

# **A coevolutionary approach to public-private partnerships in a developing country**

## **ABSTRACT**

Public-private partnerships (PPPs) have been a proliferating subject for debates for three decades now. The determinants of this type of private participation in public infrastructure and services were largely exploited in scientific literature and discourses of policy makers. One of the main findings coming out of these studies for a successful implementation of a PPP project is the importance of a prosperous business environment characterized by a well-established institutional context. This paper investigates how PPP projects processes can evolve and perform within a particularly influencing environment of countries with frail economy, unstable political situation, weak institutions and an absence of adequate regulatory system. It starts with a review of the main elements that attracted scholars in PPP literature. Then, it proposes a coevolutionary perspective to observe the dynamics of establishing a PPP project in the unstable environment of an emerging country and its interaction with different elements of the institutional system. Our study inductively explores the field, observing the processes in action and developmental sequence of events of a PPP project taking place in the energy sector of the studied country. By calling up elements from the coevolution theory the paper seeks further understanding of strategic choices, adaptation and performance within a cross-sectoral collaboration in weakly institutionalized environments. It also highlights the interplay of institutional elements involved in the process of PPP institutionalization in this same context.

***Keywords:*** *coevolution, public-private partnerships, institutionalization, process research*

## 1. CONCEPTUAL BACKGROUND

The paper is part of a doctoral research initially driven by our interest in the efficiency of the latest public policies put in place for the economic reform of a developing country who has been struggling for decades in a frail deteriorating economy due to a disruptive environment, continuous political conflicts, an extremely high rate of public debts and increasing fiscal deficit. In this context, private participation in public capital through infrastructure projects and under the umbrella of public-private partnerships has been proliferating for the last three decades as an innovative structure to conceal the perceived deficiency of public organizations delineated by increasing public spending and lack of managerial and innovative skills (Osborn, 2000). In the course of time and within contexts of divergent particularities, this participation evolved, took different forms and was attributed various definitions. At the heart of these inter-organizational forms of arrangements are actors from various identities, governmental, business and civil society groups, making them a unique form of hybrid social organizations (Quélin *et al.*, 2017). Apart from infrastructures and public utilities, this participation also extends its scope further to become more popular in addressing more pressing social issues and critical needs and to create broader social and economic value. The New Public Management has baptized this major aspect of reform “public-private partnerships (PPPs)”, which are now increasingly adopted in countries of both the industrialized world and the less developed one, under various forms for design, construction, operation, maintenance and management of public utilities (Osborn, 2000) .

Academic debates around this blended form of partnership (Peters and Pierre, 1998) between public and private actors have proliferated in large part due to the high “complexity” and “imperfect” nature of projects undergone through this partnership (Hodge and Greve, 2007). This has contributed to a still-growing volume of literature where both empirical and non-empirical studies on PPPs are performed. Economics theories were predominating and constitute the largest share of these studies mainly through the transaction costs economics and the incomplete contract theory that enriched both academics and practitioners with deeper understanding of cross-sector arrangements and the associated uncertainty, asymmetric information and exchange hazards (Hart,

2003; Saussier *et al.*, 2009; Iossa and Martimore, 2012). As a distinct form of hybrid inter-organizational arrangement, questions related to their governance, performance, design and combined capabilities have also been raised (Börzel & Risse, 2005; Mahoney *et al.*, 2009; Rufin and Rivera-Santos, 2012; Cabral *et al.*, 2013). The involvement of multiple actors coming from different sectors emphasizes the dual nature of PPPs, market and hierarchy, which attracted institutional scholars to investigate the relations that tie these key stakeholders, and their drive to engage in a PPP (Klijn & Teisman, 2000; Moszoro & Spiller, 2012).

New trends in PPPs are also believed to shape their implementation in the coming years and enlarge the spectrum of sectors attracting private investment in infrastructure (i.e. renewable energies, ICT backbones...). These features have triggered an enormous interest among academics and publishers of leading journals and induced a new stream of PPP literature mobilizing new theoretical perspectives to look into these hybrid forms of collaboration. Recent studies have attempted to link various literature streams to illustrate how this type of collaboration can span beyond contracting partners' interests to broader notions of public and social value (Quélin *et al.*, 2017). Similarly, authors agreed on the fact that public contracting can still benefit a lot from contribution coming from strategic management academics with the aim to provide new insights on the relationship between public policies and strategic actors.

Determinants of success and efficiency of this type of arrangements have also been extensively investigated in the PPP literature. Interestingly, these studies have revealed divergent yet complementary results, agreeing on a well pre-defined regulatory and a clear institutional framework within which PPPs operate as a main factor for their success (Zhang, 2005; Li *et al.*, 2005; Estache & Saussier, 2014; Osei-Kyei & Chan, 2015). The hybridity in institutional logics strongly influences the patterns of norms that prescribe actions in organizations of both sectors or even in the same organizational arrangement (Battalina & Dorado, 2010; Jay, 2013), and therefore proliferation of cross-sector arrangements may be blocked by various institutional barriers naturally emerging from the distinctions between private and public sectors (Klijn and Teisman, 2000). It is therefore necessary to establish a well-defined independent institutional framework

within which a PPP should operate in order to prevent or limit what scholars identified in public contracting as governmental opportunism (Spiller, 2008), private contractor opportunism inherent from contract renegotiations (Guasch *et al.*, 2007) and third-part opportunism (Moszoro & Spiller, 2012) and to guarantee the achievement of satisfactory results out of this partnership. Scholars believe that the challenging nature of these arrangements induces high complexity, conflicts of interest and different ethical responsibilities at various levels (Wettenhall, 2003; Brinkerhoff & Brinkerhoff, 2011). However, this institutional complexity deriving from the interaction of organizations carrying diverse institutional logics may also be a source of value creation (Villani *et al.*, 2017).

