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An Analysis of Public Private Partnership (PPP) Policies in South Asia

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Abstract

South Asia comprises of eight countries that includes Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. It is the most populous and backward region in different world indicators. The region is rich in human and material resources but is not capable in eradicating poverty, malnutrition, hunger, illiteracy, unemployment, gender imbalance and rural-urban disparities. It faces shortage of basic needs like healthcare, education, safe drinking water and sanitation as the government have limited budgetary amount. There is also shortage of private partners due non-liberal policy and monopoly of government sectors. To harness the potential of private sectors, PPP has been widely recognized and gaining ground in the recent past for all round development of South Asia. In this paper, an analysis has been made about PPP policies for infrastructure development in South Asia. After a brief introduction, the initiative taken by South Asian countries in framing PPP policies and guidelines and an analysis of PPP policies have been discussed.

Key words: South Asia, Public Private Partnership, education, poverty, unemployment.

Research Methodology

The methodology for this study is exploratory in nature. It is based on a qualitative research that includes document analysis. The data are taken from government documents, draft PPP policies and guidelines, seminars, workshops, research studies, newspapers and other secondary sources to generate a comprehensive idea for the analysis of this study.

Introduction

South Asia is one of the most backward regions with most populous, highest density, massive poverty, unbalanced growth and weak economy. Many people suffers from malnutrition, hunger, illiteracy, gender imbalance, unbalanced regional growth and are in need of basic healthcare, education, drinking water, food and sanitation. These challenges will be exacerbated by climate and environmental challenges. There is shortage of both physical as well as social infrastructure in comparison to explosive population growth of the region that is going to be crucial in coming decades. It is estimated that India is going to top the population list by 2050 according to UN and the World Bank and Pakistan and Bangladesh are also in this race. The government has not invested too much to bridge the gap of infrastructure deficit due to budgetary shortage and technical know-how. The private sector investment has also been limited because of government sectors monopoly, political instability, wars, public protests against private projects and other calamities both natural as well as man-made. In the early 1990’s, there were not many countries that worked with the private sector.

The governments of the region have formulated many policies and programme to transform the backwardness of the countries to catch up the world’s growth. But, it failed in achieving the target of social and infrastructure development with their limited budgets. The successful experiment of PPP in European and American countries has encouraged South Asian countries to initiate projects through PPP model as it provides an alternative option for infrastructure development and service provision. To harness the benefits of PPP like easing budgetary constraint, faster implementation, reduced whole life cost, better risk allocation, improved quality of services, and greater efficiency in the resources, many projects had been initiated in different sectors. The governments of South Asia have changed their old policies and opened their economy for greater participation of private sectors. Many rules and regulations were changed to build a favourable environment for encouraging private sectors. The PPP policies and guidelines were formulated and many projects are under various stages of implementation in various sectors.

PPP Policies in South Asian Countries

All the countries have felt the need of PPP policies for better utilization of their scarce resources to improve the socio-economic conditions of their citizens. Though a clear PPP policy is not made by the countries, many rule and regulations have been changed and PPP guidelines have been drafted to pave the way for taking up PPP projects in different sectors. A brief account of PPP initiative taken by the countries has been briefly discussed.

Afghanistan

After war and internal conflicts, the Government of Afghanistan is getting massive support from various development partners to help rebuild Afghanistan. There is no PPP policy drafted so far but many international organizations are helping to reform the old policies and giving training for PPP capacity and awareness building. It lacks in policy, regulatory, legal, and institutional frameworks. Only small scale contractual relationship has been taken from private sectors. The main private partner’s are local

NGO's rather than international players. The main projects are taken in telecom, energy, transport, health, education, water and sewerage.

