

**Public- Private Partnerships: Much more than a Contract**

by

Anusha G. Hyman

Submitted in partial fulfillment of the requirements for the degree of  
MASTERS IN BUSINESS ADMINISTRATION

Graduate School of Business, Faculty of Management  
University of Natal (Durban)

Supervisor: Professor Shahida Cassim

September 2003

DECLARATION

DECLARATION

This research has not been previously accepted for any degree and is not being currently submitted in candidature for any degree.

Signed: *pp Kharsing*.....

Date: *16th September 2003*.....

096267

## ABSTRACT

This research examines the effectiveness presented by Public-Private Partnerships as a mechanism to promoting growth and building capacity in South Africa, at both the national and local level. It is concerned with exploring the broader benefits of public-private partnerships outside the range of technical and financial contributions and investigates the extent of capacity building that is necessary to bring about stronger more sustainable partnerships.

Comparison is undertaken by means of analyses of primary and secondary data to determine international trends and best practice in the adoption of the public-private partnership approach. A series of key informant interviews will assist determine the effectiveness and benefits presented by public-private partnerships through the perceptions of key players and policymakers at policy level and implementation level. Different case experiences will also be used determine the existing experiences of public-private partnerships and to establish a way forward for future public-private partnerships.

It can be concluded that despite the infrastructure and service delivery backlogs and the crisis faced by most governments in the developing world, most world local governments are looking to decentralization as an option to promote sustainable development. As part of this process local governments have been found to seek solutions in partnering with the private sector to effect more efficient service delivery solutions to the communities served.

Public-Private partnerships present a very good policy tool which can create many positive benefits if managed and structured correctly. For Public-Private Partnerships to succeed there has to be high levels of commitment from all stakeholders, and the process must be effected in a participatory and consultative manner to ensure that such partnerships are sustainable and beneficial towards promoting growth.

## **ACKNOWLEDGEMENTS**

Thanks must firstly go to my husband, Trevor, and my three children, Rivka, Raisa and Raoul, who have supported me and encouraged me throughout the research process and I am deeply grateful to each one of them.

I appreciate all the assistance and advice I have received from Professor Shaida Cassim who gave unselfishly of her time to guide me through the entire study.

I appreciate all the time the key informants made available to me and for taking the time to talk to me at length in relation to the chosen topic.

Many thanks to Khadija Kharsany, and Lindsey Dyer for their continued support, I really appreciate all your assistance. .

## List of Abbreviations:

APOPS	Asset Procurement and Operating Partnership Systems
CBO	Community Based Organisation
DWAF	Department of Water Affairs and Forestry
GEAR	Growth Employment and Redistribution
GNUC	Greater Nelspruit Utility Company
IDP	Integrated Development Plan
IDC	Industrial Development Corporation
IMATU	Independent Municipal And Allied Trade Union
MIIP	Municipal Integral Infrastructure Plan
MIIU	Municipal Infrastructure Investment Unit
MOU	Memorandum of Understanding
NBI	National Business Initiative
NGO	Non-Government Organisation
NRA	National Roads Agency
NDP	National Development Plan
ODA	Official Development Assistance
PFI	Public Finance Initiative
PPP	Public-Private Partnership
PPUE	Public Private Partnerships for the Urban Environment
RDP	Reconstruction and Development Plan
\$AMWU	South African Municipal Workers Union
TLC	Town and Local Council
UK	United Kingdom
USA	United States of America
UNDP	United Nations Development Programme
WSSA	Water and Sanitation Services South Africa.

# TABLE OF CONTENTS

Declaration of Authorship

Abstract

Acknowledgements

List of Abbreviations

Table of Contents

List of Tables and Figures

Background	1.
1. Introduction	8.
1.1. Public-Private Partnerships: Global Crises, Reactions and Responses	8.
1.2 Public-Private Partnerships: Macro-Economic Policy Objectives	15
1.2.1. Public-Private Partnerships: Macroeconomic Policy Objectives	15
1.2.2. The Role of Public Private Partnerships in Expanding Urban Services	21
2. The Context of Public-Private Partnerships in South Africa	31
2.1. Background	31
2.2. The Role of National Government	32
2.3. Legislative Framework Limitations	35
2.4. Public Financial Management	35
2.5. Capacity Needs	36
2.6. The Role of Government	38
2.7. The Vision for Local Government	40
2.8. Policies and Legislation	41
2.9. More Municipal Policy Frameworks	42
2.10. Water Policy Development in South Africa	44
2.11. Previous Water Sector Government Policy	44

## Table of Contents (contd).

2.11.1. Management of Water Resources	45
2.11.2. Limitations of Past Legislation	45
2.11.3. Consequences of Policy	45
2.1.2. Post 1992, Government Policy Making in the Water Sector of SA.	46
3. Research Methodology	51
3.1. The Public-Private Partnership Concept: What is It?	51
3.2. The Research Hypothesis	51
3.3 The Objectives of the Research	51
3.4 Case Studies	53
3.5 Challenges and Limitations to Study	54
3.6 Results of the Assessments	55
3.7 Individual Case Observations	55
3.7.1 Stutterheim	55
3.8. The Nelspruit Water Concession	61
3.9. Amanziwethu Services	66
3.10. Cartegena	70
4. Analysis of Findings and Research Observations	79
5. Concluding Remarks	86
6. Bibliography	88

## List of Tables and Figures:

Figure 1: Point of Congruence	17
Figure 2: Potential Partnerships Planning Process	18
Figure 3: Stakeholder Map for Partnerships	20
Figure 4: Spectrum of Public-Private Partnerships	25
Figure 5: Public-Private Partnership contracts within public and private Management and Ownership	30
Figure 6: Regional Private Investment in Water and Sanitation	38
Figure 7: Proportion of Private Water and Sanitation by region	39
Figure 8: Flow chart of municipal functions and duties	41
Figure 9: Types of Public-Private Partnership contracts in the water And sanitation sector.	48
Figure 10: Direct Contractual Model	60
Figure 11: Direct Contract Operational Model	65
Figure 12: Direct Contract Operational Model	70
Figure 13: A Joint Venture Model	74
Figure 14: A Typical Water Value Chain	79.
Table 1: Percentage of Population living in Urban Areas	22
Table 2: Five common Public-Private Partnership Options	28
Table 3: Key Options for Private Sector Provision in Infrastructure	28
Table 4: Institutional Framework of Water Sector	47



## **Background**

South Africa is a country of great diversity and courage. Its people have recently emerged from a situation of separateness, based on racial and cultural divisions to one post 1994 that has had to adapt and become part of a global society. People of different groupings were compelled by legislation, to reside in separate living environments and to make use of separate facilities, e.g. in health and education. Few opportunities existed for social, business or professional exchange. The post apartheid period of growth has provided many new opportunities for reform and redistribution that have contributed towards encouraging unity and inclusion in many social and economic sectors. Because of its successful reform initiatives South Africa has emerged as a global example of political and social reform, despite being on the brink of anarchy and civil revolution only a decade ago.

Since its successful transformation to a democratic society in 1994, South Africa faces some daunting challenges in its quest for social and economic reform and overall growth. More especially the country faces major developmental pressures in the delivery of public services and infrastructure. Although government has moved rapidly to implement a range of policy and delivery initiatives aimed at addressing its infrastructure and service backlogs across all sectors and levels, large gaps and backlogs still remain and have to be urgently resolved. There is a growing need to provide much needed new and better infrastructure such as affordable housing, water, sanitation, electricity, health care, schools, roads, improved airport and harbor facilities and better tourism infrastructure to name just a few. These are infrastructure demands faced by all three levels of government, and their operative departments to ensure the needs of the nation's inhabitants are met.

However, most of these public sector organizations display a lack of the much-needed financial and managerial resources to be sufficiently empowered to achieve the necessary reduction in infrastructure backlogs and services in the short to medium term. It is quite crucial that government address backlogs in essential public services whilst maintaining fiscal prudence in effecting greater efficiency in the delivery of public services. This task is not unique to South Africa. Much of the world's cities are facing desperate pressures in this new millennium. There has emerged a growing concern globally to devise new ways of financing sustainable development in light of declining development revenues and official aid.

In many industrialized and developing nations governments and development agencies keenly seek innovative new ways of financing development initiatives by involving private sector companies and consortiums in financing, developing, and operating public infrastructure for the mutual benefit of the public sector, consumers, taxpayers, and the public at large. The subject of PPP's has become an important issue in ongoing discussion of many world governments.

There is a global trend to use "public-private partnerships" to improve levels of service delivery, by utilizing the expertise, investment and management capacity of the private sector to develop infrastructure and to improve and extend services to all peoples. In recent years, public-private partnerships are being cited as a way forward in meeting developmental and infrastructure challenges in government's quest towards sustainable economic growth.

Partnership has emerged to then become one of the most fashionable terms in recent years, and is strongly being promoted as a major mechanism for service delivery. The emergence of partnerships is a recognition then of definite economic and political and social changes that has transformed the

manner in which policy is made and delivered, accelerated even more by the creation of a global economy. It has had major implications in the policy environment. As a result of these changes Bryson and Crosby, in Greer comment,...*"no one organization or institution is in a position to find and implement solutions to problems that confront us in society. In this world organizations and institutions that share objectives must also partly share resources and authority to achieve goals"* (Montanheiro L, 2000)

Many proponents see high quality public services as essential for future economic prosperity and social cohesion. Within the last two decades, partnerships have become a pervasive and important form of service delivery. Partnership formation has become well established in advanced capitalist societies and could be seen as the sine qua non of policy implementation and service delivery mechanisms states Greer. (in Montanheiro L, 2000).

As noted by Darwin (in Montanheiro. L, 1999), "Partnerships are now everywhere. Alliances, joint ventures and network forms of organization now proliferate in the private sector. In the public sector many areas of activity such as the health service, have been restructured into multi-organisational forms. Every part of the public sector is now exhorted to take part in partnerships, from economic regeneration to crime and disorder, are seen as requiring a partnership approach, usually involving both the private and public sectors."

The provision of public sector infrastructure by the private sector is an emerging trend in Southern Africa also, and brings with it numerous opportunities both economically and socially, and the potential to reap tangible benefits by all aspects of the broader community. Given a situation of increasing infrastructure deficit, strained resources and a need to transform and improve the overall levels of public service delivery, the South African

government is faced with numerous challenges in its endeavor to become globally competitive, economically efficient and socially stable.

This study investigates the effectiveness presented by public private partnerships as a mechanism to promoting growth and building capacity in South Africa at both the national and local level, by undertaking an assessment of some existing public private partnerships in the water sector. The dissertation attempts to explore the broader benefits of public private partnerships outside the range of technical and financial contributions, and investigates the extent of capacity building that is necessary to achieve stronger more sustainable partnerships. It examines the concept that public private partnerships are more than just a contract. The study examines the nature of the partnership approach and the necessary environment and capacity that stakeholders require to initiate and develop, in order to sustain partnerships in the South African context.

The nature of the dissertation will be exploratory. The dissertation will aim to evaluate the benefits, opportunities and challenges presented by public private partnerships in the provision of services. This assessment will be done in a number of ways. A literature search shall be under-taken to determine international trends and practices, and a series of key informant interviews will be carried out to determine the perceptions of key players on the effectiveness of public-private partnerships as a policy approach regarding service delivery. A comparative analysis between a few well-known case studies will be carried out, by examining a few case experiences both in the local and international context. An examination of these case studies will provide key lessons and options crucial to forward planning and building capacity in order to initiate greater sustainability in future projects and contracts.

The dissertation sets the context for its findings by discussing research on international policy and approaches to public private partnerships, the extent of water provision and service backlogs in South Africa and other urban environments, the emergence of public private partnerships in the provision of water services in South Africa including policy and regulatory developments. The document discusses broad trends and practices of public private partnerships in a rapidly developing South Africa, and the challenges faced by the public sector and the involvement of the private sector in the provision of water as an economic and social good.

The focus of the latter half of the document is research findings obtained through comparative studies of a couple case experiences in SA and the international context. These findings confirm much that is found in current writings and investigations on public private partnerships. The results bring to light challenges and dynamics within this sector and is intended to contribute to the ongoing dialogue on PPP's. These observations suggest other avenues for exploration to set the stage for future collaboration between all stakeholders in the water sector and the emerging PPP market dedicated to improving living conditions and promoting growth in developing countries such as South Africa.

## Rationale for the Study

The researcher chose this research topic due to her personal interest in the relevant sectors. The researcher believes strongly in the value of the public good and in the rights of all individuals to have access to basic services and proper living conditions. In her experiences the researcher has been involved with numerous local and metropolitan authorities and also community organizations involved in policy making to improve conditions in peri-urban areas to promote growth and foster development. Her involvement also spans interaction with numerous private sector organizations and funding institutions with the purpose of raising capital to fund empowerment ventures, e.g. joint ventures with manufacturing companies for the upgrade of rolling stock in the rail commuter industry, and municipal authorities in partnership with the private sector to provide low cost housing solutions. It became clear through such interactions that previously disadvantaged communities faced severe constraints and limitations economically, due to their lack of access to basic services. In addition, many local and provincial authorities were limited in their delivery of infrastructure and basic services due to their lack of access to funding. As a result communities remained victims of this cycle of lack and poor representation, and there emerged a deepening need to seek innovative solutions to bring different stakeholders together to pool their resources and meet the challenge of bridging this growing gap and making the access of basic services a reality for all.

The dissertation contains five chapters that describe the problem, context, process, results, and way forward in terms of PPP experiences in South Africa. These issues are discussed in the context of rapid urbanization patterns and the move of governments to decentralize their functions in the face of a growing lack of official development assistance and limited capital inflows and the theory and policy objectives of PPP's. Chapter two presents a

conceptual framework and outlines the increasing trend towards the involvement of public-private partnerships in the context of existing policy and regulatory legislative frameworks and international trends. The chapter also sets the backdrop to the crisis in the provision of water services in South Africa, and introduces the use of PPP's as a policy tool to promote growth in the water sector. Different partnership models are examined in light of their appropriateness, benefits and limitations. The chapter also discusses the existing regulatory environment.

Chapter Three commences the second part of the dissertation and identifies and highlights the experiences of different PPP's in the water sector, through a study of four different case studies. The chapter aims to extract key lessons learnt, and review benefits and opportunities achieved by the adoption of the respective partnership models. The chapter presents findings in terms of key informant interviews to attain an understanding of the former's perceptions on the effectiveness of PPP's. In chapter four the research findings are analysed and evaluated in terms of the South African context and implications for effective implementation of future PPP's are discussed. Chapter Five seeks to present options and issues for further exploration and presents final concluding remarks.

## **Chapter 1: Introduction**

### **1.1.: PPP's: Global Crises, Reactions and Responses.**

One of the root causes of poverty remains a lack of access to safe water and hygienic sanitation as it is the poor who suffer the most due to deteriorating living conditions, diseases and foregone opportunities. The last decades have seen rapid population expansion in most developing countries with the greatest population expansion occurring in the expanding peri-urban areas of major cities and informal settlements located on the fringes of cities. Whilst the last couple decades has witnessed greater efforts to provide better access to basic services by the poor, these efforts have been insufficient in light of the increased pace of population expansion. Many studies reveal that there are more people without access to basic services today than a decade ago. Developing countries worldwide have seen a leveling off and reduction in official development assistance for the provision of infrastructure, water and sanitation. Aid flows have begun to trickle off. This lack of resource constraints, population density and general poverty, causes many governments of developing countries to often not offer the same quantity and quality of urban services to all segments of their populations. The gaps and inequalities that result are evident in the lack of full and efficient services not provided to poorer communities. As a result, areas without proper service systems will have a difficult time delivering necessary goods and services to the people.

As has been noted much of the urban migration is towards the peri-urban zones which generally border municipalities, and so remain outside the reach of infrastructure services. As an illustration, eg. people moving to the outskirts of Mexico City are not able to access water easily. The water



company operative in the area did not anticipate users in this area and as a result this community has not been connected to the main water supply (Firman and Dharmapatni). People in these areas are generally low-income workers who make a living in the informal sector of the cities. Since these communities live in the unincorporated parts of the cities structure plans, they generally lack political power and their rights and ability to demand services is almost none. Numerous examples such as this are cited in the literature search. But the increasing number of people demanding access to basic services in developing problems presents a serious challenge and if left un-addressed, such lack of or outdated infrastructure, severe service delivery problems can paralyze communities and stunt growth.