In the reviewed literature, numerous aspects of PPPs were examined thoroughly, and findings have increasingly contributed to theoretical advancements in PPP understanding. This brought new insights for practitioners and policy makers to improve future implementation of PPP projects, by providing basic criteria for a successful PPP as well as recommendations for an appropriate institutional environment for PPPs thus increasing their efficiency. However, much of the research up until now is based on retrospective case studies, surveys, quantitative models and comparative studies, mostly conducted for an ex-post evaluation of PPP projects after their completion or after the contract governing the partnership has reached its term. In addition, most of these studies addressed contexts where regulatory and institutional frameworks for public contracts and/or for PPPs already existed prior to the date of the study, and results varied depending on whether or not the studied had weak or solid legal systems. Commonly, a PPP project is established following the development of a reference: the enactment of a law on public procurement, a PPP law or a sector regulation. Yet, it would be interesting to know how the different constituents of this reference have evolved to set up an institutional context for PPP projects and what the key considerations are in designing this context. Emerging countries are now very active in developing basic policies for PPP projects hoping to close possible gaps in different existing sectoral laws adopted so far and thereby creating a favorable environment for private investment in their infrastructure projects.

So far scholars have adopted a rather static view of PPPs, while an evolutionary view from a process progress perspective is long overdue. Still, there is a call for understanding the PPPs stage-specific managerial particularities as we also know little about the mechanisms that support the functioning of PPPs as well as the internal processes that allow (or prevent) their value creation (Kivleniece & Quélin, 2012; Villani *et al.*, 2017). Studies that escort PPPs in their development, coevolution, demise/survival remain scarce, if not inexistent. The PPPs literature did not reveal any study on coevolution that primarily looks at PPPs coevolving with elements of the institutional environment. Through observing the continuity and adaptation of different actors and determinants of a PPP project and the interaction of these determinants with elements of the surrounding environment in general and of the institutional environment in particular, we may get new insights on the collaboration and exchange aspects between public and private actors as well as their mutual interaction with their surrounding environment. By doing so, it will be possible to “draw a picture” illustrating a view that is rather holistic of the entire phenomenon of a PPP establishment, pursuing their evolution in time (order and sequence) and unveiling elements of this dynamic process that may go unseen in previous studies on PPPs.

## **2. A COEVOLUTIONARY FRAMEWORK TO STUDY PPPS**

Experience revealed that PPP projects performance is a function of, among other determinants, public decisions, managerial actions, institutional influences, contractual terms and conditions, and also the passage of time. Therefore, a holistic view combining all these elements in the same framework becomes necessary if we are to understand the dynamics of a PPP phenomenon as it evolves in its natural context. Undoubtedly, a comprehensive theory on PPPs remains unconceivable because of the level of complexity entailed in this type of collaboration and its remarkable context-specific variations.

Organizational scholars posit that strategic alliances in their different forms (joint ventures, partnerships...) coevolve with the strategy and managerial actions of the actors, the institutional environment and extra-institutional environment in which they are embedded and their competitive surrounding (Koza & Lewin, 1998). In order to better understand how a PPP development coevolves with changes in its environment where

both mutations and adaptations can occur in the course of time, we investigate how a PPP crafting process coevolves with its institutional environment, and with the elements of a changing environment with considerations of micro-, macro- and meso-levels of analysis, bringing various organizations (private and public ones) to adapt and change. This multi-directional and long-term interaction between companies and their environment imply adaptation to and active influence of institutions; and this interaction can be explicitly captured by the coevolution theory (Dieleman *et al.*, 2008). The framework of coevolution is particularly relevant to explore the formation and post-formation dynamics of strategic alliances and collaborative ventures (Ariño & de la Torre, 1998; Koza & Lewin, 1998, 2000; Reuer *et al.*, 2002), highlighting the coevolution of direction, structure and practices within strategic alliances jointly with the partnering firms, industry and society, arguing that the alliance initial intent may coevolve with changes in strategy, managerial choices and environmental cognition.

We conduct an in-depth case study, using a process-research approach, of the establishment and evolution of a PPP in the energy sector of a developing country witnessing a major transition period between pre-PPP and post-PPP regulatory framework in order to understand how environmental transformation and PPP evolution interplay through time, affecting the performance and efficiency of this collaboration. We believe our study has a number of contributions. We expect to advance our knowledge on PPPs by developing a conceptual model explaining PPP dynamism in the particular context of developing economies. This process-related observation of a PPP evolution has practical implications in setting optimal policies that are able to adapt and change as the institutions of the country develop; this is particularly useful for developing countries where key institutional limitations are frequent. The key actors are given the opportunity to improve their decision making process through the adoption of an appropriate adaptation/selection decision in the light of the evolution of the PPP as its different stages and influencing events unfold over time. We also contribute to the extension of the scope of organizational forms observed through a coevolutionary perspective: first, we develop new concepts on how the institutional and extra-institutional environment are considered to be great determinants of a PPP evolution and performance; and second, we add an element to the family of objects observed through a coevolutionary framework.

### **3. AN IN-DEPTH ANALYSIS OF A PPP IN A DEVELOPING COUNTRY**

#### **3.1. THE CONTEXT OF THE STUDY**

In terms of empirical studies, the literature reviewed on PPPs seems to unevenly cover different regions worldwide, with a concentration of studies in industrialized countries and more scattered exploration of developing countries (Osborne, 2002; Akintoye *et al.*, 2008). Emerging countries of the MENA region were actually left with far too little attention and a smaller share of research on PPPs, which is one of the reasons that make this field interesting to explore. In addition, the region has been active during the current decade in establishing jurisdictions in regards to PPP policies and regulations: a number of countries have recently enacted a stand-alone PPP law (Egypt in 2010, Jordan in 2014, Morocco and Tunisia, 2015...), and some of them have even established a PPP national unit. Many countries in this region have been struggling with political and economic instability since many years now, and trying to “craft” infrastructure projects calling for private partnership, in an attempt to alleviate the heavy impact of increasing public spending and deficiency in public services quality.

The case we chose to observe is in progress since 2010 and constitutes the latest project taking place at a national level and involving the participation of the private sector. The project is part of the latest reform plan suggested by the local Ministry of Energy and Water (MoEW) in 2010, providing a set of strategic initiatives to remedy the problems accumulated throughout the history of a suffering power sector. In addition, this project is the first among previously accomplished ones to show characteristics of a real partnership in terms of contractual terms, risk sharing and compensation based on performance evaluation and monitoring, in the initial absence of a PPP-specific regulatory framework, at the sectoral level as well as the national one.

