

APPRAISING PUBLIC PRIVATE PARTNERSHIP (PPP) IN THE PHILIPPINES AS A TOOL FOR NATIONAL DEVELOPMENT, 1992-2016

SEVERO C. MADRONA JR.

Professorial Lecturer

UP-NCPAG



PUBLIC-PRIVATE PARTNERSHIP



NCPAG

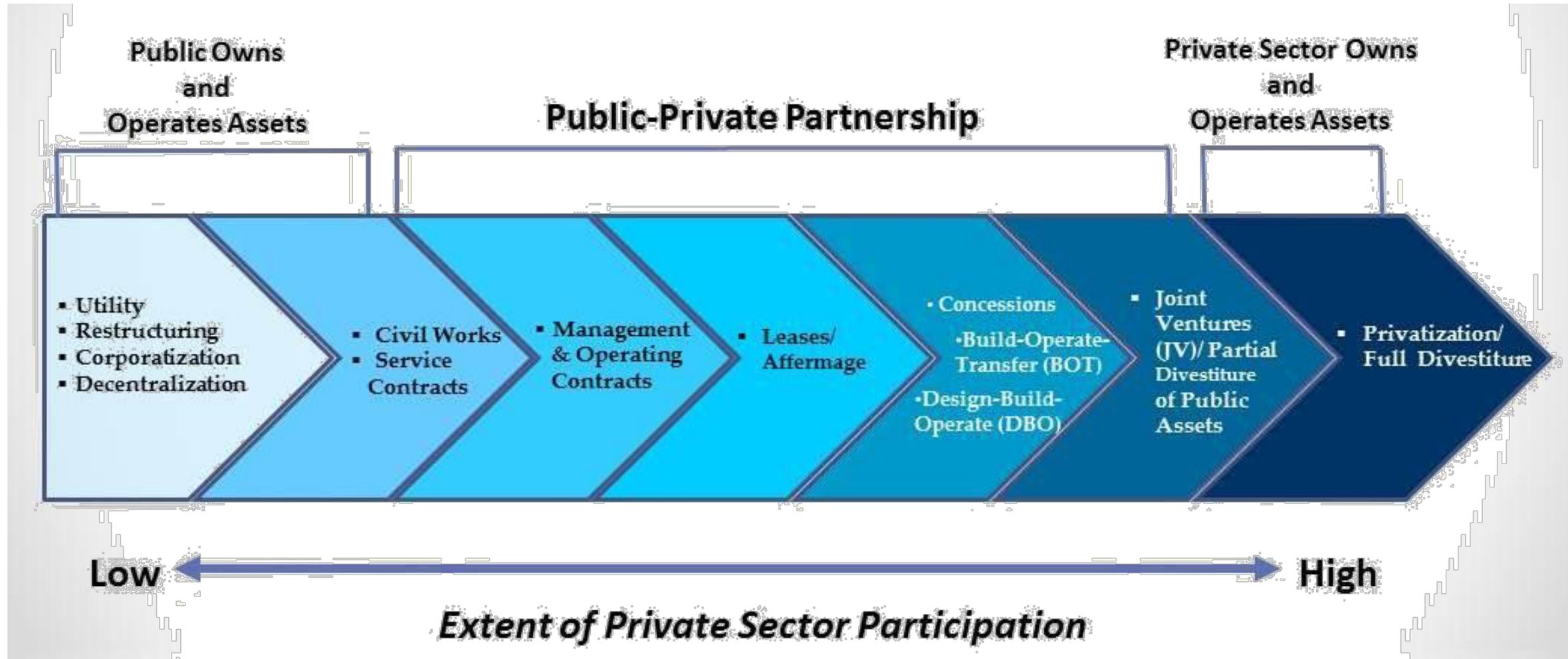
- Background of the Study
- Statement of the Problem
- Objectives of the Study
- Significance of the Study
- Methodology
- Findings

FLOW OF THE PRESENTATION



Spectrum of Private Sector Participation in Infrastructure and Development Projects

Source: Delmon (2010)



- Proponents argue that PPPs provide cash- strapped governments with access to a ready pool of private capital to deliver critical public infrastructure, and that PPPs produce additional value for money by spurring efficiencies and transferring project risks from the public to the private sector partners (Grimsey and Lewis, 2005).
- Conversely, critics contend that project outcomes have often not met expectations and that private borrowing costs are higher than for governments (Heald, 2003; Regan et al, 2010; Shaoul et al, 2010).
- Most trenchantly, critics also argue that, despite their name, there is little within most PPPs that resembles a truly collaborative partnership. Rather, PPPs are seen to be more akin to contracting out where there is only minimal interdependence between the partners outside of a contractual relationship (Hodge and Greve, 2010; Teisman and Klijn, 2002; Ysa, 2007).

