

The Prospects and Challenges of Public-Private Partnerships in Bangladesh

Saeed Ahsan Khalid

LLB (Hons.), LLM in International and Comparative Law (University of Dhaka)

LLM in Human Rights (University of Hong Kong)

Advocate, Bangladesh Bar Council

Assistant Professor, Department of Law, University of Chittagong, Bangladesh

Cell: +880 1918366888, E-mail: s.ahsankhalid@gmail.com

Introduction

The concept of Private Public Partnership (PPP) originated to expand countries' infrastructure development.¹ A PPP is a contract between a government and a private party where the private party finances, builds or maintains infrastructure for public use. An effective PPP shares resources, risks, and benefits.² This model is best suited for large, desirable projects that require significant funding. The PPP concept alleviates capital constraints, and the government may also leverage the private sector's expertise to serve citizens better. PPP is utilized on toll highways, bridges, airports, healthcare, power plants, and telecommunications infrastructure. Public-private partnerships (PPPs) are critical to Bangladesh's rapid economic growth since they provide stakeholders with a "win-win" solution. Many PPP projects have been undertaken in Bangladesh. Memorandums of Understanding (MOUs) have been signed with foreign governments for mega PPP projects, including South Korea, Singapore, Japan, and the UAE. Despite its promises, the Public-Private Partnership (PPP) idea has been chiefly ineffectual in Bangladesh due to several underlying challenges. This article critically analyses the potential and multifaceted difficulties of PPP in Bangladesh.

PPP Development in Bangladesh: Regulatory and Institutional Frameworks

Bangladesh has comprehensive public-private partnership (PPP) policies, legislation, guidelines, and regulatory agencies. Before the mid-1990s, the Bangladeshi government had entered into several PPP agreements. For the first time, a policy framework for PPPs in power generation was designed in 1996. This policy resulted in the early success of PPPs in Bangladesh. By 2001, ADB and World Bank finance had secured two large power projects, 450MW Meghnaghat and 360MW Haripur.³ Developing private-sector collaborations has continued with the *2004 Private Sector Infrastructure Guidelines (PSIG 2004)*. The *Public-Private Partnership Policy and Strategy 2010 (PPP Policy 2010)* replaced the *PSIG 2004* and offered a clear and transparent regulatory and procedural framework.⁴ The enactment of the *Bangladesh Public-Private Partnership Act* in 2015 resulted in substantial regulatory changes in the PPP program. In addition, the adoption of the *Policy for Implementing PPP Projects through Government to Government (G2G) Partnership* in 2017 is regarded as a significant milestone in the PPP journey. The *Foreign Exchange Regulation Act* of 1947, the *Foreign Private Investment (Promotion and Protection) Act* of 1980, the *Income Tax Ordinance* of 1984,

the *Acquisition and Requisition of Immovable Property Ordinance* of 1982, the *Investment Board Act* of 1989, the *Companies Act* of 1994, the *Industrial Policy* of 1999, the *Arbitration Act* of 2001, the *Public Procurement Act* of 2006, the *Public Procurement Rules* of 2008, and other relevant policies and laws in Bangladesh are also applicable in this regard.⁵

The Public-Private Partnership Act 2015

A robust legislative framework enables private investors to collaborate with the public sector in PPP initiatives. The *Bangladesh Public-Private Partnership Act 2015* was passed to help develop key public infrastructure and services. This Act founded the Bangladesh Public-Private Partnership (PPP) Authority. The PPP Act grants the PPP Authority a broad mandate to enable efficient and comprehensive PPP development, including the formulation of rules and processes, standard documentation, the recruitment of consultants and advisers, consent and opinions for PPP projects, seminars, and training sessions. The Act governs the procedures for selecting and authorizing public-private partnerships (PPPs) and national priority projects, as well as PPP incentives and financial participation criteria for the public sector. The PPP Act also tackles concerns about corruption and conflicts of interest in implementing PPP programs. Furthermore, it empowers commercial partners to charge consumers for utilizing public services or purchasing public goods. Finally, the Act establishes a mechanism for resolving disputes through peaceful means, such as mediation and arbitration.

The Public-Private Partnership Authority (PPPA)

The PPP Policy 2010 paved the way for establishing the Public-Private Partnership Authority (PPPA) in September 2011 to facilitate PPP ventures. As part of the new reforms, the PPP Office was formed within the Prime Minister's Office. Since then, the PPP Office has led the execution of PPP projects in Bangladesh, with assistance from the ADB's technical assistance project and the World Bank's IPFF. The PPP Authority is mandated by Section 9 of the PPP Act 2015 to assist line ministries in identifying, designing, tendering, and funding PPP projects. The PPP Authority comprises people from both the private sector and the government. It acts as a professional, transparent, and centralized gateway to high-quality PPP projects. The GoB has created several other institutions to ensure the success of the PPP initiative.

