

## Case Study

# Impact of community stakeholders on public-private partnerships: Lessons from the Lekki-Epe concession toll road

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Considering that governments around the world in contemporary times are partnering with the private sector for the provision of infrastructure, it is imperative to consider the role community stakeholders play in the success or failure of public-private partnership (PPP) projects. This paper examines the role of community stakeholders in PPP arrangements and execution using the Lekki-Epe Concession Toll Road in Lagos, Nigeria as a case study. The Paper considers that there was poor involvement of community stakeholders in the conception stage, which constituted a serious factor that led to the failure of the arrangement. The paper recommends the involvement of community leaders, religious leaders, women leaders as well as the media to ensure the success of PPP projects.

**Key words:** Community, stakeholders, concession, public private partnership, infrastructure.

## INTRODUCTION

There are at least two main reasons why countries across the globe are adopting the Public-Private Partnership (PPP) model for infrastructure finance within their jurisdictions. Firstly, due to budget constraints and the enormous cost involved in procuring infrastructure, seeking alternative sources for funding becomes imperative. Secondly, the skill and efficiency that the private sector can bring into the designing, building, maintaining and service in infrastructure in order for the government to concentrate on pure matters of state is a key rationale for adopting PPP (Tvarno, 2010).

Despite the obvious advantages that PPP can bring to the public sector, community stakeholders can impact the success of any PPP projects positively or negatively. It is considered, by (the ordinary members of the community) that the provision of infrastructure is a traditional role for government and as such, private sector participation (PSP) in infrastructure may be viewed with suspicion.

This paper reviews the impact of community stakeholders on the success or failure of PPP projects. The paper examines as a case study, the Lekki-Epe Toll

Concession road in Lagos, Nigeria. The lessons learnt from the findings forms the recommendations for the planning of PPP projects in the developing countries of Africa.

### What is a PPP?

There is no agreement amongst scholars as to a universal definition for the concept of PPP. Notwithstanding, there is a concord that a PPP is usually a collaboration between the public sector and the private sector for the provision of infrastructure. A PPP is a contractual arrangement between government and private investor(s) where mutual benefits are sought, and the private sector provides operating services and/or finance (Essia & Yusuf, 2013). A much better definition of the subject is that postulated by Tvarno *et al.* According to them, in a general legal context, a PPP can be characterised as a long-term contract arrangement between a public authority and a consortium of private

parties based on co-operation, aiming to provide a mechanism for developing public service provision involving significant assets or services for a long period of time (Tvarno, Anderson, Cao & Wang, 2010).

### **The Parties in a PPP Arrangement**

At face value, it is common to assume that by reason of nomenclature, the parties to a PPP are the public sector and the private consortium however so represented. Cheung has brought to light, four key parties involved in a PPP relationship. They are listed as the public authority, the private sector; the employees of the project; and the public (end-users) of the facility or service.(Cheung, 2009). This paper is concerned about the last group i.e. the end-users also referred to as community stakeholders.

### **The Community Stakeholders in a PPP**

Stakeholders have been defined as those whose interests may be positively or negatively affected as a result of project execution(Aaltonen, 2000).It is important that government recognises the impact of community stakeholders in the arrangement of PPP projects. This would afford government the opportunity to get another opinion regarding the design and to also get the views of members of the community that the project would eventually serve. The members of the community stakeholders include and are not limited to the media, opinion leaders, chiefs or community leaders, non-governmental organisations, private firms within the community and representatives of the people (not the leaders *per se*).

A synergy between the government, the arrangers of the project and the community stakeholders is a *sine qua non* for successful PPP projects. The absence of which may result into conflicts and acrimonies that could jeopardise the chances of achieving success in a PPP arrangement. Synergy has been described as the advantage that partnerships gain by involving diverse people and organisations in the community(Lasker & Weiss, 2003). PPP by definition is supposed to be a win-win proposition for all the people involved and the non-involvement of the community stakeholders from the conception of the project may meet with resistance and protests, as was the case with the Lekki Epe Concession Toll Road in Lagos, Nigeria.

### **The Lekki-Epe Toll Road: A Case Study**

The Lekki-Epe Toll Road was the first PPP toll road concession in Nigeria. In order to give legal backing to the project and any of such in the future, the Lagos State Government passed the Lagos Roads Law, 2004.

The lead arranger for the project was Asset and Resource Management Co Ltd (ARM). The justification for the project was the consideration that Lagos is

suffering from a continued influx of mass population and the significant pressure on the existing road infrastructure in the state (African Development Bank, 2007).

The communities in the rural sections around the project are mainly Yoruba. It is noteworthy that as with most Yoruba settlements, communities hold their traditional leaders and elders in high esteem. Living conditions around the geographical location is a paradoxical mix. Those living within the Victoria Island and the Lekki axis are considered elites consisting of top civil servants, oil company executives, bank executives and entrepreneurs. Along the same corridor can be found the poor people who reside in Kuramo, Maroko, Ilasan, and Ajah etc.(African Development Bank, 2007).

