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Corporate Responsibility and Women's Human Rights: A Feminist Analytical Approach to Public-Private Partnerships

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**Corporate Responsibility and Women's Human Rights: A Feminist
Analytical Approach to Public-Private Partnerships (PPP)**

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Key words : public-private partnership – corporate responsibility – women's rights

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Summary

Since the 2000s, development strategies have placed particular emphasis on infrastructure as a mechanism capable of initiating production and attracting investment. Since 2014 this has been reinforced by the development strategy based on the Plan Sénégal Émergent (Emerging Senegal Plan) PSE, which has made it possible to implement priority economic reforms and investment projects opening the way to growth while preserving the economy and debt viability. Financing is a major problem, in the face of the breathlessness of the budgetary machine and the constraints of compliance with a rate of indebtedness in conformity with convergence criteria. This context rendered resorting to public-private partnerships unavoidable.

Senegal has relied on an attractive regulatory and institutional framework to make Public-Private Plans (PPP) a privileged means of financing while respecting social equilibrium. Unfortunately, the system has not been as effective in preventing the inefficiency of private action and respect for women's human rights and the environment. The case of the construction of the toll motorway has shown the limits of the PPP model, through the relative high cost of infrastructure, the loss of human life and the prejudices suffered by displaced persons, especially women. The case also points to the additional efforts required so in order to reduce their risks and negative impacts.

Even if victims' vigilance and protests allowed for better care, the Corporate Social Responsibility (RSE) policy of the executing company played a major role in taking women into account. Otherwise, gender aspects were only taken into account through the treatment of vulnerable groups to protect them from economic precarity after their displacement from the infrastructure area.

Thus, the recommendation to mitigate the risks cited above requires that equity, equality, and gender issues be taken into account in the RSE policy of the private partner and especially in the regulatory and institutional framework at the government level, through gender representation.

Acronyms and Abbreviations

AFD : Agence française de développement / French Development Agency
AIBD : Aéroport international Blaise Diagne / Blaise Diagne International Airport
AJS : Association des juristes sénégalaises / Senegalese Women Lawyers Association
ANSD : Agence nationale de la statistique et de la démographie - National Statistics and Population Agency
APDD : Autoroute à péage de Dakar - Diamniadio / Dakar - Diamniadio Toll Motorway
APIX : Agence nationale chargée de la promotion de l'investissement et des grands travaux / National Agency for the Promotion of Investment and Major Works
APROFES : Association pour la promotion de la femme sénégalaise / Association for the Promotion of the Senegalese Woman
ALVF : Association de lutte contre les violences faites aux femmes / Association for the Fight against Violence against Women
ARD : Agence régionale de développement / Regional Development Agency
BNDE : Banque nationale pour le développement économique / National Bank for the Economic Development
CEDEAO : Communauté économique des États de l'Afrique de l'Ouest / Economic Community of West African States (ECOWAS)
CEDEF : Convention sur l'Élimination de toutes les formes de discrimination à l'égard des Femmes / Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)
CET : Construction-Exploitation-Transfert / Construction-Operation-Transfer
CNAPPP : Comité national d'appui aux partenariat public-privé / National Committee for Support to Public-Private Partnership
COSEF : Conseil sénégalais des femmes / Senegalese Council of Women
CP : Contrat de partenariat / Partnership Contract
DASP : Direction de l'appui au secteur privé / Private Sector Development Department
DDSP : Direction du développement du secteur privé / Private Sector Support Department
DFPPP : Direction des financements et des partenariats public-privé / Public-Private Partnerships Financing Department
DPES : Document de politique économique et sociale / Economic and Social Policy Document
DSDEF : Document de stratégie pour le développement de l'entrepreneuriat féminin / Strategy Document for the Development of Female Entrepreneurship
DSP : Délégation de service public / Public Service Delegation
DSRP : Document stratégique de réduction de la pauvreté / Strategic Poverty Reduction Document
ESAM : Enquête sénégalaise auprès des ménages / Senegalese Household Survey
FAFS : Fédération des associations des fédérations féminines du Sénégal / Federation of Women's Associations of Senegal
FCFA : Franc CFA / CFA Franc (originally Franc of the French Colonies in Africa. After independence, it became the Franc of the Financial Community of Africa).

FONGIP : Fonds de garantie des investissements prioritaires / Priority Investments Guarantee Fund

FONSIS : Fonds souverain d'investissement stratégique / Sovereign Strategic Investment Fund

GELD : Projet Équité de genre dans la gouvernance locale / Gender Equity Project in Local Governance

GREFELS : Groupe de recherches sur les femmes et les lois au Sénégal / Research Group on Women and Laws in Senegal

IDE : Investissements directs étrangers / Foreign Direct Investment

ISE : Indice Institutions sociales et égalité homme-femme / Social Institutions and Gender Index (SIGI)

IDG : Indice de développement de genre / Index Gender Development Index (GDI)

LPS/PME : Lettre de politique sectorielle des petites et moyennes entreprises / Sector Policy Letter for Small and Medium-Sized Enterprises (SPL/PME)

OCDE : Organisation de coopération et de développement économiques / Organisation for Economic Co-operation and Development (OECD)

ODD : Objectif du développement durable / Sustainable Development Goal (SDG)

ONP : Observatoire national de la parité / National Observatory of Parity

ONU : Organisation des Nations Unies / United Nations Organization (UNO/UN)

PAP : Plan d'action prioritaire / Priority Action Plan

PAR : Plan d'action de réinstallation / Resettlement Action Plan

PAS : Programmes d'ajustement structurel / Structural Adjustment Programmes

PIB : Produit intérieur brut / Gross Domestic Product (GDP)

PME : Petites et moyennes entreprises / Small and Medium-Sized Enterprises (SME)

PNUD : Programme des Nations Unies pour le développement / United Nations Development Programme (UNDP)

PPP : Partenariat Public-Privé / Public-Private Partnership

PPTE : Pays pauvres très endettés / Heavily Indebted Poor Countries

PSE : Plan Sénégal Émergent / Emerging Senegal Plan

RGE : Recensement général des entreprises / General Business Census

RSE : Responsabilité sociétale de l'entreprise / Corporate Social Responsibility

SCA : Stratégie de croissance accélérée / Accelerated Growth Strategy

SDE : Sénégalaise des Eaux / Senegalese Water Board

SNDES : Stratégie nationale de développement économique et social / National Strategy for Economic and Social Development

SNEEG : Stratégie nationale pour l'équité et l'égalité de genre / National Gender Equity and Equality Strategy

SONES : Société nationale des eaux du Sénégal / Senegalese National Water Company

UEMOA : Union économique et monétaire ouest-africaine / West African Economic and Monetary Union

Introduction

Development requires a reduction in inequalities in addition to growth. In Senegal, since 2014, growth rates have exceeded 6%. However, poverty remains recurrent and deepening, for some, thereby undermining poverty reduction programmes and calling official statistics into question. The reconciliation of growth efforts with the achievement of development and poverty reduction are often compromised by social inequalities in the consideration of disadvantaged layers and therefore social inclusion and an optimal distribution of resources for domestic growth at the national level, not to say extroverted growth.

Since the 2000s, development strategies have placed particular emphasis on infrastructure as a mechanism capable of launching production and attracting investment. However, (1) the economic and social situation in the country, coupled with (2) a fragile financial fabric insufficient to meet financing needs and (3) a recurring budget deficit, pose a significant problem of financing development projects and programs.

