

INNOVATING MATURE PUBLIC PRIVATE PARTNERSHIPS: DANISH MUNICIPALITIES AND CONSTRUCTION FIRMS IN NETWORKED PUBLIC SERVICES

Christian Koch¹ and Martine Buser

Construction Management, Department for Civil Engineering, Building 115, Technical University of Denmark, 2800 Lyngby, Denmark

The establishment of private public partnerships in Denmark in relation to construction became a very hot topic indeed, when a municipality ended up close to bankruptcy in the spring of 2002, due to a very innovative and creative exploitation of various PPP-arrangements including sales and lease back. Such PPP arrangements started flourishing in Danish municipalities from the late nineties, with this very scandalized municipality as model. Although a number of arrangements were established, many more were possibly halted because of the incident. Establishing these arrangements is therefore in a Danish context still a central issue for PPPs. For the vast majority of running PPPs however, the central issue is not fraud, but rather how to develop the partnership further, given that they are established. Drawing on new public management perspectives it is argued that the future model of public services is the network of a mixed set of players (private, voluntary and public). Such networks might be strong in combining forces and strength from these various sectors in producing present public services. However the discussion raised here is how innovation and improvement of public services can develop in such circumstances. Contracts, “luke warm” trust relations and the like might become serious barriers for innovation. The paper view innovation in PPP as innovations in cross-sectoral networks and built on Danish case studies. Examples of Danish PPP are given highlighting the role of the construction firms. One case is a wastewater plant, driven by two construction firms on the financial basis provided by a third party. The production has been running for three years, In this period various innovations in the process and product-side of this public service have been suggested and some have been successful others not. The experiences illustrate the importance of recognizing public private partnerships as emergent political arenas. It is suggested to develop meta-governance frames for the partnerships encompassing guidelines for contracts, organizations and management. And to create frames for organized innovation in the public services also beyond what can be previewed by initial contracts.

Keywords: Denmark, innovation, municipalities, partnerships, political processes, public private.

INTRODUCTION

In a number of countries Public Private Partnerships have become prominent as an element of developing the public sector and its services (Rosenau 2000, Akintoye *et al.* 2003). A stream of publications has followed this development from various scientific positions including construction research and political science. Paradoxically, however it seems rare to see studies that actively combine

¹ ck@byg.dtu.dk

understandings and theoretical perspectives of the public actors with perspectives and understanding of the private actors.

Moreover where the prevailing view is that these kinds of partnerships improves practices in the construction phase and enhance innovation (Akintoye *et al.* 2003, Holti *et al.* 2000), there seems to exist little research that actually map innovation carried out within PPP.

The *aim* of the present paper is therefore twofold. First at building an independent multidisciplinary research position from which PPP can be analysed with less implicit preference of either of the partners than previous research. PPP is much more than a new way to get public projects for construction firms or merely an outsourcing of public services. Second to discuss the innovation aspects of mature public private partnerships. Is innovation systematically organized or does it need reopening of a closed policy network?

The *paper is structured* as follows. Initially, some methodological remarks are introduced followed by two sections discussing the developments of respectively the public sector and construction sector. The next section presents some concepts for understanding partnerships and public private partnerships. The paper then turns to the Danish context and presents a status for PPP. A case is presented and the paper ends with a discussion and conclusion.

METHOD

One central aim of the present work is to establish an independent research position, which recognizes and understands the special characteristics of public organizations and services, and at the same time recognizes and understands the characteristics of private construction firms. Although PPP is widely studied, it seems rare to see studies that actively combine understandings and theoretical perspectives of the public part with perspectives and understanding of the private part. It is characteristic moreover; that the two perspectives rarely use each other's results, at least judged by the referencing. There is thus a tendency that *construction (management) research* gets trapped in the classical problem on whether to research "for" or "on" the sector? The studies of PPP from the *construction research perspective* thus tend to borrow the industries understanding of a potential new market for building projects and the implicit simplifications of the public sector as merely a customer organization. This is for example revealed when scholars talk about "uncontrollable external factors", referring to the wider interests of the citizens related to PPP. It is noted that PPP are bound to stir up a lot of emotions amongst citizens (Leiringer 2002, Heywood *et al.* 2002). *Public Sector Research*, typically built on political science, on the other hand has developed a profound understanding of private sector management, which are the central elements of new public management (Ferlie *et al.* 1996, Jones *et al.* 2001, Klausen & Ståhlberg 1998, Rosenau 2000). Despite this profound turn in political science it still seem to carry implicit favouring of the social democratic welfare state. Scholars thus tend to portray the private sector efficiency as flawed (Linder in Rosenau 2000). Moreover public sector research tends to shy away from the organizational level and seem to prefer to deal with relatively generalized concepts such as democracy and governance (Heffen *et al.* 2000, Sehested 2003). The paper is *built on a small qualitative study*, financed by CSTB (Centre Scientifique du Travaux Public et du Batiment, Paris), and this means that we are forced to operate in an more empirical way attempting to avoid prejudice and bias in the approach to the partners

