PUBLIC PRIVATE PARTNERSHIPS AS MODES OF PROCURING PUBLIC INFRASTRUCTURE AND SERVICE DELIVERY IN DEVELOPING COUNTRIES: LESSONS FROM UGANDA

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ABSTRACT. The traditional way of procuring public infrastructure and services through fiscal budgets is increasingly becoming unviable particularly in developing economies in view of the endemic budget deficits. Macroeconomic instability and growing investment requirements have shown that public financing is limited, volatile and often inefficient (Chege, 2001). This has necessitated the consideration of public private partnerships (PPP) which studies suggest constitute a viable option and may even dominate infrastructure and service delivery in developing countries in the years to come (Rwelamila, 2004). However, the performance of PPP in developing countries especially Sub-Saharan Africa does not seem to reflect this optimism especially in the context of local governments. This paper argues that in the absence of strong public and/or private sector institutions, and an adequate framework, an unsystematic introduction of PPP in local governments could worsen infrastructure and service delivery and so unlikely to benefit the public client.

INTRODUCTION

The 1990s have seen the establishment of public private partnership PPP as a key mechanism of public policy across the world (Osborne, 2000). PPPs have become a regular practice across the diverse sectors of government service provision stretching from construction of roads, telecommunication networks, prisons, hospitals, schools, universities, to managing these facilities. They are increasingly becoming the preferred

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method of procuring infrastructure and public services by government (Grimsey, 2002).

While PPPs have received much publicity as efficient and effective modes of implementing public procurement policy in the developed world, little has been considered in the context of a developing country. This paper presents quite significant and surprising experiences of PPP implementation in Uganda's local governments. The paper which is derived from ongoing research, seeks to contribute to the discussion by focusing on the institutional and capacity constraints raised by the use of PPP in a developing country context using the case of local governments in Uganda. Flaws that need to be addressed will be highlighted in order to enhance PPP use as alternative modes of public procurement.

This paper commences with a section for background that introduces PPP context, its benefits, and key success factors as portrayed in literature ultimately discerning the challenge for developing countries. The second section shows the methodology used in the study. In the third section empirical studies on PPP performance in developing countries are reviewed and finally the fourth section provides the lessons from Uganda.

BACKGROUND AND CONTEXT

For much of post world war two, the majority of governments both in the developed and developing countries entrusted the delivery of public infrastructure and services such as transport, telecommunication, energy, water, sanitation, health, education, policing, and defense to state owned monopolies or other public sector/government departments (Grimsey, 2002; Harris 2003). In several countries, the situation was (and for quite a number, still is) that government builds or purchases a physical asset, retains ownership, uses public sector employees or a private contractor to deliver the required service (Grout 2003) – the traditional mode of procuring public infrastructure and service delivery. Accordingly the risks associated with the operation of the infrastructure remains with the public sector (Mustafa, 1999; Grimsey, 2002). However this mode of procuring infrastructure and delivering public services proved untenable as the public sector entities mandated with execution were characterized by inefficiencies, poor pricing policies, corruption, overstaffing, mismanagement, and stagnation (Harris, 2003) and therefore did not provide value for money to the public clients.

Hence in the last two decades we have witnessed a continuous change in the above position with the private sector taking on a major role in the delivery of what were once considered public sector services (Grout, 2003). PPPs have been established as a key mechanism of public policy across the world (Osborne, 2000), increasingly becoming the preferred method of procuring public infrastructure and services (Grimsey, 2002) and a regular practice across the diverse sectors of government service provision.

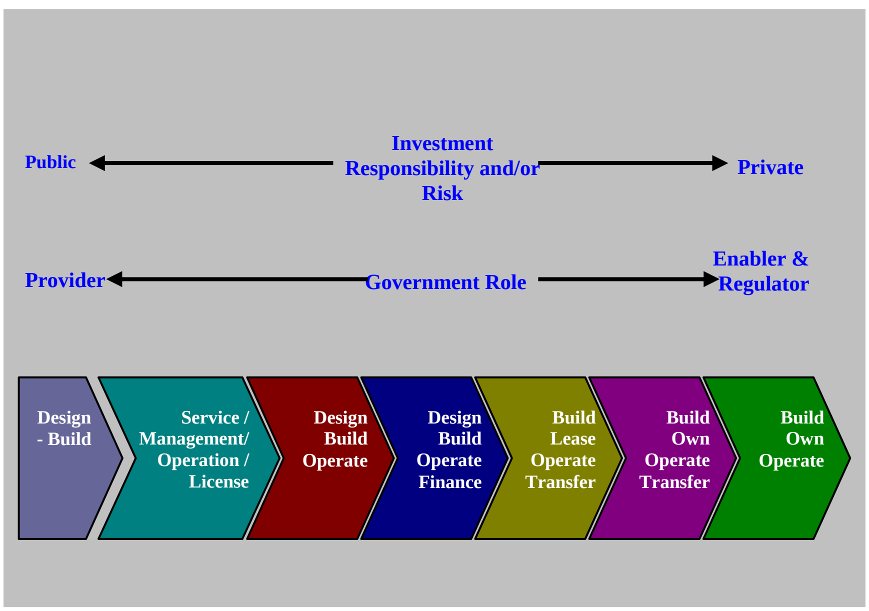
What Are Public Private Partnerships?