The world economy is tending more and more towards globalization, both economically and financially. Indeed, the concentration and financialization of global capital have made it possible to meet the financing needs of States, constituting an essential alternative. The liberation and privatization of production entities have taken the upper hand. Private companies have thus strengthened their position of power over other actors (Rodriguez, 2009). The arbitrage between public and private interests often turns to the advantage of private companies, in the face of the State's inability to regulate them, threatening human rights, social inclusion and the reduction of inequalities.

Senegal has designed its development strategy on the promotion of national and international private investments. In the process of upgrading its structuring infrastructures, the government has chosen, within the framework of its new policy, a liberal economy oriented towards public-private partnership (PPP) as an infrastructure financing mechanism. The PPP sounded like a requirement facing the challenges of over-indebtedness and compliance with the convergence criteria in this direction.

However, PPPs have the advantage of: (1) solving the problems of the State's limited financial resources, (2) reducing the inefficiency of the State in the design and implementation of works and the offer of services and (3) fostering the integration of innovation, technology transfer and capacity building. For all these reasons, they have been promoted as the most appropriate means of financing development objectives. However, in most cases, financing PPP projects turns out to be more costly for public finances than bank borrowing or issuing bonds. It is even more so in developing countries because of the additional returns required due to the higher risks (Romero, 2015). The effectiveness of PPPs is therefore not clearly established and can lead to inequalities and compromise respect for the environment.

DAWN has already highlighted the threat of the rise in power of the private sector on the respect of women's human rights by: (1) the negative effect of the drive towards the competitiveness and the increasing productivity of women's working conditions, (2) the spread of ambiguous discourse on corporate social responsibility (RSE) and the belief that

companies are (or may be) gender sensitive and (3) the impact of tax evasion and lobbying of companies to limit public revenue as well as political space (Rodriguez, 2017).

Faced with the challenges linked to PPPs, Senegal very quickly understood the interest of supervising PPP interventions. Since 2004 Senegal equipped itself, with a legislative framework allowing the construction and operation, of public interest infrastructures within the PPP framework. However, the general interest and the concern to take gender into account lead to asking questions on the interactions with social inequalities, human rights, and gender in PPP contracts.

The objective of this study is to measure the impact of PPPs on the feminist development framework, or in other words, regarding for women's human rights. So, it is relevant to first analyze the economic and social context in the country. It will then examine the gender policy, as well as the policy and implementation of PPPs in Senegal with the specific case of road infrastructure.

1. Description of the Socio-Economic Context in the Country

Geographically, Senegal is an African country, South of the Sahara, located in the West of the continent. With a population of 16,209,125 inhabitants, 50.22% of which are women, there is a trend towards equal proportions between women and men. The population is also unevenly distributed between Dakar, the capital, which concentrates nearly 23% of the total population for 0.3% of the total surface area, other urban areas, and the rural areas (ANSD, 2019).

Senegal enjoys advantages favorable to development, due to its geographical position which gives it a fishing advantage and a strategic position for international trade. The political and social stability of the country, which has witnessed two political changes of power without major tension, has made Senegal a favorable space for investment. The first change of power, which took place in 2000, under a liberal regime, marked the deepening of a system which intends to base its development on the private sector.

However, despite the performance in terms of growth, challenges remain. The country is still classified in the category of countries with a low human development index. It was ranked 166th in the world and 33rd in Africa, in 2019, while in 2018 it was 164th in the world and 31st in Africa (UNDP, 2019).

The Socio-Economic Situation

The evolution of the economic and social situation in Senegal can be described in several phases. After independence in 1960, the country experienced a period of economic stability of five consecutive years that was interrupted by the economic crisis of the 1970s. This crisis, related to a series of droughts, would justify the application of structural adjustment programs (SAPs) under the leadership of the Bretton Woods institutions, to improve the economic situation and the budget deficit. The decade after the 1994 devaluation was marked above all by a recovery in macroeconomic indicators, without, however, visibly improving the perception of poverty. Indeed, the annual growth rates of the Gross Domestic Product (GDP)

reached, in volume terms, 5% against an average of less than -1%, in the preceding decade. Poverty¹, for its part, fell from 67.9% in 1994-1995 (ESAM I) to 57.1% in 2001-2002 (SHS² II), to stand at 46.7%, according to the latest estimates from the 2011 Poverty Survey (ANDS). But, for most Senegalese households (53.3%), the economic situation has deteriorated, compared to that of the year before.

Since 2014, development policy has been supported by the Plan Sénégal Emergent (PSE): a long-term development program developed by President Macky Sall as a political campaign, and later became a government program. This plan should make it possible to implement priority economic reforms and investment projects, while clearing the way for growth and preserving the economy and debt sustainability. The objective of the PSE is to make Senegal an emerging country by 2035. It is divided in three strategic axes: (1) inclusive growth through a structural transformation of the economy, (2) human development by strengthening human capital, social protection, and sustainable development, and (3) good governance, to ensure peace and security.

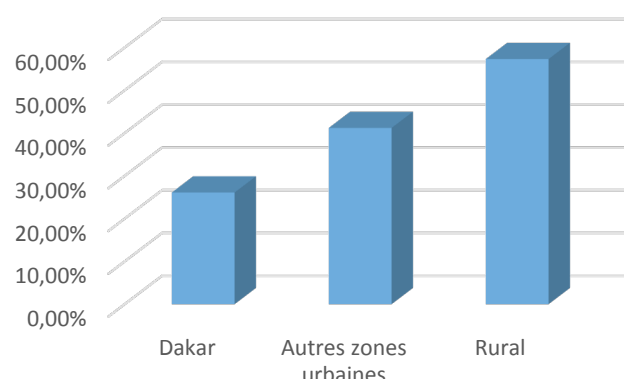
Senegal's growth rate reached 6.5% in 2015, which had not been achieved since 2003. The trend continued until 2018, with a rate of 6.8% and a projection in the same order for 2019. These performances are mainly attributable to agriculture, the main engine of job creation, supported by robust support programs, and to the major infrastructure investments undertaken under the PSE (World Bank, 2018). However, the main engine of growth lies in services, the activity of which still accounts for nearly 61% of total value added, over the period 2014-2018. The discovery of gas and oil, which was scheduled to start operating between 2021 and 2022, an omen of good perspectives for growth and the fight against poverty, which may, however, be compromised by the effects of the Covid-19.pandemic.

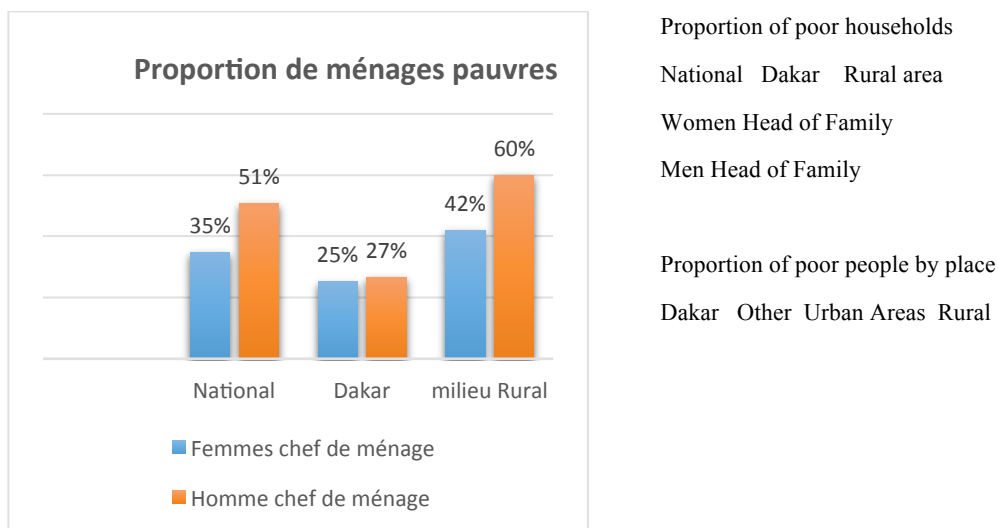
Alongside these performances, we should point out the situation of public finance, the deficit of which was estimated at 3.5% in 2018, against 3% in 2017, and 5.4% in 2011. External debt, even if it is bearable, is gradually increasing and strengthening the use of PPP for innovative development projects and programmes. Moreover, there is an unequal distribution of resources which is manifested by a Gini coefficient of 34.8, in 2018, against 54.1, in 1990, with the richest 20% of the population taking ownership of 46.9% of the country's wealth in 2011 (World Bank, 2019). Depending on the area and the gender, poverty is more prevalent in rural areas. Also, even if poverty seems more feminized, women's headed households are better off.