In light of these desperate urban pressures, many governments have forged partnerships with the private sector to improve delivery of these services. The aim is to promote greater efficiency in distributing resources and to increase the equity with which such resources reach communities. Such a measure is significant as it a mechanism to avert communities being in crises and therefore the design of new systems and services must demonstrate greater measures of flexibility and representation (Bennet, E.B. in Rao.)

The last couple decades has seen a rapid increase in partnership initiatives. In the context of widespread decentralization and devolution of responsibility to local government, municipalities have found that they are limited in meeting their social and economic obligations because of a lack of financial and human resources. As a result enlightened officials have recognized the potential investment contribution of the private sector. This has resulted in an increasing shift from public service provision to some form of partnership with the private sector for the delivery of infrastructure and other basic services (Plummer, 2002).

Different countries have adopted PPP's for different reasons. Some have adopted the use of PPP's as a tool to address crises situations in service provision, and others as a response to increase the extent and efficiency of service delivery.

In a country such as the United States, infrastructure services rarely reach crisis levels though instances occur where there exists a lack of infrastructure services due to problems in the delivery and extension of services. In the United States, PPP's have emerged as a response to aid the delivery of a variety of services, in health, education, energy supplies and water. In most cases, PPP's have formed for based on two main conditions. Firstly the private sector and the public sector have a strong dependency on each other and secondly, a condition of the initiation of the PPP is the accommodation and reconstruction of plans as a project progresses. This is especially crucial for long contract periods of eg. thirty years. This process of adjustment and reassessment is seen as valuable for the life of the contract.

Bennet writes that in these instances governments often are suspicious of the private sector actors and are fearful that the latter will take advantage of them. Private sector actors in turn view government policy and performance criteria as bothersome and a waste of time. PPP's are also seen to come together as part of a social awareness and recognition that "separate un-coordinated actions are creating redundancies and missed opportunities for optimizing the use of scarce resources argues Bennett.

The current trend towards decentralization sees this process as causing the relationship between the public and private sector to be redefined at the local level. Goetz (1993, in Rao) argues that in general local and national governments are experiencing basic changes in the division of authority and

responsibility. Local governments are faced with the challenge of finding a solution to the problem of limited resources and effective delivery and must seek solutions in the private sector because of this limitation (Bennet 1998). In the United States increased communication between the public sector, the private sector and non-governmental groups has increased the role of partnerships. According to Goetz(1993), some economists have found that PPP's can be formed to increase economic efficiency for a net gain to society.

Mansoorian and Myers , 1996, argue that economic researchers have found that private sector externalities do not create an overall negative effect on the public sector. Without public sector externalities, decentralized policies lead to efficient equilibrium, and the private sector externalities can be corrected by decentralized public policies. This finding suggests that PPP's should form to correct market inefficiencies that harm the public. It also implies that this aspect of corrective policy be built in to PPP's, which will have the corresponding effect of strengthening the PPP itself. Decentralisation attempts by the public sector will require that private, public and non-governmental actors look at the changing set of opportunities and redesign policy accordingly to reflect the new set of resources. This is a crucial aspect since actions toward decentralization increases the efficiency and responsiveness of government(WBG,1999). This process facilitates the formation of PPP's because the nature of public-private relations and access to resources changes. Decentralisation must be viewed not as a crisis solution but must be seen as offering a set of opportunities from which the sectors can derive benefit.

It is argued then that from a broad perspective PPP's are not necessarily a reaction to a crisis situation but can be used as an effective mechanism to avert crisis and increase efficiency in service delivery. In such cases a convergence of public and private sector interdependence is clearly evident

and one also observes a convergence of goals creating a win-win situation for stakeholders to the benefit of the end user.

Overall it is argued that when PPP's are formed it is essential that they are not perceived only as a solution to crisis but that the value that PPP's present as a vehicle to avert crisis, and or negative externalities in service delivery and cost and service efficiencies be highlighted from the outset of a contract where all stakeholders become beneficiaries of the PPP. When this type of approach is pursued in the structure and initiation of a PPP, these contracts allow the corrective policy to be absorbed by the public sector. This is the economically efficient result that should be pursued, and the former is supported by relevant funding structures. It is argued that efficient delivery should be the impetus for PPP's to be formed. While it is recognized that financial arrangements and legal arrangements of the PPP is affected and often shaped by political and power differentials, the corrective aim or policy compromise reached will help reduce harm to the public sector in terms of negative externalities. PPP's can only prove to be effective and beneficial if the policy allows for the public sector to assume corrections for the externalities which is the market efficient solution.

So whilst it has been observed that PPP's in developing countries often are formed in response to a crisis situation in service delivery, in the advanced countries such as the United States the establishment of PPP's is due to a convergence of goals and the accommodation of different goals insure the success of the contract. The economic benefits to form PPP's include shared risk and efficient management of negative externalities. The scope for increasing these benefits is very large in countries such as the United States and also if implemented more efficiently for developing countries and low income peri-urban areas, that do not have the political power to demand public provision of basic infrastructure services.

It is important also at this stage to examine PPP experiences in the United Kingdom and Ireland, as the UK is seen as a global forerunner in the use of PPP's. In the United Kingdom, PPP's lie at the center of the British Government's modernization programme to deliver public services to all its citizens. Members within the New Labour British government views PPP's as a key element in its strategy for delivering modern, high quality public services and promoting this nation's competitiveness. Tony Blairs' members of Parliament, such as Gordon Smith, have worked very hard in the promotion of partnering projects. The new government's approach is toward a much greater market orientation on the public decision process and analysts see that in a country such as the United Kingdom, public private partnerships will become an even more significant part of the overall economic policy in the 21<sup>st</sup> century. For once the USA is not leading this race of integrating public and private sectors, as PPP for now is very much a British way of project allocation via the market mechanism.(Montanheiro,L 2002).

It is believed that by drawing on the best of the private sector and public sector, PPP's are viewed as bringing new investment and better management in to Britain's public services and are helping state-owned businesses achieve their full potential. Public Private Partnerships cover a range of business structures and partnership arrangements, from the Private Finance Initiative (PFI) to the sale of equity stakes in state owned businesses. Underpinning every partnership designed are clear principles and themes, where by key lessons learned from the past privatization initiatives and PFI of the past are used to deliver PPP's that meet the needs of all stakeholders.

In the United Kingdom, the government has applied the PPP model not to every circumstance but, rather has adopted a tailored approach. This requires a need to define the specific outputs the Government requires and wants

delivered, and then determining which elements are better provided by the private or public sector. Since the adoption of PPP's in the UK in 1997, contracts with an estimated capital value of over 8 billion pounds have been signed across diverse sectors such as hospitals, schools, training, water and sanitation treatment services. A private company has also been formed, named Partnerships UK with a public interest mission, which is aimed at enhancing the public sector's ability to use PPP's to achieve its objectives. PPP's have been used to stimulate competitiveness in existing state owned enterprises in an attempt to effect more efficient and improved services to their customer base whilst retaining responsibility for public interest issues in the public sector (PPP's-The Government's Approach).

Ireland is another country that has opted to use the PPP approach in the provision of priority economic and social infrastructure projects. Ireland's current National Development Plan (NDP) 2000-2006 suggests that to sustain growth in output in the Irish economy it is necessary to upgrade economic infrastructure through investment. It is the Irish government's policy to encourage the use of PPP's in the provision of key economic and social infrastructure projects. Northern Ireland has seen the rapid and ad hoc development of partnerships that has been readily applied across a wide range of different government programmes at different levels of governance. Critics have argued that the rapid and diverse mushrooming of PPP's across diverse sectors in Northern Ireland has resulted in greater fragmentation and environmental instability as partnerships are being created under numerous policies and programmes and this has resulted in a confusing mix of interlinking and overlapping partnerships and strategic alliances. It is argued that such a rapid development pace of unregulated partnership growth has furthered the problems of environmental complexity, ineffectiveness and lack of co-ordination; the very problems which partnerships were initiated to resolve (Cebulla 1996, in Montanheiro L, 2000). Despite these difficulties, a

great potential exists for partnerships to feature in the newly emerging public administration of Northern Ireland. The commitment of the Irish government towards establishing a participative partnership framework including voluntary/community representatives, trade unions, and the business sector would ensure that sustainable benefits socially and economically will be extended to a wider range of communities and rebuild civil society.

The abovementioned approaches by different governments in the west indicate a genuinely improved approach from the command and control style affecting the process of public sector involvement in the provision of goods and services and indicates a tendency by public sector decision makers to display more of a business like tendency into the process of running public affairs. This inclination can be obscured to the extent that the former are personally or politically motivated.

## **1.2. PPP's Macroeconomic Policy Objectives, Planning Process and Stakeholder Map:**

### **1.2.1. PPP's: Macroeconomic Policy Objectives:**

At this stage, it is important to discuss the ability and extent to which PPP's can deliver outcomes based on economic significance. In terms of the public sector, the choice of PPP as an approach towards promoting economic recovery and sustainability for job creation makes sense. For the private sector, the outcome is mainly profit results driven. The gap in terms of results driven expectation between these two sectors still remains wide. The public sector has exerted control upon a large number of valuable resources in the economy which are better utilized with financial backing and the risk taking initiatives of the private sector. It is important to identify the enabling mix

between the public and private sector, and the extent to which PPP's can contribute towards achieving macro-economic targets.

From a theoretical perspective, a Keynesian policy approach will entail a traditional approach in project funding, which is totally publicly or State funded. A totally privately controlled project will entail a monetarist approach, supported by Porter's theory of competitiveness. This entails each group will look after itself almost in competition or, as on the basis of being strategically desirable. The views lie at extremes to each other and are not suitable. Public sector accountability and little expectation towards long term success seeks generally a short term strategy, mainly because of political ties, is fragile when compared with the return on investment approach demanded by the private sector. The latter generally has strong financial criteria and obligations and seeks to measure the success of projects as a business solution based on net present value and the rate of return on capital investment. Projects are evaluated in terms of their ability to perform well and accrue profits. As a result sound projects are often not perceived as desirable by the investor unless certain profit maximisation levels are met. (Montanheiro,L, 2002)

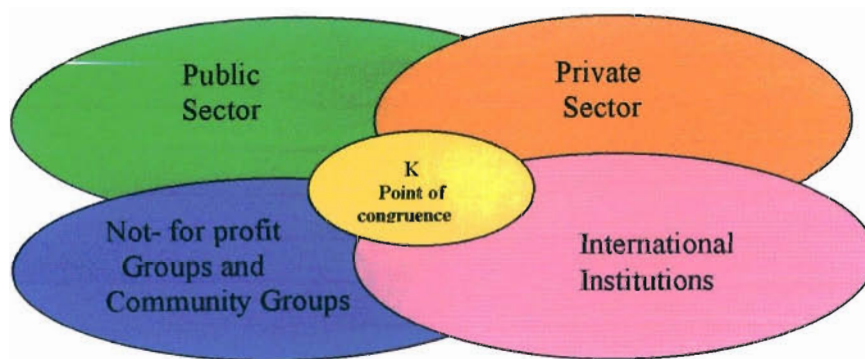
Yet the fast emerging trend to use PPP's to resolve macro-economic challenges suggest that both sectors are drawn together to meet social goals that brings players together on both sides to generate good returns both socially and economically. Generally public private partnerships have been established to improve the quality and availability of goods and services without resorting to additional taxes to fund new projects. Generally, the objective of the private sector is to design, finance, build and operate projects which also companies in a contract to maximize revenue generated. Montanheiro states that partnerships must be viewed as a network on multi-organisations, consisting of groups and leaders of different authorities, eg municipalities



working together to reach levels of maximum efficiency in the allocation of resources.

Figure. 1 depicts the point of congruence in Public Private Partnerships and is important in assessing each partners overall set of performance deliverables in terms of tradeable area given to partnership projects.

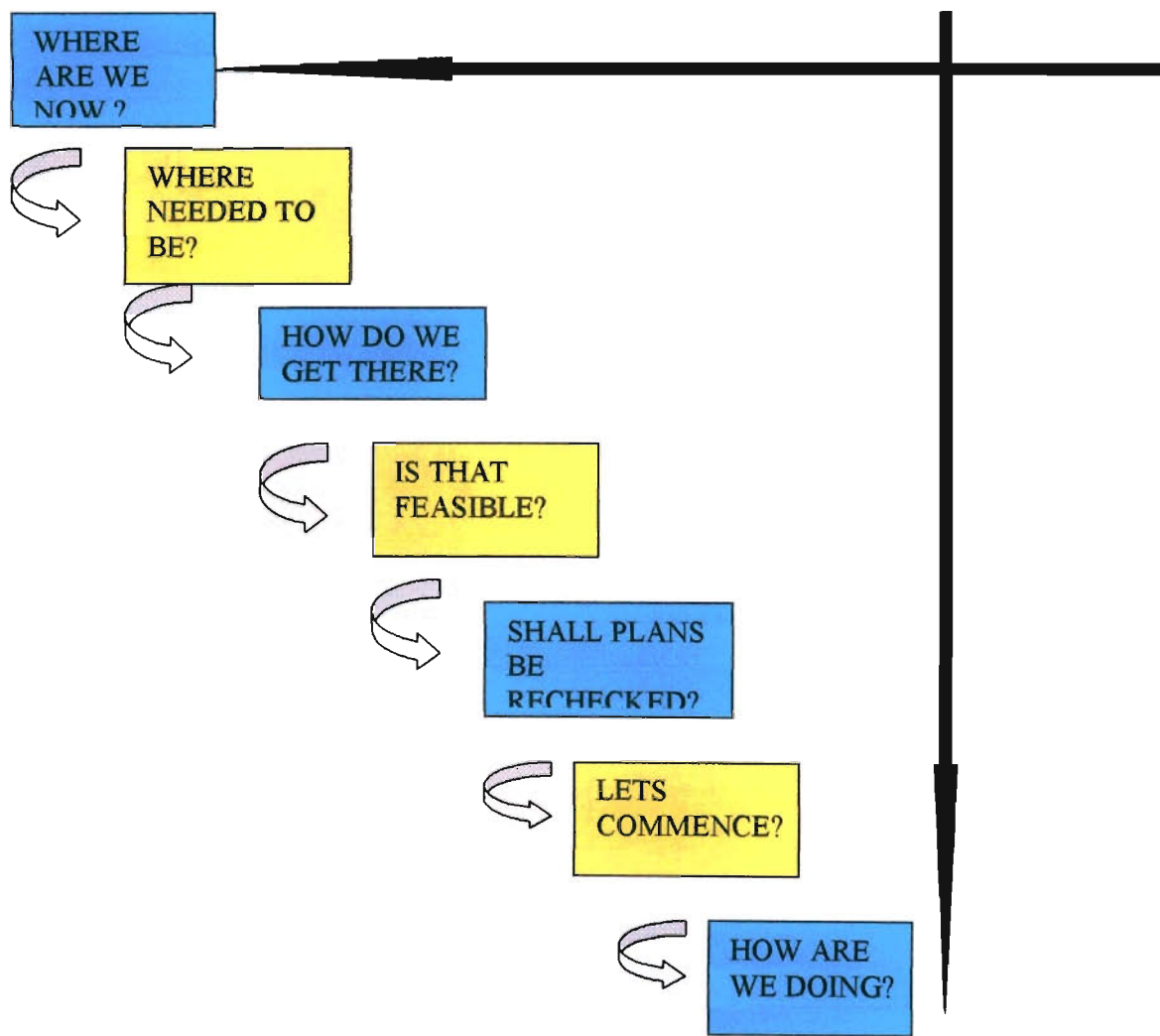
Figure 1 : Point of Congruence:



The point of convergence of public private partnerships is depicted by k. Until all players have a greater stake in the partnership, only then will a greater level of accountability to projects as well as to each other materialize. In terms of the above illustration, each player is seen to contribute to a partnership in terms of a small tradeable area in relation to the whole. Where little is invested, little will be accrued proportionally to ones overall contribution. A partnership will be strengthened and perform at higher levels and profitability when each member has a viable stake in the vehicle which will lead to greater accountability and performance in the partnership as a whole. Therefore in implementing a project to is crucial to assess all actors and their individual objectives and overall contribution.

Montanheiro, suggests the following steps are crucial to guide such a process as depicted in:

Figure 2: A potential Partnership's Planning Process.