studied. And henceforth in a less theoretical conceptual manner. Another methodological point refers to *case options*. Private Public Partnerships are emerging in Denmark. Roughly there are three types: first large infrastructure projects realized through publicly owned shareholder companies, second dwellings for precarious groups (youngsters and elderly) under regulation as public utility and third more classical partnerships between municipalities, contractors and financial institutions. The case chosen here, the Farum wastewater plant, has been operating for three years and is one of the few mature private public partnerships in Denmark of the classical type. We have chosen the case because of the maturity and “despite” the turmoil the municipality of Farum have been through, which makes the public organizational framework around the partnership less stable than we assume it would normally be.

PUBLIC SECTOR DEVELOPMENTS

New public management and political science governance perspectives have argued that the future of the welfare state is in the form of networked public services. Public organization will move away from hierarchy and bureaucracy and develop into networks on many levels and with multiple actors involved within a common governance frame (Ferlie *et al.* 1996, Jones *et al.* 2001 Heffen *et al.* 2000). One reason for this being the need for tackling complexity and need for flexibility by combining complementary resources and competences. This discourse also predicts a transformation of the concept of democracy from representative democracy to participative democracy and a move away from rationalistic planning, and into emergent planning (Sehested 2003).

The networks delivering services will encompass a mixed set of players (private, voluntary and public) (Ferlie *et al.* 1996, Jones *et al.* 2001). The networks are assumed to be strong in combining forces and strength from these various sectors in producing a set of public services. And partnerships are central elements. A more disputed issue is however how innovation and improvement of public services can develop in such circumstances. Contracts, “luke warm” trust relations and the like might become serious barriers for innovation. At the same time public services are not given once and for all, but should be understood as emergent and politically negotiated amongst a range of players. It is interesting to note that this discourse coincide with contemporary discourse on the organizational development of private enterprises (see for example Castells 1999 and below). This is promising from the point of view of simplifying public private partnership to a network relation between to relatively alike organizations. We would maintain however that the new public management discourse is too optimistic in its view on the ability of dismantling hierarchy and bureaucracy. Even under radical neo liberal circumstances one will find attempt to create a coordinated public service, a metagovernance (Heffen *et al.*, 2000 Kickert *et al.* 1997). This encompasses at least recommended forms of organization, rules, procedures, contracts, indirect forms of network management, such as goal setting, financial planning and monitoring. More often a hierarchy of public institutions prevails, coordinating local and central levels, maintaining a division of jurisdiction and labour etc. All elements that can hardly be encompasses by a clean network model.

CONSTRUCTION SECTOR INTEREST IN PARTNERSHIPS

There is increasing recognition that the fragmentation of the construction industry is a problem rather than strength (Andersson 2003, Winch 2002). The construction industry has in contrast to the public and other sectors for long been characterized by temporary networked production of services. It has become commonplace to argue

that although this might enhance the exploitation of complementary competencies, it also promote short termism and constrains innovation since a tyranny of the single project is the result (Koch 2002). There has therefore been a growing interest for partnering amongst the (private) players of the industry also in an attempt to escape the worst drawbacks of short-termism. Such emerging networks for innovation and production are not just formed however. For example UK experiences show how it takes time to develop the competencies for partnering (Bresnen & Marshall 2002).