Additionally, the Finance Division has established a PPP Unit to monitor, support, and process PPP finance proposals. The Bangladesh Infrastructure Finance Fund Ltd (BIFL) was founded to assist PPP project sponsors. Moreover, PPP cells are present in several ministries and departments. Besides that, specific guidelines and support protocols for developing and procuring PPP projects were also made public.

Framework for Government-to-Government (G2G) Public-Private Partnerships

The G2G Partnership Policy 2017 aims to establish bi-lateral solid collaborations with other governments by developing and renovating significant public infrastructure assets in

partnership with other countries. It enables the PPPA to enter into Memorandums of Understanding (MOUs) with favourable counterpart entities. G2G partnership, G2G Framework Agreement/Memorandum of Understanding, G2G partnership implementation mechanism, government incentives and benefits, connected components of PPP projects, and policy monitoring and reporting are all defined in the policy.

<Figure 1> G2G PPP MoUs or MoCs of Bangladesh with the Foreign Countries:⁶

Country	Date of signing MoU/MoC
Japan	15 June 2017
Singapore	12 March 2018
United Arab Emirates	7 February 2019
South Korea	1 April 2019

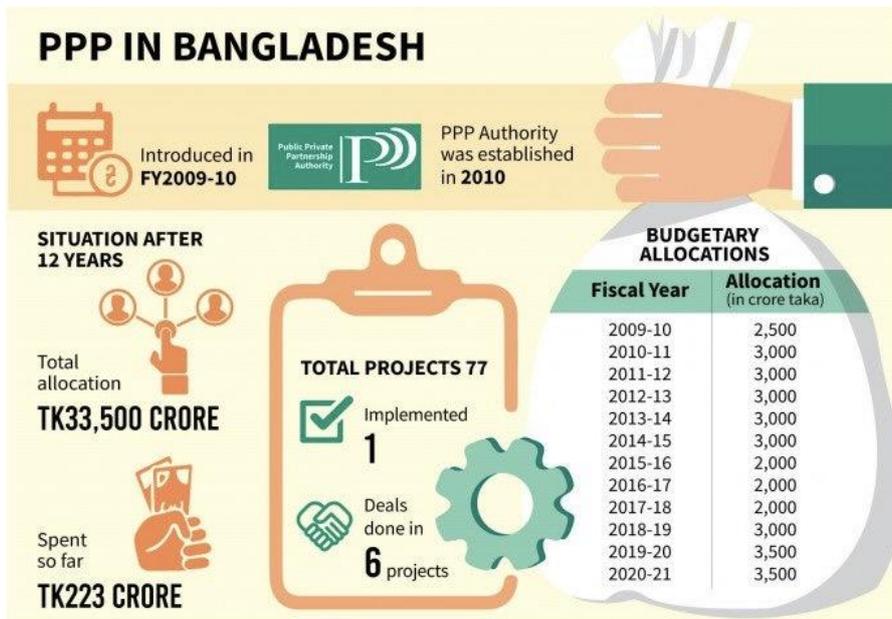
*Source: Annual Report 2019-2020, Bangladesh Public Private Partnership Authority

The MoU between the PPP Authority of Bangladesh and *Korea Overseas Infrastructure and Urban Development Corporation (KIND)* under the Ministry of Land, Infrastructure and Transport (MOLIT), the Government of the Republic of Korea, has strengthened the long-standing and reliable partnership between the two countries. In March 2022, Bangladesh and South Korea exchanged nine PPP project proposals during the 4th Bangladesh-Korea Joint PPP Platform in Seoul.

PPP Projects in Bangladesh: Prospects and Performance

Bangladesh's GDP has steadily increased. The economy has evolved from being rural to urban and industrial over time. Bangladesh is required under the SDGs to accelerate and broaden its economic realm. Bangladesh's government must increase its GDP by 8% to accomplish this. It necessitates an increase in GDP investment from the 24–25 per cent current average. PPP can assist in closing this investment gap. Private investment has been attracted via PPP in the electricity, gas, and telecommunications industries. The government of Bangladesh (GoB) aspires to invest more in ports, highways, railways, water and waste management, tourism, and e-services.⁷ Approximately \$608 billion in investments in the major infrastructure sectors of energy, water, communications, transportation, and logistics are projected by 2040. Bangladesh spent over \$14.1 billion in 2018 on infrastructure, pushing the country's public debt to approximately 34% of GDP. The private sector must increase its investment in industrial infrastructure to bridge the financial gap. Notably, the 8th Five-Year Plan seeks to replace ADB funds with PPP finance.⁸

