Good Governance

The IFIs noted in several recent reports that governance issues have been based mainly or partly on inadequate responses by governments to how institutions and the national environment in which they operate, have been slow to change. A specific issue within governance of dealing with corruption was also addressed by both the WB and ADB in 2004 when new guidelines were issued.

PSP in infrastructure development still requires the government to play a key role in planning, policy, and regulation. The reason that infrastructure industries have remained so long in the public sector is that they have components that are natural monopolies; e.g., the costs are lower with only one provider and the services are often essential (water, power and transport). It was previously a common judgment that state ownership of such monopolies, rather than state regulation of privately owned assets, was likely to deliver the best outcomes.

However, it is now regarded that public ownership and management is neither necessary, nor the best way to ensure universal access. Subsidies can easily be a requirement of a competitive tender or can be directly financed by government. A key advantage of having the private sector provide public services is that it allows public administrators to concentrate on planning, policy and regulation. The private sector, in turn, is empowered to do what it does best (i) invest capital; (ii) manage the businesses; (iii) manage and create appropriate incentives for staff and management; (iv) deal with customers; and (v) improve the efficiency and quality of service; more recently, under the spur of benchmark competition.

Governments should allow the private sector to provide infrastructure services to the maximum extent possible, with governments concentrating on planning, policy and regulation, and with the private sector on efficiently investing capital and improving the efficiency and quality of such services.

In reality, in most countries, PPPs are at an early stage. Therefore, the organization of the infrastructure sectors (i.e., ministries, regulatory agencies, and utilities) has remained largely unchanged with the introduction of PPPs. With financial transactions being the primary mechanism for transferring infrastructure services to the private sector, insufficient attention has been given to the broader issue of institutional reforms. It has been implicitly assumed that the introduction of private management into the ownership or operation of specific assets would obviate the need for such reforms.

Instead, the weaknesses of existing institutional structures have limited the effectiveness of the private sector initiatives. In most countries, the piecemeal transfer of infrastructure components has proceeded slowly and the controlling bureaucracies that add overhead costs and often limit improvements in infrastructure performance, have remained relatively unaffected. The importance of institutional reforms is clear but government bureaucracies rarely reform themselves. Governments should carefully review the structure, size and responsibilities of state-owned utilities and other entities in the infrastructure sectors and establish special reform units reporting directly to top level ministers to spearhead the necessary reforms.

Governments' acceptance of private sector investment in infrastructure has been due, in part, to their failure to anticipate future bottlenecks and make timely strategic investments to prevent shortages in capacity. The increased role of the private sector in developing infrastructure has caused many governments to neglect their responsibility for sector planning.

Instead, governments have offered assets and public services to the private sector in an ad hoc manner, often failing to ensure that individual investments were complementary. In certain circumstances, unsolicited proposals have been used as a surrogate for planning. For its part, the private sector has selected projects that had already been identified in government plans, giving preference to those which offered the highest rate of return, the lowest risk or the greatest short-term benefit. The private sector has had neither the interest nor the capacity to consider the network implications of its proposals. Governments have failed to subject these proposals to rigorous financial and risk analysis to determine their sustainability in the absence of major increases in user charges or government guarantees. Governments have also often overlooked the complementary investment required from the public sector to make the private investments successful. The results have been unsolicited proposals that involved little commercial risk (government guarantees, wrap-around provisions, transfer of existing assets, granting select rights of way) or politically generated proposals. Governments should maintain and strengthen their role in strategic planning of the infrastructure sectors and in the process identify where PSP should be encouraged and the level of complementary support that should be provided.

The effectiveness of PPP has suffered from the lack of adequate regulatory structures to control both technical and economic performance. Regulation of tariffs and other economic factors is particularly undeveloped. The basic objectives of autonomy, accountability, transparency and predictability have been difficult to achieve. More importantly, the mechanism for consultation between the public and private sector and for dispute resolution between the providers and users of the network has not been fully developed. A further problem has been the failure to separate regulation from administration in order to avoid conflicts of interest. Most countries have been slow to establish autonomous regulatory agencies with independent funding and professional staff.