PARTNERSHIPS

Partnerships can be understood as basic units in networks, since partnerships involve usually two or at least few players, whereas networks can be understood as consisting of multiple actors. The focus of this contribution will be on the municipalities and their private partners and therefore the partnership is cross-sectoral. Partnership and networks are usually described as means to transcend competition and hierarchy and to recognise interdependence and complementarity. Moreover we would describe them as characterized by coexistence of trust and distrust. In partnerships and networks, collaboration is built, not just within, but between organizations. There is no reason to supposing that inter firm interactions should not be shaped by power- and politics processes. Elg and Johansson (1997), who develop upon earlier work by Frost and Egri (1991), take up this point. They examine decision-making processes in asymmetrical relationships in inter-firm networks. The proposition is that network participants will seek to influence the decision-making process, advancing their specific interests and enhancing their position within the network. From studies of political processes of negotiation, like actor network theory (Latour 1997), one can derive a focus on the process of coalition building, the intersection and tension between internal and external collaboration as well as between stability and social dynamics. These dimensions can be further elaborated by drawing on organizational politics, which is done elsewhere (McLoughlin *et al.* 2001).

PUBLIC PRIVATE PARTNERSHIPS

Where partnerships historically have developed through various forms (Winch 2000), we concentrate on new public management types of public private partnerships between municipalities and construction firms. These relations have also previously taken various shapes including long term informal cooperation, but is now through NPM changed into stable contractual relations, including models such as Sales and Lease back, Build, own, operate, transfer (BOOT) or Renovate, Operate and transfer (ROT). A public private partnership is indeed an odd couple. Such a partnership represents more than two companies partnering, since the public player has a governance framework. It is characterized by mixed motives; the private partner will tend to focus on revenue, whereas the public partner might focus on improved (or just renewed or even established) public service. (Leininger 2003, Rosenau 2002, Sehested 2002). The parties might convene these diverging motives in hybrid/shared organizational forms. In the concurrent cooperation it is likely to be revealed that the parties have diverging practices of management, organization, participation and conflict resolution and –management. Along with other partnerships PPP would be expected to encompass continual tensions ”backwards” in the respective framing organizations (re. Bresnens & Marshalls (2002) strategic partnering)

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Drawing on the literature on innovation in networks, partnerships would need to either organize innovation or somehow reopening of a closed policy network and existing set of compromised potentially underpinned in contract and the like. As Rhodes (1997) notes policy networks tend to end up as closed and relatively partial service production elements. Although initial contract working on service level agreements and the like is important, the mature partnership will be characterized by new types of innovation that cannot be predicted at the time of preparing the contracts. Also public services should not be perceived as stable, but rather as emergent and drifting according to societal developments.

PPP IN DENMARK

Denmark is as a welfare society, characterized by a tripartite corporative arrangement between state employers associations and unions. This has through hundred years of development created a cooperative climate of consensus seeking. The ten years of moderate right wing government from 1983-1993 in parallel with Thatcher in UK was thus in reality a “non-Thatcher” arrangement, since the basic corporative model was maintained and the public employment not reduced. The subsequent Social democratic government (1993-2001) followed the same line (which is less surprising). A large public sector, state, counties, municipalities, was therefore maintained in size in the period 1983-2002. The Social democratic government (1993-2001) focused its construction activities in infrastructure investment (f. ex. motorways- still fully state owned and driven) and less on housing. Even in the eighties large infrastructure projects were carried out in a fully financed state model (Farø-bridges finalized in 1985 with 2% overrun of budget, Vejlefjord bridge a bit later, motorways). The right wing government commenced selling of public institutions in the late eighties and the social democratic continued in the nineties; Copenhagen Airport, Datacentralen (public IT-supplier) a.o. The present centre right government however is more ambitious presently on realizing privatization and outsourcing and public private partnerships. In December 2000 the government announced an effort to develop PPP. The effort consists of three elements: 1. Development of tools to evaluate a PPP before initiation. 2 Development of standard/generic contracts for PPP and 3. Further consideration of commencing experimental projects funded by the state. For various reasons these efforts was delayed. First a further focus on legal issues meant that representatives for the authorities developed a small report on these (Konkurrence-styrelsen 2002). In autumn 2002 it was decided to tender a so-called “public sector comparator” as a realization of point 1 above. This job was given to COWI (consulting engineer) with a Dutch partner (Dutch and UK experiences were central for the shaping of the tender). It is the job to develop a model for calculating expenses related to building, operation and maintenance in a way that makes a PPP-offer comparable with a traditional offer.

