Public-Private Partnerships: Renegotiations, Demand Guarantees and Alternatives in turbulent Times

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Public-Private Partnerships: Renegotiations, Demand Guarantees and Alternatives in Turbulent Times

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Abstract

In this article, we assess the motivations, scope and options available for governments that seek to renegotiate public-private partnership (PPP) concessions in sub-Saharan Africa (SSA). Existing literature reveals that scholars have made efforts to study PPPs and provide recommendations for maneuvering renegotiations in turbulent times such as Covid 19 era. The uniqueness of COVID-19 and its impact on PPP concessions have largely remained unnoticed

despite the creation of a hypothetical environment that is likely to increase voluntary and involuntary renegotiations by governments in SSA and the world. Based on a review of the literature, the study reveals that during uncertain times, renegotiations of the terms of PPP concessions are imminent. To understand the dynamics and complexities of renegotiations, the study was guided by game theory since the negotiation and renegotiations operates on principles of a game. While the existing literature, focuses on reasons for renegotiation, provides general renegotiation outcome options, it has not provided guidance on appropriate options for various situations, such as turbulent times manifesting in the context pandemics and recessions, and when the public purse is constrained. The outcome of the study reveals that in such case traditional cash demand guarantees are impractical. Therefore, the study contributes to the body of knowledge of PPPs by departing from the elusive approaches of earlier studies and provides more context based alternative renegotiation options that governments can offer as tradeoffs when renegotiating PPP concessions in turbulent times.

Keywords: *Public-private Partnerships, COVID-19, Renegotiation, Sub-Saharan Africa, Renegotiation Outcomes*

1 Introduction

Public-private partnerships (PPPs) have been adopted as part of the new public management approach. In addition, the adoption of PPPs in sub-Saharan Africa (SSA) has largely been to develop critical infrastructure for the delivery of essential services to the public. However, although PPPs have been subjected to several academic debates, information about their conception, initiation, planning, design and adoption in the country-wide development approaches followed in SSA is still scant (Kloppmann, 2021). Nevertheless, PPPs remain a strategic procurement and development tool used to finance, implement, operate, maintain, monitor, evaluate and manage large-scale infrastructure projects aimed at improving service delivery to citizens (Nduhura, 2020; Tshombe & Molokwane, 2016; Nuwagaba & Molokwane, 2020). PPPs are, therefore, being looked at by most countries in SSA as a basis for improved service delivery (Maposa & Munanga, 2021).

PPPs are viewed as a procurement method, project or developmental tool that is used to deal with certain challenges to social and economic development through a joint effort of both government and private sector players to deliver essential services that society urgently needs (Wayne,

2020; Tshombe & Molokwane, 2016). In a project management context, PPPs are viewed as a project, which has been defined as any endeavor undertaken temporarily to come up with a unique product or service (Nuwagaba & Lukamba, 2021).

Several countries in SSA are now using PPPs to finance the provision of services for their citizens (Nuwagaba & Thekiso, 2020). Engel (2009), Guash (2004), Hodge and Greve (2007) and Yescombe (2014) maintain that PPPs have the potential to ensure efficient service delivery and give financial support to governments with constrained budgets and unending priorities. Countries in SSA, such as Nigeria and Ghana (western Africa), Ethiopia and Somalia (the Horn of Africa), Tanzania, Kenya, Uganda, Rwanda and Burundi (eastern Africa) and Botswana, Swaziland, Lesotho and South Africa (southern Africa), have all embraced the use of PPP projects in the provision of services to their citizens, especially in the health, education, energy, transport, water and agricultural sectors (Nuwagaba, 2021).

Generally, PPPs, like other development concessions, have tended to operate in moderately stable environments (Chan, Lam, Chan, Cheung & Ke, 2010). However, while the environment in which PPPs operate is stable in the developed world, SSA is relatively unstable and characterised by wars, involuntary changes of governments (Fosu, 1994a, 2003b), capital flight (Asongu, Uduji, & Okolo-Obasi, 2020), high interest rates and lengthy processes for establishing a business (World Bank, 2017).

While not popular at first, in the last 30 years, PPPs have become a popular procurement route for infrastructure development across the world. According to Engel, Fischer, and Galetovic (2020), €203 billion of infrastructure spending in Europe and $535 billion in developing countries have so far been realised. While the utilisation of PPPs has grown, society resonates with both positive and bad feelings about the approach. However, an increase in PPP investment across the world indicates a silent acceptance of the approach despite negative views about it.

