



Public-Private Partnership in Algeria: challenges and obstacles

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Received: 30/09/2023

Accepted: 16/01/2024

Abstract

In September 2015, the United Nations organized a forum on the fight against extreme poverty and the necessary sustainable development. 17 objectives have been defined and remain to be achieved with a view to 2030. The Public-Private Partnership (PPP) has been recognized as an effective implementation tool in this perspective. A year later, COP21 (Paris) confirmed this option. The PPP is conceived as "Participatif" or PPPP (4P) because it includes, in addition to the State and the private sector, local authorities and civil society. Moreover, since the negative oil shock that began in June 2014, the scale of the financing needs for infrastructure and public goods has become even more acute. Not to mention other constraints that weigh on developing countries in general and on Algeria in particular; namely: population growth and accelerated urbanization, essentially. In practice, it is about providing services that contribute to the development of today without compromising that of future generations. As an indication, let us mention: the mobilization and distribution of water and energy, the organization of waste collection and treatment, the modernization of infrastructures and structures for their upkeep and maintenance... Also, the involvement of professionals can facilitate access to modern and environmentally friendly technologies.

Public-Private Partnership. Algeria. Infrastructure. Model.

1. INTRODUCTION

The concept of the three Ps (3Ps), public-private partnership, is widely known and practiced throughout the world. In the 70s, with the rise of neo-liberalism, it was more an ideological and political issue than the prevailing economic concern. The disengagement of the state and the privatization of public services was on the agenda especially in the US and Britain. A decade later, it was mainly countries with strong social resistance (France, Canada...) that developed this hybrid form of investment management and public services. Since then, the practice has become widespread and economic theory has also been enriched by numerous works on it.

The objective, through the involvement of the private sector, was to improve the quality of public service delivery by introducing private management methods and methods in a hybrid (public-private) organizational framework. It should also be noted that this introduction of the private sector into activities traditionally reserved for the State has fostered structural reforms, not initiated or delayed, thanks to "competitive games".

Since then, emerging and developing countries have used it to a large extent to compensate for budget deficits and provide a better quality of public service, particularly in transport, water and energy management, infrastructure, tourism, agriculture, etc.

In Algeria, the concept has been perverted for the purpose of ceding public property to private castes through economically disastrous transactions. The charter signed by the tripartite in 2018 is a perfect illustration of this.

It is from this angle that we ask the following question: To what extent would PPP be a catalyst for economic development in Algeria?

To outline elements of response to the problem posed, we will adopt the following methodology:

2. Approach Methodology and Expected Results

We will first come back to the concept of "PPP", its theoretical foundations and the lessons to be drawn from different experiences and practices around the world; through a literature review related to the subject matter.

Subsequently, we will focus on the Algerian case, based on empirical work and data published by the (CNED) under the supervision of the Ministry of Finance.

In this section, we will see that the objectives relating to sustainable development remain, in particular, in the developing countries underlying the political dimension and the quality of governance. We will highlight the inability of the Algerian State to implement a serious sustainable development policy and a poor conception of the PPP while the multiplicity of partners and stakeholders promotes the emergence of healthier and more effective practices.

To this end, we will show that the Algerian experience in this area is quite poor, but particularly singular because the concept of PPP has been totally perverted in order to transfer simply and without counterpart State assets to private portfolios of privileged castes.

Finally, we will insist on the importance and relevance of this type of partnership, the need to restore its true content and the sources of initiatives and potential that it could help to enhance and implement. In conclusion, we will insist on the necessary structural reforms to be carried out in order to make credible any policy to be developed and the ways and means to get out of the "spirit of rent" and to have the essential conditions for a "sustainable PPP".

A reminder of the contour of the concept, the conditions of its elaboration and its implementation is necessary for us then. The main aim is to involve the private sector

financially and/or through implementation in the management of infrastructure projects generally provided by the State. This development potential will be one of the ways to compensate for the austerity, which is beginning to be imposed, in the budgets devoted to economic development.