¹ Here, poverty is measured from an income threshold at 2,400 Kilocalories per day and per adult, reflecting the for non-food expenses.

² ESAM : Senegalese Household Survey is a nationwide first was carried out in 1994/95 (ESAM I) with a sam 2001/2002 this time with, 6,600 households spread th social strata of the country.

Proportion de pauvres selon le milieu





Even if since 2005, the three generations³ of development policy documents on poverty reduction and good governance strategies have shown efforts to take gender into account, the expected objectives have not been achieved. The issue of social inclusion remains essential; job creation is not enough to absorb internal migratory flows, or the increase in the economically active population. This is especially the case since paid work is essentially informal, hence low wages, underemployment, and limited social protection.

The index of gender inequalities (0.57% in 2011) reflects the persistence of large social disparities between men and women in Senegal. In 2012, the OECD Social Institutions and Gender Index (SIGI) ranked Senegal 41st out of 86 countries, with a value of 0.23 (0 representing equality). The Gender Development Index (GDI), calculated from the quality of life, ranks Senegal 124th out of 149 at the global level, and 3rd in ECOWAS countries. Calculated from the quality of life, the index reveals a better life for men, compared to that of women, i.e. 0.52 for men and 0.449 for women (SNEEG, 2016-2026).

Gender Policy and the Fight Against Social Inequalities

Social, geographic and gender inequalities are real. During independence Senegal had established extension programs⁴ for women (*"animation" féminine*), dedicated to domestic tasks (hygiene practices, childcare, etc.), especially in rural areas, to support their roles as women, wives, and mothers. It was inspired by colonial models of confining women to their reproductive and domestic functions, while these domestic activities and those in the so-called "informal" economy (agriculture, crafts, commerce) nurtured and nourished families. It took several years (notably the World Decades for Women, 1975-1995), and progressive awareness related to women's struggles in the world and in Africa and their role in achieving development goals, for Senegal to engage in programs to transform and strengthen the

³ This is the Strategic Poverty Reduction Document (DSRP II), launched in 2007. Then, over the period 2011-2015, the Economic and Social Policy Document (DPES), known as the third generation DSRP, had taken over. The DPES was replaced in 2012 by the National Strategy for Economic and Social Development (SNDES). The PSE was born in 2014 from the merger of the SNDES, the Accelerated Growth Strategy (SCA) and the *YoonuYokuté* Program (the path to emergence) of President Macky Sall.

⁴

programmes directed to them. And it took until the end of the 1990s (Beijing Platform of 1995), for Senegal to consider a fight against the inequalities between men and women. The Government has ratified most of the international conventions without reservation, as have many African countries. It created specialized structures, from 1976 (Secretariat for the Status of Women, then various Ministries of Women, Social Development, Family, Gender, etc.) and launched, under pressure from women's movements, in the implementation of several reforms and reference frameworks aimed at improving the legal status and political participation of women.

The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was the first international convention signed by Senegal, well after the Declaration of the Rights of Man and of the Citizen of 1789 and the Universal Declaration of Human Rights of 1948, enshrined in the first constitution of 1960. Senegal then ratified the African Charter on Human and Peoples' Rights (1981), initiated by the African Union⁵ and entered into force in 1986. However, the Charter was problematic for women, because, although it rejects all discrimination, including gender discrimination against them and proclaims to ensure respect for their rights, it commits, in its preamble, the States signatories, "to [take] into account the virtues of their historical traditions and the values of African civilization which should inspire and characterize their reflections on the conception of human and peoples' rights". Yet these values, both cultural and religious, are often used to justify and confirm violations of Women's Rights. Legal duality (colonial law and customary law), inherited from colonization, persists in many African legislative systems, and delays the application of laws, as the limit remains blurred in society. It is for this reason that in addition to the failure to take into account the rights of women specified in several international documents, notably in the Beijing Platform (1995), women's movements have pushed for the elaboration and the adoption of an additional Protocol to the African Charter on Human Rights, the **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa**, commonly known as the Maputo Protocol (2004).

Interest in the equality of women and men emerged in Senegal under the influence of international and Pan-African feminist debates of the time, especially from the 2000s onward. Equality finally appeared prominently in the revised constitution of 2001. For the first time in the constitutional history of Senegal, it is stipulated, for example, in its article 7, that "men and women are equal in law; the law promotes the equal access of women and men to mandates and functions"; in its article 15, "men and women equally have the right to accede to the possession and ownership of land under the conditions determined by law"; in its article 19, "The wife has the right to have her own patrimony like the husband. She has the right to personal management of her property"; as, in its article 22, "all children, boys and girls, everywhere in the national territory, have the right of access to school". These provisions are new enough to deserve mention, as significant legal advances. Senegal will adopt the Maputo Protocol on the grounds that, admits No. 2004-35 of January 8, 2005, "the persistence today of discrimination or harmful practices against women in Africa has revealed the limits of the

⁵ Former Organization of African Unity (1963-1999) with headquarters in Addis Ababa (Ethiopia). The new union was born in 2002.

African Charter on Human Rights and other international human rights instruments”.

The political will was undoubtedly driven by the determination of feminist associations who are committed to women's freedom and empowerment and has resulted in the harmonization of the legislative system to meet international conventions, and treaties ratified by Senegal. Thus, in 1999, the law against violence was adopted as a response to international concerns about violence against women and the fight against the multiple discrimination of which women are victims. The abolition and criminalization of female genital mutilation (1999) as a “traditional practice having a harmful effect on the health of women and children”, in the same way as forced and early marriages, force-feeding, etc., marked an important milestone. In 2005, the adoption of the law on reproductive health should allow women to have control over their fertility, thus meeting the guidelines of the Maputo Protocol. In 2008, this will be the case with legislative provisions promoting women's access to the military, the gendarmerie and the police, the law on HIV adopted in 2010, the law on parity adopted in 2010, of which the first positive effects in favor of women were a representation rate of 43% in the National Assembly. Finally, the nationality law, adopted in 2013, enabled many husbands to discover the positive impact of the battle waged by activists and men who support them, for the elimination of discrimination based on gender in legal texts (SNEEG, 2016-2026).

