
OVERVIEW OF PUBLIC PRIVATE PARTNERSHIPS IN CHINA AND INDIA: A COMPARATIVE ANALYSIS

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ABSTRACT

This Note provides an overview of Public Private Partnerships (PPPs), particularly the case of China and India. The inquiry will focus on examining the institutions, regulatory and legal framework present in both nations, and their general approach to guidance and regulation of projects. The emergence of PPPs created an alternative avenue for nations to invite private capital into public services, infrastructure and other basic services. The proliferation of this mode of public procurement has forced countries to develop institutions and legal frameworks able to manage the relationships with investors, and ensure positive outcomes from these projects. In order to do this, both China and India have developed slightly different legal frameworks, and assigned institutions for the management of Public Private Partnerships. Therefore, it is essential to understand each country's PPP infrastructure. This Note will examine each countries' PPP institutions, and supporting laws and policies. The goal of this analysis is to examine each regime, and provide recommendations for future reform. The Note starts by discussing the background of PPPs in China and India, and the main reasons for their proliferation in the region. Followed by an overview of China and India's PPP legal frameworks and institutions. Finally, the Note analyzes both regimes, and proposes several opportunities for continued development of the PPP frameworks in China and India.

CONTENTS

INTRODUCTION.....	216
I. BACKGROUND: THE RISE OF PPPS IN CHINA AND INDIA.....	219
II. CHINA'S PPP FRAMEWORK	220
A. China's PPP Institutions	220

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<i>B. China's PPP Legal and Regulatory Environment</i>	223
III. INDIA'S PPP FRAMEWORK	226
<i>A. India's PPP Institutions</i>	226
<i>B. India's PPP Legal and Regulatory Environment</i>	227
IV. KEY LESSONS	230
V. PROPOSALS & RECOMMENDATIONS	232
CONCLUSION	234

INTRODUCTION

Increasing population and economic growth fuels the need to develop more and better infrastructure.¹ In the case of China and India, decades of exponential growth have created great demand for public assets and services. China, the world's most populous country, nearly doubled its population in a span of 50 years, going from 774.5 million in 1968 to 1.403 billion in 2018.² India, the world's second-most populous country, more than doubled its population in the same time period, going from 531.5 million in 1968 to 1.353 billion in 2018.³ To bridge the gap between their populations' needs and their fiscal capacity, both countries have increased their participation in Public Private Partnerships (PPP).⁴

A PPP is defined as

an agreement between the government and one or more private partners (which may include the operators and the financiers) according to which the private partners deliver the service in such a manner that the service delivery objectives of the government are aligned with the profit objectives of the private partners and where the effectiveness of the alignment depends on a sufficient transfer of risk to the private partners.⁵

That is, the private party enters into an agreement to complete a project or

¹ See *PPP Basics: What and Why*, PPP KNOWLEDGE LAB, <https://pppknowledgelab.org/guide/sections/2-ppp-basics-what-and-why> (last visited Nov. 2, 2021).

² *Population, Total - China*, WORLD BANK GRP., <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=CN> (last visited Oct. 24, 2021).

³ *Population, Total - India*, WORLD BANK GRP., <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=IN> (last visited Oct. 24, 2021).

⁴ See Fernanda Ruiz-Nuñez et al., *The State of PPPs: Infrastructure Public-Private Partnerships In Emerging Markets & Developing Economies 1991-2015*, at 2, WORLD BANK GRP. (June 2016), <https://ppiaf.org/documents/3551/download>.

⁵ Organisation for Economic Co-operation and Development [OECD], *Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money*, at 12 (May 21, 2008).

provide a service of public nature, and in doing so the government transfers the majority of the project risk to the private sector, in exchange for the ability to generate profits from the project.⁶ Analogously, the private sector defines a PPP as

a long-term contract between a private party and a government agency for providing a public asset or service, in which the private party bears significant risk and management responsibility It relies on the recognition that public and private sectors each have certain advantages relative to other in performing specific tasks. The responsibilities of the private sector could entail finance, design, construction, operation, management and maintenance of the project.⁷

