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A nested framework for transparency in Public Private Partnerships: Case studies in highway development projects in India

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ABSTRACT

Public Private Partnership (PPP) offers an innovative framework of accountability in comparison to traditional public sector procurement model. Transparency is one of the four components of the framework. Whereas theoretically PPP calls for restricted transparency, policy makers have recently raised their voices for improved transparency of public infrastructure delivery process throughout the project cycle. But the question arises what transparency is and what does it do? This research offers a framework of transparency to understand the wider concept both in depth and breadth, drawing on the literature of decision-making in mega projects, PPP and understanding of transparency under various theoretical paradigms. Three highway projects from the eastern part of India are examined and conclusions are also based on case study findings, considering the extent they can be framed under various theoretical paradigms under review. Hood and Heald's (2006) framework on categories of transparency based on time and direction of disclosure of information is also used to suggest how altering time and direction of disclosure would have better served the purposes of transparency.

1. Introduction: understanding transparency and accountability within Public Private Partnerships and beyond

The traditional public sector procurement model for infrastructure delivery has been historically infected with misleading information on cost, benefit and risk, leading to misuse of public money (Flyvbjerg, Bruzelius, & Rothengatter, 2003). Public Private Partnership (PPP) has evolved as an efficient model, overcoming the weaknesses of the traditional model, with a better framework of accountability and promise of better Value for Money, i.e., delivering better infrastructure at a lower public cost. The term 'Public Private Partnership (PPP)' is often loosely used to address various approaches both in theory and practice. Weihe (2006) outlines five approaches of PPPs: local regeneration-, infrastructure-, policy-, governance- and development-approach. This study is concerned with infrastructure-approach, and considers this similar to the popularly known Private Finance Initiative (PFI) in the United Kingdom. Since physical infrastructure projects, especially in sectors like highways, inevitably encounter risks and uncertainties, the original model of PPP used private money as risk capital to account for such risks and uncertainties in large-scale infrastructure projects, instead of public money. Especially, in the traditional method, the decision of using public money to account for such risks was taken without much public understanding and consultation. However, PPP became politically popular as it apparently claims to deliver infrastructure off the public sector balance sheet (Siemiatycki, 2007; Miraftab, 2004). This led to mainstreaming of PPP for modernising infrastructure, especially in the global South. However, the hypothesis on better Value for Money is still contested even in the global North and the

Abbreviations: ASB, Adjusted Shadow Bid; BOO, Build-Own-Operate; BOT, Build-Operate-Transfer; CCL, Central Coal Limited; CPI, Corruption Perception Index; DBO, Design-Build-Operate; DBB, Design-Bid-Build; DBFOT, Design-Build-Finance-Operate-Transfer; DPR, Detailed Project Report; EIA, Environmental Impact Assessment; GQ, Golden Quadrilateral; HREL, Hazaribagh Ranchi Expressway Limited; IE, independent engineers; IL&FS, Infrastructure Leasing & Finance Services; JARDCL, Jharkhand Accelerated Road Development Construction Ltd.; KMA, Kolkata Metropolitan Area; MCA, Model Concessionaire Agreement; MoRTH, Ministry of Road Transport Highway; NHAI, National Highway Authority of India; NHDP, National Highway Development Program; OECD, Organisation for Economic Cooperation and Development; PFI, Private Finance Initiative; PPP, Public Private Partnership; PSC, Public Sector Comparator; RAP, Rehabilitation Assistance Program; RCD, Road Construction Department; RTFTC, Right to Fair and Transparent Compensation Act; RTI, Right To Information Act; SIA, Social Impact Analysis; UNDP, United Nations Development Program; UNESC, United Nations Economic and Social Council; VFM, Value for Money.

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central question of transparency in PPP is still surmounted around whether PPPs are really Value for Money (Siemiatycki & Farooqi, 2012).

Besides Value for Money, PPP also promises a more transparent and accountable form of infrastructure delivery. It offers a unique framework of accountability. The starting point of this article is 'transparency' as one of the four components of its accountability framework. Transparency, as it is defined in PPPs, does not only indicate disclosure of information, but promotes two-way flow of information with stakeholders from an early stage of project design for efficient decision-making. On one hand, where this understanding of transparency is restricted in PPP models in practice; on the other, transparency itself has multi-directional, multi-phase and multi-purpose dimensions. The complexity of decision-making makes it difficult to operationalise transparency and it extends beyond the generic understanding of the term, i.e., 'disclosure of information'. For instance, whereas traditional projects are submitted to public scrutiny, private sector actors' legitimate demand for confidentiality of their business secret makes PPP projects immune from public scrutiny even though it is delivering public infrastructure. Studies on transparency in PPP focus on the degree and timing of disclosure of information, arguing that higher degree of disclosure would have helped deliver a better project but has not been possible due to private sectors' demand for confidentiality (Greve & Hodge, 2011; Siemiatycki, 2007). On the other, private sector actors seek improved transparency on how their investment would work out from the public sector side in order to make a realistic investment decision.