TRENDS BEHIND PPP IN DENMARK

The background for private public partnerships in Denmark result from several trends that intermingle and that have different strengths and strongholds in various parts of the public sector and the private sector. Roughly one can speak of parallel tracks of “marketification” of public service, new public management, financial innovation and construction innovation. This has been accompanied by reforms of the legal framework. The *marketification of public service* is fuelled by the EU-legislation

demanding that public services be tendered on an open market condition. In Denmark a long row of activities has been privatized in prolongation of this obligation; cleaning, language courses for asylum seekers and many other tasks not especially related to the building sector. This is done on the level of municipalities, counties and the state. New public management emerges as a tendency to manage public tasks in a broad respect with methods, tools and roles as in the private sector. These new forms of management has been very fashionable in the Danish public sector over the last 15 years and led to a number of rationalization and development projects under banners like Business Process Reengineering, Total Quality Management/ Business Excellence etc. (Hagedorn Rasmussen *et al.* 2000). *Innovation in financing* of public building projects probably commenced with the large infrastructural projects (see below), but continues with the financing in the sale and lease back model developed by the Farum municipality. The *Construction innovations* have an important hub in the role of the client. The recent Danish debate thus point at the client as the key change driver for innovation in construction. In this context the public client is assigned outmost importance and several parts of the client body is indeed very active in developing new construction management types (examples include The office for military installations, The urban renewal company and The Danish State Radio. The *reforms in the legal framework* include the implementation of the directive for public procurement, in the public procurement order of July 1998. According to this a municipality is allowed to withdraw 5% of the revenue of a sale every year. The approval of the Farum model (see below) by the ministry for internal affairs occurred in 1999. The subsequent state intervention in the sales and lease back model for municipalities by 7 June of 2000 implying that the municipalities are to have their arrangement approved by the ministry for internal affairs, that the sales sum is to be deposited, and that 5% can be withdraw only after 10 years (DR 2000), that speculation in the difference between short term and long term interest rate are prohibited. From 2001 a legal reform enables public authorities to choose between public and private building suppliers (owners) (Byggepolitisk Task Force 2000:45).

Status for PPP in Denmark

Below are listed five types of partnerships carried out in Denmark. Almost all of them relate to projects commenced within the last ten years and they thus represent an emergent form of organization and cooperation where all partners still are developing their basic competencies.

THE FARUM WASTE WATER PLANT AND CLOAK PIPE NET

The relatively small municipality Farum with 18.000 inhabitants, situated just outside Copenhagen got a right wing and ambitious mayor in 1985. The following ten years the mayor and the city council followed an explicit right wing policy, reducing public spending, cost cutting in public institutions and realizing low tax levels. From 1997 what is labelled the Farum model emerged. Farum became a model for new public management using public private partnerships as one out of several tools. The municipality obtained revenue of 300 mill. Euro in 1998 by selling a wastewater plant and the cloak pipe-net, four schools, a culture centre and a swimming pool (the municipality annual budget is around 147 mio Euro, DR1999). By selling public property and institutions, and rent them back (*sale and lease back*), the municipality obtained capital, typically invested in bonds (Ipsen & Pedersen 2002b). Moreover the municipality speculated in the difference between the short-term interest rate and the long term (Ipsen & Pedersen 2002a, b). Typical partners in these arrangements were a