Corruption

The problem of corruption, here defined as the misuse of public or private office for personal gain, has been one of the most enduring dilemmas confronting governments throughout history. Although differences may exist in the nature and scope of corrupt behavior, and the extent to which anticorruption measures are enforced, the phenomenon can be found at all times and within virtually every political system. It can also be found within the private sector. Indeed, the linkage between public and private sector corruption is an area of particular concern for both developed and developing countries.

All IFIs now emphasize combating corruption as part of its broader work on issues of governance and capacity building. These recognize the importance of accountability for public officials, and transparency and predictability in government operations–critical principles in the fight against corruption.

The emphasis upon strengthening the essential prerequisites for effective public administration is designed to ensure that the fundamental building blocks for transparent, predictable, and accountable administration are in place. These building blocks include an appropriate legal framework and effective enforcement mechanisms; a professional, competent, motivated, and meritocratic civil service; transparent procurement practices; effective internal control systems; and a well-functioning independent audit office. Participation, the fourth major principle in the IFI's governance policy, is also of relevance. The experience of Hong Kong, China, and Singapore demonstrates that public support is a critical asset in the long-term struggle against official malfeasance.

The stance on anticorruption issues is intended to reduce the burden that widespread, systemic corruption exacts upon the governments and economies of the region and is centered upon three objectives:

- supporting competitive markets and efficient, effective, accountable, and transparent public administration as part of broader work on good governance and capacity building;
- supporting promising anticorruption efforts on a case-by-case basis and improving the quality of our dialogue with the developing countries on a range of governance issues, including corruption; and
- ensuring that IFI projects and staff adhere to the highest ethical standards.

It should be noted that corrupt decision making has a number of direct financial consequences:

- Direct project costs are inflated by the additional amounts demanded.
- The indirect financial consequences of bad planning and decision making which will be felt over many years into the future. These costs can far exceed the direct costs above.
- Other financial consequences.

The Public Sector Governance Program (PSGP) of the World Bank offers guidance and lessons from practices that promote responsive, responsible, and accountable public governance in developing countries via multiyear learning and country-focused programs that support World Bank operations.

@ http://go.worldbank.org/N14HUIK3J0

Guidebook on Promoting Good Governance in Public-Private Partnerships.
United Nations Economic Commission for Europe, 2007

Guidelines for Procurement under IBRD Loans and IDA Credits, 2004.

Operations Manual Bank Policies, Anticorruption Policy, ADB 2006.

Anticorruption Policy: Proposed Clarifications and Related Changes to Consulting and Procurement Guidelines, ADB 2004

ADB's Anticorruption Policy,1998.

An illustrative list of corrupt behavior:

- The design or selection of uneconomical projects because of opportunities for financial kickbacks and political patronage.
- Procurement fraud, including collusion, overcharging, or the selection of contractors, suppliers, and consultants on criteria other than the lowest evaluated substantially responsive bidder.
- Illicit payments of "speed money" to government officials to facilitate the timely delivery of goods and services to which the public is rightfully entitled, such as permits and licenses.
- Illicit payments to government officials to facilitate access to goods, services, and/or information to which the public is not entitled, or to deny the public access to goods and services to which it is legally entitled.
- Illicit payments to prevent the application of rules and regulations in a fair and consistent manner, particularly in areas concerning public safety, law enforcement, or revenue collection.
- Payments to government officials to foster or sustain monopolistic or oligopolistic access to markets in the absence of a compelling economic rationale for such restrictions.
- The misappropriation of confidential information for personal gain, such as using knowledge about public transportation routings to invest in real estate that is likely to appreciate.
- The deliberate disclosure of false or misleading information on the financial status of corporations that would prevent potential investors from accurately valuing their worth, such as the failure to disclose large contingent liabilities or the undervaluing of assets in enterprises slated for privatization.
- The theft or embezzlement of public property and monies.
- The sale of official posts, positions, or promotions; nepotism; or other actions that undermine the creation of a professional, meritocratic civil service.
- Extortion and the abuse of public office, such as using the threat of a tax audit or legal sanctions to extract personal favors.
- Obstruction of justice and interference in the duties of agencies tasked with detecting, investigating, and prosecuting illicit behavior.