Unfortunately, PPPs have become susceptible and vulnerable to the vagaries of nature such as the current COVID-19 pandemic (Baxter & Casady, 2020), which began in Wuhan, China and caused disruptions to the social and economic life of countries across the world (UNDESA, 2020). Moreover, the COVID-19 pandemic has not only inhibited traditional approaches to service delivery followed by governments it has also negatively affected the PPP mechanism.

According to the World Bank (2020), SSA has been plunged into a recession because of the COVID-19 pandemic. Recessions imply a drop in demand on which PPPs rely to retrieve the expected rate of return (Ortega, de los Angeles Baeza, & Vassallo, 2016). A review of COVID-19 trends has led to the view that in the post-COVID-19 era, the uptake of PPPs will probably escalate, as governments will most likely have either reached their maximum limits for borrowing or will need to continue service delivery according to a strict budget. This view is confirmed by Hall (2009), who argues that recovery in recessions is usually characterised by increased private sector participation and PPP uptake in service delivery.

Various studies have focussed on the role of PPPs during the COVID-19 pandemic. For example, Baxter and Casady (2020a) have researched healthcare support and provided solutions to handling force majeure clauses in contracts (Casady & Baxter, 2020b) during the pandemic. Vaslavsky (2021) recognises the impact of the global economic downturn on PPPs, and Khatleli (2020) describes the resilience of a hospital due to the role of a PPP during COVID-19.

2 Literature Review

2.1 Public-private Partnerships, Sub-Saharan Africa and COVID-19

Sub Sharan Africa (SSA) includes countries in the western, eastern and southern parts of the continent, such as Ethiopia, Somalia, Uganda, Kenya, Tanzania, the Democratic Republic of the Congo (DRC) and South Sudan (African Development Bank, 2020). In Africa, the first COVID-19 case was detected in Nigeria, and then the disease spread to other parts of SSA. The emergence of COVID-19 is argued to have brought enormous stress to the SSA region, which was already burdened with endemic diseases, such as HIV, malaria and tuberculosis (Nuwagira & Muzoora, 2020). According to Kaseje (2020), although health systems in SSA have been as overstretched as in other areas, the intensity of the burden of COVID-19 is greater for healthcare providers who are already faced with the problem of diseases endemic to the region, including those mentioned above (Okoi & Bwawa, 2020).

The healthcare infrastructure in SSA faces challenges, which differ from those experienced by the developed world and are not the same for different sectors of a population that is likely to sink deeper into the COVID-19 crisis. Given the deficiency of the healthcare infrastructure in

SSA, Kasenje (2020), recommends that governments focus on preventive measures. While most SSA governments have moved in this direction, the new COVID-19 variants from India and South Africa have led to further waves of the disease and more lockdowns being implemented in countries, such as South Africa, Uganda and Rwanda, with the governments of other countries monitoring the situation to see if they should instigate further economic lockdowns. However, these lockdowns, which have been generally in the form of school, public transport and workplace closures (Teachout & Zipfel, 2020), have led to social and economic forecasts, such as that of the International Growth Centre, which predicted that 9.1 million people would slip back into extreme poverty in SSA due to COVID-19 lockdowns (UNDESA, 2020). This indicates the devastating effect that the pandemic has and will have on the economies of SSA. However, the rest of the world's economies have been affected too,

Figure 1 below presents a summary of the world's economic situation during the COVID-19 pandemic in 2020.