Bangladesh

Due to limited success in attracting private investment through PPP route, the Government of Bangladesh (GoB) has replaced Bangladesh Private Sector Infrastructure Guidelines (PSIG)-2004, and formulated a new "Policy and Strategy for Public-Private Partnership (PPP)" in 2010 to attract private sectors in power, gas, telecom, ports, roads, railway, water supply, waste management, tourism, e-service delivery, and other sectors.[1] It provides detail guidelines for formulating and implementing PPP projects. The government has taken a two-pronged strategy for building PPP: one is to attract investment for projects, where building new infrastructure and expanding existing infrastructure is the major component; the second is to attract innovation and sustainability of public service delivery to the citizens.[2] The choice of the PPP arrangement for a particular project will depend on social and economic importance and potential value for money to be generated under such arrangement. It identified a long list of sectors to be applied for such projects. In Bangladesh, PPP projects are classified into three group's i.e. Large, Medium and Small projects to ensure the quick approval and implementation of all projects.[3] Large projects is estimated to have a total investment above BDT 2.5 billion that is finally approved by CCEA, Medium projects (between BDT 500 million and 2.5 billion) is finally approved by Finance Minister and Small projects investment (below BDT 500 million) is with respective Minister of line Ministry. The institutional framework identified by GoB for developing strategy, identification, formulation, appraisal, approval, monitoring and evaluation of PPP projects are PPP Advisory Council (PPPAC), Cabinet Committee on Economic Affairs (CCEA), Office for PPP, Line Ministry/implementing agency, Finance Division and Planning Commission. The financing of infrastructure is in the form of debt or equity through specialized financial institutions such as Bangladesh Infrastructure Finance Fund (BIFF) and Infrastructure Development Company Limited (IDCOL) in addition to Viability Gap Financing. The PPP policy also includes an Exit clause which specifies the terms and conditions of exit of a current private investor, possible transfer of ownership to a new investor, or partial or complete divestiture of ownership to capital markets.[4] To ensure transparency and accountability, laws, rules and regulations, model documents, short description and scope of negotiated PPP projects will be made publicly available through various channels including the internet.

Bhutan

Learning from the successful experiment of PPP in improving the socio-economic development, the Royal Government of Bhutan has taken initiative to formulate an appropriate policy framework to allow public private partnership in infrastructure projects such as airports, roads, bridges, housing, power projects, telecommunications, industrial estates etc.[4] It shall provide adequate security for private sector investment and at the same time ensure that adequate checks and balances are maintained through transparency, competition and regulation. The PPP may be in the form of BOOT, BOLT, BOT or any other relevant models. The concerned sectors shall develop the frameworks including the concession period for successfully executing projects.

India

PPP in India dates far back in the latter half of the eighteenth century when British companies made investments of about 95 million pounds in rail and roads sectors. The Government of India (GoI) has drafted PPP policy which is under consideration and many projects are under various stages of implementation that is based on GoI PPP guidelines. A PPP Cell has been established in the Department of Economic Affairs, Ministry of Finance, to administer various proposals and coordinate the activities to promote PPP. The institutional framework for PPP projects are Committee on Infrastructure, PPP Appraisal Unit and Empowered Committee/Institution. PPP financing mechanism includes Viability Gap Funding, India Infrastructure Finance Company Limited, India Infrastructure Project Development Fund, and other financial institutions including commercial banks. The procurement process follows competitive bidding process for selection of investors. The main sectors taken through PPP routes are ports, airports, roads, telecom, energy, etc. In the South Asian region, India attracted about 98 percent of regional investment and implemented 43 of the 44 new projects in the region.[5]

Maldives

The Maldives government has launched a programme to establish PPP in service provision. It target key sectors are transport (ferry services), real estate (housing development), utilities (electricity, gas, water and sanitation), healthcare, education, regional airports, regional ports, and broadcasting and entertainment. The program is supported by initiatives to promote foreign and local investments for which major reform in the legal and regulatory framework in various sectors have been initiated. A Privatization Committee has been established under the purview of the President's Office and will oversee the process for private sector participation.