According to the Lagos State Government, the Lekki-Epe Toll Road is a strategic policy of the government to upgrade the Lekki-Epe Expressway given that the road had exceeded its technical design life span of 25 years. The government received three submissions from interested bidders namely Asset and Resource Management Co Ltd (ARM), Denoi Konstruct and Warner West Africa Ltd. ARM emerged the preferred bidder. Eventually, a concession agreement was signed with the Lekki Concession Co Ltd (LCC), the special purpose vehicle established by ARM and a consortium of local and international investors to execute the project (Lagos State Government, 2014).

It is noteworthy that the project won several international awards. The awards include the Africa Investors Magazine Award for Transport Deal of the Year 2008, Euromoney International 2008 Africa PPP of the Year, Reuters 2008 Africa Infrastructure Deal of the Year, IFC/Infrastructure Journal Top 40 Emerging Market Award in 2013(Lagos State Government, 2014).

### **Project Summary of the Lekki Epe Toll Road**

- 1.30-year PPP between Lagos State and LCC to solve historical traffic jam situation along the Lekki-Epe axis
2. Phase I- Expansion and upgrade of 49.4km of Ozumba Mbadiwe Avenue/Lekki-Epe Expressway
3. Phase II- Construction of 20km of Coastal Road, plus option to do the Southern Bypass
4. Operation and maintenance of new road infrastructure over 30-year Concession term
5. N50Bn estimated project cost being financed by LCC, will be recovered principally through charging tolls.

### **Source- Lekki Concession Company Ltd**

### **The Lekki-Epe Concession Road and Community Stakeholder Involvement**

The LCC soon began to experience challenges when they mounted toll positions on some sections of the road. This was principally due to the fact that the community stakeholders were not involved at the initial stage

of the project. This also led to allegations that the process for the bidding and the award of the concession was shady. The ownership of the LCC came into question with some of the agitators alleging complicity on the part of some government officials (Ayodele & Sotola, 2011).

Lack of openness and transparency in the award and execution of PPP contracts could also result in lack of community stakeholder support (Ayodele & Sotola, 2011). It is submitted that though the idea behind the Lekki-Epe Toll Road Project is good, the manner with which the project was arranged without community stakeholder involvement at the initial stage leaves much to be desired. To underscore the relevance of community stakeholder involvement in PPPs, Yescombe posits that due to the public-service nature of PPPs, it is inevitable that they are subject to heavy political debate. As such, he recommends that there must be a political will on the public-sector side of the table, and the ability to communicate the case for pursuing PPP clearly and fairly (Yescombe, 2007).

Given that the mistake of not involving the community stakeholders at the initial stage of the project was bad enough, the Lagos State Government and the LCC ought to have consulted with the community stakeholders as well as seek advice before initiating the setting up of three toll gates on the expressway. It was reported shortly after the planned mounting of the tollgates that property value along the corridor depreciated by 30% (Uroko, 2013).

### **Lekki-Toll Road Community Stakeholder Agitations**

Whilst it may be argued that the agitations against the Lekki Toll Concession Road Project were politically motivated (Lagos State Government, 2014), it is not an excuse not to have involved the community stakeholders in the project from the conception phase.

In 2010, as the LCC planned to commence tolling at the Admiralty there were protest by the residents of the Lekki axis and commuters along that corridor. Leaflets distributed by the LCC to underscore the long-term benefit of the project did little to calm the frayed nerves of the agitators (Akinola, 2010).

The convener of the Lekki-Epe Residents Association, Mr. Adewale Sanni condemned the planned toll collection on the road describing it as a huge joke. He considered paying N250, N150 and N120 tolls on each of the three tolls for a single journey absurd. A legal practitioner who resides along the Lekki area, Mr. Ebun Olu-Adegboruwa filed a case at the Lagos High Court challenging the collection of tolls on the expressway (Ndiribe, Innocent & Olasunkanmi, 2010). The community stakeholders argue that collection of tolls on the road should only come into effect when the entire 49km stretch of the road is completed. On the other hand, the LCC posit that under the concession agreement, they were empowered to commence the collection of tolls even though less than 10 % of the road had been completed (Nwangwu, 2013).

The lack of public support for the project became a major worry for the All Progressive Congress (APC) led Lagos State Government as the continued collection of tolls on the road could mean that public opinion would be swayed towards the opposition Peoples Democratic Party (PDP) in the state. In fact, the APC led party became so jittery in the face of the agitations by community stakeholders, the Lagos State Government had to buy back the concession for the Lekki Epe Express Road (Arimoro, 2014).

The Lagos State Government in 2013 decided to buy back the Lekki Concession Toll Road. Even though, the state Government insists that the concession was neither terminated nor cancelled, it is obvious that it has failed as a PPP (Lagos State Government, 2013). One of the reasons given was that the government was coming to that decision, as there were elements in the 2006 agreement that the Government did not envisage (Lagos State Government, 2013). It is submitted at this point that, stakeholder involvement was key to the failure of the Lekki-Epe Concession Project.