financial institute, a contractor and a municipality. Farum continues developing its model by selling 27 nursery homes and day-care centres. Several major building projects commence in the municipality (the two sports arenas Farum Arena, Farum Park, among others (DR1999)). In spring 2002 scandal rolls in Farum. The economic and political transactions of the mayor, within the model, involve clientelism, fraud, “circular financial transactions” and loans obtained without the consent of the city council. Expensive dinners and excessive consumption of redwine is annoying the public. The budget for representation per year was thus 1 mio Euro per year (which however not by itself is illegal). For the construction sector partners it became important to avoid “falling” with the mayor. The medium size contractor Hoffmann is for example accused for paying sponsorates for Farum football club, which is headed by the mayor, but letting the building contract pay the expense. Hoffmann obtained several larger building contracts in Farum, including parts of the sports arenas, the partnership on the wastewater plant and the building of youth dwellings. The mayor is forced away from his position and is now under criminal investigation. Major deficit on the accounts of the municipality, Tax raises announced. The Farum- model can be seen as predominantly a financial instrument to raise capital. It thus more a financial innovation than a managerial (or technological). In some versions however the package involve new ways of pooling tasks for the private contractor participating. In the first version from 1998 the core financial idea is a sale and lease back. The municipality sells a public institution to a private company and leases back the services of the privatized institution. The Farum wastewater plant contract is a “own, operate, transfer” contract supplemented with a “build” element related to the extensions of the plant. It is in other words more than a facilities management contract, which would not involve the ownership element of the private firm. The municipality in cooperation with building consultants prepared the contracts. Several bidders answered the tender, but the municipality decided very quickly to accept the Hoffmann/ Krüger offer. Another bidder complained to the Danish board for EU-tenders, a complaint that could not stop the contract negotiations however. Also the Danish ministry for internal affairs investigated the transactions and criticized them heavily. A settlement of the controversy allowed Farum to keep some of the revenue and others were used to pay debts. The contract, which was put in place in 1998, thus involves Farum Municipality, a contractor (Hoffmann) and a specialist-consulting Engineer (Krüger). Hoffmann and Krüger developed a joint company HFK, which with loans from a financial institution (Finansieringsselskabet for Handel og Industri) bought the wastewater plant, the pump stations and the pipe-net. The contract runs in 20 years and specifies a transfer sum of 10% of the initial sales sum (from HFK back to the municipality). The contract encompasses renovation, maintenance, administration and renewal/extensions of the installation. HFK is also responsible for planning and managing the extensions. The contract has run now for three years and has therefore matured, despite the heavy turmoil in the initiation phase. In the three years of operation the extensions encompass a new basin for rainwater, an installation for drying the organic waste material, a gas motor producing electricity and heating and a new PLC- control system. There is a rather clear cut between the two companies responsibility in the common company. Krüger runs the wastewater plant and the administration of it. Hoffmann runs the pipe net and maintenance of it. According to the Hoffmann-manager involved, the parties have so far gained from the arrangement (November 2002). The extensions of the plant have however been stalled since the rolling of the scandal in Farum.

DISCUSSION AND CONCLUSION

We would forward an position viewing PPP as emergent and shifting form over time, involving transformation of organizations during the various phases of design, financing, build, operation, something that might be handled through looser alliances, partnering and/or hybrid organizations. Seen as a whole the approach to public private partnerships in Denmark are reluctant and hesitant. Few public and private organizations have engaged in such partnerships and the governance of the partnerships have been relatively restricted as well. The Farum model have - interpreted as controversial as it has been - halted the development several times. Nevertheless the reluctant development has further explanations. It is first still not impossible to finance public sector development project by more traditional means (tax raises for instance). Second more informal partnerships and networking can be seen as central for the present public-private interaction, even without formalizing it. Parts of the construction marked continue to be localized in the municipalities and regional cities. For instance a local contractor who aims at delivering to the local municipality in the future are less likely to engage in “built and disappear” arrangements. Also the established partnerships are relatively restricted and singular in character. They focus on a single building or utility and do not involve strategic cooperation. It concurs in this sense with the general picture given by Rosenau 2000, which summarizes her set of global case studies by characterizing the partnerships studied as “partnering at a distance, or minimalist partnerships” She contends moreover that there are few authentic, fully integrated, co accountable examples. What are also important however are the experiences and competences developed among municipalities, contractors, consulting engineers and financial institutions in developing partnerships that are at the same time stable and innovative. The example of the wastewater plant shows that in certain areas the operation and culture of public respectively private partners are not that mutually alien. Moreover the private side have stabilized their contribution by establishing an independent company. A design that reduces the instability inherent by the private partner in the necessary integration of an operation of a plant into a portfolio of construction projects in a broader respect. Within such as stabilization however the political processes of both parties will continue to create new tension and dynamics. Such political processes are inescapable in public private partnerships as well as other types of partnerships. There is a *need for “realistic” approaches to partnerships*. There are issues of implications for democracy, human resource issues, handling of risks, partnerships ambiguity and coexistence of consensus and conflict that point at the need for Meta governance of the partnerships. Metagovernance could encompass indirect forms of network management, such as goal setting, financial planning and monitoring. The establishing, framing and dismantling of partnerships. Development of recommended forms of organization, rules, procedures, contracts and ultimately building of identity and cultures related to these partnerships that would neither be private or public in the organizational cultural character. It could offer framing of organized innovation, and mediation between local political developments and the private partners. Meta governance would in a Danish setting be realized in cooperation between representatives from the construction industry and government (the corporative state arrangement). It is thus hardly yet another set of alien public rules constraining the industry such as the traditional construction industry view would be.

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