Public private partnerships (PPPs) refer to arrangements for the procurement of goods and services utilizing franchising and similar arrangement with the private sector; the private sector is contracted to provide public goods and services on behalf of government (Regan, 2005). In essence the private entity becomes the long-term provider of services while government becomes the purchaser of the services (Grout, 2003; Ahadzi, 2004). PPP schemes are built on the expertise of each partner that best meets clearly defined public needs through the appropriate allocation of resources, risks and rewards (CCPPP 2004). PPPs span a spectrum of paradigms that progressively engage the expertise or resources of the private sector. At one end, there is straight contracting out as an alternative to traditionally delivered public services. At the other end, there are arrangements that are publicly administered but within a framework that allows for private finance, design, building, operation and possibly temporary ownership of an asset. Hence an effort to scale the options available for delivery of public services ranging from direct provision by a public sector entity to outright privatization, where the government transfers all responsibilities, risks and rewards for service delivery to the private sector and the role of government moves from being a provider to an enabler and regulator as depicted in figure 1. Each of the arrangement requires a unique mechanism to set-up, manage and deliver the PPP.

Motives and Benefits Of PPP

Though the motive and expected benefits of PPP may vary from one organization or sector to another, Browne et al 2003 provides an all encompassing summary as follows: ***Efficiency*** – making better use of resources through operational efficiency, market related incentives and competition; ***Integration*** – effective partnerships with the private sector are a way of integrating the public and private sector and often bring the benefit of private sector experience to areas under traditional public sector management; ***Accountability*** – the ability to explicitly design PPPs to be accountable for the delivery they attain. This is generally achieved through a process of regulatory oversight, a pre-identified monitoring and review process and the use of incentives and disincentives to promote particular goals in delivery provide a strong mechanism of public accountability.

FIGURE 1
Various arrangements of PPPs in practice



Through public private partnerships (PPPs) schemes, it is envisaged that private expertise and finance enable governments to meet rapidly growing demands for public services, radically improves infrastructure networks and enhances service delivery (Farlam 2005). Furthermore, value for money, (a vital precept of public procurement) is often realized because costs are shared, economies of scale and synergies are achieved, and decision making is shortened due to the cooperation between public and private partners (Klijn, 2000). Risk is allocated to the party best able to manage it (Mustafa, 1999; Bing 2005) leading to improved delivery in terms of time, cost and quality, elimination of over specification and improved maintenance of public infrastructure (Dixon, 2005). Budget constraints are eased (Spackman, 2002), whole life costs reduced (Grimsey, 2004), monitoring and accountability strengthened (Hartley, 2003). In a nutshell, PPP have demonstrated their usefulness in reducing risks, costs and the certainty of public procurement (Regan, 2005).

Key Success Factors

Effective PPPs take time to establish and then yield results. For PPP to be successfully initiated and implemented, the presence of a conducive and enabling legal and regulatory framework is a critical prerequisite (Bing, 2005; Zhang, 2005). Disputes are likely to occur and service delivery delayed and/or impaired (IP3, 2000). The existence of a functioning legal and regulatory framework reduces opportunistic tendencies (Kuttner 1997), aligns the interest of partners and also provides confidence to the private partners as it acts as a buffer against political interference from government bodies (Pongsiri, 2002). The other critical issues include goal compatibility – reflected by an appreciation that both the public and private sector share a common goal of reducing risk and increasing certainty (Henderson, 2004); capacity of the partners to execute their roles (Rondinelli, 2004); the credibility and transparency of the procurement process (P3 Advisors 2004); and greater education and sensitization of the stakeholders (Henderson, 2004).