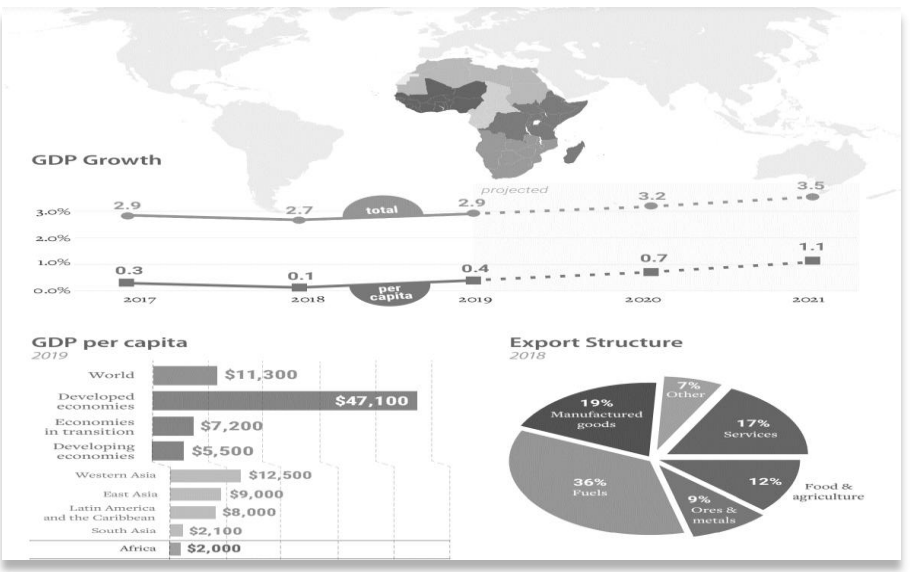

Figure 1: Summary of World Economic Situation
Source: United Nations Department of Social and Economic Affairs [UNDESA] (2020:120)

Figure 1 above presents UNDESA's (2020) summary of the world's economic situation in 2020. In this figure, it is revealed that Africa in

which SSA resides, exhibited the lowest global GDP per capita, which at its lowest was USD$2000. In addition, the figure shows that not only did the GDP grow below expectations it would also grow decimally by an average of 1,1% in 2021, compared with the previous year, 2020. The World Bank (2020) attributes this slow growth to COVID-19 and the low prices of crude oil on the global market. Furthermore, the World Bank (2020) suggests that SSA, in particular, has slid into a recession for the first time in 25 years. Moreover, Teachout and Zipfel (2020) predict that 30% of the savings of people in SSA will be eroded during this crisis period.

PPPs are designed and implemented based on existing and forecasted demand in an economy (Cruz & Marques, 2014; Boyer & Scheller, 2018). A decline in an economy suggests a drop in demand and a likelihood that the forecasted demand for most PPPs in SSA and the world may not be met. Thus, it can be assumed that COVID-19 has a negative effect on PPPs. The fall in demand can be attributed to school and public transport closures due to COVID-19, which directly affect PPP concessions in the education and transport sectors. However, PPPs in the water and health sectors may not be hit as hard because demand has increased since the COVID-19 crisis. Nevertheless, these sectors might be affected by a drop in citizens' earnings and savings, which would mean that they would not be able to afford PPPs despite there being a demand.

Social protection programmes have been developed and introduced in SSA to revive demand, safeguard savings and fence off the 9.1% of the SSA population that has slipped into extreme poverty (UNDESA,2020). However, studies conducted by the International Growth Centre indicate that the current performance of social protection programmes in SSA is not particularly adequate (Teachout & Zipfel, 2020). This indicates a need for voluntary and involuntary renegotiations of PPP concessions currently in SSA. In light of earlier experiences of renegotiations, the study discussed in this article reviewed the motivations, impact and sustainable strategies that governments and policymakers should consider when preparing for PPP renegotiations whereby public and private interests are mutualised. To arrive at a deeper understanding of renegotiations, the study adopted the game theory.

3 Theoretical Lens: Game Theory and Renegotiation of PPP Concessions

Game theory is defined as the study of mathematical models of conflict and cooperation (Myerson, 1999). According to Myerson, when conflict emerges, parties have a choice to pursue cooperative or non-cooperative games. The game theory analyses the prisoner's dilemma game, which involves two rational individuals, the concessionaire and the grantor, who operate in separate cells like prisoners before the contract. However, during the concession implementation, parties seek to achieve mutual objectives by identifying payoffs and tradeoffs. For example, the special purpose vehicle (SPV) may threaten a government with the option of bankruptcy if demands for the increase of user fees or making user fees affordable through subsidies is not met. If this option is pursued, the government would not be obligated to compensate the SPV but would be at risk of losing political credit for the project, as it would be deemed a failure, which would be a bad reflection on the government. If the government were to reject this option, the state would front an availability payment to cater for the shortfall in demand due to the downward effects of the COVID-19 pandemic on the demand by the SPV. From another perspective, both the government and the SPV (developer), which may not have been truthful to each other when contracting, must now be honest and face reality together as prisoners whose ultimate objective is to make a concession to serve the interests of the greater public.