However, the application of international conventions and treaties is slow to be effective. Codou Bop considered that, most of the time, “governments were content to implement priorities defined elsewhere and in which they did not always believe, when they were not silently hostile to them” (1997, 53). Hence the constant pressure from various groups. It is in this sense that the Civil Society intervened with associations such as the Federation of Women's Associations of Senegal (FAFS), Yeewu-Yewwi, the Senegalese Women Lawyers Association (AJS), the Senegalese Council of Women (COSEF), WILDAF-Senegal, the Siggil Jigeen Network, the Association for the Promotion of Senegalese Women (APROFES), the Senegalese Feminist Forum, the Research Group on Women and Laws in Senegal (GREFELS), etc. to name just a few. More recently, the #metoo movement has taken root on the continent, following Associations for the Fight against Violence against Women (ALVF), in a different tone. #doyna (that is enough), #balancetonsaïsaï (“balance your sexual pervert”), #nopiwouma (“I am not silent”) all wanted to strengthen the liberation of words against rape and sexual abuse. All these organizations have, at their level, played an important role in acquiring, popularizing, and raising awareness of women's human rights, among women themselves, the populations, and the authorities. They have developed awareness programs on the family code and women's rights, keeping girls in school, genital mutilation, early marriage, “gender-based”⁶ violence, international conventions such as the Maputo Protocol, the complex relations between religion, culture and politics and the challenges of secularism, etc. Collaboration with religious male leaders is encouraged by both political and religious authorities, but it remains a major challenge for women, due to the rise of fundamentalism and the contradictory debate around secularism (Sow, 2018).

⁶ To use a complex usual definition

On the political level, a National Strategy for Equity and Gender (SNEEG) has been implemented since 2015 by the Ministry of Women, Family and Children which stated in the preamble, "to make Senegal an emerging country in 2026 with a united society in a rule of law, without discrimination, where men and women will have the same opportunities to participate in its development and enjoy the benefits of its growth". It is in perfect phase with the commitments and objectives of the PSE (horizon 2035) and takes into account the temporal and programmatic perspectives of the Sustainable Development Goals (2030) to improve the quality of life of the populations and considerably reduce the gender inequalities across the country.

Already in 2004, an analysis of the state of affairs in terms of gender issues was carried out and updated within the framework of the SNEEG 2016-2026. To do this, actions are undertaken to promote the empowerment of women and young girls, through capacity building of institutions and local communities, and integrating gender into public policies for inclusive growth. The importance given to gender and social inequalities has consecrated its consideration in the selection criteria for PSE projects. The first Priority Action Plan (PAP1) which covered the period 2014-2018 gave a score of 10 out of 100 for social inequalities against 05 and 07 respectively for the reduction of gender inequalities and social inequalities under the second PSE Priority Action Plan (PAP2).

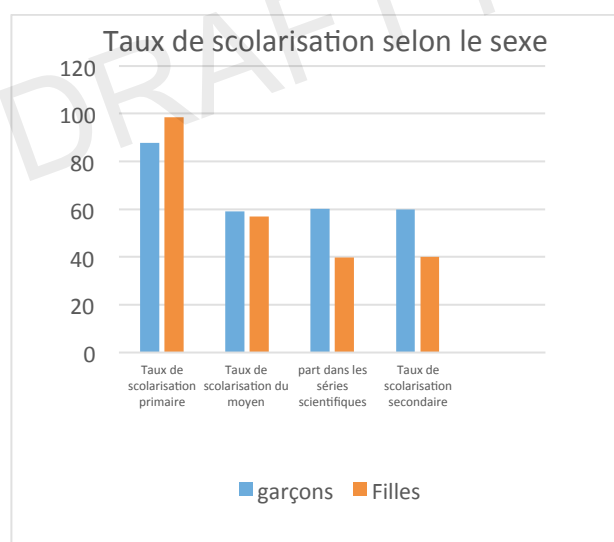
Moreover, only 11% of the cost of the PSE PAP2 strategy is reserved for all forms of inequality, (1) the consolidation of peace and security, (2) the promotion of the fundamental principles of Rule of law, human rights and justice, (3) the promotion of equity and gender equality, (4) the reform of the State and the strengthening of public administration, (5) regional planning and territorialization of policies, and (6) strategic, economic and financial governance (PAP2 PSE).

The development of three reference frameworks for the advancement of women, respectively the first Action Plan for Women (1982), the second Action Plan for Women (1996) and the National Gender Equity and Equality Strategy (2005-2015), reflects the government's commitment to improve the living conditions of the populations, the methods and policies for the promotion of women and the equality of women and men.

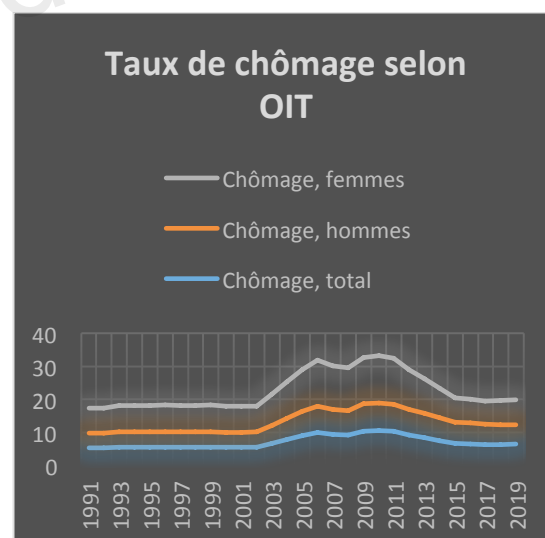
For the law on parity to be effective, the government must know, at all times, the evolution of the actions undertaken for the implementation of gender equality, as well as the difficulties encountered, in order to consider if need be, the necessary corrective measures. Thus, the National Parity Observatory (ONP) was created by Decree No. 2011-309 of March 7, 2011, under the authority of the President of the Republic, to monitor, evaluate and formulate proposals to promote parity between men and women in public policies. The gender policy has also been particularly marked, in recent years, by the strengthening of the social protection system, with particular emphasis on women with a view to improving their living conditions and well-being (family grants given to the poorest families, free caesarean section, etc.).

Since March 2013, a circular from the Prime Minister's Office has enshrined the gender policy of the State of Senegal with the creation of a Gender Unit, at the level of each Ministry, and the implementation of a gender action plan. The objective is to systematically take the gender dimension into account in all current interventions and in different structures. However, its implementation is not effective in all Ministerial Departments such as the Ministry in charge of Infrastructure, which is of interest to our study. The constraints are mainly found in the lack of competent personnel in taking gender into account and in the effective application of laws protecting women. Discriminatory provisions against women remain, of which maintaining the husband as head of the conjugal family.

The integration of gender issues in the implementation of programmes should extend to the local level, that of local communities and regional development agencies (ARD) which support them for local development. It should be noted that there is little local availability of capacity to design and implement gender-sensitive programs and projects. At this level, with international cooperation and the many NGOs, the work of raising awareness of sexual abuse of women is well underway in Africa. National and foreign countries have helped to set them up and to finance them, even if not all of them fundamentally call into question the dominant patriarchy. Actions initiated under the Gender Equity Project in Local Governance (GELD) made it possible to validate the basic hypotheses that supported the existence of a link between the consideration of gender issues in local governance and the improvement of the impact of interventions on the conditions of women and the achievement of gender equality (SNEEG, 2016-2026).



Rate of schooling by gender
Boys Girls



Unemployment rate according to ILO
Unemployment, women
Unemployment, men
Total unemployment

For example, primary to middle school enrolment rates are favourable to girls, but the trend is reversed from secondary school. Indeed, this is the age for girls to get married, which is often a source of abandonment. Skills and educational attainment impact the individual job performance of men and women. Thus, in terms of employment, the structure at the national level shows a clear predominance of young men over young women. As for the unemployment rate (as defined by the ILO), it is more favorable to men (ANDS, 2016) and in rural areas. In fact, 61.3% of rural youth have a job, against 38.7% for young people in urban centers. In cities, 41.1% of young men have a job against 35.3% for young women, while in rural areas, the latter have more work than young men with 64.7% against 58.9 % for these last ones.

Based on this observation, and despite the directive calling for the integration of equity and equality in the various actions of sectoral Ministries, we can see that efforts still need to be made to create an environment favourable to 'effective gender integration and equality in the various development and poverty reduction strategies.