In the development and effecting of public private partnership relationships it is crucial that prudent and astute managerial skill be followed in terms of the steps outlined and that after a period of operation and activity that the contract

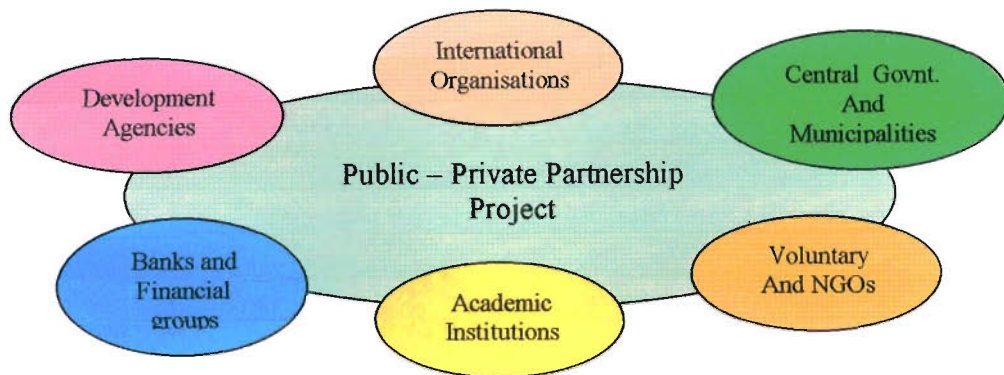
be revisited from the actual point of commencement. This process is an ongoing one and is vital to ensure the strength and sustainability of the partnerships until completion. Partnerships that encompass components of social and community gains as well as a profit and competitive edge, must encompass concerns for future business expansion and success, risk spreading, financial funding opportunities and some social gains and benefits.

- Business expansion and success: this is anticipated through partnerships as effective partnerships work in groups and contribute to added motivation, vision and innovation towards development of new socio-economic solutions, creating opportunities that were previously non-existent.
- Risk spreading: projects with low net present values and uncompetitive or break-even rates of returns can be improved by harnessing skills from a wider organizational base to ensure improved business return.
- Financial Funding: partnerships will have greater accessibility to increased funding from central government and the private sector institutions and other funding sources. Increase sense of confidence will develop in the market as business begins to take a lead in project delivery.
- Social gains: these are seen to be generally greater than the costs accrued as most partnerships are chosen to yield maximum benefits to promote the public good. These are aimed to benefit a large number of people who will gain as consumers on the one hand, such as user and beneficiaries, or supply/production chain, i.e. as employees, professional advisors, resource suppliers.

The potential stakeholder base of public private partnerships can be very large and can vary depending on the size and extent of their contribution and roles. As the operation progresses these contributions are important to be re-visited. An understanding of the roles and contribution and

stakeholder positioning is a crucial aspect of the planning stages and will determine the future path of the partnership and its level of success.

Figure 3. outlines a Stakeholder Map for partnership projects in the planning stages.



At this stage it is crucial that the partnership does not constitute too many stakeholders and is weighted strongly on the strength of one or more organizations, eg. too many municipal authorities or too strong and determined companies. Partnerships must strive to maintain a balance in terms of overall strong and weak partners or face implosion.

From a macroeconomic perspective, the establishment of PPP's can be seen as having a positive net effect on a nation's economy. Benefits are also realized from within the PPP's as public sector agencies are forced to be more accountable and transparent in the execution of their operational responsibilities as opposed to being motivated by political gain. From both perspectives the welfare effect is positive and in the long run these PPP's

models are hoped to contribute to a new equilibrium position on the employment graphs.

### **1.2.2: The Role of Public Private Partnerships in Expanding Urban Services.**

At this point the discussion reverts to the role public private partnerships can play concerning the extension of urban services. Given the rapid population explosion in the developing world as more and more people migrate to urban centers many municipal governments are challenged with providing basic services to these new peri-urban populations that have sprung up informally on the fringes of most global cities. The UNDP Report on the PPUE's Project Development Facility (PPPUE Working Paper Series Vol.2), states the following,

" The end of the 20<sup>th</sup> century witnessed unprecedented change in the pattern of human settlements. For the first time in history, more people are living in cities and towns than rural area. During the past three decades, the urban population of developing countries has tripled and since 2000 some 2.2 billion people live in the urban centers of Asia, Africa and Latin America alone, approximately one-half in cities of more than one million inhabitants."

The Table below illustrates the urban growth situation and highlights the strong urbanization trends throughout the developing world. Rates of urbanization range from an average of 4.4% p.a. in Africa to 3.3% p.a. in Asia and 2.3% p.a. in South America. These numbers illustrate the severity of the global urban challenge in terms of accommodating such huge numbers in already heavily populated countries.

Table 1. Percentage of Population living in urban areas.

Region	Year		
	<u>1975</u>	<u>1995</u>	<u>2025</u>
Sub-Saharan Africa	24%	32%	52%
Southern Mediterranean	44%	57%	74%
Asia	24%	34%	54%
Latin America	61%	74%	82%

Source: World Resources Institute, 1996, Oxford University Press, Oxford in UNDP/PPPUE &CDG

The UNDP report further describes the extraordinary urban pressures urbanization has placed on governments globally to meet their citizens needs. The report states that urban environmental problems such as insufficient water supply and sanitation facilities, inadequate waster management facilities, unsustainable energy systems and insufficient water supply are particularly acute and the demand grows worse as available resources are stretched due to such expanding populations. The report quotes the World Health organization as estimating that 25 to 30% of urban residents in Latin America, Africa and the Middle East lack access to potable water and that more then one third in Asia are not serviced. In addition, most of these communities lack any municipal services in waste and sanitation disposal, especially in slum and squatter settlement areas.

The report states that governments simply lack the resources to provide adequate services. They are confronted with limited financial resources that have not been able to cover the much-needed extension of these basic infrastructure services.

#### **A New Mandate for Municipalities:**

Decentralisation has placed municipalities in the frontline of this crisis. The UNDP has presented the following reasons to why most municipalities have

been lacking in their ability to solve their growing urban challenges. The report presents the following conditions to explain such municipal limitations:

- Current and projected revenue bases of municipalities inadequate to finance capital improvements and extension service and associated operational costs.
- Decentralised authority not accompanied by decentralization in national budgets, so in face of large mandates , former are constrained in revenue allocated to them from national treasuries.
- Most water and waste services are provided at almost no cost to users. Where users are charged, such charges as still small and collection of such tariffs is very problematic.
- Many municipalities already carry large debt burdens.
- Municipal managers are limited in number and lack large project execution and project finance capabilities.
- Most municipal managers lack access to new technological improvements and information.
- Municipal officials lack experience and understanding of dealing with offshore and national strategic partners to resolving service delivery challenges.

The above reflect the challenges faced by municipal governments as they face limited financial resources and a lack of capacity and technical skills to effect actions to subsidize public utilities even if subsidies are available.

### **Decline in Traditional Funding Mechanisms and the implications of Privatisation.**

- Declines in Official Development Assistance:

Most developing nations are seeking ways to increase and harness foreign direct capital inflows into their economies in light of declining rates of official

development assistance. Foreign direct investment flows are seen as a key mechanism of driving the economies of developing nations. The declining rates of ODA presents a special challenge in a quest to effect broader social and economic impacts with limited resources. One of the limitations of official development assistance has been its provision of only a short term solution and not an ongoing means for sustainable development.

- **Privatisation:** Given the desperate urban pressures faced by governments the onset of the 1990's has seen many economies make a transitional shift away from total public provision of infrastructure and basic services in a range of economic sectors that include provision of water, waste and energy services. Generally this has been in the form of total privatization where the public sector cedes total ownership and control of publicly provided services and its underlying assets to the private sector entity, either through outright sale of the asset, or through long term concessions. In such an instance governments have sought to maintain public sector responsibility for welfare and protection of the public good through regulation and other statutory powers and sanctions. But privatization is not a suitable option in sectors that involve smaller projects. Such projects are generally not perceived as attractive to the private sector as they carry political and commercial risks that tend to outweigh the enhanced financial gains made through investment in larger projects. Privatisation also sees the reduction of direct government involvement in the provision of such services and results in conflict, for some, with respect to public accountability and responsibility. For sustainable delivery the presence of government ensures a degree of protection for all sectors of society.

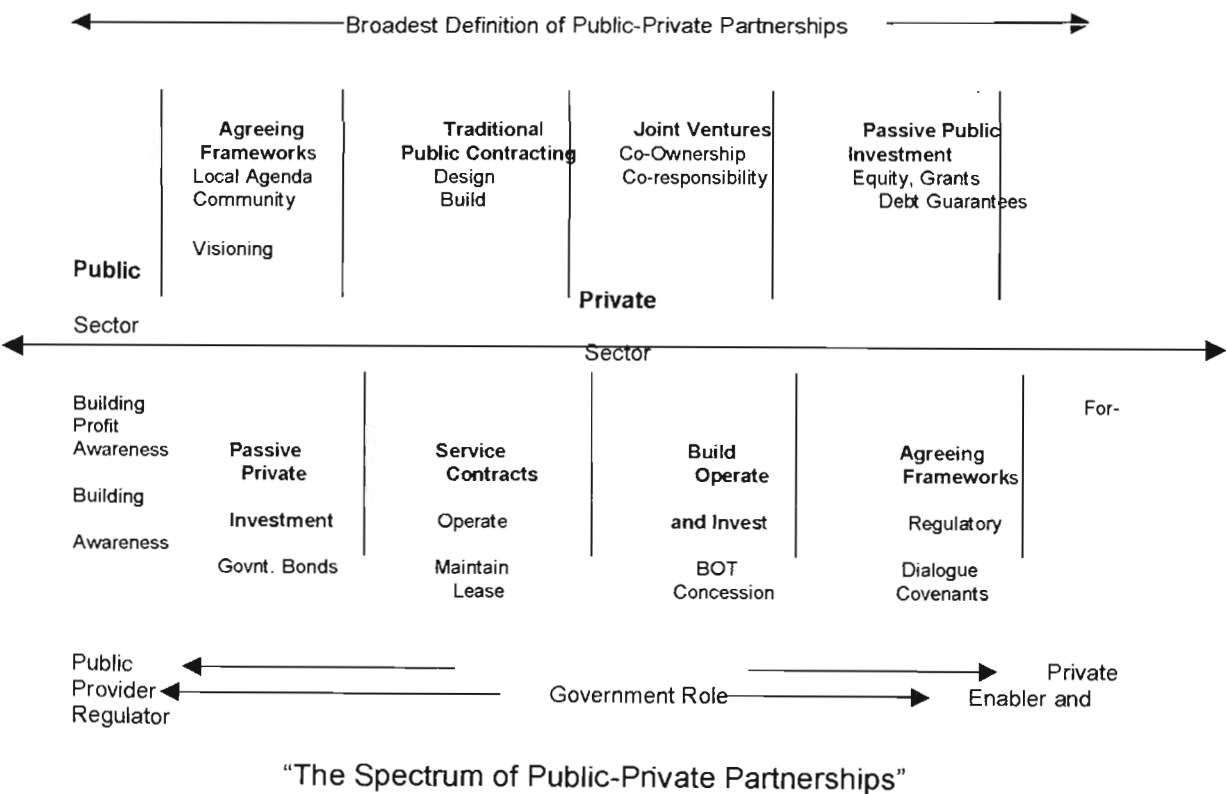


**The Range of Public Private Partnership Options:**

The UNDP report presents important information in terms of the spectrum of PPP's that can be formed to play a role in the delivery of urban services, and how these should be framed to be most effective.

At this point it is important to describe the “Spectrum Approach” developed by the Yale/UNDP Collaboration for the Urban Environment.

Figure 4. depicts the spectrum of public-private partnerships



The selection of the appropriate structure or best PPP option is crucial for the success of the partnership, and this is generally dependant on a variety of cultural, economic and social factors. Public-Private partnerships are very much context based and vary in terms of their target, forms, process and relevant parties. In all situations it is relevant that a flexible and opportunistic

approach be sought after as this allows the PPP to optimize efficiency and to maximize its effectiveness.

From figure 4. it is easily seen that there are numerous different partnerships options for collaboration between the public and private sector and they all vary greatly in detail and structure but the one common link is that they all provide some degree of overall private sector involvement in the provision of infrastructure services, that was traditionally the task of the public domain. The UNDP defines each of these options as follows: I quote these as detailed:

- **Operation, Maintenance and Service Contracts:** Under an operation, maintenance and service contract, the public sector essentially hires a private organization to carry out one or more specified tasks or service for a period of five to seven years . The public sector remains the primary provider of infrastructure service and only contracts out portions of its operation to the private organization. The private sector must perform the service at the agreed upon cost and must typically meet performance standards set by the public sector.
- **Build-Operate Transfer Contracts:** The Build Operate Transfer (BOT) contracts are designed to bring private investment into the construction of new infrastructure plants. Under a BOT, the private sector finances, builds and operates a new infrastructure facility or system according to performance standards set by the government. The operations period is long enough to allow the private company to pay the construction costs and realize a profit, typically 10 to 20 years. The government retains ownership of the infrastructure facilities and becomes both the customer and the regulator of the service.
- **Concessions:** Under a concession, the government awards the private contractor, (concessionaire) full responsibility for the delivery of infrastructure services in a specified area, including all related operations, maintenance, collection and management activities. The

concessionaire is responsible for any capital investments required to build, upgrade, or expand the system and for financing those investments out of the tariffs paid by the systems users. The public sector is responsible for establishing performance standards and ensuring that the concessionaire meets them. In this case, one sees a shift in the public sector's role from being the provider of the service to the regulator of its price and quantity. Such regulation is particularly critical in the water sector since water is a public good and its delivery systems are natural monopolies. The fixed infrastructure assets are entrusted to the concessionaire for the duration of the contract but they remain government property. Concessions are usually awarded for time periods of over 25 years.

- **Joint Ventures:** Joint Ventures are alternatives to full privatization in which public and private organizations assume co-responsibility and co-ownership for the delivery of infrastructure services. Under a joint venture, the public and private sector partners can either form a new company or assume joint ownership of an existing company. Joint ventures are generally used in combination with other types of PPP's.
- **Community Based Provision:** These commence when financial limitations prevent the government from providing adequate waster and water services to sectors of the population, forcing these residents to rely on their own means of serving their needs. In the water sector community based providers might install group taps or communal water points to service groups of households. The report presents a comprehensive summary of five common PPP options in terms of asset ownership, degree of regulatory intensity, source of investment, potential for labor concerns and the estimated time scale for contract preparation as depicted in Table 2 below.

