WORKSHOP ON CORPORATE ACCOUNTABILITY, PUBLIC PRIVATE PARTNERSHIPS AND WOMEN'S HUMAN RIGHTS

Addis Ababa, May 26th and 27th, 2019
Organized by: DAWN (Development Alternatives with Women for a New Era)
Co-Sponsored by CODESRIA

SUMMARY REPORT

A group of 33 researchers and activists gathered in Addis Ababa, May 26th and 27th 2019, for a Workshop organized by Development Alternatives with Women for a New Era (DAWN), with the co-sponsorship of CODESRIA. They participated in an exchange of ideas and experiences on corporate accountability, public-private partnerships (PPPs) and women's human rights, with a focus on extractive industries, social services provisioning and infrastructure in Africa. The workshop was two days of highly intensive debate through a mix of formal presentations, plenary discussions and group work. Participants shared their knowledge on conceptual, economic and political aspects of PPPs, concrete experiences from the field and main challenges ahead including what a feminist framework to PPPs should look like. Following is a summary of the discussions and main insights for DAWN's future work.

CONCEPTUAL ELEMENTS AND AFRICAN CONTEXT

Research on PPPs has expanded recently in the intersections of financing for development and corporate accountability/capture. Public Private Partnerships are interpreted in different ways but are commonly categorized into: i) long-term contracts between the private sector and the State; ii) private sector participation at different stages of the contract (design, implementation, provision, financing, etc.); iii) the public sector sets objectives, regulates and monitors; iv) some form of risk sharing between the public and the private sector; and v) ownership returns to public sector.

While transnational corporations and big national companies are the most common private sector actors in PPP contracts, the extent of this type of arrangement to the provision of social services has now expanded to include the advent of philanthropic organizations (that in many cases are connected to corporations). This requires an expansion in thinking and analysis to determine the motives of these entities. The roles of UN agencies, regional development banks and international financial institutions are also extremely relevant and must be incorporated in our analysis.

In this sense, it is important to locate the discussion on PPPs in the broader context of the World Bank "maximizing financing for development" (MFD) approach that has led to "leverage solutions that connect and coordinate the public and private sectors. As well as part of the billions to trillions strategy, which is based on the following principles: i) the use of public money to leverage or catalyze private sector investment (especially long term institutional investment); ii) the commitment to build "pipelines" of "bankable" projects, with emphasis on megaprojects; and iii) improving mechanisms to quickly replicate PPPs, also through developing standardized clauses in PPPs contracts, information disclosure requirements, procurement, risk mitigation, etc., as well as updating countries´ legal and financial regulations.

The last step in this process is the proposal of the G20 Eminent Persons Groups (EPG) of securitizing the projects´ future revenue streams from the "pipelines" of projects and bundling them into tradable assets on financial markets. This is part of the so-called Wall Street Consensus (that can be understood as replacing or continuing the Washington Consensus). G20, Continental Business Network, Multinational Corporations and Corporations captured by the financial sector/pension fund investment are key actors of this process.

Whilst promoters of PPPs highlight their potential for mobilizing resources and funding development projects, evidence-based research brings more critical information to the contrary. Some confirm that PPPs are beneficial, but those assessments are mostly done according to business models and not from the frame of how PPPs impact people.

In many cases PPPs are more costly over the long run because of contingent liabilities and because ultimately it is the State that is responsible if something goes wrong. PPPs are a debt creation mechanism, which more often than not is hidden through financial engineering techniques. It is a way that States are accumulating debt, which will have a detrimental effect on the people for generations to come.

There is also little evidence that PPPs end up being more efficient than traditional public investment.

It is very unclear in which ways PPPs are meeting the requirements of competition. In fact, in many cases PPP contracts often include clauses that prevent competition, therefore limiting the potential for efficiency.

PPPs also produce negative impacts in terms of inequality, by reducing access of poor people (mostly women) to basic infrastructure and social services. PPPs profit-led nature can lead to poor working conditions for PPP workers. In most cases, there is a lack of transparency and accountability largely due to secret contracts and off budget procedures.

Advancement of PPPs may also be seen as a threat to State sovereignty, not only because they set up the agenda for policy priorities, but also because they restrict the State´s capacity to act in the best interests of their citizens. For example, PPP contracts include clauses that force governments to compensate the private sector for any change in laws that impact the project, even when those changes are made to protect citizens. Sometimes there are also clauses included to compensate companies for particular events, for example in the case of strikes or protests. States are then pressured to make a decision between paying compensation to the private sector or to stop the protestors, who could be seeking to protect citizen's rights, by using security forces.

There is also a political dimension to the PPPs framework, which directly relates to democracy and has to do with governance and political participation. At times governments employ a PPP strategy to "win elections" that supposedly includes space for citizens´ participation, but which is often a capture of civil society in the name of democracy and sometimes even feminism. It is therefore important to ensure that transnational corporations and multilateral institutions take into account feminist analysis without having it captured.