Traditional Means of Financing Development Policies

Two characteristic features mark Senegal's financial situation: a strong dependence on tax and customs revenues and a relatively weak financial base. Indeed, the banking system fails to meet all the financial needs of both the government and individuals. Also, the financial market, until recently, was relatively small.

To finance development policies, Senegal, like African and underdeveloped countries, has resorted to external debt and official development assistance. However, this form of financing grinded the budget machine to a halt, making the country dependent on the outside. Public debt has been the main source of funding for development projects or programmes. At this point, what was targeted was more social sustainability and the collective good. This system has resulted in high debt ratios and a structural budget deficit.

Since 1985, the SAPs have forced the authorities to expose the country to international competition. The solutions advocated for accelerating growth are now based on strategies in favour of private initiative and industrial development. All successive programmes have invariably included measures aimed at lowering tariffs and removing non-tariff barriers. However, protectionist measures have always been an important source of revenue for the State (Diagne, 2006).

At this level, two major constraints deserve a point of attention. The first is the capacity of the private sector to meet expectations, due to difficulties in accessing financial services, lack of skills and the informal nature of economic activities, which constitute an obstacle to public procurement. Then, the specific nature of certain goods or services justifies the intervention of the Government for their production and exploitation. These are mainly public goods or services such as road, health, educational infrastructure, and public utility services, among others.

Until the 2000s, there were still few options available to countries wishing to finance their economic development. Official development assistance made up most available funds. Since then, the development finance landscape has changed profoundly. Gradually, traditional development aid was subjected to tight budgetary conditions. New tools and new players have gradually appeared to replace the old forms of financing. The slowdown in official aid and concessional lending was also made to the benefit of the increased use of private instruments, such as reliance on international financial markets (Genre, 2016).

Since 2015, with the advent of the SDGs to reduce poverty, the issue of financing has arisen more acutely. Indeed, the cost of the investments necessary to achieve the objectives is quite high. It will therefore be difficult to reconcile the ambitious pursuit of sustainable development goals with the budgetary rigour demanded by the main donors.

Since 2012, the return to indebtedness has increasingly worried development actors. Even if the argument for a still sustainable debt rate is served (47.7%, lower than the community standard of 70%), its rapid growth is worrisome; the risk to budgetary balances and the threat to future generations are real. The perception of the economic situation is turning around. These developments pose significant risks to the already fragile balance.

Recourse to the private sector and to private financing is increasingly imperative. Two arguments can militate in favour of recourse to external financing: the management of public finances and the search for efficiency, through the intervention of the private sector. However, the intervention of the latter is limited to the production of goods and services which are financially profitable or viable, to be of interest to the private promoter.

2. The Conceptual Framework of Public-Private Partnerships in Senegal

Since the implementation of the SAPs, Senegal has embarked on a policy of openness to the outside world, with increased participation of the private sector. At this stage, the objectives aimed at were more competitiveness and the search for a competitive situation. However, the participation of the private sector is conditioned by the financial viability of the sector, goods or services targeted.

The Dynamics of the Rise in Force of the Private Sector

The choice made on the private sector can be justified both by the requirement of development partners to relieve the budget and by a drive to seek efficiency in the allocation of public goods and services.

Thus, in 2000, the National Agency for the Promotion of Investment and Major Works (APIX) was created to encourage and facilitate business creation and investment promotion. All the economic policy documents have made the private sector a priority axis for reducing poverty by improving the business climate. Thanks to these efforts, the country obtained a satisfactory ranking in the *Doing Business*. In fact, out of 190 countries, it went from 157th position in 2010 to 123rd in 2020. However, progress in the decade 2010-2020 was marred,

over the period 2012-2014, by a decline attributable to a slowdown in the implementation of certain reforms.

However, the national private sector is faced with several constraints including: (1) the early mortality rate of companies (around 60% of companies disappear during the first year of creation); (2) the predominance of the informal sector and the lack of professionalism; (3) the difficulty in accessing public procurement; (4) weakness in the production of financial information; and (5) the difficulty in accessing bank financing adapted to SMEs, which constitute 99.8% of Senegalese companies (ANDS RGE, 2016). This paves the way for foreign expertise, particularly in the form of PPP.

Through the PSE, the State has made PPP financing the preferred route for carrying out structural projects of the State. Thus, under the PAP1, to finance the financing gap which amounts to 30%, the State of Senegal had counted on a participation of around 37% from the private sector. This strategy would be made possible through active promotion of the PPP.

In 2007, the government created, within the Ministry in charge of the economy, the Directorate of Support to the Private Sector (DASP) which will become the Directorate of Private Sector Development (DDSP), for the sake of supervision. optimal business, while consolidating the experience acquired by the department in this area. It also strengthened the technical and financial support system for the national private sector, allowing it to access appropriate financial services and to participate more in the creation of wealth and jobs. It will be necessary to ensure better mobilization of national savings, strengthen and harmonize the interventions of support structures for the private sector and diversify real guarantees. As such, and to strengthen funding mechanisms and instruments, structures have been put in place such as:

- the Sovereign Strategic Investment Fund (FONSIS), in 2012, to promote the role of Government, as an investor, partner and complement to the private sector, to support direct investments. It will contribute alongside national and foreign investors;
- the Priority Investment Guarantee Fund (FONGIP), in 2013, to act in complementarity with other entities of the financial system in order to help: mitigate the risks associated with the granting of loans to SMEs by generally reluctant financial institutions; to complete the intervention system of financial institutions in favour of micro, small and medium-sized enterprises (SMEs); to subsidize (improve) the interest rates currently applied by financial institutions;
- the start, in 2014, of the activities of the National Bank for Economic Development (BNDE) resulting from an organizational transformation of the Economic Promotion Fund, which began in 2008. The objective is to finance SMEs, while remaining a national financing tool actively participating in the implementation of Senegal's Accelerated Growth Strategy.

The major challenge of development efforts remains the financing of major government projects. Emphasis will be placed on the levers of PPP and innovative financing instruments. In fact, the capital intensity of certain promising sectors and strategic projects requires

ingenuity and proactivity to capture additional financial flows, in the form of increased participation of the local private sector and foreign direct investment (IDE).

The PAP2 of the PSE, covering the period 2019-2023, oriented the search for funding towards this leverage effect. The projects identified and selected must respond to a technical and financial structure to facilitate their appropriation and attract the maximum amount of private capital, while having the potential to be carried out in PPP (with a score of 08/100).

The private sector is thus invited to take majority stakes in promising niches such as infrastructure. In this perspective, the State will make the legal and regulatory framework for PPP-type projects attractive and operational, guarantee access to relevant information on private investment opportunities as well as the structuring and support of projects.

Public-Private Partnership as a Solution to the Constraint of State Financial Resources and a Means of Financing Sustainable Development

The development of financing through PPPs has sounded like a requirement in African countries which have been confronted with over-indebtedness and, increasingly, the constraint of respecting the debt ratio criteria. Indeed, the Heavily Indebted Poor Countries (HIPC) initiative, to cope with the depth of their indebtedness, reflects the scope of the difficulties in financing access to public goods or services through equity. In addition, experience will also have shown that, under certain conditions relating to the cost of access to resources, recourse to external financing can be more profitable and have a leverage effect on the profitability of projects and programmes.

Senegal has significant natural reserves, and therefore a strong economic potential, the interest of which, for private investors, is not in doubt. It also remains obvious that, for the full or partial exploitation of this potential, the public authorities will turn to the private sector, both national and international, for its know-how and its financial capacity. It could take the form of public procurement or public-private partnerships (Saware, 2019).