	Service	BOT	Concession	Joint Venture	Community Based
Asset Ownership	Public	Public	Public	Joint	Community
Regulatory Intensity	Moderate	High	High	Moderate	Moderate
Source of Investment	Public	Private	Private	Joint	NGO, Private Or Public
Labor Concerns	Moderate	High	High	Low	Low
Time Scale for Preparation	Moderate	High	High	High	Low

Source: UNDP/PPPUE Report 1999

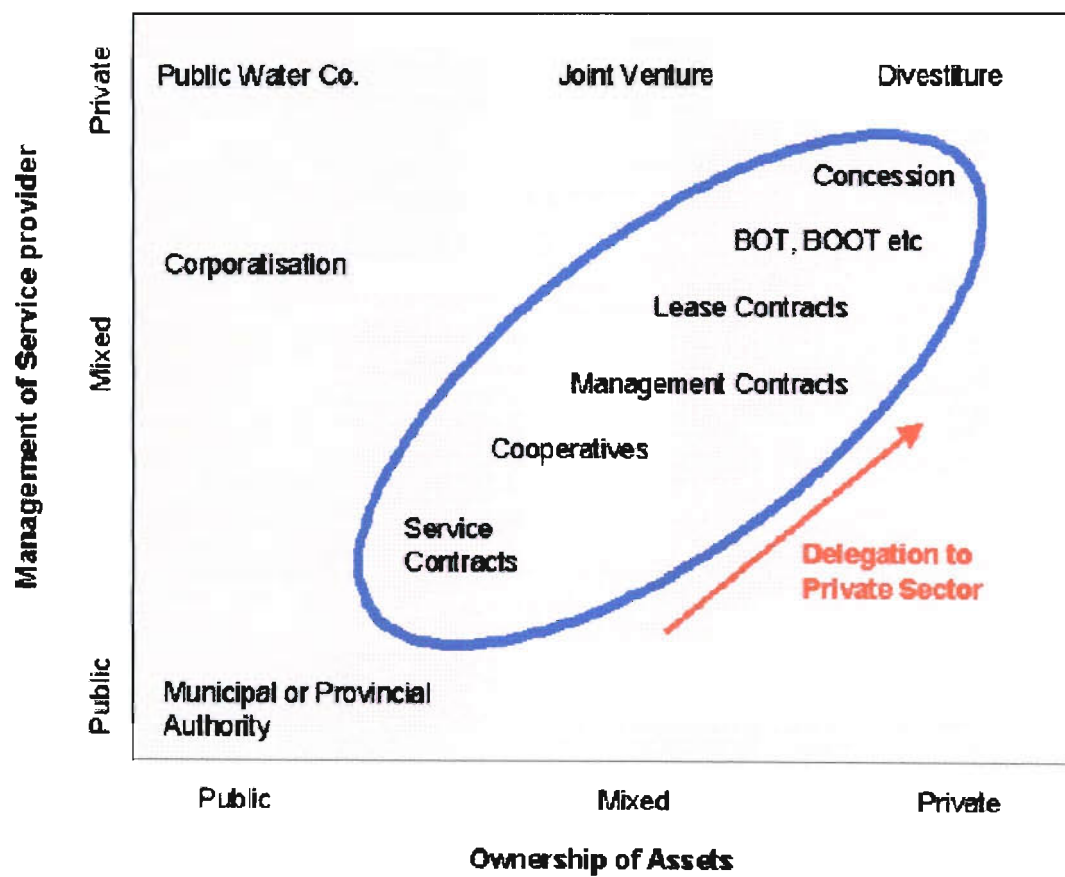
The above illustrates clearly that there is no formula by which PPP come together or are initiated. Rather one observes that PPP's are context based and methods adopted in one nations municipality will not necessarily be effective in another country or region. What does come out of the above is an indication of the wide variety of ideas and models that are available from which solutions can be designed for sustainable service delivery by relevant stakeholders. Chege, L suggests the following key options for private sector participation in the provision of infrastructure, as outlined in Table 3 below.:

Option	Asset Ownership	Operations and maintenance	Capital Investment	Commercial Risk	Duration
Service Contract	Public	Private	Public	Public	3-5 years
Management Contract	Public	Private	Public	Public	3-5 years
Lease	Public	Private	Public	Shared	8-15 years
Concession	Public	Private	Private	Private	25-30 years
B.O.T	Private & Public	Private	Private	Private	20-30 years
Divestiture	Private, Public and private	Private	Private	Private	Indefinite May be limited by licence

Source World Bank (1997b)

- Service Contract: Private sector performs a specific operational service for a fee, eg, meter reading, billing and collection.
- Management contract: Private sector is paid a fee for operating and maintaining a government owned business and making management decisions.
- Lease: Private sector leases facilities and is responsible for operation and maintenance.
- Concession: Private sector finances the project and also has full responsibility for operations and maintenance. The Government still owns the asset and all full use rights must revert to the government after the specified period of time.
- Build Own Transfer and Build Own and Operate: Similar to concessions but used in greenfields projects. Private sector receives a fee for the service from users.
- Divestiture: Can take two forms ie. partial or complete. Former is like a concession, and allocates full responsibility to the private sector for operations, maintenance and investment, but unlike a concession this arrangement transfers assets to the private sector.

- Fig. 4. PPP contracts within public and private management and ownership



## **Chapter 2.: The Context of Public Private Partnerships in South Africa.**

The structure of this chapter is intended to operate at two levels. On the one hand the chapter commences by painting a picture of the context of PPP's in SA, and the confident policy environment being established in S. Africa at a national level and at a municipal level, to promote the adoption of PPP's. On the other hand the chapter describes the context of water policy development and the challenges experienced at a macro level and municipal level, and also the emergence of private sector participation in South Africa's water sector and its challenges.

### **2.1. Background.**

South Africa has undergone tremendous social and political and transformation since the first democratic elections took place in April 1994. The new government is committed to redressing the inequalities of the past which are significant. A new constitution was implemented in 1994, and since then all law and policy is being reviewed against the newly adopted National Constitution. This has provided a major opportunity for the public water sector to review and transform its existing policy, institutional structure and legislation. The new constitution with a strong human rights content has provided this process of introspection and transformation across all sectors. This process of systematic policy review and change covers all aspects from the restructuring of the Department of Water affairs to a review of existing water legislation.

As part of this process, private public partnerships are fast becoming an integral part of the service delivery landscape in South Africa as several national and provincial government departments and a growing number of municipalities have entered into service agreements with private operators, whilst many others are exploring PPP's as an option for service delivery. The

development of PPP's in South Africa started to emerge in 1997. But delivering public services through PPP's is still relatively new in South Africa. In order to make this process a viable and robust option for service delivery requires greater coherence and consistency in government policy is needed. Support for this approach has been met with varied success across different Government sectors.

The Departments of Transport, Water Affairs and Forestry, Public Works, and Health have been at the forefront in introducing PPP as one of the approaches that may be considered for efficient service delivery. The national treasury website indicates that in the transport sector for example, the establishment of the National Roads Agency (NRA), as an arms-length institution for managing major projects with the private sector has streamlined the procurement process and this has attracted investor confidence. The Department of Public Works has endured some growing pains with its Asset Procurement and operating systems programme, yet has moved towards and expanded PPP programme in the hopes of increasing deal flows. The Department of Water Affairs has been more cautious in its approach, arguing that the public's interest and the monopolistic nature of water services provision require that the public sector service delivery be viewed as the preferred approach. The Health sector is currently reviewing and redefining its strategy for the delivery of core services through the extended use of PPP's.

## **2.2. The Role of National Government:**

The National Treasury has taken the lead to ensure that there are clear procedures and guidelines for the establishment of PPP's in the country. Generally, perceptions and opinions about PPP's differ among various stakeholders and these have been based, on a number of different factors. Some of the main issues that are at the center of the controversy are labor security, affordability of the service, private sector exploitation and the



responsibility for providing basic services. Overall the debate concerning the role of government in the provision of public services still persists, ie: Is the State seen primarily as a provider of services or as a regulator of service provision?.

Advocate Uven Bunsee of the National Treasury PPP Unit, when interviewed, advised, that there are a range of approaches that are required for different needs and challenges. He advised, that while this debate is ongoing, the private sector option needs to be supported by sound regulatory frameworks and practice. Such regulation must promote key policy objectives eg. curbing monopolistic practices, alleviating poverty, promotion of universal service access and fostering empowerment. He advised with the evolution of a sound policy framework for the establishment of PPP's, there is bound to be increased investor and market confidence in this choice of mechanism and increased deal flows in the short term.

According to Advocate Bunsee, PPP's are viewed as a strong economic tool especially in an environment of declining government budgets where government has less funds to do what its has to do, yet at the same time it needs to effect efficient service delivery. So there is a responsibility by government to spend what it has more efficiently. There is therefore an attempt to derive greater efficiency into government spending and to analyse the budgets of the various government departments more closely and carefully. In the rationalization of the budgeting process the aim is also to develop new markets where previously there existed no private sector participation. The aim would be to grow these markets and to develop skills and capacity for future economic regeneration.

It was further advised that is estimated that between 60 and 90 billion rands are needed over the next ten years to eliminate the backlogs in services in

urban areas depending on the level of service being provided. Some of these capital flows are anticipated, in the form of government grants for basic level of services, but the majority of this amount will have to be borrowed. With the amalgamation of previously disadvantaged local authorities and the more affluent municipalities this implies that operating surpluses no longer exist and have to be borrowed and that capital expenditure must be externally financed. Government however aims to make the PPP process market driven and not prescribe inputs in to PPP's as such. Its aim is to partner with private sector partners into deals that was traditionally government domain.

When compared with the United Kingdom PFI model, which is seen as project finance driven where the UK government adopts a clinical approach towards guarantees and future cash flows, the South African approach to PPP's is viewed as a much more incremental and comprehensive approach. Lenders have a role to play where deals will be structured towards the provision of services rather than from debt. There is a concerted emphasis in SA on the forward planning of projects. In SA, government is seen as adopting a more facilitation role in the midst of a strong regulatory environment whilst in the UK there exists no regulatory framework.

There has been a strong move by the SA government to improve the legislative framework to support the viability of PPP arrangements. The need for this arose following the implementation and lessons derived from some of SA's most popularised PPP's viz. the Dolphin Coast Water Concession, the N3 toll road and the APOPS Prison contract. During the duration of these, it became very evident that significant gaps and constraints existed in the legislative frameworks.

National Treasury outlines the following major constraints in its Strategic Framework Manual governing the establishment of PPP's for National and

Provincial Government Departments in SA, a legislative framework that is under a continual process of review:

### **2.3. Legislative Framework: Limitations**

- The legal capacities of the various spheres of government are not clearly defined to create binding agreements on behalf of government.
- Existing procurement legislation is geared toward conventional procurement and more recently targeted procurement.
- Minimum cross-sectoral contractual provisions have not been adopted to regulate a number of common provisions in terms of international experiences into PPP contracts, indicative of a lack of such legislative and regulatory requirements.
- Timing of consultative processes with labor not clearly covered in current legislation.
- Existing stocks of state-owned assets and infrastructure due not comply with environmental legislation and no legislation in place to effect such compliance by the private sector.

### **2.4. Public Financial Management:**

Legislation needs to be re-written to effect changes in the public financial management legislation. The absence of formal policy and regulatory framework for the financial management of PPP's needs to be urgently addressed in order to limit adverse budget implications such as:

- Unaffordable PPP's: due to a lack of a proper regulatory framework departments could engage in PPP's that are not cost effective. A framework needs to be in place to maintain prudent financial control over government's commitments and assets. A new framework should promote efficient risk allocation and promote affordability in terms of governments' budget projections.

- **Un-mandated Guarantees:** projects at local and provincial levels involve tariffs collection from the users and often require performance criteria or guarantees to be met to the private sector. SA Government has made it clear it will not underwrite provincial or municipal guarantees. But this is a risk government cannot just ignore.

### **Capacity Needs**

There is a need to increase functional capacity especially for more long term complex contracts as some PPP's require additional functional capacity in financial, technical, and managerial areas that are above the tasks normally associated with operations of a government department. The much needed skills for long term contracts that entail greater risks are still lacking in government line departments and measures have to be put in place to develop this and improve capacity building.

The National Treasury has released a Strategic Framework to address these concerns and this encompass new policy making initiatives as various levels. These include:

- **Policy Dimensions:** The State views PPP's as an integral component of the provision of public services and public infrastructure across all sectors. This does not imply PPP's are seen as the preferred option for addressing infrastructure backlogs, but it means PPP's are definitely one of the range of policy options.
- **Legislative Framework:** The new Strategic Framework aims to address shortcomings and the adverse implications of current legislation by inclusion of selective reform across a range of laws and previous regulation to create a more enabling environment aimed at clarifying legal capacity and jurisdiction and prescription of minimal cross-sectoral contractual provisions.

- **Public Finance Management:** The new Strategic Framework aims to control all aspects of the PPP life cycle from project identification to post contract monitoring in an attempt to limit adverse risks to the national fiscus. New Regulations clearly define expected performance in terms of redefining PPP's, prescription of affordability and value, provision of guarantees, and more emphasis on budgeting and financial reporting.
- **Procurement:** The new Strategic Framework also governs procurement activities in a measure to provide sufficient checks and balances to permit different departments to determine their individual PPP outcomes in projects.

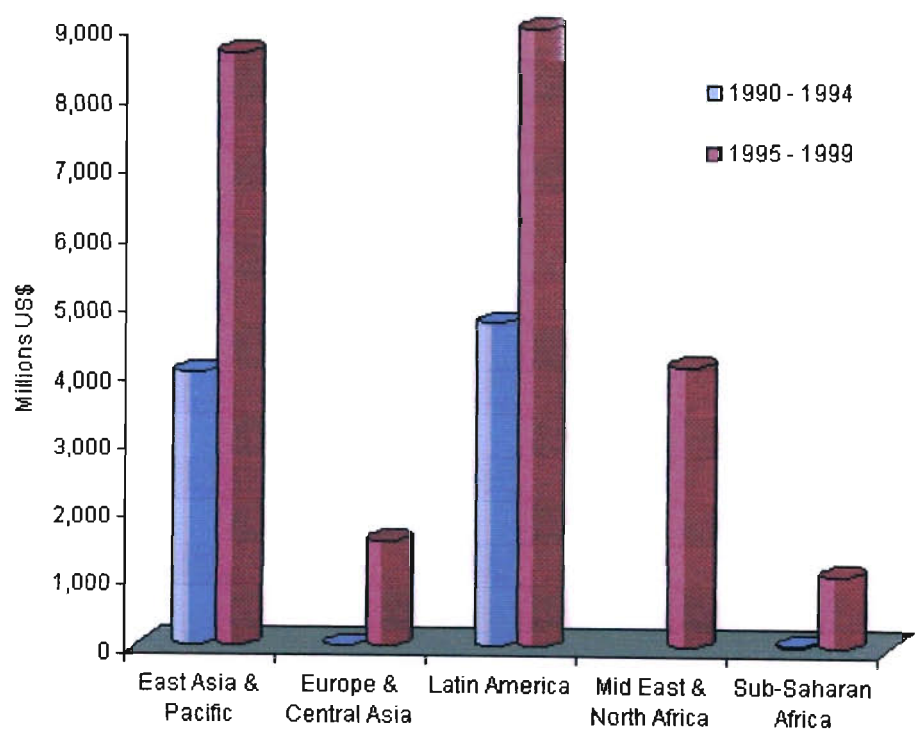
The aim of National Treasury has been to create an enabling environment for the successful implementation of PPP's by presenting a Strategic Policy Framework to support legislative reform, capacity enhancement and institutional mechanisms and in this manner enforce the Treasury Regulations and promote such partnerships. By preparing the Standardised PPP Provisions and the Strategic Framework as key guidelines, the State has displayed its commitment to the use of PPP's as a tool to promote infrastructure and economic and social development. These regulations emphasize three main criteria in PPP evaluation of suitable projects:

- The project must be affordable
- It must provide good value for money
- It must transfer appropriate technical, operational and financial risk to the private party.
- The notion of affordability is key to government future planning process as government seeks to use its limited resources in a manner that is prudent and transparent.

**2.6. The role of Local Government: Problem Statement:**

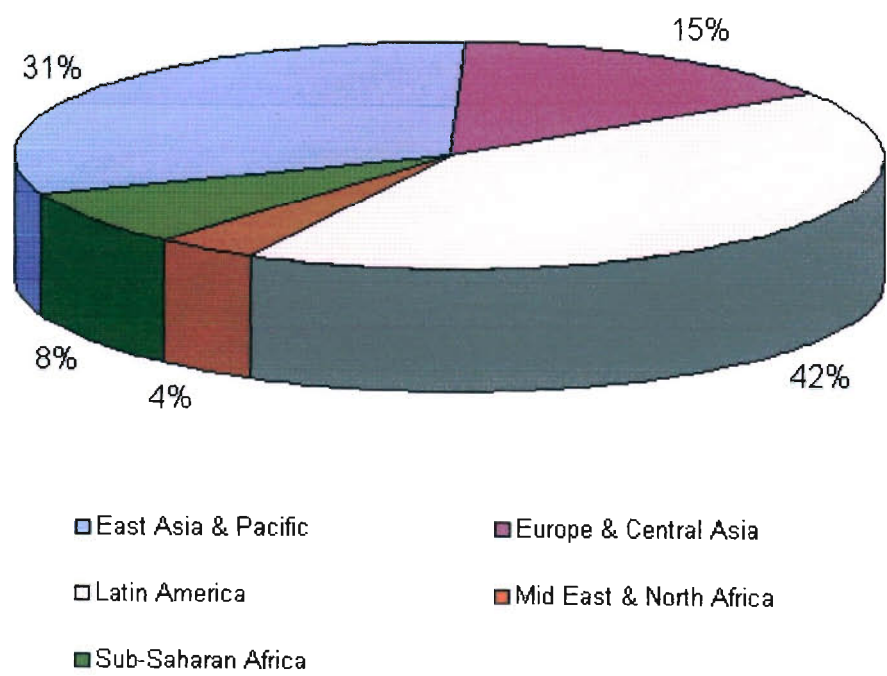
Local government in South Africa, like most municipal authorities world over, confront desperate urban challenges with respect to service delivery. Sindane in Montanheiro, notes the following:“According to Kerf and Smith (1996), Africa’s infrastructure lags behind the rest of the world in both quantity and quality and this weakness presents a major obstacle to economic growth and can have severe negative consequences for communities basic standards of living. Only 42% of Sub-Saharan Africa have access to safe water, whereas the World Bank average is 68%. The figure below depicts regional private investment in water and sanitation and it can be seen that Sub-Saharan Africa draws the least inflows the water and sanitation sector draw the minimalist investments in projects, when compared to Latin America and East Asia.