The Challenge For Developing Countries

Despite the benefits expected from PPP, there is need to exercise caution in broadening its application in the context of developing countries. The dilemma in adopting the PPP approach by developing countries begins with their status as nations. Developing countries are economically depressed, lacking the resources to effectively apply a PPP. Research studies and the literature that paint a rosy picture on PPP relates to countries with relatively strong public and private sector institutions, a sound economic resource-base, an appropriate and enforceable regulatory framework. Public sector institutions in developing countries are weak; they have a poor economic resource base and an inadequate regulatory framework. In similar vein the private sector is still young and lacks adequate financial, technical and managerial capabilities (Larbi 1997). Yet, looking at the prerequisites, PPP derive their strength and success from the availability of an appropriate enforceable regulatory framework; and a vibrant private sector with financial, managerial, innovative competencies that the public sector would like to exploit. Thus in the context of developing countries where there are inadequate regulatory frameworks and an impoverished public and/or private sectors would PPP really provide "value for money" and are they that cost-effective? Would such partnerships enhance the quality of service and effect good governance in public procurement? How should they be implemented in order to optimize their potential? These are questions to ponder.

Purpose Of Paper

While PPPs have received much publicity as efficient and effective modes of implementing public procurement policy in the developed world, little has been considered in the context of a developing country. This paper seeks to contribute to the discussion by focusing on the institutional and capacity constraints raised by the use of PPP in a developing country context using the case of local governments in Uganda. Flaws that need to be addressed will be highlighted in order to enhance PPP use as alternative modes of public procurement.

METHODOLOGY

A review of literature was done on public private partnerships and procurement to get background information and the situation of PPP in developing countries in general. Based on the information obtained from the review of literature a questionnaire with open ended questions was designed and administered, and follow up face to face interviews were conducted to collect data. Open ended questions, and face to face interviews were preferred because they capture the respondent's unbiased point of view. Urban Local Governments (ULG) of the municipality status were chosen as our units of analysis because they have been at the forefront of, and for sometime been, implementing private participation arrangements in their traditional services. Eight out of the thirteen municipalities in Uganda were targeted due to time, financial constraints and besides, the number constitutes more than half of the total municipalities which we regard adequate. The eight municipalities were chosen based on their size and geographical location (two from each of the four regions of Uganda). Within the municipalities the questionnaires were sent to the technical officers in charge of the procurement function, because these officers would provide information from a procurement perspective. Seven questionnaires were returned and follow up interviews held.

PPP IN DEVELOPING COUNTRIES – A SITUATION ANALYSIS

In Africa, a 2004 study by Kirkpatrick et al, covering 110 African water utilities, including 14 private, found no significant difference between public and private operators in terms of cost.

A survey of 18 cities in Asia (including Manila and Jakarta), conducted by the Asian Development Bank (ADB) in 2004, established that private sector operators in the water sector, were performing significantly worse than most public sector operators on four indicators of coverage, investment, and leakage.

In Brazil a study of about 4000 sanitation operations found that there is no significant difference between public and private operators in terms of the total variation in productivity. Regional operators have lower productivity levels than municipalities (Moreira, 2004).

Awortwi (2004), researching private involvement in local governments (LG) service provision in Ghana exposes the gap between PPP policy expectation and outcomes, which they attribute to getting the fundamentals wrong. They found out that contrary to the PPP benefits portrayed in literature, almost no gains arose from the PPP arrangement in Ghana. There was no evidence of PPP improving service quality; no cost savings instead the LG and users were paying more than they used to when services were delivered directly (in-house); no efficiency gains were recorded and that the private companies did not bring in any substantial financial and managerial expertise. Governance shortcomings escalated in that PPP provided a new means through which the power of central government and rent-seeking private individuals is exercised. The LG failed to separate the principal and agent, which created conflicts of interest. Contract discipline enforcement and monitoring of contract terms, competition, and LG capacity were poorly developed hence the disappointing results. They conclude that private involvement is not the solution to poor service delivery and high costs but the problem is the inability of the LG to become smart actors able to regulate, monitor and facilitate new ways of solving public problems.

In the case of Senegal, PPP provided low quality service in education because the private partners wanted to make money and therefore cut costs (Nordtveit, 2005). Furthermore PPP poor performance in developing countries is also attributed to the inappropriateness of the policy framework especially its failure to provide for the regulation, control and supervision of the private sector activities and to facilitate its efficiency objectives (Karanja, 2003; Pongsiri, 2002). Lack of stakeholder consultation is also mentioned (UNCHS Habitat, 2000; Karanja, 2003).