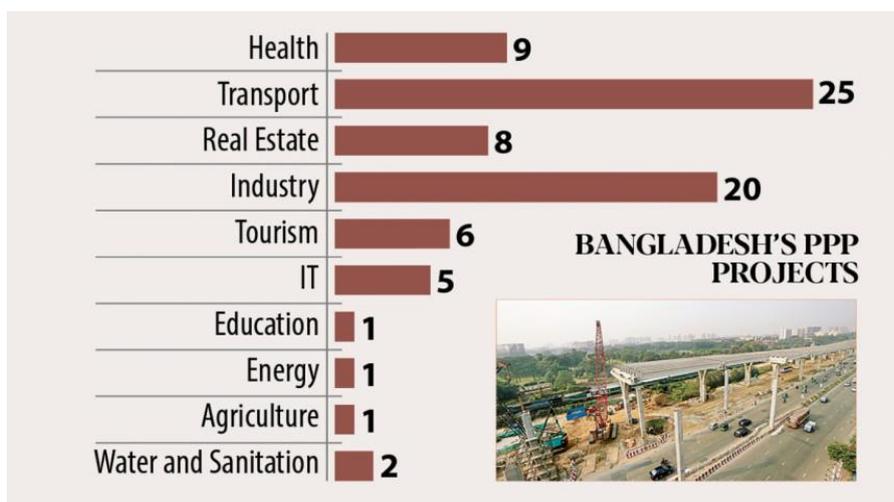
<Figure 2> Infographic Presentation of PPP in Bangladesh⁹



*Source: Abul Kashem & Jahidul Islam, The Business Standard (22 October 2020).

In 2009–10, the GoB introduced public-private partnerships in infrastructure development. 77 PPP projects were granted TK 33,500 crore over 12 years. So far, however, just one project worth Tk 223 crore has been realized.¹⁰ The GoB has been striving to secure private-sector funding through PPPs. It has developed a PPP law and guidelines on procurement, unsolicited proposals (USPs), viability gap funding (VGF), and standard PPP forms. It also established a PPP Authority as well as other long-term financial entities. While private sector finance in the power sector has been successful, it has not yet resulted in a steady flow of creditworthy investments in other infrastructure sectors such as transportation and water. In Bangladesh, the challenges to reaping the rewards of the PPP project are manifold.

<Figure 3> Sector-wise PPP Projects in Bangladesh¹¹



*Source: Md. Asaduz Zaman, The Daily Star (30 January 2022).

Ineffective PPP implementation is blamed on flawed feasibility studies, inflated costs, wrong project selection, and corruption.¹² Bangladeshi infrastructure and service projects have significant challenges securing finance, ensuring operational efficiency, and quality control.¹³ PPP projects necessitate the use of both local and foreign experts. A worldwide private investor's interest is bolstered using standard processes and paperwork. Only BOT (build, operate, and transfer) projects with a maximum cost of 30% can benefit from the VGF. As a result, VGF has limited applications. Regarding the land acquisition, the government's involvement is constrained.

Moreover, land acquisition has a history of causing significant delays in projects. Like oil and gas, other sectors do not have PPAs, increasing risk and decreasing interest. Bangladesh's banks prefer to give short-term debt financing terms that don't match the needs of capital-intensive PPP projects. The Bangladesh capital market is in flux with a stagnant stock market and no active secondary market for bonds. Consequently, all these factors make it challenging to fund PPP ventures in Bangladesh.¹⁴ Despite Bangladesh's failure, PPP initiatives in neighbouring countries have been an enormous success. The PPP model has been utilized to implement 24 infrastructure projects in India, 11 in Pakistan, and 37 in Malaysia.¹⁵

Conclusion and the Way Forward

Infrastructural development is essential to a country's long-term economic growth. Investing in new infrastructure as part of a public-private partnership is an effective way to drive economic growth. Public projects are distinct from private ones as both sectors have different stakeholders and interests, given their intrinsic nature and goals. There must be an incentive in place when a private investor joins a public sector enterprise.¹⁶ Private investors in Bangladesh are wary of public-private partnerships (PPPs) due to a lack of confidence. Furthermore, the relevant authorities are unable to provide the private sector with any profitable projects. Government agencies must enhance their capacity to develop, purchase, and manage PPP projects. Many industries have seen significant regulatory changes and institutional development, but some loopholes may dissuade international bidders from participating in PPP projects. The PPP legal framework needs to be compact to attract private investment.¹⁷ In addition, preventing corruption entails a proactive regulatory framework with adequate checks and balances. For instance, before launching PPP programs, the United Kingdom, Canada, India, and Singapore developed a stringent regulatory framework and a competent public bureaucracy. In contrast, Bangladesh's legal system is reactive, which means it fails to prevent corruption and tries to penalize the perpetrator after the offence is committed. PPP contracts must also be transparent and accountable. Land acquisition and financing must be a top priority for the GoB. As a means of promoting PPP initiatives, new mechanisms for project identification are needed. Departments and ministries must work together to improve their collective capacity in developing and implementing PPP plans. Multilateral finance might leverage global PPP expertise for PPP projects in the country. Finally, although we acknowledge that the PPP model has immense promises in Bangladesh, we must not disregard the underlying issues in implementing PPP projects. Strong public-private cooperation is required for sustainable development.

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¹⁴ Supra note 4

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¹⁶ Supra note 4

¹⁷ Supra note 1