Simultaneously, it turns out that the country has been going through a PPP legislation process since 2007, led by a ministerial committee established in 2000, and assigned with the task of planning and implementing all privatization programs taking place at that time in the country. In September 2017, this entity, in tight collaboration with the World Bank and other stakeholders, succeeded in passing a PPP Law and establishing a PPP national unit; process that was ten years in the making, ending with

the setting of the first nationally recognized regulatory framework for PPP projects in the country.

At this level, interrogations on the process dynamics of these two more or less contemporaneous phenomenon, coevolving in the same environment, can build-up an understanding of the dynamic process of crafting a PPP project and therefore explain the “*how and why*” of formulation-implementation-outcomes linkages of a PPP phenomenon in an emerging economy witnessing a transition between pre- and post- PPP legislation.

### **3.2. A PROCESS RESEARCH FOR A RICH EXPLORATION OF THE CASE STUDY**

This paper follows an inductive reasoning articulating the grounded-theory approach and focusing on the processes in the aim of creating new concepts (Gioia *et al.*, 2012) for a better understanding of PPP dynamics in particularly influencing environments. To this end, we propose a case study design of the PPP project in question and its observation through a strategy process research approach. We estimate this research methodology setting appropriate for the proposed research due to its ability to provide rich explanation of a dynamic process in its real-life context (Yin, 2009) and to highlight the sequence of events that describes how things change over time (Van de Ven, 1992). We use this approach to better understand *how* and *why* different PPP constituents emerge, develop, evolve over time in the challenging environment of a developing country.

A process research implies longitudinal methods of data collection and analysis as well as developmental sequence of events that describe how things change over time (Pettigrew, 1992; Van de Ven, 1992) which matches to a high degree the requirements for coevolutionary research given its properties. In line with Lewin and Volberda (1999), we adopt a set of dimensions for an observation through a coevolutionary perspective, which we tried to incorporate into our research strategy design. We studied the PPP phenomenon over a relatively long period of time through longitudinal data gathering and analysis looking for multi-directional causalities between and across different interacting elements of the system. We looked for changes at the level of different institutional elements and how they may-or may not- affect the PPP phenomenon. We also observed how economic, social and political macro variables may have changed over time and influence the dynamics of the PPP object of the study.

Most importantly, we remained open for the emergence of new themes coming from the field of study because we believe that this brings important insights, and will surely suggest new concepts and open new horizons for the analysis.

### **3.3. DATA COLLECTION AND ANALYSIS**

Data collection has started in June 2016 through semi-structured interviews which were the main tool during this phase. Actors interviewed included representatives of the PPP partnering actors – the public entity and three private companies – representatives of both consultancies that took turn as program managers in the partnership, actors from PPP ministerial committee who were active in the PPP legislation process as well as third-party actors (from financial, legal and international institutions) who were knowledgeable in PPP practices and the national context. Accordingly a total of 32 semi-structured interviews were done with a duration average of 62 minutes per interview.

Since real-time collection of longitudinal data was not possible and following the common recommendations of ensuring construct validity and information liability in case study analysis (Yin, 2009), interviews were supported by the gathering of secondary data retrieved from different sources: contract-related documents, memorandums of understanding signed between contracting actors, quarterly reports, ministerial decrees, internal reports issued by the MoEW, law texts, newspaper articles, reports published by local banks on the participation of private companies in infrastructure and service projects, reports issued by government institutions on infrastructure projects, annual/quarterly/special reports published by international institutions on regional and national PPPs (see Table-1 for details on different source of data). Interviews were analyzed according to a two-levels coding process (Gioia & Corley, 2012) and documents were also examined thoroughly for details allowing triangulation among data sources.

**Table 1 - Data sources**

<b>Interviews</b>	<b>Number</b>	<b>Archival material</b>
<b>Categories of actors</b>		
Government (public)	11	Companies reports and presentations
SP companies (private)	12	Public utility internal reports
Banks (financial institutions)	1	DSP contract related documents
Consultancy companies	3	Newspapers articles (approx. 67)
Legal and regulatory bodies (HCP, World Bank, law firm)	5	Laws and draft laws
		Reports from international institutions, local banks; governmental institutions; industry reports from business analysts
<i>TOTAL</i>	32	PPP online databases (i.e. PPIAF, PPPLRC, PPP knowledge lab...) National online databases

#### **4. FINDINGS**

The process of analyzing our data is still in progress. However, time spent on our research site and data collected allowed us to narrate an informative detailed story, on the basis of transparent evidence (informants' statements and comments as well as secondary sources of information) about the dynamic evolution of the PPP phenomenon in parallel to the progress of the national PPP regulatory process, as these two processes unfold on overlapping time frames. Different stages and critical inflection points of the PPP evolution were spotted; we try to retrieve them in order to bring further highlights on PPP process dynamics.

##### **4.1. A 10 YEARS-STRIVE FOR PPP LEGISLATION**

The country concerned with our study has a long history of private participation in its infrastructure and public services. This participation has taken different forms of contractual arrangements mainly, concession, BOT, management contract and lease, yet with a total absence of a PPP regulatory and governing body which caused many delays and frequent cancellation of planned projects due to unsuccessful implementation, the tension prevailing the relationship between different actors, the absence of proper consultation, the non-transparency of the tendering process and many others. Part of the latest economic reforms taking place at the national level concerns the regulation of private investment through public private partnerships. Up until August 2017, the country remained without a legal PPP national unit or a law governing this type of partnerships.

The PPP law enactment was urgently needed to attract foreign direct investments and encourage further participation of national private companies, thereby stimulating the economic growth and development.