These discussions are greatly relevant in Africa, a continent with a historical role of private sector in investment infrastructure and where government austerity programs have led to a persistent reduction of available public resources. PPPs are the current phase of a long-standing privatization process, which the World Bank Group and other development agencies are heavily pushing. PPPs are also being used as a justification to say that they are essential in order to achieve SDGs -- and African States are supposed to be facilitating PPPs. Not only are they getting support from African governments, but also from institutions which in the past stood for a pro-Africa agenda – e.g. AU, UNECA (UN Economic Commission for Africa) and the African Development Bank.

The current revival of PPPs in Africa is linked to another new phenomena, which is the sharp increase in leveraging donor funds to make private investment more attractive and less risky, in what has come to be known as 'blended finance'. This is where donors support powerful corporations bidding for contracts in developing countries, which then counts towards development assistance, resulting in enormous implications for countries dependent on this type of assistance. The most glaring change in terms of the resurgence of PPPs in the region is the return of investment in mega projects. Between 1990 and 2011 there was $120 billion involved, mostly in telecommunications, transport and energy.

This continued focused infrastructure development is seeing the building of dams, regional expressways/highways and transboundary water resources – e.g. Power Africa, a US motivated investment which is supposed to facilitate new electricity connections on the continent. These investments have in the past had disastrous outcomes and disastrous impacts on peoples' livelihoods in Africa.

On social services, the focus in the region has been on health and education projects led by donors and philanthropic organizations. In the health sector, philanthropic organizations are taking over health services, pushing on the types of health issues that they think should be prioritized, and narrowing it to areas that are quantifiable or measurable. For instance, the focus is heavily on maternal health whilst the broader issues of health for women are being ignored. Similarly, donors and philanthropic projects in education, especially those focused on girls, have been supporting a trend towards privatization of school systems. In the region, PPPs in general, and in social services in particular are, as a consequence, resulting in increased social inequalities.

The importance of having an evidence-based feminist analysis of PPPs is clear. Three areas appear of special relevance to develop such an approach. These areas have a direct impact on women´s lives and opportunities: i) infrastructure (including sanitation and infrastructure needed for energy and water production and distribution); ii) social services (including health, education, energy and water provision) and iii) PPPs projects in extractive industries (or connected to them). Interlinkages between these three areas are also relevant and need to be addressed.

PPPs AND INFRASTRUCTURE

This is the sector in which the narrative on PPPs has been promoted most heavily. This narrative claims that public resources are too scarce for adequate infrastructure investment. Therefore, key actors (G20, Multilateral Development Banks, etc.) have implemented new strategies to mobilize public resources (including ODA) to "de-risk" or leverage pools of private investment, especially for energy, transportation, water and ICT infrastructure, which facilitate trade.

Global infrastructure needs an estimated US$5-$6 trillion of investments each year in the four sectors mentioned above, resulting in a yearly gap of US$2-$3 trillion. In Africa, the UN Economic Commission for Africa (ECA) says US$170 billion per year is needed, with a financing gap in the range of US$68-$108 billion a year.

The main actors in PPPs in infrastructure are the G20 who set the framework; the World Bank which finances projects, advises governments, and develops policy guidelines on how to develop PPPs at country level; and bilateral donors who export the PPP model, which has failed domestically, and now only serves to benefit companies in the global North. The UK is an example of this double standard. In 2018, the UK Parliament stopped PPPs at the domestic level, however, there is still no accountability of UK companies in PPPs contracts secured outside the UK; global civil society has been left with the responsibility to hold them accountable.

There have been changes in laws and policies at the national, regional and global levels to enable the private sector to participate in PPP projects. In many cases, this has been done in the name of partnerships that will, at some point, develop the SDGs.

It is also clear that the key actors mentioned above frame PPP provisions in their favour. For instance, the revised version of the 2017 World Bank Group report (WBG) document which provides guidance on PPP contractual provisions favours investors over the public sector/citizens. Some of the clauses in the document clearly illustrate this:

- the section titled “change in law” obligates governments to compensate a PPP investor if - after the bidding stage - there is any change in the law that increases the investor’s costs.
- the provisions also undercut democracy by requiring governments to compensate the investor for the costs of project delays arising from citizens’ protests or obstruction of a project or workers’ strikes. Therefore, militarization of areas where PPPs infrastructure projects are developed is a common feature.

PPPs AND SOCIAL SERVICES

The promotion of PPPs in social services should be understood to have come about from many years of public budget restrictions in these areas, as well as from two persistent trends: i) towards the marketization of most aspects in life and ii) towards privatization of health and education provisions. This reflects the shift of education and health from rights to markets.

The analysis of PPPs in health and education would need a more flexible and broader definition, since in many cases, this involves not only corporations, but also donors and philanthropic organizations (the last ones being in many cases corporations-related). In any case, the core issue remains: the role of the private sector in the function of the State.