BACKGROUND OF THE STUDY



- In general, **Philippine PPP projects** follow the **risk allocation principle** that the risk should be assigned to the party best able to control or influence its occurrence or manage the consequences of the risks. Commercial risks (e.g., **demand risk, supply risk, operational risk, financing risk**) are typically allocated to the private sector while legal, political or regulatory risk are allocated to the government (e.g., **approval of rates or tariff adjustments, change in law, material adverse government action**).
- In some instances, the parties may agree to share certain risks. For instance, PPP agreements may provide that the government will only be liable for certain risks (e.g., *force majeure* risk) after a particular monetary threshold has been reached.

PHILIPPINE PPP FRAMEWORK



- The Philippine Development Plan 2017-2022 proposes to promote PPP by addressing “**bottlenecks in PPP planning and implementation**” and pursuing “reforms to enhance the business environment” to encourage investors.
- As of March 28, 2017, there are **15 awarded PPP projects** worth **Php310.51 billion**, based on the latest status report of the PPP Center. Of these, four are completed and operational (Php31.77 billion); seven are under construction (Php150.01 billion); and four are under pre-construction (Php128.73).

PHILIPPINE PPP FRAMEWORK



- **Unsolicited projects** proposed by the big oligarchs now total Php2.6 trillion, mostly in the transport sector as they see opportunity in the traffic crisis. These big oligarchs take advantage of unsolicited projects to build infrastructure that they will not only profit from but would also benefit their other business interests. This further weakens the central role that government should be playing in rationally planning and deciding which key infrastructure projects are needed, where to put them, and how they serve the overall development plan.
- The country's richest and most influential oligarchs control these PPP projects. The San Miguel Corp. (SMC) group accounts for 45.9% of the total cost of ongoing and/or completed PPP projects as of March 2017. The Manny V. Pangilinan (MVP) and Ayala tandem, meanwhile, comprises 21.5% on top of MVP's own projects comprising 18.9 percent. All in all, the SMC, MVP, and Ayala groups collectively control 10 of the 15 ongoing and/or completed PPP projects worth Php275.15 billion or equivalent to 88.6% of the total cost.

PHILIPPINE PPP EXPERIENCE



- **In a regular PPP**, the private sector will raise funds to build the infrastructure, and then operate and maintain (O&M) it in a fixed period to recover investments and earn profits.
- **In a hybrid PPP**, the public sector will finance the construction of the infrastructure through official development assistance (ODA) loans and then give the O&M to the private sector. It puts even heavier load on the public sector than the already onerous burden it shoulders under a regular PPP. The public will thus be burdened with direct debt servicing for the ODA loans (in a regular PPP, debt is often a contingent liability), profit guarantees and other perks for the private operator, and high user fees.

TWO FORMS OF PPP PROJECTS IN THE PHILIPPINES



- How can the ideas and mechanisms of Public-Private Partnership be used as instruments of social and economic development of the Philippines?
 - *One*, what is the underlying philosophy in the adoption of PPP in the Philippines from 1992-2016?
 - *Two*, what is the legal and institutional framework in the adoption and implementation of PPP in the Philippines from 1992-2016?
 - *Three*, what are criteria to be used in appraising the PPP in the Philippines from 1992-2016?

STATEMENT OF THE PROBLEM



- **Analyze** how PPP is operationalized, practiced and promoted in selected national development projects;
- **Analyze** the various modalities of PPP and to draw up evidence-based indicators/criteria to measure its success;
- Draw **insights and lessons** of the PPP practice in terms of its sustainability and replicability; and
- **Examine** the added value of the PPP practices and procedures and its implications in governance and development.