A first version of the PPP Law text was drafted in 2007 and approved by the government then, but it was part of a law projects' bundle that was rejected by the head of the Parliament, judging the government not legitimate at that time due to the resignation of many of its ministers. In 2010, the text reappeared in the form of a law proposition submitted by a member of the Parliament, but it was not examined in parliamentary committee because part of the political class considered that it was a duplicate of the previous law project. In 2011, a committee of experts convened by the PPP national committee prepared a new text and presented it to the government. Some of the ministers expressed their reservations towards few key provisions stipulated in the text mainly related to details of the tendering mechanisms for PPP. The stated mechanism stipulated the involvement of various stakeholders in the tendering process and selection of private partner with the aim to enhance transparency at this level. This mechanism was perceived by some political parties as "eroding the Ministers' power". A prolonged period of political deadlock and stagnation marked the country between April 2013 and December 2016 and contributed further to the delay of the PPP law enactment.

Meanwhile the country was drowning in accumulated public debts and increasing fiscal deficits. The passing of a PPP law, as well as other major aspects of reform measures, started to get urgently needed. Weak institutional capacities, governments' dysfunction and perpetual political disputes delayed further these reforms. On September 2017, the PPP institutionalization framework finally materialized into a regulatory framework: the enactment of a PPP stand-alone law and the PPP ministerial committee was mandated as the national PPP unit.

#### **4.2. A "PPP CRAFTING" IN THE ENERGY SECTOR**

The second phenomenon we observe is the latest Build-Operate-Transfer (BOT) project taking place at the national level of the same country and in progress since 2010. In such contexts the design of governance mechanisms is particularly challenging for policy

makers since countries only have a nascent experience in PPP design. The project we study (named DSP for Distribution Service Providers) is the first among previously accomplished ones to show characteristics of a real partnership in terms of contractual terms, risk sharing and compensation based on performance evaluation and monitoring. Since a law governing PPPs did not exist at the time the DSP was initiated, the regulations of existing sectoral laws mainly applied to the governing contract.

This partnership is an arrangement between a public entity designed as “Project’s Owner”, which is the national authority in charge of the production, transmission and distribution of electrical power on the entire territory; and three private national companies, the “Service Providers” (SP) for design, implementation, operation and maintenance of the electricity distribution network. The country territory was divided into three regions (lots) and each SP was assigned to one lot.

Since a national standalone-law governing PPPs did not exist at the time the DSP project was established, existing sectoral laws mainly applied. The general conditions of the DSP contract detail the scope of services of the SPs. Accordingly the three selected SPs are responsible for planning, design, and constructions at the level of distribution facilities located in their assigned areas, with an overall objective of maintenance and modernization of the power grid, reduction of technical and non-technical losses, improvement of bill collection and installation of advanced metering infrastructure. A detailed description of tasks related to each activity is clearly stipulated in the contract, along with the required deliverables and technical specifications and standards.

The monitoring and evaluation of the SPs performance is based on a scheme of 11 key performance indicators (KPIs) pre-defined in the contract. Accordingly, financial compensations or penalties will be determined for each SP. Details of this performance monitoring and compensation procedure, baselines and calculation of KPIs as well as details on terms and procedures of payment are stated in the different appendices of the DSP contract and were agreed on by all parties upon contract signature and approval.

Two consultancy firms took turn at managing the DSP project, and were designed as “Program Manager”. The first company, with prior local and regional experience in the domain, was appointed in 2010 by the government as a consultant for the project. This

company was one of the main pillars in the DSP contract design. The second company took over the “Program Manager” responsibilities starting April 2016, after the first company has refrained to renew the consultancy contract with the government. A “Project committee” was designated to represent the public party; along with the “Program Manager”, they form together the “Project Manager” entity in charge of the governance of the PPP. The contract was signed in 2010 and its execution started in April 2012. Its initial duration was set to 48 months (till April 2016), but was renewed twice, and currently its due date is September 2022. The project organizational chart and the different levels of authorities governing it are represented in Figure 1.