Nepal

The Government of Nepal (GoN) has framed a white paper on PPP policy in 2011 that defines broad contours of private sector participation in the country. It defines the regulatory, institutional, legal, financial and other frameworks of PPP. The GoN does not consider Public Enterprises, Joint Ventures and Privatization as PPP.[6] There are three main models of PPP i.e. revenue based, availability based and hybrid types.[7] The risk in a PPP has to be allocated to the party who is best able to mitigate and manage it. The GoN will set up independent framework/institutions for dispute resolution that provides comfort to local as well as foreign contractors/investors. The priority sectors are physical infrastructure and transportation (roads, bridges, ports of all types), energy sector, both large scale hydro-power, rural energy and renewable energy, information and communication sector, environment sector like solid waste management and water and sanitation, basic services sector like health and education.[8] The main institutional frameworks for the identification, appraisal, approval, monitoring and financing of PPP projects at the different tiers of government, and across different sectors are National PPP Policy Committee, PPP

Centre, Ministry of Finance, and PPP Project Monitoring Units. PPP projects will be procured through a clear, transparent and competitive procurement process. Nepal has made significant progress with smaller projects at the local level. PPP is more successful at the municipality level in Nepal.

Pakistan

The term 'PPP' was introduced into the policy discourse in Pakistan in the early 1990s (MoE, 2004)[9], and thereafter approved revised PPP policy in 2010. The overall structure of Pakistan's PPP program comprises of the PPP Policy, Viability Gap Fund, Risk Management Framework, a Financing Facility and Infrastructure Project Development Facility (IPDF). IPDF is the central PPP unit to facilitate government department/agencies in developing their infrastructure projects under PPP methodology. Private Power Infrastructure Board was created in Pakistan to facilitate private investment in power generation. The Government is also thinking of establishing a Cabinet Committee on Infrastructure so that the approval and support for PPP projects comes from the highest level so as to ensure the cooperation of the bureaucracy and their success.

Sri Lanka

In Sri Lanka, PPP have existed unofficially for a long period but in real terms, it started in the early 1990's. Till now, PPP policy is not framed but measures have been taken for promoting private investment in the country. Bureau of Infrastructure Investment has been set up as a separate unit under the Board of Investment of Sri Lanka for facilitating private sector investment through BOO, BOT and other models. The PPP Unit in the Board of Investment, established in 2006, is the apex body which facilitates, promotes, and approves PPP projects in the country. This Unit is equipped with qualified and experienced staff with skills in financial analysis, legal, transaction and sector specialists. Similarly, several PPP cells have also been developed in the related agencies for handling infrastructure projects. The National Procurement Agency is presently redrafting the guidelines for the procurement process of PPP projects. The projects have been taken in health, education, roads, ports, telecom, and in other sectors.

PPP: A Comparative Analysis

PPP is at infant stage in South Asian region. PPP initiative in infrastructures showed a wide variation across the region, largely reflecting differences in policy development, institutional environments, political development, and approaches of governments. PPP is a very new approach adopted by all the countries for private participation in the delivery of infrastructure and other services due to budgetary constraint. For taking benefits of PPP, the governments have initiated many projects to provide better services to its citizens. All countries of the region have initiated PPP projects in various sectors that are under various stages of implementation i.e. bidding, construction and operational stages. They have achieved mixed success in projects, though PPP policies have not been framed till now except Pakistan that had made PPP policy in 2007 and revised it in 2010. On the other hand, no any countries have cleared their PPP policies and are under consideration with the public or lies in parliaments. It is very essential for giving clear guidelines and rules where private partners can be involved in the development process without any hindrances. In order to take the advantages of PPP, many projects are initiated without knowing the very basics of PPP concepts. There is lack of knowledge about technical, financial, legal, procurement and management expertise of PPP among government staffs. Many international organizations are providing training and capacity building programmes to South Asian countries. In India, Asian Development Bank (ADB) is providing PPP expert and MIS expert under the ADB Technical Assistance Grant Scheme for capacity building. It is also providing capacity building programme in Bhutan, Bangladesh, and Pakistan.