In the East Africa sub region, UHCHS Habitat (2000), found what they termed a "conceptual confusion or ambivalence" with regard to private involvement in municipal services which necessitated clarity in order to improve PPP effectiveness. Some LG understand it as *contracting or leasing out* tasks and responsibilities to private sector firms, while the LG retains overall supervisory and regulatory control; while others understand it as *commercialization* of services by municipal departments or parastatals, and yet some understand it as total and complete *transfer* of responsibilities for providing the service to private sector firms who set their own prices. Such ambiguities do not encourage effective implementation. Furthermore, there were no appropriate legislation and clear policies on private participation to support and guide privatization of municipal services. Besides LG resisting sharing of responsibilities, they lack capacity. Contracting out is the most commonly used in all three countries (a phenomenon consistent with Awortwi 2004).[1] The private sector entrepreneurs in the sub-region have limited organizational capacities; inadequate professional and technical staff and lack financial resources. Moreover they are unable to mobilize capital inputs to sustain their privatization operation. Better performance is only reported in areas where consumers can pay leaving out poor.

The empirical studies reviewed above highlight the challenge that developing countries have encountered in their endeavor to introduce PPP. The prerequisites for the success of PPPs are generally missing. It would then be interesting to find out why in the circumstances they go ahead and introduce such arrangements.

PPP IN UGANDA'S LOCAL GOVERNMENTS – FINDINGS

General

Traditionally, like any other economy around the world, the central government, together with the local and urban authorities in Uganda, at their respective administrative levels, has been responsible for providing a wide and diverse range of infrastructure and public services to the community. But this situation has steadily changed. Across the seven ULG sampled, that is Kampala, Kabale, Mbarara, Jinja, Mbale, Arua, Masaka the move towards allowing private participation started in the 1990s. A number of contracts have been witnessed in which the private sector entities are obligated to operate, expand and modernize public facilities like the local markets, bus parks, slaughter houses, recreation centers, roads and in return obtaining service user fees. Additionally PPP contracts have been concluded for provision of essential services such as solid waste collection, street parking management, street lighting maintenance, street repairs and their general cleanliness.

The contracts' duration range from 6 months and 12 years for municipal markets, one year for waste collection, 5 years for street parking, 10 years for recreation centers and up to 25 years for public transport. Private sector participation is also varied and may involve simple outsourcing, management contracts, and/or complex contracts that involve lease, build, operate and transfer arrangements. However worth noting is that the process of procuring such public infrastructure and services is similar regardless of the duration, investment, and even complexity of the infrastructure and service.

It was also observed that not all services have been divested and private participation in infrastructure and service delivery is not uniformly executed across the board. For instance, Street parking in Kampala is fully handled by the private sector, there is none in Kabale and Arua and yet in Mbarara it is fully handled by the municipality. Furthermore in Kampala waste collection is being done by both the municipality and private sector, in Kabale it is still under the municipality while in Mbarara, only the private parties are doing it. Such a scenario necessitated investigating the motives for allowing private participation and the spirit in which they are perceived, the benefits, the criteria for choosing a service to be divested, and the barriers to private participation and how they can be over come.

Terminology Used To Describe Private Involvement

The respondents were asked which terminology they use to describe private participation in infrastructure development and service delivery, in order to establish whether the term PPP is understood in practice. All seven municipalities indicated "*privatization*". Yet still all seven municipalities also regarded their relationship with the private parties a *partnership,* because the municipality retained supervisory powers and that both the public and private parties had a stake in the venture.

It is surprising to note that all seven municipalities agree that they are in a partnership, but preferred to call the arrangements privatization. Privatization has been defined as – selling off government-owned enterprises or contracting out government services (McFetridge 1997), with the implication of "total control and ownership" passing to the private sector. But this is not the pattern in what is happening in the municipalities; instead the private sector undertakes activities either for or on behalf of the municipality. Control and ownership of the infrastructure facilities remains with the municipality. Hence privatization seems misleading.