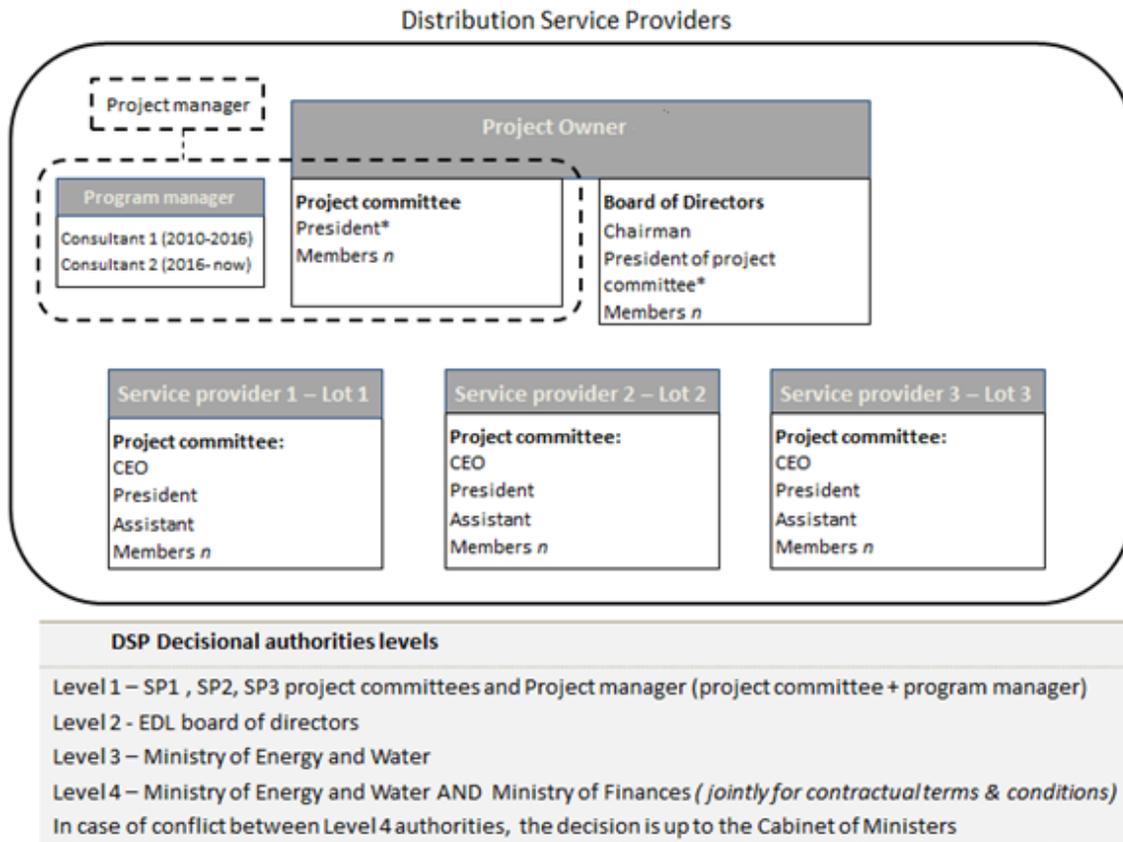


Figure 1 – DSP collaborating actors and levels of decisional authorities

The implementation of the DSP project was not as smoothed as planned. Its execution experienced lots of turmoil and disruptions. In sum, we label this experience as

a “controversial” one, a concept that was revealed repeatedly by participating actors during our interviews while describing their journey in the context of this project. Sequences of contextual and regional events, institutional constraints and high hybridity in logics between acting partners succeeded in a relatively short time to greatly impact the performance of the project, preventing the completion of the totality of its pre-scheduled activities. Table-2 provides details on major stages and sequences of the DSP execution process, retrieved through our analysis of longitudinal data collection.

**Table-2: DSP evolution - Sequence of main events**

<b>Date</b>	<b>Event</b>
Jun 2010	<b>Policy Paper:</b> MoEW published a framework including 10 strategic initiatives for the reform of the generation, transmission and distribution of the electricity. The Distribution Service Providers is part of it
Dec 2011	<b>Bidding process:</b> MoEW and the Project Owner launched a competitive tendering process. Three private companies were selected as they met the pre-qualifications specifications
Apr 2012	<b>DSP execution:</b> DSP project launched its 4-years contract-based activities. Contract is due on April 2016
May-Jul 2012	<b>Daily workers first strike:</b> First strike movement of electricity daily workers that lasted 93-days. 2000 daily workers are claiming full-employment positions, refusing to work with the private partners of the DSP project
Aug 2012	<b>Remedial Action Plan:</b> Re-launch of DSP activities. Project Owner signs for 4-months extension of the DSP completion time. Contract is now extended till Aug-2016.
Mar 2013	<b>Revising project schedule:</b> Clearance of all contractual issues delayed by strikes. Extensive meetings between partnering actors to revise project scheduled activities
Aug-Dec 2014	<b>Daily workers second strike:</b> Second daily workers strike asking for full-employment and 4 months sit-ins at Project Owner premises
Jan – May 2015	<b>Revising planned activities:</b> Slowdown in SP performance, extensive meeting to reschedule delayed activities
Jun 2015	<b>Notice of contract termination:</b> A notice of the contract termination sent by SP2 and SP3 because of Project Owner delays in reimbursement, the absence of independent mediation to settle disputes, and the unwillingness of Project Owner to extend the DSP contract once more to compensate the delay accumulated due to the second daily workers strike
April 2016	<b>Appointment of a new consultant:</b> new consultancy is appointed as DSP program manager following the first consultancy contract expiration and the unwillingness of the initial consultant to renew the contract
Aug 2016	<b>Memorandum of Understanding (1):</b> Project Owner and SPs established the MOU-1 that states, among other resolutions, two phases for contract extension (4-months extension and then 36-months renewal). It also elaborates a new roadmap for unaccomplished tasks. MOU-1 shall form a part of the contract
Dec 2016	<b>Memorandum of understanding (2):</b> Project Owner and SPs established the MOU-2 that states, among other resolutions, the extension of the DSP contract for 48-months (instead of 36 months as agreed in MOU-1), the suggestion of new contractual resolutions and conditions for renewal, the settlement of previous claims and other unresolved issues. MOU-2 was approved by the MoEW, but not by the Ministry of Finances. Case is transferred to the Cabinet

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	of Ministers.
Jan – Sep 2017	<b>Quarterly extension of the contract:</b> Project Owner extends contract with three SPs on quarterly basis until end of Sep-2017 while waiting for the Cabinet of Ministers approval of the 48-months renewal
Oct-2017	<b>Contract extension for SP1 and SP2:</b> Project Owner signs a 48-months renewal (until end of Dec-2021) of the DSP contract for only two of the private companies, SP1 and SP2, upon the approval of the Cabinet of Ministers. Further negotiations are still ongoing for the contract renewal with SP3
Jan-2018	<b>New contractual terms for renewal with SP3:</b> Cabinet of Ministers approved DSP contract extension for SP3 until Dec-2021 with major contractual changes mainly the allocation of activities in specific regions to an independent contractor (designed by the Cabinet of Ministers) under the supervision of SP3

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## 5. PRELIMINARY RESULTS AND DISCUSSION

The results we expose in the current version of this paper are within the limits of our so-far treated data. In our first order analysis we try to adhere to informants' terms and words and emergent concepts and themes allow us to examine the core ideas of our study. In fact, our study consists of viewing a PPP as a process and attempts to understand the dynamics of this process within the instability and perpetual mutations of a developing socioeconomic context. With the progress of our data analysis we believe that discussion, and the link with theoretical insights, can be greatly improved. We address while exposing our results various dimensions of the co-evolution perspective of a PPP. The complexity of the study implies different levels of analysis: the micro-level which concerns the interacting actors within the PPP project, the macro-level which considers elements of the institutional environment and macro-variables of the socio-political environment (or extra-institutional environment). We emphasize again on the interpretative and explanatory capacity of coevolutionary perspective arguing that a phenomenon coevolves with its surroundings and therefore influences its environment and is influenced by it. We try to find multi-directional effects between coevolving elements of the same level of analysis (intra-level analysis), as well as between elements of different levels of analysis (inter-level analysis). We look into possible interactions and mutual influences between main actors and events as they emerge from the field of study. We also inquire changes in variables of the socio-political environmental and elements of the institutional environment impacting the performance of this partnership.