The theory was relevant to the study because PPPs are characterised by cooperation between the public and private sectors in delivering a public service. Moreover, such cooperation tends to inhibit conflicts that arise from the environment in which PPPs operate, missed expectations, incomplete contracts and information asymmetry. Renegotiations act as a mechanism to mutualise interests or cause re-equilibrium, as perceived by Cruz and Marques (2015), which resolves silent and overt conflict by bringing parties to the level of cooperation required to achieve the concession objectives.

Ho (2009a) applies game theory to renegotiations to explain the need to ensure that choices made cater for possible reactions from the other party and that payoffs for the developer (SPV) are made in the public's interest. Other studies adopt game theory to explain the working of PPPs. For instance, Javed, Lam, and Chan (2014) use it in illuminating practices of revising specifications for PPP concessions. In addition, Meda (2007) explains PPP renegotiations in terms of the theory. In studies of infrastructural projects, Eissa, Eid, & Elbeltagi (2021) use game theory to explain the working of social networks, which are characteristic of PPPs.

Ho, Lin, and Tserng (2017b) use the game theory to guide the design of incentive frameworks for PPP projects.

Against the above-mentioned background of the use of game theory, the study considered it relevant to the context of renegotiations of PPP concessions. Since renegotiations are likely, given the impact of the COVID-19 pandemic, the game theory would be useful in guiding governments and policymakers when they determine incentives and their positions during PPP renegotiations.

4 Problem Statement

Recessions are associated with a mild or steep fall in demand. In the context of PPPs, a decline in demand implies the possibility of the failure of SPVs to realise the revenue promised by the government. This would require that demand guarantees move from being a promise to actual compensation. A situation where governments are financially distressed could lead to the further deterioration of SPVs, which then slide into bankruptcies. In addition, signs of frustration with force majeure clauses, which are based on COVID-19 constituting a pandemic (WHO,2020), may happen but are unlikely.

While demand guarantees compensate private actors for the losses suffered due to a shortfall in demand, their execution may deliver more disastrous effects on the government's cash flow, as COVID-19 financial requirements have depleted national budgets and continue to cause additional strain. Therefore, governments require renegotiations and alternative options to keep SPVs afloat and continue to deliver essential services to citizens. The study aimed to explore the alternatives to cash demand guarantees. To achieve this aim, this study was guided by the following research questions (RQs):

RQ1: What are the drivers of PPP renegotiations
RQ2: What is the scope of renegotiations
RQ3: What are the alternatives to demand guarantees

5 Research Methodology

The research methodology was underpinned by the philosophical assumptions and values adopted for the investigation and the understanding of the data. Thus, an exploratory research design grounded in interpretivism was followed to understand international best practices adopted by governments to balance public and private interests in PPP concessions. In the study, interpretivism involved understanding the realities or circumstances of individual countries (Smart, Witt, & Scott, 2012).

The methodology was guided by the above-mentioned research questions. Furthermore, in line with Almalki's (2016) work, the study used document analysis to gather qualitative secondary data. Data were collected from a review of existing scholarly and peer-reviewed literature available on electronic archival databases. Scopus was used largely because it is considered the world's largest database base for scholarly data. In addition, Emerald, Inderscience and Google Scholar were used because information, which required a subscription elsewhere, was readily available. The words used to search for the data were "public-private partnerships"; "renegotiations of public-private partnerships"; and "demand guarantees and contingent liabilities for PPPs".

Abstracts and conclusions were read to gauge the relevance of the documents to the investigation, and duplicate and irrelevant documents were not used. An inductive approach facilitated the exploration of documents on the experiences of specific countries and PPP projects. Understanding these experiences led to generalisations about best practices for ensuring that renegotiations are made in the interests of both the public and private sectors. According to Trochim (2006) and Thomas (2006), an inductive approach facilitates the generalisation of the outcomes of a study.

In the current study, the outcomes (results/findings) of the data collection and analysis were conducted to answer the research questions. The data analysis generated the following themes: the reasons for renegotiations; the scope of renegotiations; and the results of renegotiations. The discussion of the themes led to the drawing of conclusions and the making of recommendations for alternatives to demand guarantees.

6 Results and Discussion

As stated above, the data analysis revealed the reasons for, the scope of and the outcomes of renegotiations. These themes are explained and discussed below.

