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Making PPP legal frameworks fit for post-COVID-19

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Authored by: Christina Paul

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The current COVID-19 crisis has strained infrastructure projects globally, and in particular public-private partnerships (PPPs), at all stages and in all sectors—with implications for governments, providers of infrastructure assets and services, their financiers, and end-users.

While all players share a common goal: to prevent the failure of PPP programs and projects, actions taken so far have often been ad hoc and focused on remedying the pandemic's effects in the short term. In many cases these included, for example, making use of customary relief mechanisms under PPP contracts as well as arrangements between governments, sponsors, and lenders to come to practicable temporary solutions and avoid disputes.

But, six months into the pandemic it's clear we're in this for the long haul. [There's now a need to move beyond short-termism and address holistic implications for the PPP model itself and infrastructure development more generally.](#) It's time to start contemplating and actively designing measures that account for the long-term implications of COVID-19 on PPP programs.

For governments this necessarily includes taking a closer look at their current project pipelines and enabling policy, legal, and institutional environments. Are they fit for better mitigating future similar crises given the likelihood of PPPs being particularly affected due to their long-term nature? [Do PPP legal frameworks in](#)

[particular merit adaptation to enable greater resilience of PPP structures to external shocks?](#) The way in which both portfolios and PPP frameworks are revisited will have an important signaling effect to the private sector and ultimately determine investors' and financiers' interest in re-entering markets in a post-COVID-19 world.

An opportunity to build better for the future

[When beginning to think about corrective strategies for the long term, the pandemic—though grave in its impacts—holds a major opportunity to advance better PPP enabling frameworks going forward.](#) We will undoubtedly learn important lessons during mitigation and recovery phases that can improve PPP programs. For instance, we already know that short-term actions taken by governments so far appear to have been particularly successful when they consulted with all relevant stakeholders prior to their issuance. They did well to mobilize the relevant ecosystems and ensure sufficient clarity and flexibility in applying these measures.

Importantly, [the impacts of the COVID-19 crisis have highlighted certain critical aspects under PPP policy and legal frameworks that underpin the preparation and implementation of good-quality and sustainable PPP projects.](#) These include:

- A PPP definition that allows the kind of private sector innovations that may inform and help future handling of crises and external shocks like the current pandemic. Likely changes in project priorities that may need to be reflected comprise a shift towards more activity in the health care sector and PPPs related to digital development.
- Solid public investment planning and strengthened rules for fiscal treatment of PPPs to better deal with the type of emergency situations currently faced and resulting fiscal risks.
- Robust project preparation that underscores sustainability and resilience of any considered project. Specifically, impacts of large-scale disruptions will need to be factored into respective feasibility studies, including risk assessments and financial models.
- Procurement processes and metrics that contribute to achieving greater resilience of PPP projects and measures.

The [Practice Note on PPP Legal Frameworks Post-COVID-19](#) recently released by the World Bank's Infrastructure Finance, PPPs & Guarantees group (IPG) aims at exploring these issues and more that merit consideration when assessing PPP enabling frameworks for their fitness in a post-COVID-19 era. We held a webinar to discuss the note that was well attended and brought robust discussion; watch it here if you missed it.

To further advance global discussions in this context and assist governments in revisiting PPP frameworks, we'll also develop a practitioner's tool that identifies key provisions of PPP legislation and highlights those elements critical for building resilience in PPP structures.

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