The Motives Of Municipalities For Allowing Private Participation in Infrastructure Development and Service Delivery

Because municipalities have common problems and issues to address, one would have expected their motivation for private involvement to be similar. But we noted that the motivation for allowing private participation is not uniform, each Ugandan municipality has its own reasons for initiating such ventures. Only "increased revenue generation" and "giving opportunity to the private sector to do business" are motives common to all seven municipalities. Improved service delivery appears a motive for only three municipalities. Other motives (mentioned only by one municipality) include ease budget constraints, relieve the municipality the burden of providing and managing services, community participation and ownership, reduce losses by transferring risk arising from such venture to the private sector, and enhance control and accountability – quality control.

Benefits Realized From Private Participation In Infrastructure Development And Service delivery

Only one municipality could provide tangible benefits in terms of increased revenue collection which had almost tripled that is from

Ugandan Shillings 8 billion to 22 billion in ten years. Two municipalities indicated an improvement in some services. Other isolated benefits included relief from complex tasks, reduced supervision costs, physical accountability and community ownership.

The Criteria Used To Transfer A Service To Private Sector

It is surprising to note that in all seven municipalities there were no written criteria used to guide transfer of a service to the private sector. But tacitly the criteria used to transfer a service to the private sector are completely different. Each Municipality has its own parameters. The criteria highlighted include municipality demonstrated failure to manage, finds it expensive, technical competence of staff, wage bill, equipment and knowledge in the works.

Short-comings Encountered When Utilizing Private Participation In Infrastructure Development and Service Delivery

Uganda being a developing country some of the shortcomings were not surprising for instance all seven municipalities as expected have difficulties finding competent private firms and where the private firms exist, funds to engage them are not readily available; known characteristics of developing countries. The only question is whether unapprised private sector participation makes sense at all in such circumstances.

All seven municipalities complained of *political interference, poor quality services and corruption.* Cases were highlighted in which the heads of different political and administrative organs[2] individually engage in deciding as to which firm takes the contract to manage and operate a public facility. "*In many cases anti riot police has been called to quell fighting by the private firms that have been presumably engaged by the different organs*" one respondent indicated. Also common are announcements of contract termination by an organ that is not mandated to do so.

Furthermore private firms are accused of personalizing services with no meaningful enforcement by the municipality. For instance "*we have a situation where the private party has been contracted to operate and modernize a bus terminal and another for a slaughter house, eight years down the line nothing has been done; but they continue running the old facilities and collecting user fees*". No one seems to be monitoring the enforcement of the contracts.

Other peculiar shortcomings of interest include ignoring training of the private sector, private firms taking on what is beyond their capacity and the red tape involved in identifying providers.

Barriers To Implementing Private Participation In Infrastructure Development And Service Delivery:

What is surprising is that all seven municipalities are aware of the barriers to private participation; barriers that often are highlighted in literature. The municipalities identify lack of an appropriate legal and regulatory framework, poor revenue base and political interference as barriers to effective implementation of private participation. The lack of awareness of public and private cooperation, resistance by current operators, delays in effecting payment, incompetence of providers, insufficient data for planning and the fear by politician to lose their political grip are some of the significant barriers to private participation in infrastructure development and service delivery.

The legal and regulatory frameworks

The legal and regulator framework used by the Municipality to initiate and implement infrastructure development and service delivery were identified to be: Uganda Constitution, Local Government Act 1997, Financial and Accounting Regulation, Town and Country Planning Act 1964, Public Procurement and Disposal of Assets (PPDA) Act 2003, and Land Act. However it is worthwhile to note that all seven municipalities find this list relevant though not adequate because according to them frameworks need to be harmonized to match emerging times and demands like partnering, to rhyme with current activities and also to be in line with efforts already undertaken by other sister municipalities and cities internationally.

DISCUSSION

The institutional actors, that is, the municipalities, the private partners and stakeholders are not well versed with the PPP approach. Although the term PPP is defined by the Ministry of Local Government – Uganda (MOLG) in one of their training manuals, it is not in daily use. In fact MOLG defines PPP as “arrangements between the Government and the private sector for the purpose of providing public infrastructure, community facilities and services in general. Partners share investment, risk, and rewards between or among themselves", a definition consistent with literature. Why it is not used is still a mystery, though one is inclined to place the reason on lack of awareness and the hangover from the earlier privatization concept. Practically, it is clear that PPPs exist within the municipalities in Uganda but what is lacking is formally stressing its usage and developing it as a mode of public procurement.