Bangladesh has classified the projects to be initiated into Large, Medium and Small scale projects for quick approval and implementation of all projects.[10] This is very essential as late approval of projects generally increases the cost and is not profitable in the long run. But, the final approval of projects in South Asia takes too much time as it has to pass through many ministries and departments before getting final clearances. Some of the main reasons for late approval of projects are political pressure, environmental concerns, non-availability of partners, less incentive to private partners or people protests against the projects. In India, there are widespread protests against PPP projects in different parts of the country before and at the implementation stage. There are protests against the collection of toll tax and also destroy the toll booth. All these results in the increase of projects cost or cancellation of projects.

Different definitions of PPP have been defined in accordance with the socio-cultural environment of the region. The scheme and guidelines for the India Infrastructure Project Development Fund, issued by Government of India defines PPP as “Partnership between a public sector entity (sponsoring authority) and a private sector entity (a legal entity in which 51% or more of equity is with the private partner/s) for the creation and/or management of infrastructure for public purpose for a specified period of time (concession period) on commercial terms and in which the private partner has been procured through a transparent and open procurement system”.[11] The Government of Nepal in its White Paper on PPP defines it as a “contractual agreement between a public entity and private entity for the delivery of infrastructure or services in the public interest where the public partner focuses principally on the output and allows the private partner to determine the input in which a substantial transfer of appropriate risk takes place to the private party where the private party or parties have investments at risk, although capital investment may not be required in all PPPs, where better Value for Money can be demonstrated than traditional public provision”.[12] The Nepal government has also notified a list that who should be public or private partners. The ministry of public health of Afghanistan defines PPP as a contract between government and private party under which the private party performs an institutional function and/or uses state property to produce specified outputs or PPP are long-term (5 to 25 years) contracts between the public and the private sectors usually valued at over $25 million.[13]

Some sectors like telecommunications, energy, ports and roads, have done very good progress compared to limited success in other sectors. The water sectors saw the least participation because of their political and economical aspects. In India, road projects account for 53.4 percent of the total number of projects and 46 percent by total value.[14] The sectors with largest investment share are telecom in Afghanistan, Bangladesh and Pakistan, energy in Bhutan, India and Nepal, transport in Maldives. India ranks second in PPP projects next only to China and also in investment after Brazil up to 2012.[15] No other South Asian countries are near to India in terms of projects and investment. It ranked third both in number of projects and total investment after Latin America including the Caribbean and East Asia and Pacific.[16] The total investment in South Asia is US$ 358, 304 million which is much less when compared to Latin America including the Caribbean amounting US$ 769, 444 million.[17] Maximum number of projects is urban-centered neglecting the rural areas where PPP projects are most needed as about three-fourth of the population live in rural and remote areas.

Different institutional frameworks have been made under different government departments to successfully run the PPP projects. In India, PPP cell under Ministry of Finance administers various proposals and coordinate the activities to promote PPP. IPDF is the central PPP unit in Pakistan to facilitate government department/agencies in developing their infrastructure projects under PPP model. In Nepal, PPP centre under National Planning Commission serve as a ‘single window’ for the private sector with regard to the PPP market, overall policy, procedures, etc. PPPAC, CCEA, Office for PPP, Line Ministry/implementing agency, Finance Division and Planning Commission are the institutional framework in Bangladesh. In order to encourage private sectors to participate in infrastructure development, the governments are providing Viability Gap Fund to support PPP projects that are very important but are not feasible under current conditions.

Many rules and regulations have been amended to pave the way for PPP projects and other rules have to be amended as the government is expanding PPP projects to other sectors. In the budget 2013-14, GoI has allowed PPP in coal sector and the old policy Coal Mines (Nationalisation) Act, 1973 is going to be amended. Recently, the GoI replaced Land Acquisition Act, 1894 with ‘The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2012’ that stipulates mandatory consent of at least 70 percent for acquiring land for PPP projects and 80 percent for acquiring land for private companies.[18] The Nepal government is going to revise Local Bodies Financial Administration Regulation 2064 (2007) to provide procurement procedures for PPP.