## 5.1. THE PPP INSTITUTIONALIZATION PROCESS

The passage of the PPP law in September 2017 is hailed as a big step allowing the participation of the private sector in infrastructure and public services thereby putting the country on the right path to economic growth and development. Actors perceived this step as a guarantee to the success of projects governed by this law, the country being in urgent need of efficient and effective infrastructure construction, upgrade, operation and development. Without a proper framework, all past and existing projects planning investments had been delayed, cancelled and even failed to deliver their promises. The reasons for these past failures vary from flawed tender processes, tense relations between private operators and municipalities, bad implementations and improper consultations between partnering actors. However, the passing legislation did not have unanimous consent of the parliament. Political deadlocks were surely behind the delay in passing the PPP law; notably the disagreement over the tendering process details explains in large part the 10-years enactment process. In fact, the PPP law centralizes the procurement process at the level of an independent entity designed as project committee, that assist working teams for each project ensuring the involvement of all stakeholders and enhancing the transparency of the tendering process and the selection of the private partner. This PPP project committee is presided by the secretary general of the PPP national unit and has his members representing both the relevant ministry and the ministry of finance. The law also provides mechanisms for dispute settlement. The law attributes to the PPP national unit (which is an entity reporting directly to the Cabinet of Ministers) the authority to assess and evaluate potential PPP projects, establish a project committee for every approved project, manage the consultation with prequalified bidders and approves the prequalification outcomes and the winning bidder<sup>1</sup>. This framework provides assurance for potential investors by increasing transparency and most importantly limiting potential opportunism, corruption or nepotism at the level of the procurement process.

We view this process of PPP institutionalization as a bricolage or crafting experience and elaborate hereafter our preliminary reflections on the different aspects of this process,

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<sup>1</sup> The information are retrieved from the text of the PPP legislation

based on the socio-economic conditions within which it has emerged, its initial drives, the stakeholders involved in it and also its main outcomes, materialized so far by the PPP legislation enactment. Since the complex collaboration between public and private actors mixes different institutional rules and logics, the PPP legislation is perceived as a main determinant in the governance model adopted for this collaboration and the guarantee for limiting various forms of opportunistic behavior. Therefore, this legislation would be the potential therapy preventing additional failures in PPP projects. We witness a process of institutional change and the creation of new practices and new institutions in regards to private participation in the public work. This process of *crafting* or *bricolage* is inspired by existing institutions and prevailing practices. The PPP national unit, having a legitimate identity, is trying to be an institutional builder making rules and building regulatory, operational and monitoring framework for upcoming PPP projects. Within the course of this process, established institutions, initially opposing the PPP regulation, materialized their resistance to PPP institutionalization by the rejection of the PPP law proposals in the first place and then the delay in approving it, trying to use their systemic power and exerting dominance and control over PPP institutional actors. The PPP legislation is a group effort done by actors of the PPP national unit, activists from the civil society, national lawyers and the assistance of the World Bank, combining elements from existing international references adapted to local conditions. This process can be described as the institutional emergence of new configurations that are being created from scratch on the basis of past experiences with PPP projects. This crafting experience is very significant since it emerges in an environment where high levels of hybridity in logics prevail. Figure-2 below represents the interplay of different institutional actors that characterize this PPP institutional emergence process.

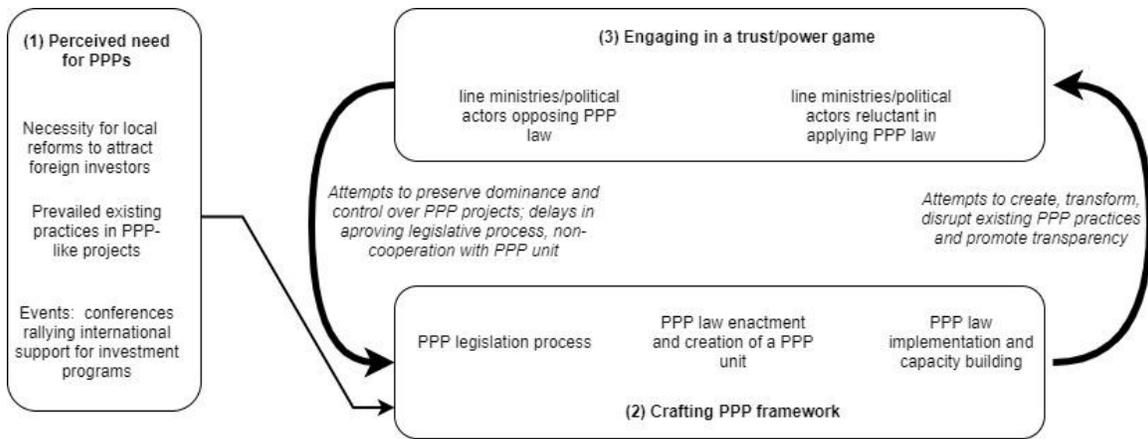


Figure 2 – PPP institutional emergence

## 5.2. AT THE MICRO-LEVEL OF THE DSP PROJECT

Figure 3 represents the PPP dynamics model illustrating the dimensions and variables identified upon data analysis. Preliminary results are explained below.