6.1 Reasons for Renegotiations

According to Engel, Fischer, and Galetovic (2020), practitioners believe that renegotiations are inevitable because PPP concessions are usually for the long term, for instance, 5 to 40 years, which are characterised by a dynamic environment that challenges the accuracy of forecasts by experts. However, while this view can be justified, the results of Guash's (2004) study indicate that renegotiations tend to occur after PPP concessions of between 2 to 3 years, a period for which forecasts should be accurate, compared with, for example, a concession of 10 to 40 years. In addition, other studies conducted by Guash (2004) indicate that when renegotiations occur, they tend to increase public spending at the time of concession signing and user fees. Studies also indicate that renegotiations have been popular with greenfield projects and longer concession periods (Domingues & Sarmento, 2016).

Cruz, Marques, and Cardoso (2015) posit that poor contract design is a key motivation for the renegotiation of PPP concessions. This view is supported by Engel et al. (2020), who suggest that contract design and development tend to prompt renegotiations, which is ratified by the high percentage of renegotiations occurring not at the concession implementation stage but rather during construction. Domingues and Sarmento (2016) maintain that changes in legal and economic conditions have largely contributed to renegotiations. Changes in a legal and regulatory framework have been argued to impact net present value (NPV) and expected return on investment (ROI), thereby laying the ground for renegotiations. In addition, bad economic times may affect the expected revenue, which leads to renegotiations (Domingues et al., 2016).

A study by Marques et al. (2020) trace the problem to the evaluation process whereby the bidder with the lowest NPV and ROI is taken on. Upon winning the concession, the lowest bidder tends to seek re-equilibrium that might, at times, render the lowest bid unattractive, compared to the losing bid during the concession. The winning bidder, according to Marques et al. (2015), tends to bid aggressively to win, with the expectation of securing post-negotiation rents.

Opportunistic behavior during contract management is also cited as a cause for renegotiations (Marques et al., 2015). According to Cruz Marques et al. (2015), information asymmetry has also been noted as one of the causes of renegotiations. The concessionaire usually makes decisions or claims compensation that cannot be contested by the public entity as a grantor (Marques & Berg, 2010).

Macário, Ribeiro, and Costa (2015) provide another perspective on reasons for renegotiations. Their study in a Latin American context revealed that grantors, in most cases, required concessionaires to provide traffic forecasts in their bids. The bidders would then overestimate the demand in line with government forecasts to justify the need for the construction of a facility, such as a road or a dam. High forecasts would justify the need to pursue a PPP concession, as it would assist an incumbent government that seeks to retain incumbency. However, while political credit would be acquired by the government, citizens would end up paying the financial cost of the renegotiations or the compensations for defective forecasts (Trujillo et al., 2002).

Renegotiations have been associated with contract incompleteness. According to Estache, Guasch, Iimi, and Trujillo (2009), incompleteness is usually caused by corruption and information asymmetry between the government and the private investor. Xiong and Zhang (2014) explain that bidding processes that do not allow competition tend to result in opportunistic behavior. In such cases, it is argued that the concessionaire may end up providing prices below potential market prices. When a concession is signed, the concessionaire takes advantage of the government to renegotiate. This view is consistent with the view of Engel et al. (2014) that because of competition, loss-making offers are provided by bidders that expect to cover their losses through future concession renegotiations.

The advent of COVID-19 in the environment of PPPs has come with opportunities and challenges to the global economy (Adam, Henstridge, & Lee, 2020). For instance, some sectors like healthcare have been overstretched. At the same time, a business boom for the health sector has been experienced owing to the provision of ICUs and the sales of protective gear; critical drugs, such as azithromycin, dexamethasone and vitamins A C and D; oxygen; personal protective equipment including masks; and antigen tests for COVID-19. Moreover, the agricultural sector has been buoyed by demand (Yancy, 2020). In some cases, the advent of COVID-19 has brought the world and humanity together. In other cases,

COVID-19 has shown the greed and inequities that exist in the developing world in times of crisis (Storm, 2021).

Previously, Africa and, specifically, SSA were helped by the developed world when they were hit by a crisis. However, when a crisis hits both the developed world and SSA, priorities change. Nevertheless, recognising that we share the same sky despite the ground geography may have made some developed countries pledge and offer support in vaccinating persons from the developing and underdeveloped part of the continent to achieve what is termed "herd immunity" to COVID-19 (Jones & Helmreich, 2020; Forman, Shah, Jeurissen, Jit, & Mossialos, 2021).