Motivation for private participation is indicated as "increased revenue generation" and "giving the opportunity to the private sector to do business". Such motivations are prone to abuse in the absence of an enabling framework. It is no wonder that cases of political interference are reported. One of the advantages of introducing private participation was indicated to be the establishment of controls through the introduction of the principal–agency relationship thus enhancing controls and accountability, but in the absence of adequate legal and regulatory frameworks, political interference and corruption is inevitable

The criteria for using PPP arrangement is not clearly stipulated which means that there is no evocative and factual basis for PPP initiation. A cost-benefit analysis is not done to determine who is better placed to deliver: the municipality or the private firm.

The motives together with the criteria imply that the municipalities believe all answers to their under delivery of the traditional service responsibility lies with private sector involvement but PPP is not a panacea for all the ills confronting governments in services and infrastructure (Rondinelli, 2004). It cannot be taken for granted that PPPs are more efficient than public investment and government supply of services (IMF 2004). The public sector might be better than the private sector in delivering the service when the respective service is not economically viable to warrant private sector involvement. Thus there should be a systematic approach in deciding to deliver a service using PPP. Like countries such as South Africa, Ireland, Canada etc. have done, issues such as priority of service category, value for money, affordability, bankable, risk and service outcome ought to be scrutinized.

The short comings and barriers to PPP implementation highlight issues that are significant to performance. It is observed that in Uganda most of the critical success factors are nonexistent; for instance there are no coherent PPP policy guidelines and a relevant legal and regulatory framework. Contract monitoring and enforcement mechanism is reported to be weak and "who is responsible" is not clear as evidenced by the fragmented and uncoordinated directives from the different political and administrative organs. Such scenario is the possible reason for political interference, corruption, non-compliance and the poor quality services listed in the barriers. It could also be the reason the lack of awareness and misconception by the stakeholders.

PPP are complex ventures and require knowledge of the markets as well as the technical knowledge of the infrastructure and service by both the public and private partners, however both seem to lack such. For the municipality, capacity to handle changed roles is critical, this includes the skills to manage and negoti8uate a PPP, the ability to assess costs and needs, and the capacity to monitor and enforce contracts. Lack of private participants with the capacity to do business is a significant barrier to private involvement, consistent with Rondinelli, 2004. Capacity enhancement is required both in financial and skills competence. Hence participation is viewed as a partnership in a procurement sense, then it calls for a possibility to plan and explore the “supplier development” concept.

SUMMARY AND CONCLUSION

Although the term PPP is not used, the sort of private participation arrangements in infrastructure development and service delivery occurring in Uganda’s municipalities can best be described as PPP and not privatization. Privatization cannot be equated to all private participation even when the spirit in which municipalities are doing it is “partnership”.

Private participation has been formally recognized but the recognition has not indicated the process and modality by which the relationship between the municipalities and the private party could be executed and promoted in the spirit of partnership – the legal and regulatory framework is missing which leads to an unsystematic implementation.

Private participation as a concept is being viewed from the public administration perspective and probably a political vote winner (i.e. reward to supporters), which might explain complaints of political interference. But such perception is at the expense of viewing the concept as a procurement strategy aimed at value for money. A value for money approach would ensure that there is a process that critically analyzes services and partners before implementation, as opposed to "opportunity for doing business" which is not likely to be based on a business case analysis. Hence the challenge is to create an environment where PPP are one of the methods explored as part of the planning cycle to demonstrate that private participation via partnerships can create extra value.

Finally it has been argued (Bing, 2005; Zhang, 2005) that success of PPP revolves around availing an adequate and enabling legal and regulatory framework that clearly defines such arrangements. Appropriate legal and regulatory frameworks streamline PPP set up, implementation and outcome. It clearly explains the changed roles, that is redefine the role of government from producing and delivering services directly to facilitating and regulating private sector service provision. Once the framework exists it could be vigorously exposed to all the stake holders (municipalities, private sector firms and the public clients) since awareness is critical.

CONCLUSION

We have attempted to highlight the flaws and constraints in extending the PPP approach to local governments in a developing country. The major constraint being the lack of PPP prerequisites, comprising of policy guidelines, regulatory frameworks, awareness, training and strong public and/or private sector institutions. The lack of a national and sectoral policy and regulatory framework on PPP in Uganda is a major deterrent to extending the PPP concept to local governments. The framework is necessary to protect public interest, check abuses, enhance capacity and promote PPPs.

NOTES

1. Awortwi 2004 found that in Ghana 60% to 70% of the PPP took the form of contracting out, with franchising, subcontracting, leasing, open competition sharing the balance.
2. Mayor – Political Head; Residence District Administrator – representing the President's office; Town Clerk – Technical Head; and Established Committees

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