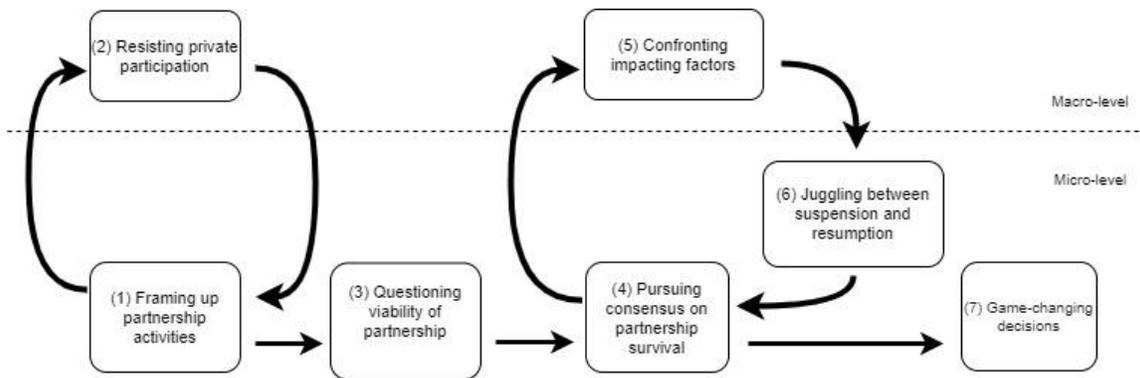


Figure 3 – PPP dynamic

### Governance mode and actors performance evaluation

It is certain that the DSP was the first experience of private sector participation in infrastructure and public utilities project that presented the characteristics that are the closest to a real partnership. The private sector was invited not only for the simple management of public assets but also to bring in technological advancements and innovative technical and management practices in order to improve public services; which would have been impossible for the Project Owner to accomplish on his own. Nonetheless, the many features that characterized the design of the DSP contract and the

high level of expertise of the consultancy company that was called in to design the contract and manage the program did not prevent numerous controversies between different partnering actors around ambiguities and non-applicability of some of the contractual terms. This did not appear until the SPs started reporting their activities during DSP execution. The most important aspect concerned by this ambiguity is related to the interpretation and calculation of KPIs. Debates started to rise between private actors and “Project Manager”, during which the program manager showed rigidity in this regards and insisted on the strict applicability of KPIs the way they were designed in the contract. According to private actors, KPIs scheme was a ready-recipe design based on theoretical and international standards for power distribution and did not take into account the idiosyncratic nature of contextual variables. Furthermore, private partners suffered from the fact that the program manager, who was supposed to be acting as an intermediary party governing the execution of the project, was in practice not an independent entity and therefore couldn't be considered as a fair project arbitrator. This was one main factor fueling conflicts during project execution.

Private actors perceived the necessity to have additional guarantees providing them with stronger safeguards for contracting with the government. An example of actions taken in this regards: SPI has sought the guarantee of the MIGA (Multilateral Investment Guarantee Agency) providing coverage for war, terrorism and civil disturbance as well as non-honoring of financial obligations due to the company.

The evolution of the DSP project has witnessed several short-term contract extensions and *ad hoc* solutions to emerging problems. This has created an overall exhausted atmosphere among SPs in such a short period of time. Actions taken by the private companies were at the center of non-linear effects that arose as a consequence of the PPP governance mechanisms; the incomplete contract coupled with the rigidity of the Program Manager have created frustration among SPs and strongly affected their respective performance.

### **5.3. AT THE MACRO-LEVEL (INSTITUTIONAL ENVIRONMENT)**

#### **Bureaucratic and rigid public regulations**

The DSP project was frequently confronted with institutional tensions rising from contradictions in various existing rules and procedures. These internal rules had existed prior to the establishment of the DSP project and were rigid and old enough to be incompatible with the innovative aspect of the project. According to actors, these sectoral rules should have been addressed prior to tendering process. For instance, one of the tasks assigned by the contract to the SPs was the removal of all illegal electricity connections within the territory of the country; whereas established and formalized rules addressing this procedure in particular stated that removing any illegal connection should be initiated by local public authorities: regional head of divisions or head of municipalities. These conflicting roles have caused major tensions and frequent polemics among concerned individuals which led to further delays in pre-scheduled tasks' execution. Once again, the overall DSP performance was highly affected and so was the evaluation of KPIs associated to delayed activities as well as the corresponding SP remuneration.

#### **Social movements and actors' strategic actions**

Right after the launching of the DSP project in April 2012, an unexpected strike movement among Project Owner daily workers erupted and lasted for 93-days. Nearly 1900 daily workers were claiming full-employment positions within the government and refusing to work with private companies. This movement was a sudden source of disturbance that "frozen" the implementation process of the DSP project. These strikes were the main frail part of the project and the severe conditions imposed by this social movement have greatly affected the performance of the project. The government was somehow reluctant in changing existing rules that regulate the status of these daily workers; whereas DSP private companies demonstrated increased efforts and took various actions in this regard. One of the SP companies took a major strategic decision by offering full-time positions to these contractual workers. In addition, the company designed a specific training and development program in order to reduce the resistance of the newly employed staff (former public daily workers) and enhance their ability to cope with the technological requirements of the DSP pre-planned operations and activities.

Once again, this movement, initially driven by rigid existing rules and reinforced later with workers' fear of losing their jobs with the advancement of the DSP project and the participation of the private sector, has induced multidirectional effects among different interacting elements: the advancement of the DSP induced fear and instability among daily workers who in return resisted its implementation by protesting and blocking number of DSP activities. In return, private companies took serious actions to alleviate the impact of this movement and comfort the fears of the protestors. Naturally, this caused delays in pre-scheduled activities and tasks which highly affected the DSP performance during the 3-months strike.

#### **5.4. AT THE MACRO-LEVEL (EXTRA-INSTITUTIONAL ENVIRONMENT)**

##### **Fields particularities and weakened public sovereignty**

An obvious uneven performance between the three SPs was revealed at different levels throughout the execution of the DSP project. This variance is due, in great part, to two main factors: 1) the strategy each actor adopted in response to the emergence of unexpected incidents and 2) the characteristics of dominating local variables in the regions each SP was assigned to. It is important to mention that SPs are restricted from accessing some areas within the country territory. These restrictions of accessibility derive from security and political constraints. In fact, ruling elites in political parties have been playing leading roles in parts of the country where little state interference is allowed. The expansion of social, political and military activities in these 'restricted' areas have limited domestic sovereignty and expanded the authority of these political parties. This has resulted in the incapacity of the central government, and some public authorities to perform/control activities in these regions; that includes infrastructure activities.