Figure:5 Regional private investment in water and sanitation. Source Ppi database.



During the period 1990-1994 , there existed almost no regional private investment in the water and sanitation sector in Sub Saharan African and Europe. Investment was concentrated mainly in areas such as East Asia and Latin America . However since 1995-1999, these figures have more or less doubled for East Asia and Latin America whilst Sub Saharan Africa received only a trickle of private investment flows.

**Figure 7. Proportion of private water and sanitation projects by Region**



Source: PPI Database, 1998.

It must be noted that determining coverage figures for infrastructure provision in developing countries is very difficult as often these figures are inflated by

governments and inadequate technical expertise exists for monitoring and information gathering and analysis of these resources

In view of the above challenges, Kerf and Smith in Zindane, argue that countries around the world were moving away from the public enterprise model in all sectors including infrastructure and on average in the last decade private investment activity in infrastructure amounted to US\$60 billion a year. Most of this capital has been invested outside Africa. Of this proportion only 7% has trickled into projects in Sub Saharan Africa.

## **2.7. Vision for Future of Local Government in terms of the Newly Adopted South African Constitution.**

The newly adopted constitution is in line with international trends for the local government structures. Zindane states, " Local government is accorded a status of a sphere which is different from a status of a level of government that implies a hierarchical relationship. Local government is seen as distinctive, interdependent and interrelated to national and provincial governments. It is composed of local municipalities which have a right to govern on their own initiatives, the local government affairs of their communities and is subject to national and provincial legislation. The objectives of local government include the following:

- to provide democratic and accountable government for local communities
- ensure the provision of services to communities in a sustainable manner
- promote social and economic development and
- promote a safe and healthy environment.

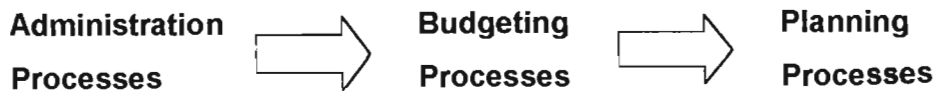


Developmental duties have been ascribed to local municipalities by National government.

The following illustrates the duties required of local entities.

Structure and manage:

Figure: 8.



## 2.8. Policies and Legislation:

Nationally the role of municipalities is to perform their functions under the umbrella of two major national policy frameworks and a variety of different national legislation. The first of these policies is the Reconstruction and Development Programme (RDP) that "seeks to mobilize all our people and our country's resources towards the final realization of democratic non-racial future." In terms of the RDP the development role of local government is given as integrating areas that were once divided under apartheid and providing and maintaining affordable infrastructure services.

The second policy is an economic strategy, which is the Growth, Employment and Redistribution strategy, commonly known as GEAR. In terms of this policy municipalities are encouraged in their planning processes to promote initiatives that will increase private sector participation in enhancing local development. At a more localized level the White Paper on Local Government sets out policy for municipal governance and encourages municipalities to explore various options for social delivery. It advocates a developmental approach that prioritizes social development and economic growth and encourages the role of community structures in the design and delivery of

municipal projects. A key component is affordability and integration with other service provision. Types of delivery options include, building on existing capacity, corporatization, public-public partnerships, partnerships with community based organizations and NGO's; leases, and concessions (type of public private partnership), or even privatization ie. transfer of ownership.

Public-private partnership are seen as an option and not the outright solution. For this purpose of effecting these decisions and effecting service delivery, the Integrated Development Plan (IDP) and the integral Municipal Infrastructure Plan (MIIP) regulate how municipalities must achieve their service delivery targets. So through the IDP Framework, municipalities are regulated in terms of how they meet their service delivery agendas. This includes their development objectives and how they raise capital and harness resources to build additional capacity. Municipal service partnerships are very much a part of this process.

The above legislative framework facilitates an integrated approach to municipal management and has the potential to bring public-private partnerships under the same roof as economic development. The context of Public-Private Partnerships must be viewed in the context of IDP's. Extensive planning systems are required to break down the legacies of apartheid and remould South African cities.

## **2.9. More Municipal Policy Frameworks:**

According to Plummer (2000), the development of the municipal services partnerships framework involves three major policy frameworks, ie. the Municipal Services Bill, the Municipal Services White Paper and the Municipal Services Guidelines. These are discussed briefly in turn:

- **Municipal Services Bill:** Makes provision for participation by the private sector in the future provision of municipal services as included in the Constitution. It sets the context for equality of service provision stating that services are to be provided in a just, affordable and equitable manner, seeking for the highest level of service at the most affordable cost to government. The Bill causes town councils to be responsible for service provision and the tasks of regulation, monitoring, implementation of any future service agreements and setting of tariffs is allotted to such councils.
- **Municipal Services Partnerships Draft White Paper:** The inclusion of non-municipal service providers is regulated under this broad umbrella of “municipal service partnerships”. The Municipal Services Partnerships White Paper covers all types of possible service delivery options and especially those that will positively impact previously disadvantaged communities. Its scope includes municipal services such as water and sanitation, solid waste water disposal, public transport to name a few. The legislation aims to ensure that private sector participation in public services delivery supports constitutional municipal goals and enhances their communities without exploiting the public good.
- **Municipal Services Partnerships Guidelines:** This aim of such legislation is to create an environment of confidence in promoting partnership approaches to service delivery. The guidelines are instructive in terms of governing performance and obligations of different stakeholders, project suitability, feasibility studies, procurement procedures and accountability and reporting.

As part of developing overall capacity at both national and municipal levels, for the incorporations of private sector partnership in service delivery, the Department of Constitutional Development established the Municipal Infrastructure Investment Unit. Its main function is to provide grant funding that enables councils hire expertise for project preparation assistance, such as preparing requests for proposals, evaluation, negotiation and implementation stages in a potential partnership. The Unit functions as support unit to stimulate and develop the emerging Public private partnership market in South Africa. The MIU has the specific purpose of encouraging private sector involvement in municipal services and also building capacity in the municipal and consultancy sectors.

Another initiative aimed at enhancing municipal capacity is the creation of the National Business Initiative (NBI). The aim of the center is to become a leading disseminator of information and and co-ordination of PPP's in South Africa. The NBI hosts a PPP Resource Centre, that facilitates training and provides extensive research and learning materials on PPP's. The idea is to develop the business capacity and negotiation capacity of councilors and prepare the public administration for its new responsibilities and accountability in a fast changing environment.

#### **2.10. Water Policy Development in South Africa:**

Since the onset of the first democratic elections in South Africa, the policy of government with regards to water has also been undergoing systematic change and policy makers in the water sector have seized the opportunity to effect long overdue changes. The process of policy changes in water is still developing, and is part of a dynamic process of change.

## **2.11. Previous Water Sector Government policy:**

### **2.11.1. Management of water resources:**

Prior to 1994, policy making at the Department of Water Affairs was constrained mainly to water resource management. This included managing the larger catchments, the administration of government water control areas and the supply of bulk untreated water to water boards (bulk treated water supply utilities), water quality management and the implementation and administration of the Water Act.

### **2.11.2. Limitations of Past Legislation:**

The Department of Water Affairs did not see itself as having to fulfill a responsibility of ensuring that all citizens had access to a water supply. The country was divided along separatist lines and due the inequal spatial distribution the former perceived itself as having a lack of influence over political power. As a the more arid areas of the country suffered extreme desolation and poverty with very little service provision.

### **2.11.3. Consequences of Policy:**

The immediate impact hereof was that there existed an estimated 12 to 14 million people with out any formal water supplies and 21 million people without formal sanitation services, a desperate situation if one considers that the total population is approximately 42 million. The more serious consequences were the environmental effects of poverty which in turn affected the water resource base of the country. These impacts included encroaching desertification, deforestation, substantial loss of top soil, widespread diffuse pollution, increased siltation to name a few. The country is also know to face extreme periods of drought and the poor are really ill equipped to deal with such natural disasters. As a result rural and previously disadvantaged communities have been forced to find alternate solutions and

this has had the general effect of further increasing the depth of poverty in rural areas and increasing urban migration.

(LJ Abrams, 1996)

## **2.12. Post 1994 Government Policy Making in the Water Sector in South Africa.**

The water sector was in need of immediate policy intervention following the incorporation of the new democratic Government of South Africa. It was critical that new policy making made provision of the following:

- Provided clarity to the sector:, There was a lack of guidelines or common policy direction that proved very difficult to harness private sector participation by the public sector because of the previous dispensation and fragmented apartheid practices. The drafting of the New White Paper on Water Supply and Sanitation proved effective in providing clarity on how service backlogs ought to be addressed and provided definition and direction in terms of tariffs and standards of performance.
- Reduce Institutional Fragmentation: There existed great overlap in the institutional framework of actors responsible for water resource management and water supply , making the sector very complex and creating major areas of overlap. The DWAF claims there was at one time eleven governments, provincial structures, regional service providers, water boards, local governments and a large number of NGO's. There emerged an urgent need to simplify the sector and provide clarity in terms of service provision and responsibility. In terms of the new policy water is seen as an indivisible national resource and the central government is the custodian of the nation's water and the Department of Water Affairs and Forestry has two major functions: i.e.: to manage all the country's water resources and, to ensure that all people

have an adequate water supply and sanitation service. The responsibility in terms of the Constitution for the supply of water is that of local government. New policy is being aimed at creating a more integrated approach to resource management and greater participation at the local level.

The new institutional Framework of the water sector has been simplified to the following: (L Abrams 1998). Table 4.

First Tier	National Government Department of Water Affairs and Forestry	Water resource Management, support to local government, setting of norms and standards and administration of Water Act
Second Tier	Water Boards	Supply of bulk treated water on a commercial basis.
Third Tier	Local Government	Supply of water and sanitation services to consumers.

Source: DWAF : water supply and sanitation policy white paper. (1994).

New policy development is also vital to create a framework for investment in water sector infrastructure and provide an avenue to outwork political objectives in this sector. One of the most important aspects of the new policy emphasis has been the concentration of public participation in the consultative process.

### **Current Water Sector Policy Development in South Africa.**

These are many facets and policy principles around which the new White Paper on Water and Sanitation has been written. These include equitable access to water supply, water law reviews, water demand management, new tariff policy, water quality management, sanitation policy, local government

support, and for our purposes, creation of a regulatory framework for private sector engagement. The above gives one insight into the rapidly changing field of policy development in the new South Africa and to recognize the huge challenges that lie ahead in terms of effecting efficient service delivery. Private sector participation in the water sector is affected by many variables and these include demographics, incomes, service levels and associated backlogs in South Africa and the projected demand for new investment, not to mention recent shifts in legislation and policy making. There exists a range of possible options for private sector participation and these are depicted in the figure below:

**Fig.9. Types of PPP contracts in the water & sanitation sector**

<b>Contract Type</b>	<b>Description</b>	<b>Examples</b>
<b>Cooperatives</b>	They can position themselves to be the service providers for certain (often poorer, informal) areas of a city and manage facilities in these areas. Often used in rural areas, in conjunction with NGO's.	Port-au-Prince, Haiti; Orangi, Pakistan
<b>Service Contracts</b>	Public authority retains overall responsibility for the operation and maintenance (O&M) of the system, and contracts out specific components. Service contracts last 1-3 years and include services such as meter reading, billing and maintenance.	Mexico City; Santiago, Chile; Madras, India
<b>Management Contracts</b>	Public authority transfers responsibility for the management of a full range of activities within a specific field, such as O&M. Remuneration is based on key performance indicators. Public authority typically finances working and investment capital and determines cost recovery policy. Usually contracts last between three and five years.	Cartagena, Colombia; Gdansk, Poland; Mali; Johannesburg, South Africa
<b>Lease contracts</b>	Private operator rents the facilities from a public authority and is responsible for O&M of the complete system and tariff collection. Lessor effectively buys the right to the revenue stream and thus shares significant commercial risks. Usually 5-15 years.	Cote d'Ivoire; Guinea; Czech Republic
<b>BOT (Build Operate, Transfer)</b>	Usually used to procure large discreet items of infrastructure e.g. water treatment plants that require significant finance. The private operator is required to finance.	Mendoza, Argentina; Izmit, Turkey



	construct, O&M the facility for a specific period of time (usually more than 20 years) before transferring the facility back to the public authority. Variations: BOOT (Build, Own, Operate, Transfer) and BOO (Build, Own, Operate).	
<b>Concessions</b>	Private operator takes responsibility for O&M and investment; ownership of assets still rests with the public authority. Concessions are substantial in scope (usually a whole city or region) and tenders are usually bid on the tariff 25 - 30 years.	Buenos Aires, Argentina; Manila, Philippines; Cancun, Mexico
<b>Divestiture</b>	Full private ownership and responsibility under a regulatory regime.	England and Wales

*Adapted from Webster & Sansom, 1999.*

Most South African public authorities employ the private sector to design and construct public infrastructure such as water supply and sanitation systems. This is common practice as the country has a strong and well established engineering fraternity and a large contracting industry. The operation and maintenance of water and sanitation services in South Africa has always been a public sector function as inherited from the British system.

In the water sector in addition to outsourcing of operational functions, through the use of service contracts there is a range of options for involving the private sector. These include management contracts, renting or leasing assets, and investment linked contracts or concessions. Various types of concessions exist as described above, and these include the BOT [Build, Operate, Transfer], BOO, [Build, Own and Operate] and BOOT [ Build, Own, Operate and Transfer]. Each of these options has their strengths and are suitable and appropriate in different circumstances. At this stage the SA Government is not seriously considering the outright privatization of water and sanitation services.

The chapter has attempted to place PPP's in context in terms of international trends and national and municipal policy frameworks, and then describe the

context and process for PSP in the water sector in SA . More especially it sought to highlight the numerous challenges and pressure face by the government, and policy makers in addressing the sever backlogs that characterize the water sector.

There are different types of PPP contractual relationships and its has been presented that through engaging in partnerships with respect to service delivery, municipalities can expand services, reduce costs, increase the level of efficiency and create opportunities for empowerment of its communities.

## **Chapter 3. Research Methodology**

### **3.1. The PPP Concept: What is it?**

PPP's are more than a contract and have a strategic role to play in partnering with the public sector in order to engage in mutually beneficial service delivery at all levels of government, but more especially so at the municipal, local government developmental tier. Public Private Partnerships are contractual relationships between the private sector and in this case local government municipalities. They take various forms and structures but the common thread to all PPP's is the involvement of either the private sector, NGO's, CBO's, parastatals, or another municipality in the delivery of a service. The different types of contractual relationships include service and management contracts, that tend to be of a short duration while leases and concessions tend to be of a long duration.

### **3.2. Research Hypothesis:**

PPP's are more than a contract. Through engaging in partnerships more effectively with respect to service delivery, local government municipal structures can expand and extend services, reduce costs, increase levels of efficiency and create employment opportunities for their communities.

### **3.3. The Objectives of the Research:**

The purpose of the study is to evaluate the effectiveness of the PPP approach in promoting municipal service delivery and to determine its effectiveness as a policy tool. The evaluation and comparison will be used to test the viability of such PPP schemes. It will also be used to extract best practices, and promote the PPP concept and demonstrate the practical value of PPP's.

096267

### **3.4. Research Methodology:**

The research methods adopted in this study were aimed at identifying the broad trends with respect to the use of Public- Private Partnerships, as a tool to promote economic and social development in general, and a more sectoral focus on PPP's in the water sector nationally. Secondary information was obtained through a literature review of government documents, journals, books, internet sites, conference reports and newsletters. This included an extensive examination of published material [detailed in the bibliography]. The primary qualitative research methods employed were semi-structured interviews and published case studies.