'Transparency' is a buzzword, but why is transparency necessary? What do we lose if we do not have transparency? Considering 'disclosure of information' as the basic definition, this article explores the wider concept of 'transparency', reflecting upon the complexity of decision making in infrastructure planning due to actors' conflict of interests, and highlighting the linkage between decision-making challenges within projects by project developers and those confronted by the decision making policy and planning contexts, i.e., the affected and wider population, on how they experience transparency of such development process. The risk in simplifying the definition of transparency is that projects can be appraised as transparent by checking boxes, while the actual understanding of transparency is much deeper and may not be achieved in reality. This article proposes a conceptual framework to investigate transparency in PPP projects throughout their life cycle, highlighting important transparency and accountability issues in each phase. The central questions of the research are what is the mechanism of transparency, or what are the assessment criteria of transparency of a project, what are the stated and bigger purposes of transparency, and what are the barriers to transparency in three main phases throughout the project development process, namely, PPP adoption and partnership formation, project design and land development, and project construction and maintenance. It is proven important to do so as risks are actually borne by actors throughout the life cycle of a project. In the process of doing so, it uses Hood and Heald's (2006) framework on categories of transparency to show how transparency is multi-dimensional, in terms of direction, time and content of disclosure of information. Hence, one can operationalise "transparency" on paper by disclosing information, while the specific purpose of transparency in that particular context may not have been met.

This article first introduces the current debates on transparency and specifically transparency in PPP, exploring how transparency is understood and what are the purposes of transparency in a democratic society, in the neoliberal era, in development projects and in infrastructure-PPPs. Section 1 outlines the decision making process in mega infrastructure projects, evolution of PPP over the traditional model, forms of PPP, Value for Money methodology and a debate on perception of risk, which is important to discuss in relation to Value for Money. Section 2 introduces Hood and Heald's (2006) framework on categories of transparency. Section 3 summarises various dimensions of transparency and accountability issue in PPP in the contemporary context. Section 4 explores the wider understanding of transparency beyond PPP. Section 5 develops a conceptual nested framework on transparency to investigate the subject throughout the life cycle of a project, encompassing its wider meaning. Section 6 outlines the methodology and context. The following three sections, Sections 7–9, present data and debate on transparency and accountability in three phases as identified in the framework. These sections are divided by major themes as identified through literature review and empirical data. Section 10 is the conclusion that outlines the major findings, especially transparency and accountability issues as identified from empirical evidence.

1.1. Decision-making in large-scale infrastructure projects

Mega projects are characterised by capital-intensive nature, long gestation periods and excludability (Graham & Marvin, 2001). Broadly, mega projects are defined by project cost (investment expenditures of USD $1 billion or more), longer design period (50 years), considerable uncertainty with respect to demand forecast and cost estimation, club good property and considerable share of indirect benefits. There is a huge pool of literature drawing major lessons from transport projects about normal cost overrun, incorrect traffic forecasts, and forecasts of project viability.

As large-scale infrastructure projects are capital-intensive and have long gestation periods, investors' decision-making has been proven critical. As traditional models involve taxpayers' money, public-sector actors are held accountable to the wider population for such investment. Considering cost-benefit analysis on 'with or without' projects as a major tool for such decision-making in the traditional model, has been largely questioned in politics of infrastructure delivery studies (Flyvbjerg et al., 2003). They are proven to be influenced by high levels of misleading information concerning the costs, benefits and risks involved in a project during the decision-making phase (Flyvbjerg, 2007a).

As Flyvbjerg and COWI (2004) indicate, large-scale transportation infrastructure projects are characterised by inherent risks because of their long planning horizon, non-standard technology, their dependence on a multi-actor decision-making process incorporating conflicting interests and the changing nature of the project over time. As a consequence, due to risk and uncertainties, decisions are often made based on assumptions. Prior studies show that inaccuracies exist in forecasting. Flyvbjerg (2007a) states that three types of factor can be taken into account to explain inaccuracy in forecasting, namely technical, psychological and political-economic factors. Technical factors include inaccurate traffic forecasting due to inadequate data, honest mistakes, inaccurate prediction, lack of experience in forecasting and so on (Ascher, 1978; Flyvbjerg, Holm, & Buhl, 2002, 2005; Morris & Hough, 1987; Wachs, 1990). According to this explanation, using better methods, better data and more experienced forecasters can reduce technical error. The psychological factors account for planning fallacy and optimism bias within the traditional model. In the planning fallacy scenario, project proponents make decisions based on optimism rather than on a rational weighting of gains, losses and probabilities (Kahneman & Lovallo, 1993; Kahneman & Tversky, 1979; Lovallo & Kahneman, 2003). This is possible in the traditional model, as the risk capital ultimately comes from public money, and decision-makers do not have a direct stake in the project. The political–economic factors concern planners and politicians deliberately and strategically overestimating benefits and underestimating costs in order