The presence of these private actors in leading projects in these areas is shaping the agenda of governments. This takes us to the issue of priorities, which are set more towards private actors’ interests than on people´s needs. PPPs in social provisioning involve not only social infrastructure (the building of schools or hospitals), but also the provision of the services themselves.

Therefore, content of education is also framed by private actors. Our analysis so far has been on access to education, without looking at the ways in which the education sector produces workers for WTO, PPPs, and corporates. What is being taught in African schools and universities is not an understanding of the region and its needs but rather the providing of education for business. The

question is, for what purpose is global financing for education provided and how does it impact the space for public accountability.

Given the need for these PPPs to produce concrete outputs, they often have a narrowed outlook and only monitor areas that are measurable. For example, in the education sector the trend in the region is focused on how many girls are enrolled rather than the quality of the education they receive. The whole issue of measurability is debatable: what is measurable, whose framework are we using, how do we measure women's lives? In addition, as these projects prefer to hire un-unionised teachers, this can also become problematic.

In many cases the actors in the health sector create parallel health systems to avoid dealing with existing public health systems, disregarding the structural causes of health issues, undermining public services and access to health protection.

PPPs in health provision are highly relevant for women´s lives, as on the one hand they can improve access to health care services whilst on the other, they can restrict it, therefore increasing inequality. This is the case not only when there are explicit fees for users, but also because there are often hidden costs for accessing the services with the State also having to bear the additional costs in providing these services.

PPPs AND EXTRACTIVE INDUSTRIES

There is a strong connection between PPPs in infrastructure and extractive industries. Many infrastructure projects are developed to serve extractive industries (such as roads, harbors, energy provision, etc.).
In many cases, extractive companies are replacing the State in the provision of social services, especially in areas where they have a direct interest, to guarantee workers' health. In some cases companies are using the platform of Corporate Social Responsibility (CSR) to shift to PPPs. There is a shift from philanthropy to more direct forms of social investment in a manner that is also complimentary to the interests of the extractive industry. The strategy now seems to be that of disposing of the current CSR model and moving towards interventions focused on integrating local enterprises as a form of PPPs.

Thus, the approach of PPPs in the extractive sector appears to intersect with all that has been discussed above and it is important to make these interlinkages explicit within a feminist approach to PPPs.

The role of IFIs is again highlighted here, in particular that of the World Bank, which played a historical role in promoting extractivist development models. Whilst they may not be directly funding the extracting, they are funding all the infrastructure needed for the extractives sector to flourish. Mega infrastructure projects such as mega-corridors can be understood as extreme infrastructure for the purpose of accelerating extractivism.

Thus the impacts of PPPs overlap, including the impacts of extractivism, especially by way of women´s rights abuses: land displacement, increased unpaid care work and the criminalization of women´s rights defenders.

TOWARDS A FEMINIST APPROACH TO PPPS AND WOMEN´S RIGHTS

A feminist approach to PPPs is needed in order to produce sound analysis that can inform advocacy and activism needed to challenge dominant narratives; to resist the negative impact of PPPs on women´s human rights; and to claim regulatory frameworks and institutions. Such an approach should be an integrated one, that:

i) applies a situated perspective, that locates the analysis at the crossroads of development strategies, corporate capture and social norms;
ii) identifies all relevant actors, including private sector, public sector, IFIs, academia, trade unions, social, women´s and feminist movements;
iii) considers all relevant legal frameworks (at national, regional and global level) and makes it clear they must be rights based, must balance shared responsibilities between the public and private sector, and are participatory and inclusive, including of citizen´s monitoring;
iv) builds a feminist perspective on efficiency and effectiveness, as well as on transparency, accountability and participation;
v) takes into account the impact of PPPs including: the availability of relevant data and indicators to produce gender sensitive analysis; the financial strategy developed in each case; consider not only gender, but also social, economic and environmental impacts; review impact on coverage but also on quality of provisions; take into account women workers conditions in PPPs; include the living experience of women as workers, users or populations affected by PPP projects;
vi) considers governance as a key element and a crosscutting issue, and takes into account PPPs influence in democratic life, including outsourcing of policy making, influence in elections, as well as civil society cooptation;
vii) takes extraterritorial accountability into consideration.

This is a politically sensitive agenda that requires careful strategizing on how to both resist as well as advocate. Advocacy experiences up to now (both with IFIs as well as with governments) have not been very effective. Instead, the public arena seems to be more receptive and this is key to building citizens' conscience on these issues. When there is public awareness and public complaints, IFIs and governments pay more attention.

Sound analysis on PPPs might also nurture existing feminist advocacy and activism. For example, case studies can be brought into the work with the Treaty Bodies (CEDAW, ESCR) as well as in the process towards the Binding Treaty for TNCs and Human Rights. It would also be useful to think about bringing cases from the global South to challenge governments in the global North, especially as some of the governments from the North are restricting PPPs nationally. This could be a way to start making them accountable for what their companies are doing in the South through PPPs projects.

A better understanding of PPPs and their implications is key for building a transformative feminist agenda at the global level.