Since the 2000s, the proliferation of PPPs in Senegal has given rise to much controversy, even litigation. These are the cases of mining, port and rail concessions that have linked the State of Senegal to the Arcelor Mittal group, the market for digital passports, the irregularity of which has been highlighted by the Court of Auditors, digital identity cards, Concession of the container terminal of the Autonomous Port of Dakar, the creation of the Senegal Airlines company, the Blaise Diagne international airport, the mining concession for the exploitation of phosphates and related or associated substances to SERPM SA (Ndendouri Perimeter - Ouali Diala, Department of Matam, Region of Matam), the Pétro-Tim affair and the Bictogo affair, etc. Failures in the control system are believed to be the cause of these irregularities, mainly linked to extra charges (Saware, 2019).

PPP financing involves several risks and limitations, among which are, first and foremost, environmental, and social constraints and inequalities. Indeed, there is often a difference between financial profitability and economic, social and / or environmental profitability. When the private partner is concerned with financial profitability, it is up to the public

authority to defend the moral, financial, and economic interests of citizens, while ensuring equity. Faced with reducing poverty and inequalities by avoiding negative impacts on the environment, PPPs face significant challenges (Romero, 2015). The private partner primarily defends his/her financial interests. As a result, he/she can contribute to inefficient management of financial, material, and human resources. The intervention of the private sector through the PPP must therefore be used, with good supervision, to achieve social equilibrium.

Government authorities often put in place incentives and facilities to attract investors. Originally designed for the financing of infrastructure, particularly in the field of transport, PPP financing should allow risk sharing between the public sector and the private sector which must render account to both the public official and the population through, for example, consumer associations.

3. The Legal and Institutional Framework of Public Private Partnership in Senegal

The integration of PPP financing requires, for its success, the establishment of an appropriate regulatory framework to face the challenges, issues and risks associated with this mode of financing. The two parties, the private partner, and the public official, both have interests at stake. Senegal has, since 2004, created an institutional framework.

Institutional PPP Promotion Bodies and Regulations

In Senegal, the PPP is supervised by two institutions attached to the Ministry of the Economy, Planning and Cooperation. This is first the Department of Financing and Public-Private Partnerships (DFPPP) of the former Ministry the Promotion of Investments, Partnerships, and the Development of State Teleservices. It defines and puts in place the Senegalese government's PPP policy. It acts mainly in the technical and legal framework, when negotiating PPPs. In this capacity, it participates in the development of State policy, guidelines, instructions, and the dissemination of best practices on the financing, design, implementation, and management of PPP projects. It counsels and assists the Departments of Ministries, local authorities and authorized entities in the preparation, implementation and monitoring of their PPP type contracts.

Next there is the National Support Committee for Public-Private Partnerships (CNAPPP) which is a structure created by Law No. 2014-09 of February 20, 2014, relating to partnership contracts. Its mission is (1) to validate the preliminary assessments of PPP projects; (2) to provide support to public sector entities in the preparation, negotiation, and monitoring of PPPs and (3) to popularize and promote PPPs.

On the regulatory level, the framework is split into two axes. First, in 2004, Senegal passed two laws. The first law 2004-13 of February 1, 2004 on PPP aims to promote the mode of PPP financing relating to contracts for the construction-operation-transfer of infrastructure (CET contracts law). This law was successively amended by laws No. 2009-21 of May 4, 2009, No. 2011-11 of April 28, 2011, No. 2014-09 of February 20, 2014, and No. 2015-03 of

February 12, 2015. Then Law No. 2004-14 of March 1, 2004 on the Infrastructure Council was promulgated. In 2010, this system dedicated to CET contracts was reinforced by Decree No. 2010-489 of April 13, 2010, setting out the specific terms and conditions for the awarding of CET contracts by local authorities authorizing them to conclude PPP type contracts.

The various changes made to the CET law stem from a desire to increase private participation, with more efficiency. Indeed, after ten years of application, the evaluation of the law has highlighted the extremely limited scope of the CET law, which is limited to only infrastructures constituting dependencies of the public domain. It thus led to the formulation of numerous recommendations concerning notably:

- widening the scope of the law;
- strengthening the participation of the national private sector and job creation;
- relaxation of the terms and conditions for processing unsolicited offers, to better capture investment opportunities;
- the establishment of a support body for the implementation of PPPs.

As for the amendment by Law No. 2015-03 of February 12, 2015, it is based on the streamlining of PPP contract procedures by amending the article relating to the prior opinion of the CNAPPP. Indeed, since the CNAPPP is called upon to collaborate with the contracting authorities in the development of draft amendments to the said contracts, it becomes unnecessary to seek its opinion before prior authorization from the Infrastructure Council.

The second axis of the legal framework concerns Law No. 2006-16 of June 30, 2006 amending Law No. 65-61 of July 19, 1965 on the Code of Administrative Obligations which governs public contracts and public service delegations. The latter has transposed, into domestic law, Directive No. 04/2005 / CM / UEMOA on procedures for the award, execution and settlement of public contracts and public service delegations in the UEMOA and Directive No. 05 / 2005 / CM / UEMOA on the control and regulation of public contracts and public service delegations in UEMOA.

Contracting authorities wishing to set up a PPP (which are public procurement contracts) in Senegal must comply with the provisions of the applicable laws and regulations which, depending on the contract, include (1) the Code of Obligations of the administration; (2) the Public Procurement Code (decree 2014-1212 of September 22, 2014) in which the leases and concession contracts and the law on partnership contracts are defined.

The same type of contract is currently covered by different texts. Depending on the sector in question, it is also necessary to refer to the specific sectoral legal provisions which may influence the contractual provisions of a given PPP project. All these texts and their implementing decrees make it possible to set up in all sectors of the country, excluding those subject to specific regulations, either a public service delegation (DPS) or a public-private partnership (PPP). In both cases, the implementation of a PPP project must fit into the institutional framework dedicated to the chosen contract (Saware, 2019).

Public-Private Partnership and the Constraints Associated with Respecting the Social Balance

As the development of the country's economic potential is often not within the reach of the national private sector, the public authorities are obviously turning to the international private sector for its know-how and its financial capacity. There is a clear effort on the part of the Senegalese authorities to encourage private sector participation and PPP. However, this allure can hide irregularities, in that the PPP can have negative spill over effects on society. It can impact public finances, if the implementation is tainted with irregularities and indirectly by tax concessions which are often granted and justified by the desire to attract investors. Social balance can also be affected, affecting both local communities, populations, and vulnerable groups. These situations can, in turn, be directly or indirectly at the origin of popular uprisings.

Since 2000, the proliferation of PPP has given rise to much controversy, even litigation. As an example, we can cite (Saware, 2019):

- In 2012, the condemnation of the State of Senegal by the International Chamber of Commerce to pay Kumba Resources Limited the sum of FCFA 400 billion, for abusive breach of a mining agreement;
- Cases of corruption and underinvestment noted by the Court of Accounts, and the General State Inspectorate concerning the concession for the container terminal at the Autonomous Port of Dakar.

The combination of the pursuit of economic efficiency and financial efficiency often turns against the national economy. Public authorities, faced with an innovative source of financing, weak human capacities to conduct PPP procedures, and the current need for financing, often arbitrate against national interests.

Uncertainty and information asymmetries appear to us to be a good framework for explaining the differences between the expected effects of the PPP and the results achieved. However, they do not come in the same way at each phase of the project. In the pre-contractual phase, uncertainty dominates and is reinforced by the change in the rules of the game. If the public official is not surrounded by experienced human resources, he experiences great difficulty in expressing his technical and functional demand in terms of objectives and performance to be achieved. When selecting the final candidate and signing the contract, the complexity and heterogeneity of the criteria to be considered make it difficult to compare offers. They respond to legal, accounting, and financial logics which are not necessarily those used by the public institution (Deffontaines 2012).