6.2 Scope of Renegotiations

A review of the literature indicated that a range of aspects is renegotiated in PPP concessions. According to Guash et al. (2014), renegotiations tend to focus on a change in risk allocation or the condition of the concession. Additionally, the focus is on the scope of a project, especially items that may not have been included in the contract. A summary of these aspects covered in renegotiations of PPP concessions is provided in Table 1 below.

Table 1: Summary of scope and adjustments in renegotiations

Renegotiations	**Aspects of renegotiation**

Change in risk assignment and/or the conditions of the contract	• Reduction in the level of service quality provided (e.g. an airport code changed from IATA A to B) • Deferral or advancement of investments by several years • Extension of the contract term • Reduction of the guarantee requirements for the private side (financial bonds) • Increase in the level of guarantees provided by the public side (to pay lenders) • Delays to a reduction of tariffs (tolls) • Reduction of fees for the public side • Changes in any of these conditions to avoid bankruptcy of the operator
Change in project scope (if this was not covered in the contract)	• Public side requests for additional investments • Private side proposals for additional investments • Grant of additional land for development serviced by the infrastructure • Requests from the public side for additional interconnections with the public (untolled road networks)
Adjustments	**Aspects of renegotiation**
Adjustments in line with the contract provisions	• Adjustments to tariffs in line with a formula set in the contract or indexed by inflation • Activation of triggers, which make predefined investments become mandatory • Payments to the operator provided for in the contract

Source: Guash et al. (2014)

In Table 1 above, Guash et al. (2014) present the aspects of concession terms that can be redesigned because of a renegotiation. For instance, the deferral of investments; the increase of guarantees; delays in or the reduction of user charges; and changes in conditions to avoid situations leading to the bankruptcy of an SPV. Other aspects that may be renegotiated, according to Guash et al. (2014), include additional land; interconnections in the case of toll roads; and changes in service levels to meet ROI expectations.

From an early adopter's perspective, an analysis of works by the National Audit Office (NAO) (2008) provides examples of the possible scope of renegotiations that characterises PPP concessions by referring to private finance initiatives (PFIs) in the United Kingdom (UK). The scope of change that usually results from PPP concessions is summarised per sector in Table 2 below.

Table 2: Examples of concession scope and changes in PFI projects in UK

Sector	Examples of policy change	Examples of change
Schools	● A move to electronic whiteboards requires new infrastructure ● Changing food standards for school dinners requires different service responses	● Head teacher wants to reorganise a classroom or introduce air conditioning
Hospitals	● Agenda for change – updating the terms and conditions of National Health Service (NHS) staff transferred to the private sector	● NHS Trust needs to change the cleaning and isolation regimes in response to infection control issues
	● Payment by results – hospitals may need to alter bed numbers to reflect changing demand	● Hospital staff requests new data points and sockets for an office.
Waste	● Changes to statutory targets for recycling and composting	● Alterations to deal with expansion of local waste recycling
		● Accommodating advances in technology.
Roads	● New road widening or traffic management scheme	● Safety study indicates that the layout of a junction needs improving
	● New road surfacing standards	● Changes to signs or safety fencing
Prisons	● National Offender Management Service (NOMS) – integration of prisons and probation services leading to a change in service level requirements and key performance indicators in existing PFI contracts	● Closed-circuit television CCTV cameras are needed to combat poor behaviour or vandalism.
		● Existing prison buildings are extended to increase capacity in light of higher demand for prison spaces
Street lighting	● Energy-saving policies require changes to lighting units	● Adding Christmas decorations and advertising to lamp posts
Waste	● Changes to statutory targets for recycling and composting	● Alterations to deal with expansion of local waste recycling.
		● Accommodating advances in technology
Social housing	● Carbon emission policies require upgrading of insulation	● Installation of additional electricity sockets in existing houses.

Source: National Audit Office (2008)

According to the NAO (2008), several PFI projects have been implemented and renegotiated. Table 2 above shows that renegotiations in the UK have been evident in the housing, transport, waste management, energy, education and healthcare sectors. Most of the renegotiations have been motivated by changes in policies and national targets. The changes due to renegotiations have been generally associated with the change of clauses and actions to comply with changes in national policies. The NAO (2008) indicates that a change in policies through a

change of existing or new policy tends to affect PPP concessions and leads to a need to change the scope of concession terms. Estache et al. (2009) suggest that changes in terms and conditions may result in changes in revenues and costs above what was known at the time of signing the original contract.