### **Findings**

From a review of literature and reports regarding the Lekki Concession Toll Road, this writer arrives at the following findings:

1. The involvement of Community Stakeholders is critical to the success of any PPP project.
2. With regards to the Lekki-Epe Express Road Concession, the Lagos State Government did not carry Community Stakeholders along. The latter were not involved in the conception phase. Their opinion was not sought and it was difficult to get their support during the subsequent phases of the project.
3. The role of community leaders like the chiefs and Ba'ales along the corridor of any PPP project cannot be deemphasized. Doing so, will make the project dead on arrival. This is so because, such community leaders have influence on the members of the community and can easily communicate government intention to the people since they are nearer to the people than the government.
4. Because people view government action with suspicion, it is vital for government to come plain with the people. The secrecy with which the Lekki-Concession Project was put together raised questions as to the ownership of the Concessionaire. This would not have been the case if the Lagos State Government had publicized the bids for the projects and had involved members of the community stakeholders in the team that eventually selected the winning bidder for the project. It is submitted that the absence of community stakeholders at that stage of the project was detrimental to the success of the project.
5. The Lagos State Government ought to have used the media adequately at the initial stage and at every stage of the project. The strategy adopted by the Government was defensive and it did little to counter the opinion held by the agitators against the project.

## CONCLUSION AND RECOMMENDATIONS

As a result of budget constraints and other demands for state revenue, Governments at all tiers must seek for alternative means of financing infrastructural projects. PPP has been adopted by many governments around the world to finance infrastructure and this has produced fantastic results in many climes.

Despite the good intentions of any government, it is important that community stakeholders are given their rightful place beginning from the conception stage of any given project. The lessons learnt from the Lekki-Epe Concession Toll Road will prove vital for the three tiers of government in Nigeria and indeed other countries in Africa that seek to adopt the PPP model.

It is suggested that the public authorities should involve traditional rulers, community leaders, the media, religious leaders and women leaders in their plans for PPP projects. Representatives from these groups should be involved in the design, bidding process and the other phases of the project. Again, government must embark on regular awareness programmes regarding the project. It is recommended that toll prices should only be fixed after consultation with the Community stakeholders. Agreed that the private investors seek a return for their investments, the public must be assured that PPP is not exploitative. In the same wise, the public must be aware that they should be ready to pay for use of toll roads at above cost price but not below in order for the facilities to be properly maintained.

## BIBLIOGRAPHY

- Aaltonen K (2000). Stakeholder Management in International Projects. Aalto University of Science and Technology, Department of Industrial Engineering and Management. Unpublished.
- African Development Bank (2007). Summary of Environmental and Social Impact Assessment for the Lekki Toll Road Project. African Development Bank.
- Akinola F (2010, September 3). Concession: Two Days of Rage for And Against Lekki-Epe Tollgate. Daily Trust.
- Arimoro AE (2014). An Evaluation of the Legal Framework for Public Private Partnerships in Nigeria. LLM Dissertation, University of Derby, Law School.
- Ayodele T, Sotola O (2011). Public-Private Partnership: Will it Fix Nigeria. Initiative for Public Policy Analysis.
- Cheung E (2009). Developing a Best Practice Framework for Implementing Public Private Partnerships in Hong Kong. unpublished PhD Thesis.
- Essia U, Yusuf A (2013). Public-Private Partnership and Sustainable Development of Infrastructures in Nigeria. *Advances in Management and Applied Economics* 3 (6): 113. Lagos State Government. (2014). Retrieved 06 26, 2015, from [www.lagosstateppp.gov.ng/news/documents/FactsonLagoslnfrastructureProject.pdf](http://www.lagosstateppp.gov.ng/news/documents/FactsonLagoslnfrastructureProject.pdf)
- Lagos State Government. (2013). [www.lagostate.gov.ng/news2.php?k=2918](http://www.lagostate.gov.ng/news2.php?k=2918). Retrieved June 25, 2015
- Lasker, R. D., & Weiss, E. S. (2003). Creating Partnership Synergy: The Critical Role of Community Stakeholders. *JHSA Summer*, 120.
- Ndiribe O, Innocent A, Olasunkanmi A (2010, December 22). Lekki-Epe Expressway: Government, Residents Head for Showdown. *Punch Newspaper*.
- Nwangwu GA (2013). A Risk-Based Approach to Enhancing Public-Private Partnerships (PPP) Projects in Nigeria. PhD Thesis, The University of Hull, Law School.
- Tvarno CD (Ed.). (2010). Public-Private Partnerships: An International Analysis from a Legal and Economic Perspective. European Union.
- Tvarno CD, Anderson H, Cao F, Wang P (2010). Public-Private Partnerships: An Interantional Analysis from a Legal and economic Perspective. (C. D. Tvarno, Ed.) European Union and Asia Link.
- Uroko C (2013, September 19). Multiple Tolls on Lekki-Epe Expressway Bring Down Property Value by 30%. *Business Day*.
- Yescombe ER (2007). Public-Private Partnerships: Principles of Policy and Finance. Oxford, United Kingdom: But terworth-Heinemann.