The search for social balance is particularly incumbent on the public official, and the difficulty in arbitrating in favor of the public interest feeds the asymmetry of post-contractual information. When community interests are not included in the selection criteria, the

execution of the contract is often a source of non-adherence on the part of the populations, often leading to tensions and conflicts likely to hinder the proper execution of the service, hence additional costs and losses often borne by the community.

For the sake of profitability, PPPs are seen as potentially worsening social and economic inequality; increase the price and / or decrease accessibility to essential services; and promote corruption. The impact on human rights includes violations of economic and social rights, such as access to basic social services (health care and education) the right to decent work and equitable access to land

The intervention of private partners is also a source of exclusion in terms of price and quantities. When the price is not accessible to all, the disadvantaged category of the population is excluded from the infrastructure. Compared to quantities, PPP interventions, in a profit-seeking dynamic, will tend to be more oriented towards areas of real outlets. They are thus a source of exclusion from rural areas, owing to the lack of outlets. It is clear that these are more present in the capital and the big cities because of the rural exodus and the existence of more opportunity for development, production, and creation of wealth.

In the light of all these findings, the State should provide itself with the means of ex-post control of PPP activities to improve economic efficiency.

4. The Practice of PPP in Senegal : the Case of Road Infrastructures

The PPP financing method was first introduced in Senegal in 1996 with a lease-type contract between Senegalese Water Board (SDE), the private operator exclusively responsible for the exploitation of drinking water facilities, the State of Senegal and the Senegalese National Water Company (SONES), a Public Body responsible for asset management and quality control of the operation of this public service. The initial 10-year contract has since been extended by various additional clauses. Following a very controversial⁷ call for tenders, SDE has been replaced by the French company SUEZ, since January 1, 2020.

Description of PPP Contracts in Infrastructure

The difficulties related to land (almost exhausted in Dakar), the decentralization and decongestion policy of the capital and the tourist issues have fostered the need to build new infrastructure. Increasingly, PPP is applied in this area, through foreign investment, in the face of the limitations of domestic companies.

By 2023, a set of structuring projects and reforms with a high added value content and jobs are envisaged under the PSE. It intends to rely on the regulatory and institutional framework to facilitate the implementation of projects under conditions guaranteeing a balance between the State and private operators.

⁷ SDE challenged the award of the contract to SUEZ in the Supreme Court, believing it had made the lowest bid.

The introduction of new innovative financing schemes for infrastructure projects presents short-term or medium-term risks for each of the stakeholders: the public sector and its users, private operators. For these reasons, the development of privately financed infrastructure projects has necessitated the introduction of the Infrastructure Council to constitute a first level response to these concerns. The general objectives of its implementation are: to structure a level of support for building broad and lasting consensus in the field of infrastructure; to ensure an independent and qualified watch to assess the consistency of approaches as well as the attitudes of stakeholders, while ensuring wide dissemination of the results of its observations, nationally and internationally.

To this end, the Infrastructure Council exercises powers which affect, on the one hand, the selection of the project operator and, on the other hand, the preservation of the balances that condition the sustainability of contractual relations. It is indeed important to ensure the greatest transparency in the selection of the project operator governed by the competitive tendering procedures established by the law on CET contracts. In addition, registered in the long-term and operating in sectors subject to frequent technological adjustments, CET contracts expose the contracting parties to serious legal risks.

The balance of projects designed to meet strategic needs may indeed be threatened by changes in regulations, in the socio-economic environment or in technologies. This risk exposure is even more marked, when the degree of maturity of the legal and institutional framework still appears likely to call for substantial reforms, with a view to its continued modernization.

The major stake, in a context of uncertainty as to the future, lies in consolidating the sustainability of projects, while guaranteeing the investor, who takes the operating risks, and the users of infrastructure services, that State policies as well as administrative decisions will be subject to independent review. To ensure transparency, the results will be published periodically (Official Journal of the Republic of Senegal, 2004).

By way of illustration, the optimistic scenario of the PSE, for the period 2014-2018, did not unfold as expected, due to weak private financing in PPP projects. Out of the 1111 billion FCFA expected, about twenty PPP projects were executed, for an amount of 397.8 billion, particularly in the areas of infrastructure, energy, tourism, industry, agriculture, and health. This insufficiency is notably due to the delay noted in the establishment of the legal framework of the PPP law, as well as the non-availability of feasibility studies for several targeted projects.

The Infrastructure Council will need to acquire the skills capable of adapting to changes in the legal framework, while integrating the balance of contractual relationships for the benefit of the general interest (Official Journal of the Republic of Senegal, 2004). As such, it should be noted that the composition of the Council comprises three personalities, appointed by the President of the Republic, from a list of six persons proposed by the bodies set up for the defence of human rights and for the preservation of the interests of users. infrastructure services.

Description of the Dakar-Diamniadio Toll Motorway Case

To date, we can count, in the field of infrastructure, two major projects on the method of financing PPPs: the Dakar-Diamniadio toll highway (APDD), known as the highway of the future, and the Blaise Diagne International Airport at Ndiass (AIBD). The APDD is the first highway in Senegal under the legal regime of the PPP, set up since 2004. The second toll highway, named Ila Touba Highway, 113 km long and connecting Touba (in the center of the country) to the city of Thiès (70 km East of Dakar), was initially planned as a PPP. Finally, it will be financed by a loan from China to the tune of 416 billion FCFA (634 million Euros), over 25 years, at an interest rate of 2% and a grace period of five years.

The Dakar-Diamniadio highway project was first introduced in the 1970s under the Presidency of Léopold Sédar Senghor, the first president of the Republic of Senegal. He planned to establish a highway from Dakar to Thiès, via Diamniadio. A comprehensive study had been carried out on behalf of the then Ministry of Public Works, Urban Planning and Transport. However, the economic situation at the time delayed the implementation of the project. In 2002, the project came back to life. The financing of the project will no longer come from the State budget alone or with the financial and technical support of partners, but rather through the PPP mechanism, with the concession option.

The implementation mechanism adopted implies that the use of the motorway would be chargeable, which was not initially planned. Work began in 2009. The motorway is to link Dakar to the AIBD and is open in three phases: first between Dakar and Diamniadio, in 2013, then from Diamniadio to the airport, in October 2016, and finally the section between Sindia and Mbour inaugurated on January 22, 2019. Work was delayed due to a long process of compensating property owners on this section which was initially due to open in 2016.

The first phase of this highway, 35 km long, was co-financed by the World Bank, the French Development Agency (AFD), and the African Development Bank (ADB) to the tune of 52.5 billion FCFA, 40 billion FCFA and 33.2 billion. billion FCFA respectively (A Faye, 2018). SENAC SA, 100% owned by the Eiffage⁸, group, obtained the concession for a period of 30 years. The second phase, with a length of 17 km, was carried out, according to the PPP scheme, for a total cost of 92.2 billion CFA Francs including 69.2 billion CFA Francs from the State and 23 billion CFA Francs from the SENAC SA. With a length of 55 km, the AIBD - Sindia axis was built at a total cost of 200 billion CFA Francs; this section is part of the AIBD - Mbour highway and has received funding from Eximbank China and the State of Senegal.