3. Theoretical foundations

Public-private partnership is a management mode that has been widely developed throughout the world for more than three decades already. This "formula" had been initiated in several countries including the France. PPP or the 3Ps are the acronym. Economic theory analyzes PPP as a special relationship between the public and private sectors with necessarily advantages and disadvantages. It is generally accepted that the rate of return, the time of implementation, the quality of services are improved and at lower costs because of the intervention of the private partner.

Generally, it is budgetary constraints that lead the State to seek this type of contract, the induced effects being considered, in their positive or negative aspects, as mere relatively secondary consequences. We are moving away from the classic model that is solely responsible for the construction and management of public infrastructure. This involves the outsourcing of certain state functions through the involvement of private companies.

Off-budget financing is provided by the private operator under certain conditions, including privileged access to bank loans, administrative facilities, etc.

The ultimate objective of this type of partnership is socio-economic achievement at a lower cost for the State, a clear profitability for private enterprise and a public service of better quality and at a lower price for the user.

Economic theory distinguishes, in the related literature, four approaches: transaction cost theory, agency theory, incomplete contract theory and property rights theory.

3.1. The theory of transaction costs:

Although the practice of PPP is relatively recent, it was in 1937 that this theory began its infancy (Coase, 1937). We can consider that it was actually developed under the name of the TCT that in 1973 by Williamson, it is based on:

- A compromise sought between "limited rationality" and "opportunism" as behaviors relating to different interests of the partners in action, it is the enhancement because of the inability to predict and anticipate the evolution of the factors intervening on the activity and therefore the costs induced on the one hand and the willingness of each to react and act according to his own interests either by voluntarily deceiving his partner (ex-post) or by taking advantage of advantageous situation (in-post) which generates an asymmetry of information (the State is generally wealthier in this area);
- The characteristics of the transaction (specificity of the assets and frequency) and the necessarily variable and uncertain environment given the duration of the contract; "An asset is said to be specific, when an economic agent has voluntarily invested in it for a specific transaction and cannot be redeployed for another transaction without an additional cost." (Klein and Shelanski,1995). Generally, heavy infrastructures are very specific and make it impossible to redeploy the budget to be invested; Wiliamson notes this specificity through "the location of the investments (the site)", "the physical characteristics of the investments", "the dedicated specificity" or the volume of the market, "the human specificity" or human resources and finally "the brand specificity" or the relationship of the project to one or more brands. As for the frequency, Wiliamson believes, given the high frequency of operation of public infrastructures generally recorded, possible to break down the transaction into several processes to be profitable separately;
- Uncertainty is practically obvious in this type of long-term projects which will generate opportunisms that can compromise the initial agreement or the project itself, it recommends in the case of too long a duration to internalize the project, this

uncertainty is relative more generally to legal instability, institutional or political changes, market variations, etc.

Based on this theory, Williamson suggests an "institutional arrangement", i.e. a type of contract that would allow a committed company to guard against all types of risks and situations not foreseen during the initial negotiations.

We will distinguish several proposals:

In the case of subcontracting we will opt for a "bilateral contract » ;

One or more successive "classic contracts" with the same partner or "shared" between several operators;

In the case of a project of too long duration, a "contract with arbitration" in order to avoid the development of "opportunism" or conflicts of interest.

3.2. The theory of the agency:

It is when a "principal" uses the services of an "agent" (Jensen and Meckling, 1976). This is an "agency relationship", i.e. an entity that carries out (the agent) in name and places a project for another entity (the principal) with some of its rights and powers in this matter. In general, any service can be considered as an agency relationship that raises both the problem of divergence of interests and asymmetry of information.

Jensen and Meckling (1976) posits two "behavioural" hypotheses. The first is the "maximization of utility" insofar as the partners will seek to overvalue their respective skills, particularly in the case of the risks incurred; One may see its contribution simply disappear and the other lose its position in the labour market. The second is the result of the combination of information asymmetry and divergent interests, it is "the agency problem". In the case where the asymmetry is in favour of the agent, the problem does not arise because it is what gives the agent the ability to

better manage the property of the principal. It is obvious that this relationship will generate costs related to mutual surveillance in order to prevent opportunisms ...