OBJECTIVES OF THE STUDY



- This study seeks to contribute to the **theory and practice** of public administration and governance. By offering a framework in the evaluation of the institutionalization of PPP in the Philippines from 1992-2016, this study hopes to begin developing discourse on the matter. Most of the recent studies have either focused only on the salient features and/or various modalities of public-private partnerships (PPP) but have failed to contextualize the same within the realm of public administration, good governance and development.
- As a pioneering study, it aims to provide a **framework** for evaluating cases of public-private partnerships (PPP) in the field of governance by linking the indicators and the yardsticks of good governance in the hope of institutionalizing it in development endeavors.
- By situating PPP in Philippine political economy as illustrated in the case studies, policy makers are trusted to be provided with insights, tools and mechanisms in vigorously undertaking NPM projects in their respective localities with full considerations of their respective constituencies, stakeholders and private sector proponents.

SIGNIFICANCE OF THE STUDY



METHODOLOGY

- The **case study method** will be used in this study. Through this method, the rationale on the adoption of PPPs are being linked to the operationalization and implementation of PPPs in the Philippines responding to the following research questions:
 - *One*, what is the underlying philosophy in the adoption of PPP in the Philippines from 1992-2016?
 - *Two*, what is the legal and institutional framework in the adoption and implementation of PPP in the Philippines from 1992-2016?
 - *Three*, what are criteria to be used in appraising the PPP in the Philippines from 1992-2016?
- As an innovative appraisal of the PPP in the Philippines, this dissertation will draw up **evidence-based indicators/criteria** to measure the PPP including but not limited to cost and quality performance of the PPP projects, equity, access, citizen participation, democracy in policy process, increase or decrease government regulation and accountability.



- This dissertation is a **qualitative research study** that built upon a systematic and holistic picture of the formulation, adoption and implementation of the practices and procedures of NPM in the Philippines from 1987-2016.
- The case study method will be used both for the process and the output. The researcher will spend extended time, on site, personal in contact with the project proponents, direct participants, stakeholders and constituencies of the selected projects. The holistic picture of the formulation, adoption and implementation of the practices and procedures of PPP in the Philippines from 1992-2016, through the selected projects, is the purpose of the inquiry.

RESEARCH DESIGN

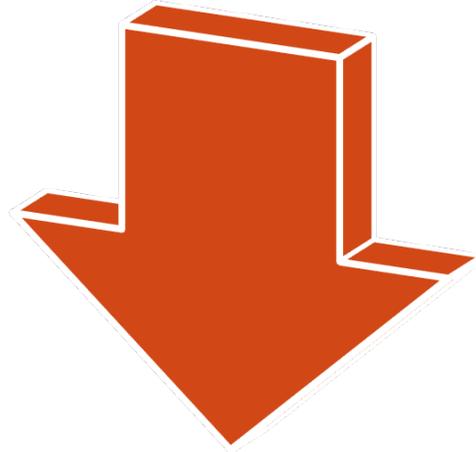


Objectives of the Study	Combination of Methodology	Sample Size
Analyze how PPP is operationalized, practiced and promoted in the Philippines from 1992-2016	Document Review of Constitution, Statutes, pertinent policy circulars, and implementing rules and regulations	
Analyze various modalities of PPP from 1992-2016	Document Review of various modalities of PPPs Case Study of particular programs Collective Case Analysis for Triangulation and Validation	Three Case Studies PPPs – PIATCO, MRT Common Station, the PPP for School Infrastructure Project (Phase I and II)
Draw up evidence-based indicators/criteria to measure its implementation and draw insights and lessons of the NPM practice in terms of its sustainability and replicability and its implications in governance and development.	Conduct of Focused Group Discussion with Direct Participants and Project Proponents Conduct of Interview with National Government Officials Conduct of Interview with Stakeholders and Constituencies of the Projects Conduct of Interview with Private Sector Proponents Collective Case Analysis for Triangulation and Validation (Silverman 2006)	Direct Participants Project Proponents – Government and Private Sectors Project Stakeholders

- The conceptual framework follows the theory that the **appraisal and evaluation** of PPPs in the Philippines should be based on the **indicators and yardsticks** of governance and development.
- The indicators of PPP are **core value, value for money and public interest** (Grimsey and Lewis 2004:93)
- The yardsticks are identified as **cost and quality performance of the PPP practices, equity, access, citizen participation, democracy in policy process, and increase or decrease of government regulation and accountability** (Rosenau 2000)

CONCEPTUAL FRAMEWORK





**INDICATORS OF
PPP**

PUBLIC PRIVATE PARTNERSHIP

**YARDSTICKS OF
GOVERNANCE
AND
DEVELOPMENT**



INDICATORS OF PPP (GRIMSEY AND LEWIS 2004: 93)