#### **Interviews:**

Personal semi-structured in depth interviews were carried out with the following individuals:

1. Danai Magugumela: Project Manager - MIIU
2. Loyisa Jiya: Head: PPP Special Business Unit – IDC
3. Uven Bunsee: Senior Transaction Advisor, and Standardisation Project Manager - PPP Unit. National Treasury, of South Africa.
4. Xolile Caga: NBI - PPP Resource Centre Co-Ordinator.
5. Faye Dolley: NBI – PPP Resource Centre Administrator.
6. Willem van Zyl: Africon – Director Energy and Industrial Consulting
7. Loest van Eden: African: Director Transportation
8. Sulete Teixeira: Africon: Business Analyst.
9. Jan Louis Van den Berg: Africon: Director Water and Sanitation Consulting Division.

10. Lindsey Dyer: Africon: Director Energy and Industrial Consulting Services.

The above individuals were targeted for in-depth interviews as they were all influential in the field. Advocate Bunsee, in particular and Xolilie Caga and Danai Magugumela and Faye Dolley have extensive experience in the PPP arena, and sit on all the major national planning boards and committees and between them carry a wealth of knowledge with respect to the dynamics and growth and direction of the PPP market. The professionals from Africon were targeted due to the wealth of experience in PPP's in Africa and as the consultant engineers on the N3 Tool project. Loest van Eeden had been directly involved from the outset of the planning process of the N3 PPP project. Mr Jiya at the IDC, was sought out for his organizations view on the emergent PPP market as they represent a major economic arm in terms of project finance for such ventures and he carries a strong presence in terms of private sector representation.

### **3.4. Case Studies:**

Whereabouts of Cases Examined:

Three different case experiences have been researched to develop an understanding of the effectiveness of PPP's in the South African context the and their role in promoting service delivery and development objectives of government. These three are from South Africa, Cartenga has been chosen as an international case experience due to the similarity of Columbia as a developing nation to South Africa. The PPP experiences range in size and structure and geographical location and the projects are described below:

1. Stutterheim South Africa: Private Sector Participation in Water and Sanitation Services in Stutterheim

2. Nelspruit South Africa: Nelspruit Water Concession
3. Amanziwethu Services. Harrismith. South Africa
4. Cartenega, Columbia

The purpose of the study is to examine these different case experiences to ascertain the effectiveness of PPP schemes initiated in these regions in terms of benefits and opportunities gained and best practices adopted. All of these case comparisons have been limited to the water sector to provide a more focused level of examination.

### **3.5. Challenges and Limitations to the Study:**

The methodology assumed readily available access to secondary information and key informants. This was not the case. Some of the challenges faced by the researcher are as follows:

- Appointments with key informants were difficult to obtain. Once obtained these were often postponed and rescheduled.
- Interviewees were generally time constrained.
- Fieldwork and data gathering process was confined to two weeks which was very difficult to ensure thorough investigation at a provincial and municipal level.
- Potential informants were located in regions spread across the country and were generally inaccessible.
- There exists little documented information on the economic and social impacts in terms of quantitative benefits delivered by established PPP's.

- With the limited time frames key informants were unable to present the researcher with statistics and written progress reports in the time available.

### **3.6. Results of the Assessment:**

Despite the challenges and limitations faced by the researcher all case experiences were examined in terms of information gained from the literature search and key informant interviews. The majority of the latter comprised key individuals involved in the development of Public Private policy at a national and municipal level, as well as private sector professionals who are involved in a consultative and transaction advisory capacity of PPP's throughout the continent and locally.

### **3.7. Individual Observations from the Case Studies.**

The case experiences are discussed individually. Much of the information gleaned, has been primarily researched by Janelle Plummer, an urban poverty researcher specialist working with GHK International. The results of some of these explorations form the basis of comparison for this study.

#### **3.7.1. Case Study One: The Stutterheim Affermage Contract.**

##### **Introduction:**

The Stutterheim Affermage Contract serves as an interesting Public-Private partnership case study because it is an example of a partnership that was initiated in a non-regulated PPP environment and is one of the first PPP experiences documented as past of the first wave of PPP initiatives in the country. The case study presents an interesting profile of a need for contracts to be flexible to adapt to changing circumstances and objectives, and the

need for clear definition and clarification with respect to different stakeholders rights and obligations in terms of performance so that the long term objectives and economic goals are met.

### **Background:**

The Municipality of Stutterheim , located in the Eastern Cape region of South Africa, entered into a 10 year affermage contract for the delivery of water and sanitation services in 1993, prior to the first democratic elections of South Africa. The contract was entered into with Aqua Gold (now WSSA, a joint venture between Northumbrian-Lyonnaise International and a local company, Group 5.) The intention of the contract was to delegate all management of water and sanitation responsibilities to the private sector. This included a mandate to provide all water and sewerage services to the people living in the formal white town settlements, whilst the segregated township areas were to receive bulk water and the treatment of sewerage effluent. Decisions were made in terms of the political context of change in SA at the time. The entire partnership agreement was politically motivated and led to disproportionate levels of service provision between the racially segregated communities.

Upon amalgamation with previously disadvantaged townships post 1994. The new Stutterheim Transitional Council was faced with a crisis in terms of having to extend services to a population base that had increased six times in terms of new legislation to address the spatial inequalities of the past. Not in keeping with the practice of the former Council the new authority chose to establish an in-house capacity to deliver water and sewerage services to previously unserved township areas believing this option to be more cost effective then allowing, WSSA to include the newly amalgamated region as part of the affermage contract.



### **Procurement Process and Procedures:**

The pre-1994 Council of Stutterheim sought partnerships outside government as a means to solve particular strategic and technical incapacities that it faced in order to redress resource deficiencies it confronted. The Council of Stutterheim appointed consultants to manage the formulation of the proposed contract. During that period there existed little policy guidelines with respect to PPP's, and the process of preparation, tender and evaluation process was carried out with the methodology used for the construction of civil works. WSSA proposed an affermage contract in its tender bid which was accepted by the Council on the grounds that it met Council's key technical, managerial and efficiency objectives and did not include a significant investment component. All decisions made in relation to the contract were made in terms of promoting more efficient town management as opposed to being linked to poverty reduction objectives.

The partnership arrangement contracts out responsibility for providing management, operation and maintenance to the private sector, where the private operator provides working capital, yet the capital investments remain in the ownership of Council. The scope of the contract includes the management, operation and maintenance of the water and sewerage system, replacement of pipework due to normal wear and tear and record keeping. Maintenance, replacement and ongoing repairs forms part of the private sector responsibility and upgrading and expansion are those of Council.

However in 2000, the entire orientation and goals of the Transitional Local Council of Stutterheim is in line with government's new vision of poverty reduction and social up-liftment. In view hereof, the needs of the new council are not met. There is now a greater desire to pass on additional risk to the private sector and embrace the role of communities in consultative

participation to build institutional and community capacity which is lacking in the existing affermage partnership. The Affermage contract allocates risk in a manner where the local authority carries the risk of asset ownership and capital investment and the operator assumes responsibility for operations and maintenance, and generally all commercial risk is shared.

### **Investment and Financing:**

The Local council has financed approximately R10 million of upgrades to ensure proper functioning of the existing water system and to cater for extended demand due to growth. According to Plummer, it is unclear what impacts such capital improvements have had on the operator.

According to Plummer the following trends were observed since 1997:

- The average number of leaks in the system have declined by 70%
- The average number of bursts in the water network has declined by 70%
- The average number of sewerage blockages have reduced by over 40%

The cost of water delivered by WSSA in the last four years, has fallen between R1.53c and R1.71c per kilolitre. This compares favourably to the R2.80 per kilolitre paid by neighbouring municipalities for bulk water supplied by the Amatola Water Board.

The tariffs for water and sewer reticulation, are controlled by the council in Stutterheim, and does not include the operator. The current tariff structure has been inherited from the past council and is not designed to meet the councils stated pro-poor objectives and is in need of revision.

In terms of a tariff analysis conducted by Plummer, it is seen that the tariff works to the benefit of the middle income users rather than the poor groups, irrespective of the tariff structure being rated for different income groups users. Analysis shows that when the tariff structure is broken down, that for any amount over 7 litres the poor are charged more for their water than the middle income groups. The tariff is seen to benefit the middle-income groups and works against the poorer groups.

### **Experiences in Implementing the Scheme.**

One of the major problems noted in the Stutterheim Public-Private Partnership contract is that the responsibilities for operation and maintenance, and the one for capital investments are conferred to different parties. For an affermage contract to succeed it is generally required that the contract must clearly define what constitutes operation and what constitutes maintenance, and which items are long term strategic and whose responsibility. This lack of clarity has caused a number of difficulties and disputes to arise out of the Stutterheim affermage contract. These disputes include conflicts between Council and the Operator with respect to capital improvements, retification cost due to flood damage, borehole failures that result in large scale replacement of retification works amongst others.

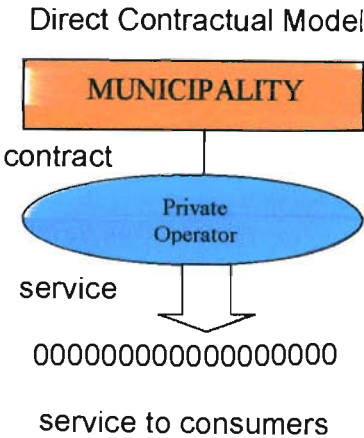
These problems were aggravated further by a lack of a regulator to resolve the differences that emerged during the course of implementation of the contract. These events have led to a lack of trust and suspicion on both parties and works contrary to the dynamics of the affermage approach.

### **Capacity Constraints.**

As a result of these events there emerged a marked imbalance in the capacity of the private and municipal partners. The council recognized these

imbalances and believes it is seriously hampered because of a lack of understanding and knowledge on the part of the public sector officials and there is a clear need to level the playing fields. The most significant capacity constraint observes, Plummer, is the strategic lack of understanding with respect to how PPP's operate. This is evident in the lack of understanding of risks and the link between risk and contract duration. There are various other capacity issues that need to be addressed and these include a need to build capacity and management skill in ;

- Understanding the new external operating context of municipal service partnerships
- Develop a strategic understanding of PPP's
- Develop strategic management practices to effect change at local government level
- Financial analysis and planning
- Develop a mechanism to maximize benefits for the poor
- Develop a consultative and inclusive process
- Ability to initiate and conduct contract negotiations
- Develop understanding in the management of water and sanitation services.



### **3.8. Case Study 2: The Nelspruit Water Concession:**

#### **Background:**

Nelspruit is the capital of the Mphumalanga Province, and has enjoyed dynamic growth since the 1970's. Prior to 1994, Nelspruit had a population of about 24 000 people (partnerships Q1. 1999.vol.1), and Africans were not recognized by the city. But following 1994, the town population leapfrogged to 240 000 and like many other established local South African towns, the Nelspruit TLC found itself unable to meet its new service and infrastructure demands. Heymans reports that with the incorporation of the surrounding townships of Nelspruit and the KaBgwane homeland into the greater Nelspruit municipality, the latter had to improve and extend infrastructure stock and services to a population of over 200 000 people at an estimated cost of R350 million to bring these outer areas in line with existing services in Nelspruit.

The annual capital budget of the town was R25 million, at a 6% growth rate only, and just the estimated basic water and sanitation services were projected at about R212 million. At the time the many challenges that confronted the Nelspruit council were:

- Outside the formal Nelspruit towns the standards of service infrastructure were substandard and service delivery and billing were unreliable, with many areas having no access to water or sanitation service.
- There existed very low payment levels for service as consumers refused to pay for substandard services, inaccurate billings and lack of proper connections. This was aggravated by an establishment of a

pattern of non-payment for services during the protest years of the 1980's and 1990's.

- With the amalgamation of the surrounding townships into the Greater Nelspruit municipality, and the need to extend services to these regions, the financial burden on the municipality increased exponentially. This deteriorating situation of a lack of financial resources and increasing debt, impacted adversely on Nelspruits' creditworthiness as a Council also.

In view of these vast challenges, the town council sought the assistance and the involvement of the private sector in the provision of water and sanitation services. To meet these challenges internally would have prolonged the crisis, and further the Council lacked the operational and technical capacity to effect these demands. Various alternative avenues of infrastructure delivery were examined and the council decided to pursue a public-private partnership approach. As part of the feasibility and investigations stages of the project, the concession-contract option was identified as the best way forward to meet the demands faced. A competitive bidding process was initiated which followed a strict pre-qualification process. The successful consortium was Biwater-Metsi a Schaba who had to comply with a range of different aspects of the original proposal, as well as persevere through a negotiation process with Council that was impacted many terms by organized labour for fear that privatization motives of Council will result in a lack of jobs. The contract was concluded successfully and awarded to the Biwater consortium, where also, the MIIU, assisted the council with financial and technical assistance.

### **Key Aspects:**

The contract was designed to conform to international best practice standards. In terms of the contract Bi Water -Metsi A Sechaba would undertake the supply of water and sanitation services on behalf of the Nelspruit TLC. Such service delivery was subject to the conditions of the contract, the approved tariffs and in accordance with all required legislation.

As with most long term concessions, the private contractor in Nelspruit would be entirely responsible for all the services they are contracted to provide, including operation, maintenance and management and capital investment for the necessary expansion of services. Fixed assets remain in the ownership of the council, but are entrusted to the concessionaire for the duration of the contract. This has the advantage of combining responsibility for operations and investment and provides an incentive for the operator to make efficient investment decisions. All the activities and performance of the operator was to be monitored by a special water unit created within the council structures as part of the contract and required legislation.

In terms of the contract the council will approve tariffs levied for water and sanitation services, and monitor the effecting of these services, and the impact the supply of the services has on the environment.

As part of its social responsibility to empower its new population, the contract had to ensure that the service delivery arrangements provided socio-economic benefits. These aspects were negotiated into the PPP contract in a number of innovative ways. The concession contract insured municipal workers will be absorbed into new service agreements on the same or improved conditions of service. Various provision for improved staff training and remuneration and development policies such as equity schemes, empowerment participation and funding of community programs are also

provided for. The contract makes provision for the use and development of small contractors, the enhancement of local businesses and professionals and support for small enterprises.

With respect to tariffs and Investment, the new combined water and sanitation tariff reflects a price that allows for capital investment of over R1.4 billion over 30 years, whilst keeping tariffs far lower than they would have been if the council had attempt to effect the improvements itself. A differential tariff rating was implemented to make the service more affordable for the poorer groups. In addition the GNUC will make available 20% of the capital requirements needed for the first tranche over the first six years, and the balance of the funding would be raised from lenders in the form of loan agreements.

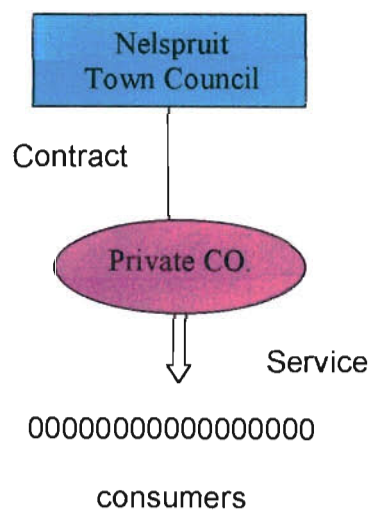
A major feature of the Nelspruit Concession was the role and commitment of top political officials for the development of alternative forms of municipal service delivery in light of the crisis faced. It was through the efforts of the local lead champions that helped raise the awareness of private sector participation as an option, to steer the council through crisis times. In Nelspruit this took the form of the town manager in particular and other top financial and engineering officials that proactively chose to engage the private sector in meeting their service delivery challenges. They approached the Development Bank of South Africa and were advised of the PPP option. Throughout the negotiation process these decision makers remained committed to the PPP option remaining convinced that it was the only way to extend water serviced to previously disadvantaged areas.

The concession was concluded in 2000, and the project is one of the first major water projects to involve a private operator at such a large scale. This



case experience has informed the development of policy making on private sector participation in South Africa, and is a source of many key lesson in developing a way forward for such partnerships. The concession is significant as it cam about in a new political environment of social and economic change. This added important new dynamics into the negotiation process such as the voice of organized labor and commitment to empowerment ideals. Nelspruit has allowed various stakeholders at all levels of government, other municipalities, private banks and service providers and local residents and organized labour to explore major issues and challenges in a new operational and strategic environment to seek new solutions and partnerships in overcoming crises and spatial urban challenges.

### A Direct Contractual Operational Model.



### **Case Study 3.9. :**

Amanziwethu Services: A public-public partnership between Maluti a Phofung Council and Rand Water for service delivery in the Greater Harrismith area.

Although the following case study is not a public-private partnership, but rather a public-public partnership, it is presented for the sake of observation in order to assess key benefits gained through innovative partnering at a municipal level to effect service delivery challenges of local government.