6.3 Outcomes of Renegotiated Concessions

A recent empirical study conducted by Engel et al. (2020) revealed that renegotiations resulted in 38% additional spending for the government, as toll road user charges increased. Lohmann and Roetzel (2014) indicate that in Germany, when private investors are opportunistic in negotiations, this does not change, even when the government itself is an equity investor in an SPV. Domingues and Sarmento (2016) confirm Engel et al.'s (2020) finding by noting that most renegotiations are not in the public's interest but rather in that of private individuals.

7 Recommended Alternatives to Demand Guarantees During Hard Times

A review of the literature revealed a range of approaches that governments could include in their renegotiation policy. For example, Xiong et al. (2017) propose three options, namely toll adjustment, contract extension and annual subsidy. A toll adjustment implies that tolls can either be increased or lowered to achieve maximum revenue. A contract extension implies that the tenure of a concession is increased, for instance, from 20 to 30 years without increasing or reducing user fees. A subsidy implies that user fees are maintained or increased, but the government pays a flat percentage of the user fees.

The above proposals may not be sustainable since subsidies increase public expenditure, and thus overturn the originally sought benefits from PPPs. Therefore, consistent with the view of Jin et al. (2020), we argue for the need to extend the duration of concessions This can help to maintain an expected ROI and NPVs without increasing fees for users who are under lockdown, whose earnings are low, or who are unemployed and have to use their savings because they have no income. Furthermore, we recommend that the option of lowering user fees without compromising the ROI and NPVs for the developers(SPVS) be explored. This can be achieved by providing an extended tenure of concession as a

tradeoff for the government but at the same time providing a payoff for the developers(SPVS).

Other options are providing compensation to the SPV when the government seeks to establish competing infrastructure to cater for, for instance, the traffic resulting from increased users of PPP facilities beyond what the government anticipated. To avoid court battles when such conditions surface, it is proposed that governments proceed and establish competing infrastructure but revert the collection of tolls and the maintenance of roads to the incumbent SPV. However, if this is to happen, the existing legal and regulatory framework alongside the concessions clauses should address this modality before it occurs. Amending the legal framework when the matter comes up, may attract suspicion from the public because the incumbent is being favoured, and the principle of competition in policies and legal frameworks for procuring PPPs is being thwarted.

8 Conclusion

In this article, like other scholars, we have acknowledged the occurrence of PPP renegotiations, which will escalate during the COVID-19 pandemic as economies in SSA slide into recession due to closures of public transport, borders, schools and workplaces. Renegotiations arise due to the influence of the micro and the macro environment, corruption and information asymmetry, which leads to the opportunistic behavior exhibited by private sector actors. Moreover, in this article, we have noted that the scope and adjustments of contract terms and conditions may vary across the sector that has adopted a PPP concession.

Existing literature indicates that over 50% of concessions involving governments are renegotiations. However, we maintain that most outcomes of renegotiations favour private rather than public interests. Therefore, to ensure that renegotiation outcomes serve the interests of citizens, a range of options should be considered. Some of these options are to increase user fees, extend the duration of concessions and provide subsidies if user fees are not affordable. While most scholars provide options, they remain inconclusive about the most appropriate option that should be targeted by government negotiators.

Given the COVID-19 pandemic and its impact on economies, especially in SSA, we recommend the reduction of user fees and the extension of concessions as the most appropriate options. Therefore, we

disagree with scholars and practitioners who argue for increasing user fees to circumvent the possibility of replacing demand guarantees with cash deposits, or the provision of subsidies by the government to make PPP services affordable to citizens. Our justification is that both governments and citizens have had their cash flows reduced and cash reserves/savings depleted because of the COVID-19 lockdowns and closures.

While other scholars advocate that governments provide subsidies, we contest this option, as it makes governments prone to falling into debt traps in the guise of securing loans to subsidise user fees. While increasing user fees without subsidies could also be an option, it may result in civil unrest, an outright rejection of PPPs and a refusal to use services delivered by PPPs, which would cause a government to face the increased demand risk, against which it has been trying to shield itself.

Conflict of Interest Declaration

No conflict of interest is declared.

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