This aspect in the context of the DSP project was a subject of serious debates for a long time between the public utility and the private companies partnering over this project. As expected, this has largely impacted the activities of the SP in charge of those 'restricted areas' (as labelled by the informants), knowing that these areas cover a significant part of the total region. DSP planned activities were put on hold since their full rollout in these areas was not possible. This seems to be twisted and paradoxical in a way, since it has

direct implications on KPIs evaluation, where SPs are being financially penalized for unaccomplished tasks over which they do not have any control or authority.

### **Influx of refugees**

In addition to the existing serious and persistent issues in the energy sector and the limited capacity of the national utility to meet the country's electricity demand, additional capacities are equated with an almost similar demand caused by displaced refugees. Since 2011 the country has taken in the equivalence of almost the third of its population in refugees escaping war from a neighbor country. This has created major repercussions on various aspects of the crumbling local economy, adding pressure on local authorities to provide refugees with housing and basic services and increasing load on an already strained power distribution network. This necessity to further reinforce the distribution network in order to accommodate the additional load was not part of the planned DSP activities. Refugees' camps are not metered and consumption bills are not collected. Therefore SPs had difficulties addressing these illegal connections especially that when they do not have sufficient authority to address these connections. However, SPs proceeded to address the reparation of the damage caused by non-metered connections and additional power consumption.

In sum, the DSP journey was definitely a rough one and things did not unfold as planned. Although noticeable improvements of different aspects of the power distribution network worked out, the capacity of the DSP to create social value remains debatable. In addition to the high hybridity in both organizational logics (integrating market, government and civil society logics) and organizational governance (formal contractual ties around multiple layers of organizational actors) feeding up internal tension and conflicts, number of institutional and extra-institutional variables were determinant in tracing the path of this partnership. Furthermore, the DSP project is a "crafting" experience of a PPP in a country having a nascent experience in this domain. Strategies of adaptation embraced by partnering actors mainly evolved around the survival and viability of the partnership, giving extremely limited space for innovative solutions that enable the renewal and modernization of the electricity grid. Instead of talking about change agents or influential agents in the context of this PPP, we prefer to think of adaptation abilities where firms adapt their own behavior to achieve a better fit. Partnering firms may have tried in

different ways to influence local institutions but this was only possible to a very limited extent. As part of our understanding of the PPP coevolution within the environment in which it is embedded, we consolidate and represent in Figure-3 the different multidirectional causalities and the nonlinearity observed among constituents of different levels of the PPP ecosystem:

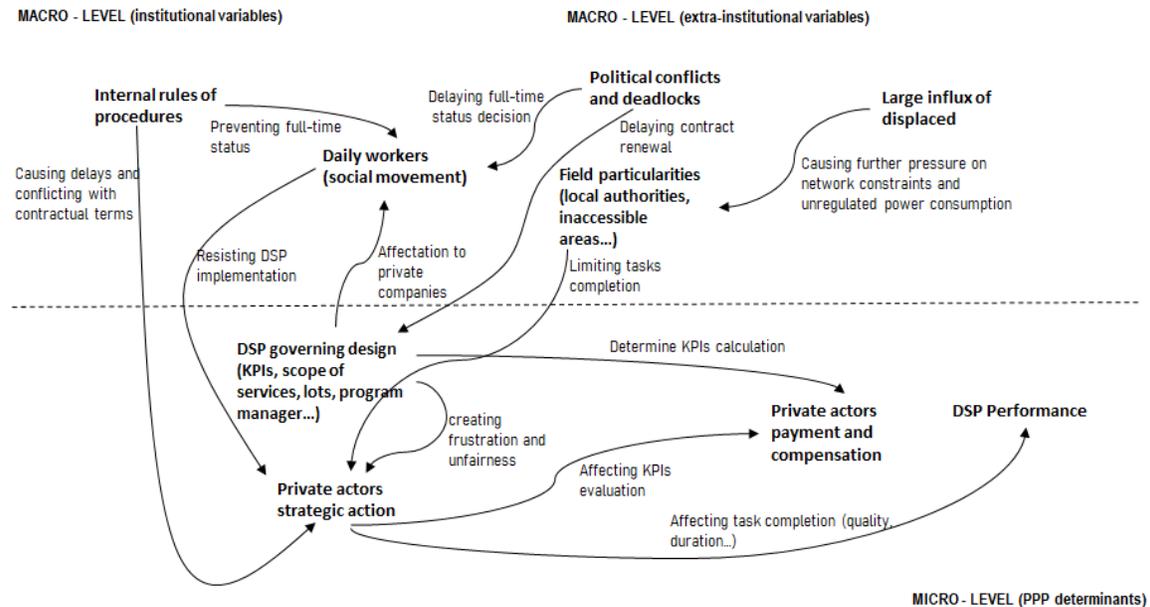


Figure 4 – Multidirectional effects within the PPP ecosystem

## 6. CONTRIBUTIONS

In the best possible way, this study takes the understanding of PPP to a new level that goes beyond the focused-level and fragmented examination of organizational and management theories, using a strategy process research approach. Two crafting processes coexist on the same environment in overlapping timelines, having convergent objectives are taking part in the process of national PPP institutionalization. Exploring a complex structure, such as a PPP, evolving in dynamic environments, where political and economic situations do not proliferate, institutional processes are not global and still in progress is certainly significant. By introducing coevolution as a theoretical framework a double-objective is pursued: 1) we introduce a new line of inquiry for the theory of

coevolution, which is a new organizational form to observe; and 2) we look into PPPs from a new theoretical perspective that was not explored before in order to understand how strategies in a hybrid and challenged type of collaboration are formulated and implemented across groups of actors and how they adapt to environmental changes and contextual constraints. We therefore expect to develop a conceptual model explaining PPP dynamism in the particular context of developing economies.

In terms of managerial contributions, we believe that a process-related observation of a PPP evolution gives the key actors the opportunity to improve their decision making process through the adoption of an appropriate adaptation/selection decision in the light of the evolution of the PPP as its different stages and influencing events unfold over time. A conceptual model to understand PPP dynamics has practical implications in setting optimal policies that are able to adapt and change as institutions within a country develop; this is particularly useful for developing countries where key institutional limitations are frequently faced.

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