### **Background:**

The Amanziwethu's Service's Contract is the first public-public partnership between a municipality and a water board.

In terms of the Water Services Act, 1997 and the Local Government: Municipal Systems Act, 2000, Councils may enter in to service delivery agreements with organs of state such as water boards, without having to follow a competitive procurement process.

In 1998, the Harrismith TLC, realized that it needed to effect significant tariff increases in the provision of the town's water and sanitation services to reflect the true cost of service provision. In addition, a comprehensive metering and credit control program was required to combat the high levels of non-payment and that many households did not have proper access to water and sanitation services. Numerous options to address these pressures were investigated and in June 1999, council resolved to commence negotiations with water boards to conclude the best options to effect efficient service delivery.

The Council decided to procure enhanced water and sanitation services through pursuing a short-term management contract too address its current management and credit control challenges. In December 1999, the Harrismith Town Council signed and MOU with Rand Water. This contract is a variation of traditional management contract and has as its main objective:

- The rendering of water services in an efficient and equitable manner
- The establishment of a ring-fenced service delivery unit dedicated to the task of ensuring and improving extended service delivery to consumers, promote effective management and improvement of the water services system and an improved financial structure for the service rendered.

The agreement received SAMWU and IMATU support.

In terms of the contract, the service delivery unit will be known as “Amanziwethu Services” and is responsible for the rendering o the water services and the operation and maintenance of the water services system as well as the revenue services in respect of all municipal services rendered by or on behalf of the municipality. The unit will be managed by Rand Water, seconded personnel, and operated by Council seconded employees.

The Council is liable for the active and responsible monitoring of the performance of Rand Water in terms of the contract obligations on an ongoing basis. In terms of ownership the Council retains ownership of the assets and remains responsible for raising capital to fund infrastructural projects all loans related to water services will be funded by the revenue collected for the provision of water services. The contract makes reference to ensuring that staff are trained and the is effective skills transfer in terms of the promotion from with and that empowerment criteria are met.

The above is the first public-public partnership of note in terms of Section 19(2) of the Water Services Act and constitutes a service delivery agreement under the section 76(b) of the Municipal Systems Act. The above contract received backing from organized labor and substantial funding from the MIIU.

### **Risks and Benefits of the Partnership.**

Some of the risks to Council include the following:

- The Council is responsible for any losses or shortfalls due to failure to set or review tariffs in line with cost associated with water services.
- The Council is responsible for raising additional capital for infrastructure development
- Payment of the contract fee is subject to the revenue flows of the new vehicle.

Some of the Benefits to Council include

- Improvement and extension of the present water and sanitation services in the region
- More cost efficient and operational efficiency in the provision of water services.
- Increased access to the operators' technical capacity
- Improvements in customer service and recovery of billings.
- Ring-fencing of the water and sanitation departments in to separate business units.

#### Risks and Benefits to Rand Water:

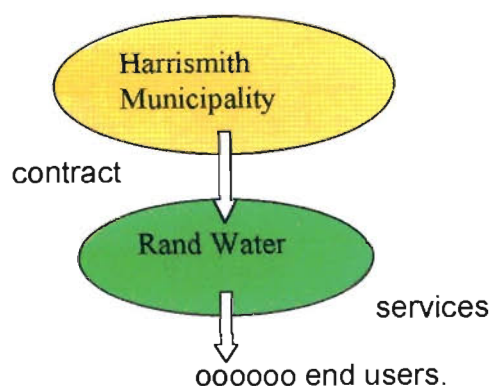
- Rand Water as a retail water services provider is responsible for any losses and shortfalls due to negligence, and would be liable for R1 million by Council if such arises.
- Rand Water is recognized as a retail water services provider and the contract offers it the opportunity to extend and improve its retail experience, and fulfill its legislative obligations.

In terms of cost the agreement between the parties took two years to negotiate a three year contract at great costs to Rand water and the Council and the MIIU. However, one has to take a view on this based on the savings realized and the local municipal water needs being realized.

The case study highlights clearly that partnership contracts are the way forward for local authorities to meet their pressing needs and service delivery backlogs. It highlights that municipalities must enter into contracts that are tailored to their particular goals and objectives to achieve their service delivery objectives and carefully feasibility and investigation must be exercised regarding the choice and approach of delivery, as not all approaches will provide the same benefits.

It is crucial that municipalities distinguish between full privatization, outsourcing, PPP's, public-public partnerships, management and service contract and leases, or concessions in terms of solving their delivery challenges. Too little in depth investigations in to options and analysis of the various mechanisms could lead to incorrect choices and lock Council into agreements that work against the overall goal.

A direct contractual Model



#### **Case Study 4:**

Cartagena, Columbia – Joint Venture in Water Service Provision

##### **Background:**

The Government of Cartagena in Columbia publicly owned and operated and managed the water utility for 35 years. By the end of this period the services levels diminished and water supply and sanitation coverage was especially poor in the poorer neighbourhood where local water supply sources were contaminated and presented a major health risk. The weaknesses of the Cartagena utility was typical of other utility providers in Latin America, characterized by chronic inefficiency, excessive political interference, poor maintenance and service delivery and weak commercial and financial management that precluded re-investment.

In response to this crises the local government authority liquidated the existing water utility and in its place created a mixed capital company called Aquacar to serve the city's 750 000 inhabitants. Acuacar is jointly owned by

the government of Cartagena, and Aguas de Barcelona, a Spanish provider of water services. This was in response to World Bank recommendations after numerous PPP models were considered. The new operator was awarded a 30 year operation and maintenance contract and assumed control of the system in 1995. According to the UNDP Report (1999), the City of Cartagena continues as the sole owner of the system, with full responsibility for funding any needed expansion. Aguas provides operating service and receives a fixed percentage of total revenues and divided distributions from Acucar's profits. The new company is regulated in theory by a national commission, but in reality the oversight responsibilities are blurred.

**The Contract:**

The procurement process involved a feasibility and decision making period and a selection period in terms of adopting the correct PPP approach. A bid process was initiated and was supported by competitive bidding and selection periods. The concession was eventually awarded to Aguas De Barcelona, a Spanish company with approximately 10 major urban water supply contracts around the world. Most people argue that the process was effected too quickly and that more time ought to have been spent in evaluating different options, especially in light of the volatile political environment. The contract also impacted adversely on job creation, and a staff of 1,300, was reduced to approximately 350.

**Performance and Achievements:**

The new company set high performance and efficiency targets and also shared responsibility with the District to raising capital to fund new investments. The contract obligations included the implementation of a cost

recovery rate, responsibility for technology transfer, including systems and software and specialized training for employees.

The new company has proven very responsive to its end users as opposed to the former utility, and it has also undertaken substantial investments in maintenance and rehabilitation. Overall the quality of water has improved with overall improvement in color and organic matter. There has also been improvements in overall production capacities and service coverage. The utility obtained additional funding for these improvements from the US Development Bank and a loan from the World Bank. As part of this funding arrangement the World Bank insisted on private sector participation as a precondition for further lending to the municipality of Cartagena, as the presence of an international partner constitutes a guarantee that its lending resources will be subject to allocative efficiency, and productive efficiency. (Plummer, 2002). The partnering with a major international player made it possible for the municipality to access soft loans from institutions for its expansion plans in meeting its social objectives. The stance adopted by the World Bank provided strong intervention to correct political manoeuvring on the part of some officials who were totally against the joint venture.

Columbia underwent one of the most far-reaching processes of decentralization in Latin America. Columbia moved from a system of centralized departmental government to devolving responsibilities of major functions back to local government. This includes responsibility for water supply, and sanitation, environment, maintenance of schools, roads, clinic etc. This process was undertaken in a very politicised environment and the implementation of reform was often unstructured and unplanned leading to social revolts and public campaigns. A new Constitution was adopted in

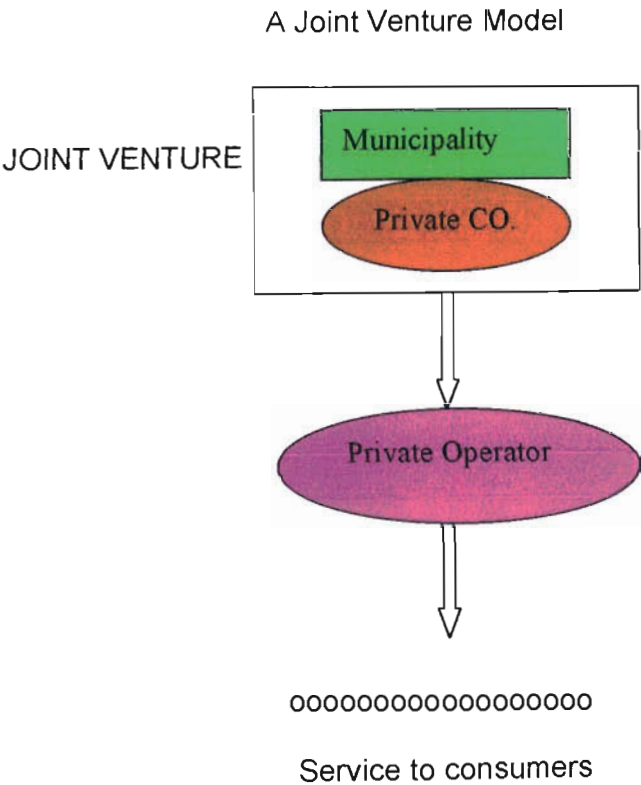


1991, and its over-riding concern was to build a participatory democracy and decentralized power back to layers of local government.

The reform of the public water service place strong emphasis of efficient delivery and promoted a market- orientated approach. Decentralisation created the scope within the state machinery to allow for localized services, management and private sector participation became strongly supported as a means to assist the demands of the new local structures to fulfill their mandates.

The Columbian approach has placed municipalities in a position where policies can be developed that are appropriate to the local context, ultimately allowing partnerships to explore innovative solutions and a range of service delivery options. For this nation, decentralization helped to create a favourable environment for the inclusion of private sector participation in service delivery. A new decentralization policy and legislative stance opened opportunities for an enhanced private sector role in the provision of what was originally cited and public domain.

This case study makes it quite clear that one of the most critical aspects of the external operating context for the success of PPP's is the regulatory framework. Plummer states, 'understanding this framework is essential as it fundamentally affects the who, and how of service partnerships, and determines to a significant degree, the capacity of a municipality to structure benefits for the poor. Such an environment critically affects the capacity of a municipality to attract



**Key Informant Interviews:**

What follows is the experience of ten people who were interviewed during the data gathering stage of the research process. They include officials and consultants attached to the main national PPP players in the country.

Each of the interviewees confirmed that local government faced significant challenges with respect to service delivery and that public private partnerships have a definite place in assisting government at both national and local levels to address its mandate with respect to service delivery. The option or choice of approach of public-private partnerships was viewed in terms of the benefits offered to the end users and in terms of how the partnership would achieve socio-economic goals and create sustainability in service provision.

The Municipal Infrastructure and Investment Unit saw great potential for the use of public private partnerships, but at the same time emphasized the need for municipalities and local government structures to develop credit worthiness. This capacity would assist the public sector to level the plains especially during the feasibility and negotiation phases. The organization sees its role and effecting a mandate to facilitate and leverage funds and developing a culture of enablement amongst municipal structures. The organization also recognizes the need for greater levels of customer awareness and education and preparation when a PPP is being considered in any given situation. This aspect has transpired on hindsight from the experiences with the Nelspruit Water concession. The Unit definitely sees a strong need for training and awareness with respect to the dynamics of PPP's and how they function, and also that greater energy must be channeled in this direction.

In addition , the MIIU believes that increasing awareness in the initial stages of the contract and also ensuring transparency in negotiation processes were key elements that need to be considered when dealing with organized labour. The latter were seen to be quite a strong force in the South African context. The MIIU believes that its has a role to play in ensuring that all stakeholders have a right to be heard and also to inclusion in the contract negotiation process. The MIIU advocates a strong developmental focus and socio-economic focus in its interpretation of how PPP's should be structured. In addition, the MIIU, sees as part of its overall mandate, the need to actively engage municipalities to become more aware to the benefits and opportunities presented by PPP's and more especially for Council's to endeavour in developing a sense of credit worthiness.

It was also highlighted that South African public private partnerships have been structured to ensure international best practices and the country has

done well to develop and legal framework to support the rapid emergence of this sector. The role of organized labour, was indeed a key factor in terms of how successfully a potential partnership is concluded and implemented.

The Industrial Development Corporation was contacted in order to obtain an understanding of the private sector perspective on the emergence and future of PPP's in South Africa. The IDC experience with PPP's has been somewhat different and much more focused. The Public Private Partnerships Model at the IDC utilizes the PPP model as part of their involvement in industrial infrastructure and project finance. Generally these partnerships are viewed in terms of business risk and contracts are generally structured towards shared risk taking . Project finance instruments are also adopted based on risk factors. Overall the IDC has adopted a return on investment approach when evaluating the PPP's as a policy or contract mechanism in a given project.

The IDC also views the current regulatory environment for PPP's as too complicated and there is a great need to simplify the process and make it more user friendly. It was stated that there is a definite need to define risk sharing more closely. As is the case in all partnerships, it is crucial to identify in large projects "who picks up the slack, as it currently stands this is the responsibility of government." It was advised there is a definite need to reach some middle ground in these aspects, and definitely this is an area that warrants more research. In addition there is a definite need to highlight the South African experience and implementers of the PPP approach need to structure these contract taking into account extraneous variable in the South African context and not aim to blindly implement models that have worked in the international context randomly and with out thorough due diligence.

In terms of the private sector, various consultants and professional were interviewed. Many of these worked directly on the Maputo Corridor and N3 Toll Road, whilst others were directly involved in other partnerships in and through Africa. One of the interesting aspects to come out was the need for a “Continental Regulatory Body” and a Nepad “Champion” . At present, many South African companies were seen to be entering into partnerships with other African local government structures as well as national structures. The parties to these contracts especially those in the private sector were seen to have no recourse and protection in terms of authorities that defaulted in terms of the rights and obligations of a said contract. The PPP model was seen as in its development stages in South Africa and was only just entering a mature phase. It was definitely not developed, as long as the traditional models of procurement. One of the main issues with PPP's is the need to be able to measure and apportion risk to the parties most qualified to manage such risk. There was a definite need to apportion risk appropriately.

Generally public-private partnerships were seen to have emerged in the South African context as a service agreement with diverse goals between the private sector and the public sector. There is definitely more scope seen for contracts based on performance orientated criteria , and partnerships in South Africa should aim to migrate towards performance and measurement related outcomes.

The benefits to the private sector were seen in terms of new business opportunities now being made available to the market and there is a need now for the private sector to become proactive in terms of seeking opportunities in terms of how to help government structures meet their service delivery objectives. More especially there is a need for the private sector partied to be involved in the total life cycle of the project. More especially the

point was made that in terms of partnering, the approaches adopted must be people driven and consultative and also the different parties must actively seek out 'project champions' and identify the right types of human resource to ensure that the partnerships are stronger and also beneficial. It was repeatedly emphasized that the 3 aspects of trust, team and communication were vital to the process.

The private sector wants a service and is not interested in acquiring a liability. The basis for PPP's as an economic tool must be seen in an environment of declining budgets. Government is seen the PPP approach as valuable as it provided the former with a tool to effect its service delivery objectives. There needs to develop a shared understanding between all stakeholders in the partnerships and currently the private sector is seen to suffer some level of discomfort as the public sector becomes conscientised to business practices.