All countries in their PPP policies and guidelines allocated the risks to the partner who is best able to manage it at least cost. The risks may be political, legal, economic, operational, market, project selection, project finance, or natural risks. These risks possess biggest challenge in most of the countries. All of them face one or more types of risks. In Nepal, there is no stable government who can formulate PPP policy as they are in the process of writing the constitution. In this condition, the private sectors are not interested to take large infrastructure projects. In Maldives, after the change in government, laws are also changed as can be seen in the GMR and Maldives Ibrahim Nasir Airport controversy. There is also widespread corruption and favouritism, poor public decision making process, delay in approval and permit of projects, and arbitration difficulties which discourages private sector participation in South Asia. It is also prone to natural hazards like earthquake, cyclone, floods and tsunami which occur at regular interval besides fires, storms, epidemic diseases, war that damages life and property. Tsunami in India and Sri Lanka (2004), floods in India and Pakistan (2013), high waves and storm surges caused by a tropical cyclone in Bangladesh are some of the recent examples. The general economic weakness with low income levels and relatively high proportion of the population living within or marginally above poverty levels means that many PPP projects will lack the market (user charge) revenues to be commercially viable business cases.

Now, the South Asian countries are progressive towards peace and stability and will see development in coming decades through massive investment in PPP projects. Bhutan transforms itself peacefully from monarchial to democratic government. Sri Lanka won the war against LTTE and formed a stable government. Pakistan still faces challenges posed by extremist terrorism. Nepal is fighting to frame a new constitution. Bangladesh is facing public protest against the decisions of running government. Afghanistan is slowly attaining peace in the region but still fighting Taliban militants.

The PPP policies and guidelines have adopted different models depending on the nature of projects. These may be Management Contracts, Affermage/Lease, Concessions, Build and Transfer (B&T), Build-Lease-Transfer (BLT), Build-Transfer-Operate (BTO), Build-Operate-Transfer (BOT), BOT-Toll, BOT-Annuity, etc. These models have been selected in different sectors depending on the nature of the projects. In India, road and railway sectors are mostly operated through the BOT-Toll and BOT-Annuity whereas education and health through BOOT models. Nepal has adopted three different models of PPP namely revenue based, availability based and hybrid types.

The Government of India and Afghanistan have created websites for providing up to date information about the projects. All information regarding the projects is available and all proposals can be sent through these websites. The government has adopted a fair procurement process to select the private bidders for PPP projects through competitive bidding process. The Environment Impact Assessment and Social Impact Assessment are taken into consideration while selecting projects. Priority is given to those partners who have limited impacts on the environment. There is also complete transparency and accountability in PPP projects which is very important for running the projects successfully and in time to attain value for money.

Conclusion

PPP is the need of hour for all round development in South Asia as the governments are incapable in improving the socio-economic development of the region alone. It can supplement the efforts of governments in this initiative. For taking the co-operation of private sectors, the governments have to immediately formulate the PPP policy as there is lack of confidence and trust among private sectors. There is a need of clear policy and guidelines on PPP by the governments to win the trust of private investors. The existing legal and policy framework as well as institutional arrangements are not encouraging for flourishing PPP development in the region. There is a need for fast-track clearance of projects to be completed on time to avoid cost over-run. Moreover, there is also lack of conducive environment to attract the foreign investment because of political conflict and violence especially in Afghanistan, Bangladesh, Nepal, and Maldives.

The South Asia has large young population, adequate resources, good climate and robust economic growth. India, as the largest South Asian country, plays a significant role in shaping the destiny of South Asia. Sri Lanka is currently the second-fastest growing Asian economy after China. Bangladesh has started transiting the economy from a predominantly agrarian one to one that is industrial and service-focused. There are vast opportunities to harness the potentials of PPP in physical and social infrastructure development of the region in the coming decades.

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