The APDD project had to restructure unserved and flood-prone neighborhoods that its route crossed. It has developed and built residential houses in a resettlement area of 165 ha, fully serviced. The motorway passed in front of the Mbeubeuss waste dump, which was causing harmful effects on the surrounding populations. As a result, the project had planned to close

⁸ Eiffage is a French concession and construction group.

it, after having identified a transitional site. Later, studies were carried out for the construction of the technical landfill center for waste. Unfortunately, due to the reluctance of the population for environmental reasons (the center was to produce biogas " establishment classified dangerous") in the resettlement area, the center was not operational.

The APDD is part of the general policy of upgrading infrastructure, land use planning and sub-regional integration. It is necessary to consider the fact that Dakar, the capital of Senegal, concentrates 85% of the economic activities and accommodates approximately 25% of the population. Thus, entering and leaving Dakar poses a real problem of congestion, especially for residents who travel to the capital, as part of their activities.

The Impacts on Gender and Human Rights of the Implementation of the Dakar-Diamniadio Toll Motorway Project

It is interesting to note that, although SENAC is 100% owned by the Eiffage group, it is a Company with mostly local staff, thus contributing to the creation of jobs and added value to the economy. But, on another level, the project had negative impacts. In fact, the infrastructure crossed a total of ten (10) municipalities, including six (6) on the first section (Pikine - Diamniadio) and four (4) on the second section (Diamniadio - AIBD). These are residential areas, market gardening in the Thiaroye area and in the Mbao classified forest, fruit production and other agricultural activities, places of business (mechanics' workshops, restaurants run by women who are also active in the sale of ice water, juice and other services run by young girls).

Due to its potential negative impacts (in particular the displacement of families and commercial activities, the nuisance caused by the works and the environmental impact linked to the passage through the classified forest of Mbao), the project was classified in category 1 , which requires a comprehensive environmental and social impact study. Thus, a Resettlement Action Plan (PAR) was initiated, using the operational procedures (OP4.12). A total of 3,350 families were affected. 70% of them have been relocated to resettlement areas and the remaining 30% have chosen to be paid their compensation in cash.

However, the gender dimension was not considered, neither in the census of the people affected by the project (PAP), nor in the choice of resettlement areas. However, at the beginning, the women had encountered many difficulties in carrying out their primary activities of production and reproduction) and recreating neighborly ties. The people resettled in Tivaouane Peulh were penalized by the remoteness of the area and, even if a market was rebuilt for them, they suffered from the scarcity of customers and the disappearance of mutual aid between neighbors, which previously existed.

Some women have benefited from additional actions as members of vulnerable groups and received support in response to the situation of precarity that followed their displacement. Thus, additional resources have been made available to people whose social conditions remain precarious due to very advanced age, disability, or if their income is well below the poverty line. The support to be provided to these vulnerable populations, mainly made up of

farmers, essentially takes the form of a donation of seeds, fertilizers, small agricultural equipment, and training. But, in practice, the list of beneficiaries does not exist.

SENAC SA has been active in fight against poverty through a gardening project that directly targeted women in the affected municipalities. These actions fall within the more general framework of the RSE policy, which is part of its policy of supporting women. An association of Eiffage women in Senegal was created in 2016; its members are supported by the management to carry out various humanitarian actions.

SENAC SA , in conjunction with other players concerned by the highway of the future, has set up a socio-economic and environmental observatory in order to demonstrate the effective implementation of RSE. The observatory aims to identify, measure, and assess major changes that arise in direct or indirect connection with the infrastructure. Moreover, it aims to draw lessons from them to share with both public and private actors concerned, at local, regional, and national levels. This has resulted in the organization of thematic multidisciplinary scientific studies, conducted by academics, researchers, or specialized consultancies, because of the skills available in relation to well-defined issues and problems.

However, despite these efforts, APDD is subject to much contesting. Cases of complaints are sometimes announced, including a case that was referred to the League of Human Rights. Loss of lives and material are often seen on the responsibility of the company for non-compliance with the commitments of the project specifications.

The main cases of disputes and complaints against the concession can be summarized as follows:

- (1) The motorway is said to be one of the most expensive in the world, in terms of the investment cost and the tariff for using of the infrastructure. The average cost per Km is estimated at two billion FCFA (2,000,000,000). For example, in Morocco the cost was one billion six hundred million FCFA (1,600,000,000), in Tunisia two billion five hundred million (2,500,000,000) FCFA, in Ivory Coast, and, for Senegal, nearly ten to twelve billion FCFA (12,000,000,000)⁹. Thus, the denunciations of high tariffs on the AIBD - Mbour axis led to the renegotiation for lower tariffs, on the instruction of the President of the Republic. The high cost of infrastructure puts pressure on public finances, while the tariff creates exclusion or price discrimination. Eiffage notes that out of every 1,000 FCFA paid at the toll, 300 FCFA goes to the State, 400 FCFA to the reimbursement of the investment and 300 FCFA to the licensee.
- (2) The number of accidents on the infrastructure is increasing due to the lack of lighting. Indeed, only the toll areas are lit, contrary to the conditions of the specifications. A petition collected more than 25,000 signatures and a large demonstration was organized at the site, following the accidental death of a famous musician. Following a complaint, the company was declared responsible and ordered to pay 44 million FCFA to the family of

⁹ <https://www.senepius.com/opinions/le-pays-ou-les-autoroutes-sont-les-plus-cheres-au-monde>

the victim. At the League for Human Rights, another fatal accident complaint case resulted in a conviction against the company. These accidents, which often occur at night, are attributable to the responsibility (1) of the private party who, in a logic of cost minimization, did not comply with the specifications and (2) of the public party for laxity and lack of post-award control.

- (3) We have also noted an incompatibility between Senegalese labor law and the policy of promoting road personnel which leaves women in a disadvantaged position. Indeed, General Decree No.5254 I.G.T.L.S./A.O.F. of July 19, 1954 relating to the work of women and pregnant women, prohibits night work by women in factories, manufacturing activities, mines and quarries, construction sites (especially roads and buildings) and workshops and their outhouses. This provision is controversial and deserves special attention.
- (4) Complaints from a Koranic School and the group of tenants have been recorded. Indeed, according to the complainants, the damage suffered by their displacement greatly exceeded the compensation received. There was consensus to allocate an additional social assistance to this group.

Conclusion

Budgetary pressure and debt challenges have made the use of PPP essential for financing development projects and programs. However, PPPs have not failed to raise concerns. In fact, the competition between the interests of the private and the public has made it possible to realize the power of the private partner. On the one hand, it is clearly established how expensive the PPP is, in relation to the budgetary source of financing. On the other hand, the loss of human lives, the social inconvenience caused by the displacement of the affected people and the failure to take into account the characteristics of the displaced persons attributable to the infrastructure, have revealed the limits of a regulatory and institutional framework which has more aimed at creating an attractive and secure framework for PPPs. Even the application of standards decreed by development partners was not enough to take into account all the challenges. Respect for the environment has often been the basis for protest and, even if it is factored into the compensation standards, much remains to be done in communication.

Limits in the regulatory and institutional framework, in relation to information asymmetries and the effective control of the execution of contracts, constitute obstacles to respect for equity, human rights and gender equality. Although affecting women, the policy for the care of those affected did not take the gender aspect into account at any time during the process, neither in the census of PAPs, nor in the choice of resettlement areas. It therefore seems essential to us to further strengthen the system for monitoring equity and equality in all instances of implementation and monitoring of PPP contracts.

However, the RSE of Companies has helped reduce some inequalities, focusing on vulnerable groups, especially women. It thus constitutes a means of integrating human and women's rights into the system of Companies. Other PPP financing projects, within the framework of maritime transport infrastructure and services, are in the pipeline, within the framework of PAP2 of the PSE (example of the Ndayane port project). The lessons of previous experiences should be capitalized on for a better social balance.

DRAFT for discussion

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