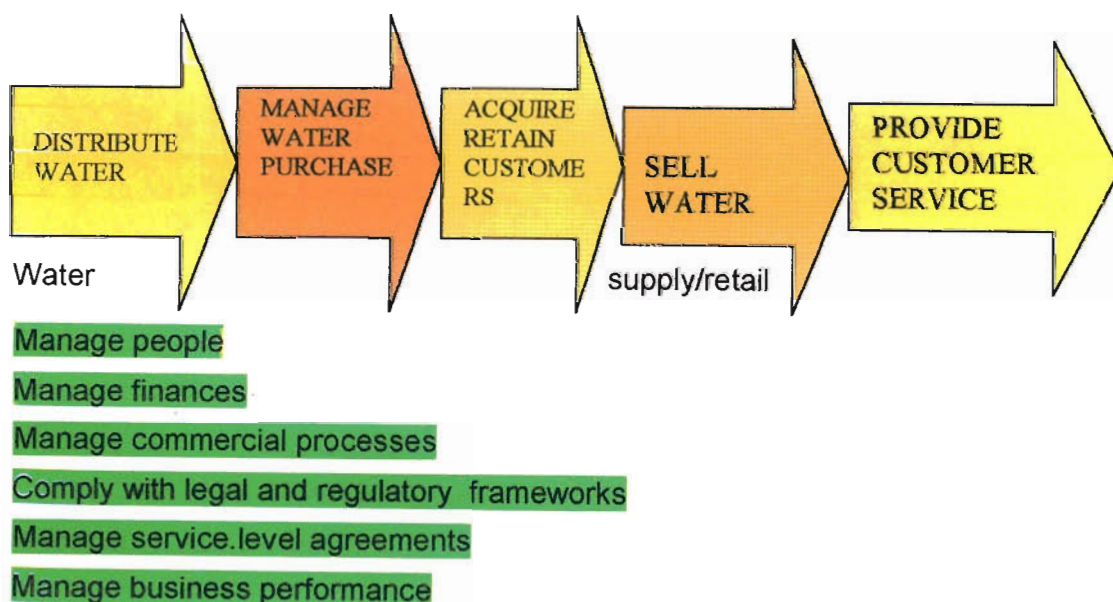
This has been a necessary outcome of PPP's as the concept of monitoring and managing potential partnerships becomes central issues. With PPP's it was made known that economic benefits are not immediately realizable and there is a definite need to monitor projects in order to measure their success from initiation to conclusion stages.

Overall all interviewees were in agreement that the public-private partnership option was indeed an appropriate approach and that if structured in a clear a clear, comprehensive, consultative and participatory manner, it is able to help both the public and private sector towards achieving the nation's socio-economic agenda for sustainable development and wealth creation.

#### Chapter 4: Analysis of Findings and Research Observations:

Much as there is no right or wrong approach to PPP, there exists no perfect model of a PPP contract, since each contract has to be tailored to fit local circumstances. However there are common experiences that have been tried internationally that could be used to measure any PPP contract against. In as much that PPP's differ throughout the world there exist some common attributes. In addition the value chain is a set of activities that an organization performs to create and distribute its goods and services, including direct activities, such as procurement and production, and indirect activities such as human resources and finance. According to Harvard Professor, Michael Porter competitive advantage is achieved when an organization links the activities in its value chain more cheaply or more expertly than its competitors.

A typical water distribution value chain is depicted below:



In the water distribution value chain, the primary functions include:

- Distribute water
- Manage water purchases
- Acquire and retain customers
- Sell water and
- Provide customer service

The Support Functions in the water distribution value chain are:

- Manage people: development and retention of skilled staff
- Manage finances: management of accounting activities
- Manage commercial processes: management of procurements.
- Comply with legal and regulatory frameworks: Adhering to legal requirements and industry standards
- Manage service level agreements: focuses on the compilation, negotiation and monitoring of service level agreements.
- Manage business/utility/municipality: performance based, and :consists of the business plan, negotiation of performance measures, and monitoring and feedback.

#### Distribute Water

The distribute water process deals with the creation, maintenance and management of the water network distribution infrastructure.

Manage Water purchases: Involves the acquisition of water through concession contracts or service contracts.



Acquire and Retain customers: This is focused on maintaining and generating revenues. This is achieved by extending existing services and attracting new revenues, by improving the services offered and monitoring each of the customer categories.

Sell Water: The sell electricity process involves connecting new customers to all the distribution network.

Provide Customer Services: This process is responsible for the resolution of customer complaints and problems.

The extent to which the local government authorities can reconfigure their value chain activities will promote capacity building and the use of best practice in the monitoring and effecting of successful PPP's.

Some of the best practices identified by Welck and Fremond (1998) include:

- Strong political support and leadership: In South Africa there exists strong political support and leadership in the arena of PPP's at a national level and at local levels. National PPP champions include Minister of Finance, and the State President, both of whom have repeatedly endorsed the role PPP's have to play towards securing more efficient and improved services.
- Transparency: In the cases examined, fulfilled this requirement by going out on open tender, and the bulk of the tender documents were based on contract specifications

- Public Information Campaign: International experience and the interview process revealed a major need to educate the public and organized labor to the benefits and dynamics of PPP operation.
- Efficiency and Effectiveness: IN all the cases described it was recognized that private sector intervention and partnering had positive impacts on the overall costs of service delivery.
- Reliability: This varies in different contexts and is seen as project specific.
- Quality: From the literature search large sums of capital were invested in the various projects to increase the reliability and frequency of services in the target areas.
- Accountability and Monitoring: This is a crucial aspect and lacks emphasis in South Africa. Many PPP partnerships are still in the initiation stages and it is necessary that active monitoring be effected in order to assess the impacts on a range of levels more accurately.
- Empowerment: In South Africa, some of the case experiences displayed strong empowerment ideals and community level participation. However in other situations it lacked greatly, such as Stutterheim.

All the case experiences demonstrate that in terms of the value chain, through engaging in innovative partnerships, the local authorities were able to confront their service delivery challenges and meet them in a quest to avert and halt paralysis in their communities.

One of the leading private sector providers of water services in the world is Lyonnaise des Eaux. Dr Ian Robson of this organization writes (as quoted in UNDP Report, 1999):

“The one thing for sure is that every contract and every location is different—due to different, environmental, psychological, technical, regulatory, historical and numerous other factors. What is regarded as acceptable or advanced in one place can be construed as exploitative and manipulative in others. Tools which are seen as ideal in one year, are almost certain to be superseded by technical, legislative, governmental, ethical, over the lifetime of a contract. Contracts are about living changing environments. They commence with the need to improve the existing situation but continue thereafter by maintaining improvement over the long-term in accordance with the host municipality’s ongoing wishes.

There is no prescriptive remedy that can be applied to the water sector. A process-orientated approach is more likely to succeed than a product-orientated one. In view of this rapidly changing environment, public private partnerships will have to be dynamic, open minded and participatory in order to identify, design, and implement solutions that will meet the needs of generations ahead.

From the literature review, observations of the case experiences, and the interview process the following key issues emerge:

- The Public Private Partnership model has been implemented in a very ad hoc fashion since the first contract were signed prior to 1994. These partnerships operated in a non-regulated environment. In view hereof, matters and issues that arose out of the contracts during the operative periods were often not resolved, due to a lack of understanding and weakness in terms of local officials who lacked financial, technical and strategic capacities and skills.

- The cases examined reveal a great lack of experience by municipal structures in terms of the modus operandi of PPP's
- However of positive note is the increased pace of acceleration and the evidence of increased partnering in and across all sectors to promote service efficiency and delivery. The observations reveal a sense of confidence in the use of PPP's by the private sector and the public sector. The new Standardised PPP Guidelines will promote greater investor confidence in the market and one anticipates an increase in PPP deal flows.
- What is of positive occurrence is that the bid processes in the cases examined appear to have been transparent, but this is subject to further exploration.
- The projects examined seemed to have a strong contractual obligation by all parties which seemed to have been imparted due to a commitment by project champions.
- The empowerment objectives of the contracts have not emerged to clearly and seem blurred in some instances, and needs further exploration in terms of actual gains received.
- Devolution of centralized planning authorities to municipal structures seemed to have had a positive impact on deal flows using PPP as an approach to engage the private sector.
- It was observed that extensive consultative and participatory interactions with affected communities was lacking, especially in Stutterheim and this needs to be more closely examined as to what the constraints are. Also these seemed to have emerged a lack in established communication links between the different stakeholders, especially with respect to organized labor.

- Projects such as Nelspruit seemed to have enjoyed a higher level of success due to the commitment of town officials and executives that functioned as project champions, and ensured the contract were carried through to completion.

## Chapter 5: Concluding Remarks:

The above study has demonstrated that much as in theory, a distinction is made between the different forms of PPP contracts, eg, service contracts, management contracts, leases, concessions etc. it would be prudent to also distinguish between partnerships involving the public sector and the private sector [Public-Private Partnership] and those involving the public sector and another public entity [Public-Public partnership]. The study aimed to demonstrate that municipalities in South Africa operate within an international context where a number of trends were identified. It was also demonstrated that the South African constitution, and various policies and various pieces of legislation were in line with international trends. The case experiences were seen to have followed international best practices and counted for good performance in terms of achieving the projects overall objectives.

There exists a vast opportunity for the emergence of the public-private partnership market. But in order to make total use of this approach as a tool to promote economic growth, national and local governments need to build capacity amongst their citizens, and local government structures. There needs to be skills transfer and development in terms of creating an effective regulatory and technical environment for the effective functioning of PPP's.

Also there needs to be an awareness that not all solutions are presented under the PPP umbrella, and it is vital to choose the right project to be successful.

For PPP's to succeed there needs to be commitment from all stakeholders, and especially high level leadership support and commitment. The presence of such drivers of change have often steered many a PPP to conclusion.

It is very crucial to incorporate transparency from the outset of the contracts and include the private sector and all other stakeholders in a participatory and consultative manner to ensure that PPP's are sustainable.

I conclude with a statement from the current Minister of Finance, Mr Trevor Manuel, at the launch of the Standardised PPP Provisions:

" That thing is of course really just the fact that we are serious about making public private partnerships work in South Africa. Deeply, profoundly serious.

The challenges we face – building and maintaining roads, rehabilitating our hospitals, streamlining the justice system, etc, are deeply serious undertakings. And so we seek to harness the resources, the project management capacity, the technology and knowledge, that resides in the business sector, in pursuit of these public purposes, we do so on the strength of legally secure, financially sound, forward looking affordable, cost effective, transparent contracts. Too often in too many countries in too many projects, weakly specified contracts have led promising partnerships into conflict, contestation, failed services, unmet targets, unpaid bills, and court proceedings. Hope has ended in disillusionment. Opportunity has ebbed away. The poor have ended up paying for services they do not receive. Business sector growth prospects have withered and died. We will not go down that route."

## **Semi-Structured Interviews: Questionnaire**

1. What is your organisation's involvement in the public-private partnership sector? I am particularly interested in the dynamic of establishing PPP's in the water sector and how these have been effective and implemented?
2. What do you believe are the benefits and opportunities presented by PPP's in the water sector ?
3. What do you believe are the most important things that the public sector brings to a partnership?
4. What do you believe are the most important things the private sector brings to a partnership?
5. What rights do these parties expect from each other in terms of performance and obligation?
6. What has been the role of government and the regulatory environment in promoting growth in this sector, and how effective has this been?
7. What do you believe the potential of PPP's is in SA, and can they make a difference?
8. What economic and regulatory environments would contribute to their more effective implementation?
9. How sustainable are these actions?
10. What challenges do you foresee in the effective implementation of PPP's in your projects?
11. Briefly describe the implications of the private sector desires to fund particular types of ppp's eg water concessions as opposed to others?



12. What has your experience in the establishment of PPP's in the water sector been? Can you describe some examples.
13. What do you believe the future for this sector is?
14. Are there any specific PPP models you recommend in terms of your organization's experiences that seem to have consistent success rates?

## Bibliography:

Ambrosini, V. et al.1998. "Exploring Techniques and Analysis and Evaluation in Strategic Management." Prentice Hall. Europe.

Ashira , 2001 – Case Study – Amanziwethu Services written by K.van der Merwe and J Ferreira.

Barry M Jackson. (1997). Private Sector Participation in South Africa's Water Sector – Washington DC – Sept. 1997.

Bennet, E.B.(1998) Public Private Coopertion in the Delivery of Urban Infrastructure Services (Waste and Water), Yale –UNDP PPP.

Bryson ,J.M. and Crosby, B (1992) Leasdership for the Common Good, San Francisco: JoseyBass.

Cebulla, A (1996) Making Partnerships Work, Whose City? – Visions of Belfast, Fortnight supplement No. 348. in Greer,J. 2000. "Partnerships and Public Policy: Implications for the Future Governance of Ireland." In Montanheiro quoted below.

Chege, L – recent trends in Private financing of Public Infrastructure Projets in SA. Undated.

Chege, L and Rwelamila, P.D. (2000) Risk Management and Procurement systems – an Imperitive Approach. Proceedings of the CIB W92 Symposium Chile April 2000.

Cooper, Donald.R. and Schindler Pamela,S. 2003. "Business Research Methods" 8<sup>th</sup> edition. McGraw Hill. Singapore.

Darwin, John (1997). "The partnership mindset, in L,Montanheiro et al (1997) "Understanding Public and Private sector Partnerships, pp23-40." SHU Press: Sheffield UK.

Eweg.M.J. and Owens Michelle E. "A Public-Private Partnership for Extension Delivery in South Africa. 2002. Washington

Firman,T.and Dharmapatni, I. (1994). "The challenges to sustainable development." Habitat International. 18(3), pp 88.

Goetz, Edward G. (1993) Comparative Urban Politics in a Global Era, pp199-200.

Kerf Michel and Smith Warrick. (1996). "Privatising Africa's Infrastructure – Promise and Challenge." World Bank Technical Paper. No. 337 Africa Region Series.

Keynote Address: Private Sector Launch of the Standardised PPP Provisions – Pretoria May 2003 – Minister of Finance, Trevor Manuel , Minister Of Finance SA.

L. J. Abrams. Water Policy Development in South Africa – Paper Presented at Cranfield International Water Policy conference, Cranfield University Bedford UK, September 1996.

Lewis M K : Public Private Partnerships : MK Press PPP's (22-1-01)

Lucy W Chege (2000). Private Financing of Construction Projects and Procurement Systems. An Integrated Approach. Paper No. 259 New Zealand.

Mansoorian ,A and G. Meyers. "Private sector versus public sector externalities." Regional Science and Urban Economic. 26.1996.543-560.

Montanheiro,L and Linehan M. 2000. "Public and Private Sector Partnerships: The Enabling Mix." Sheffield Hallam University Press, Sheffield.UK.

Nelspruit Water Concession – A Public Private Partnership Case Study as published by the National Business Initiative – NBI PPP resource center. Nov. 2000

Nickson Andrew.(2001) . Working Paper 44203 "Establishing and Implementing a Joint Venture – Water and Sanitation Services in Cartagena, Columbia. GHK International. London

Partnerships : 2<sup>nd</sup> Quarter 1999 Vol 2

Partnerships Vol 15: March 2003

Partnerships Vol.9: July 2001 – various articles.

Partnerships: 3<sup>rd</sup> Quarter 1999 vol3

Partnerships: Ist Quarter 1999 Vol.1

Plummer, J. 2002. "Focussing Partnerships – A Sourcebook for Municipal Capacity Building in Public-Private Partnerships." Earthscan Publications Ltd. London.

Plummer, Janelle (2000). "Working Paper 44201. Favourable Policy and Forgotten Contracts – Private Sector Participation in Water and Sanitation Services in Stutterheim, South Africa. GHK International London.

PPP Quartely issue 9: December 2002.

PPP Quartely September 2001 – No. 4

PPP Quarterly – PPP's June 2003 No. 11.

PPP Quarterly December 2001 – No.5.

PPP Quarterly June 2002 No. 7

PPP Quarterly March 2002 No.6

PPP Quarterly March 2003 Number 10.

PPP Quarterly September 2003 Number 12

Public-Private Partnerships. "A Manual for South Africa's national and provincial government departments and Schedule 3 public Entities.

Republic of South Africa: Government Gazette. 20 November 2000. No.21776

Rudestam, K.E. and Newton, R. 2001. "Surviving your Dissertation" 2<sup>nd</sup> Edition, Sage Publications. USA.

Sindane, J. (2000), "Public-Private Partnerships: Case Study of Solid Waste management in Khayelisha – Cape Town." In Montanheiro, L (2000)

Standardised PPP Provisions – Private Sector Draft – as issued by the PPP Unit – National Treasury Department. – 1st issue – May 2003.

Thompson A., and Strickland, A.J. (2003). "Strategic Management – Concept and Cases." McGraw Hill, New York.

UNDP – PPPUE Conference Paper Series, Vol. 111 – Bonn, Germany (1999)

UNDP – PPUE Working Paper Series Volume 1 – Bennet, Grohmann and Gentry. New York 1999.

UNDP – PPUE Working Paper Series Volume 11 – Joint Venture Public Private Partnerships for Urban Environmental Service – 1995-1998.

UNDP. – PPPUE Conference Paper Series Volume 1 – Internet Conference Report 1998.