Core Services	Value For Money	Public Interest
<ul style="list-style-type: none">• <i>Which (if any) part or parts of the proposed service is a service which government itself should deliver to its citizens?</i>	<ul style="list-style-type: none">• <i>For all other aspects of the service and supporting physical infrastructure, what is the project model that delivers the best value for money?</i>	<ul style="list-style-type: none">• <i>Do the outcomes of the value for money question satisfy the public interest criteria articulated in the policy and, if not, can the public interest be satisfied either by building safeguards into the contract or through regulatory measures?</i>



YARDSTICKS OF GOVERNANCE AND DEVELOPMENT (ROSENAU 2000)

accountability

cost and quality performance of PPP projects

Increase or decrease government
regulation

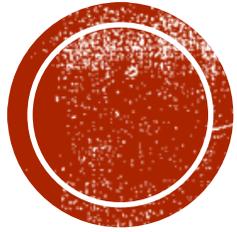
access

equity

Democracy in
policy process

Citizen
Participation





FINDINGS



LEGAL FRAMEWORK

- RA 7718: The Amended Build-Operate-Transfer (BOT) Law
- 📖 BOT-IRR: BOT Law's Implementing Rules and Regulations
- 📖 RA 7160: The Local Government Code of the Philippines 1991
- 📖 Other Related Laws
 - Charters of Government Owned and Controlled Corporations
 - Legal Mandates of Implementing Agencies
 - Legal Mandates of Sectoral Regulatory Agencies
 - Other Republic Acts and Executive Issuances



GOVERNING LAW	JOINT VENTURE	LEASE	BOT	DISPOSITION/ DIVESTMENT
Scope of Application	2008/2013 NEDA JV GUIDELINES	EO No. 301 (7-26-1987)	RA 6957 as amended by RA 7718	COA Circular No. 89-296 (1-27-1989)
Source of Funds	Government equity contribution; money, equipment, land, intellectual property	Private Sector	Financed by private sector; but shall be repaid	Private Sector
General Procedure	Competitive Selection and Negotiated Agreements	Head of Agency to determine reasonableness pursuant to DPWH guidelines	Public Bidding or direct negotiation with Swiss Challenge	Public bidding or other means for justifiable reasons
Eventual Outcome	Private Sector to take over the undertaking	Vacate the leased premises upon lease expiration	Government retains ownership	Transfer of ownership to private sector
Economic Considerations	Revenues realized in time	Fixed Lease Price	Private Sector finances	Government earns from sale

GOVERNING LAW	JOINT VENTURE	LEASE	BOT	DISPOSITION/ DIVESTMENT
Assumption of Risks	Sharing of risks based on equity; No prohibition for private sector to assume more risk	If government is the lessor, it may risk-free during term of lease	Risks assumed by private sector before transfer to government	Government indemnified from all risks, if contemplated Normally, disposition is on an “as-is-where-is” basis



- **First**, the cited PPP projects have had problems with regard to equity, access, participation and democracy. There is **no wide-ranging participation** of stakeholders in these PPP Projects. It is observed that the stakeholders had no chance and/or venue to express their sentiments on the value for money indicators of these PPP projects. Public interests are not secured in the process. While it may look tedious and chaotic, the fact that the rights holders are involved legitimizes the entire process and would make them likewise empowered. **Assumptions made by RA 7718 and its IRR should be modified to provide venues and/or ways on which the stakeholders are involved in the design, plan, selection and awarding of PPP projects.**
- **Second**, the cited PPP projects involved **little close cooperation**, and may even border on pure privatization. the national government should have create a problem tree analysis which organize ideas about the needs of clients into a hierarchy of cause-and-effect relationships which can be systematically translated into a logical framework of project objectives and components which respond to the needs of the clients
- **Third**, **externalities** were not considered in **assessing cost performance**. PPP projects may improve short-term cost performance, however, long-term calculations are more complication and could shift the balance in the other direction. Externalities could easily overturn any savings.

FINDINGS



- **Fourth**, these PPP projects do not seem to reduce regulation as has been hoped and expected, and instances of increased regulations, are reported.
- **Fifth**, public accountability is not inevitably improved by the cited PPP projects.
- **Sixth**, conflicts of interests are a source of problems for the cited PPP projects.

FINDINGS



H A F A

A D A I