3.3. The theory of property rights:

This theory posits as an axiom that any exchange between agents entails a transfer of goods and properties. Very close to the theory of transaction costs (TST), it is developed particularly by Nellis (1999) with also a certain proximity to the theory of the agency. It is an approach that necessarily calls on the right of ownership (the exploitation of the asset, the appropriation of the income generated and the ability to dispose of it). This theory therefore distinguishes between the "right to residual return" held by the owner and the "right to residual control" (the decision in management) held by the asset manager. The PPP is precisely a particularity insofar as both rights are held by the owner which puts him in a position of strength of unforeseen situations, failure of the project or contract renegotiation. Saucier (2015) advocates a more equitable distribution of property rights among the partners with an advantage to the bearer of most of the investment in order to guarantee the chances of success of the transaction.

3.4. The theory of incomplete contracts:

It is by the impossibility of determining in advance the possible hazards relating to the transaction and the asymmetry of the information that economic theory explains "the contractual incompleteness ».

Neo-institutional economics does not consider contractual incompleteness as a flaw but as an indispensable flexibility when drawing up contracts. It is therefore a duly assumed "contractual choice". In this case, and unlike the transaction cost theory, which gives the right of decision to the managing agent alone (Williamson, 1973), the theory of incomplete contracts reserves this right to the owner alone in the event of an unforeseen situation (Williamson, 1981). In this sense, and in the case of PPP, Hart

(2003) advocates separating the process into two phases. A phase relating to the elaboration of the contract (Hart & Moore, 1990) and implementation of the investment and another phase relating to the exploitation. We will then distinguish two types of investments, one productive with minimization of operating costs for the private partner and the other non-productive with repercussions on the quality of service which is the very object of the PPP contract. The relevance of arbitration in the context of this "flexibility" becomes an important condition for the success of the transaction, but the public partner must know how to accurately define the specifications and the level of quality of the expected services.

4. RESULTS AND DISCUSSION

On the practical and formal issues of the PPP, we can obviously expand widely and observe the many surveys carried out in different countries. We have highlighted here above all the aspects that justify the contribution of the 4Ps and the usefulness of the intervention of civil society.

Despite a generally successful experience between ADE-ONA, SE (France) on the treatment, distribution and management of drinking water in Algiers, a contract signed in 2005, the PPP has remained the poor relation among the modes of project governance in Algeria.

We have already pointed out the absence of a PPP law in this country. Generally, reference is made to the law on "supervision of companies", to some articles of the finance law (2014 in particular) and to the "investment code" when it comes to opting for contracts similar to the PPP. There are also sometimes mentions of a resolution of the State Participation Council (No. 11/134/14/03/2013).

The situation today remains stagnant. This is a calamitous approach that was adopted during the "tripartite" by the signing of the "Charter on the partnership of companies" on December 23, 2017 between the government, the union (UGTA) and the

employers, it was initially presented as that of the PPP by the words of the Prime Minister himself. Also, this charter aimed to clarify the institutional responsibilities in terms of steering and monitoring corporate partnership operations.

In Chapter II, this PPP charter defines its scope, "It applies exclusively to operations: - Creation of joint ventures; - Opening of the share capital of a public company (capital increase and/or sale of shares or shares); - Acquisitions of shareholdings in existing third-party companies».

Among the excluded operations, it specifies: "Partnership contracts - public - private, known as "PPP", having as their object the public service, such as public service delegations, when the public company carries out a public service mission under either a legislative or regulatory text, or a contract. " Paradoxically, it was following this charter and on its basis, that a PPP bill was hastily put in place to give it a legal basis. This bill, like the charter, mainly extended to the transfer of the assets of public enterprises to "third parties", natural or legal persons, including through a "sandstone" approach. In addition, it should be noted the extent of the sectors concerned by this approach: "This Charter concerns all public and private national companies, all sectors of activity combined, as well as EPIC and other bodies belonging to the State and entities in the agricultural sector. ". No public company is spared!

It was following the many reactions of experts, part of the press and many citizens that this project was blocked. It is therefore a very poor record in this area that we are dealing with in Algeria.

