet infrastructure development. However, the issues in the practice hinder use of PPPs especially due to lack of legal and institutional frameworks and political backup. Specially to create an enabling environment for PPPs in developing countries, a strategic outline was proposed. PPP project implementing agency, private organisations, ministry of finance, ministry of justice, bank system and community are the major responsible parties to implement the proposed framework. As the first step, short term and long-term strategies were recognised for PPP projects in terms of policy framework, legal framework, institutional framework, financial framework, and communication framework. Among the proposed the strategies, some of them, such as ensuring private sector involvement in infrastructure, making amendments to existing legislations, making expressed provisions for, dispute resolution, establishing a national PPP unit in Ministry of Finance, identifying the functions of national PPP unit, establishing PPP cells in line ministries, provincial councils and improving public perception immensely influences the success of a PPP project etc have considered to initiate. However, further investigation is essential to assure their appropriateness to the infrastructure development in Sri Lanka. The strategies outlined may create an enabling PPP environment and still requires additional capacity to undertake PPPs in other critical sectors such as roads, water, waste, social services etc. Further, those long term and short-term strategies may create an enabling environment for PPPs in Sri Lanka, which would generate more economic and social benefits at the national and society level of implementation. However, a further validation and justification on the proposed guideline through a detailed study is exceedingly important before implementing in other developing countries.

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