The CNED under the supervision of the Ministry of Finance seems to be the only institution responsible for supervising and supporting any PPP projects. We read in its brochure entitled "Supervision and promotion of PPP in Algeria" of May 4, 2015, that it is responsible for "Setting up conditions conducive to the development of Public-Private Partnership. ". While raising the absence of the legal framework governing

this type of contract, the CNED informs us that 11 desalination projects and 2 power plants have been carried out in this form, that 4 container terminal concessions have been established and that 4 drinking water management contracts have been signed still in this context. The CNED, specifies that contrary to the "code of markets", the sectoral laws (electricity, water, transport and public works) allow the realization of PPP contracts.

It is clear that we are lagging far behind in PPP matters, but there is no such delay as a PPP.

The fact remains that a significant deposit exists and can be exploited in this context and particularly for territorial development.

The practice of exclusive state financing of large local investments and local authorities is now showing its limits. These are more spectacular promises, often not kept, during visits by successive prime ministers than a real concern to improve and expand the offer of public service and its quality.

The total dependence of these communities on the central state simply becomes untenable and there are many abandoned local projects. In addition, the questionable disappearance of communal and wilaya companies (closed by the hundreds during the 2000s) has greatly reduced local capacities for implementation, especially since we have not witnessed the emergence of private companies able to carry out these projects.

Beforehand, a structural administrative reform that enhances the concept of region and effectively decentralises decision-making power, initiative and varies the possibilities of financing investments is essential.

In this sense, a law framing the PPP with its participatory dimension that involves citizens and local populations as to the services to be offered and their quality is essential.

It is in this context that we will be able to envisage territorial development, the emergence of private operators able to invest in local or regional public service

projects and to be interested in them. A private sector that would also be responsible for maintaining and maintaining an infrastructure in good working order will obviously ensure that defects are avoided during the initial investment, etc. It is a real logic of long-term partnership that must be implemented.

The sectors of activity concerned are: crafts, tourism, telecommunications, transport, sport, health, waste collection and treatment, development and management of car parks, creation of trade centers and schools, etc. up to communication technologies and the establishment of start-up incubators ...

For example, the many rest facilities intended exclusively for former mujahideen, now without customers, can serve as rest homes for the elderly or youth hostels managed within the framework of PPPs. Sports or cultural infrastructures can be built by private operators who will also have to manage and maintain them, etc. with the effective participation of the population, civil society, including to avoid the "opportunistic" posture of the private operator. In this case we will no longer have to worry about subsidies from the central government, which will tend to become scarce.

The 4P, in this case, does not mean the disengagement of the State but a reorientation of the role of the latter. It is first through a more open and decentralized policy of territorial development that the State must distinguish itself, then by the creation of support bodies for PPP projects, a more targeted management of subsidies and finally a leading role in arbitration.

The State, while delegating part of its responsibilities, must ensure that it "keeps control" while ensuring the sustainability of the private operator and the quality of public services at affordable prices by the targeted populations.

5. CONCLUSION

PPP is an economic technique that involves the private sector in the realization, financing and management of public services generally inherent in the State. This practice has become widely popular throughout the world in recent decades, first in industrialized countries and then in developing countries.

Research and theoretical work on the subject are continually enriched in relation to practice and the lessons that can be drawn from different experiences. From transaction cost theory to contract theory, many theories are developing and tend to make this practice more efficient. The PPP today is also a tool to attract foreign capital and FDI. From rhetoric and ideological polemics, it is the question of the role and responsibility of the state that are now at the heart of these issues.

In Algeria, the cumulative delay has caused the loss and continues to lose many opportunities, particularly in territorial development. Political calculations to use PPP to offload the state's assets and assets to a parasitic caste have made this form of private sector participation in the provision of public services even more complex and unpopular.

This makes all the more relevant the need for a framework law on PPPs that would impose the fourth P, the participation of civil society in the monitoring and control of the purpose of the projects concerned and that would avoid this kind of slippage.

It is the combination of structural reform, modifying the configuration and policy of spatial planning on the one hand, and a broad practice of PPPP on the other that we will be able to develop and exploit the immense source of energy and initiatives that conceal our territories, regions and localities.

Well-implemented structural reforms can lead to a new economic dynamic of growth and job creation, particularly through territorial development.

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