PPPs are an effective way for governments to deliver value to people that would otherwise be outside their means, and it is also an effective way for the government to transfer the risk involved in a project to a private party.⁸ By introducing private capital into the development of public assets and services, the private sector takes off the financial burden from the public budget, and is able to deliver much larger and complex projects than otherwise would be possible.⁹ For these reasons, PPPs have gradually grown in popularity, and are on track to become the vehicle of choice to tackle big government projects.¹⁰

The emergence of PPPs created an alternative avenue for governments to attract investment into public services, infrastructure and other basic services.¹¹ PPPs ensure that projects are managed and maintained efficiently by discharging those responsibilities on a private enterprise legally bound to perform, and minimizes project risk for the public sector.¹² Furthermore, financing provided under a PPP agreement makes possible projects that otherwise would not have been possible due to government's financial constraints or budget limitations.¹³

While PPPs offer significant advantages to host countries, they are

⁶ *Id.* at 19 (citation omitted).

⁷ *What Is Public-private Partnerships?*, DELOITTE, <https://www2.deloitte.com/cn/en/pages/real-estate/articles/what-is-public-private-partnerships.html> (last visited Nov. 2, 2021).

⁸ *See* Ruiz-Nuñez et al., *supra* note 4, at 6.

⁹ *Id.*

¹⁰ *See* E.R. YESCOMBE, PUBLIC-PRIV. PARTNERSHIPS PRINCIPLES OF POLICY AND FINANCE, at xv (Elsevier Sci. & Tech. et al. eds., 2007).

¹¹ *See Government Objectives: Benefits and Risks of PPPs*, PUB.-PRIV. WORLD BANK GRP.: PUB. PRIVATE P'SHIP LEGAL RES. CTR., <https://ppp.worldbank.org/public-private-partnership/overview/ppp-objectives> (last updated Oct. 27, 2021).

¹² *See id.*

¹³ *See id.*

complex projects that require active commitment from all stakeholders for successful implementation.¹⁴ Additionally, PPPs are long term commitments, involving a higher degree of political and planning risk than a regular concession.¹⁵ PPP procurement costs are significant in comparison to other procurement methods, and can account for 5-10% of the project cost, therefore, government authorities should evaluate if the PPP method is appropriate for a given project.¹⁶ Other risks could arise depending on the project, which will require a strong policy framework to assure that every project delivers value to society.¹⁷

PPPs are most commonly funded by means of a project finance structure.¹⁸ This arrangement allows sponsors and the public sector to minimize potential risk by limiting lender's recourse to project assets and cash flows for repayment.¹⁹ Thus, the project company's obligations are separate from those of the sponsors, and debt is secured by the project's cash flows and any existing assets.²⁰ By limiting exposure to a project, project finance allows sponsors and the public sector to build much larger projects than would otherwise be the case.²¹ For lenders, the non-recourse aspect of project finance means that a careful analysis of the project's viability and profitability is needed, particularly focusing on the project cash flow and contractual structure.²² While project finance reduces risk for sponsors and close scrutiny by lenders serves as a filter for low quality projects, there are some downsides which include: higher transaction costs, complexity, and the need for lender oversight of the project.²³ Another financing option, although far less popular, is full recourse corporate finance.²⁴ With this alternative, lenders issue loans directly to the sponsor based on their credit rating and

¹⁴ World Bank Grp. & Pub.-Priv. Infrastructure Advisory Facility, *Toolkit for Public-Private Partnerships in Roads and Highways*, at 28 (Jan. 1, 2009), <https://ppiaf.org/sites/ppiaf.org/files/documents/toolkits/highwaystoolkit/6/pdf-version/1-15.pdf>.

¹⁵ *Id.* at 29.

¹⁶ *Id.*

¹⁷ *See id.*

¹⁸ U.N. Econ. & Soc. Comm'n for Asia & the Pac. [UNESCAP], *Public-Private Partnerships in Infrastructure Development: A Primer*, at 48 (June 2008), <https://www.unescap.org/sites/default/files/PPP-Primer-Final-Original-edited.pdf>.

¹⁹ *Id.*

²⁰ *Finance Structures for PPP*, PPP KNOWLEDGE LAB, <https://pppknowledgelab.org/guide/sections/17-finance-structures-for-ppp> (last visited Mar. 30, 2021).

²¹ *Id.*

²² *Id.*

²³ UNESCAP, *supra* note 18, at 48.

²⁴ *See Finance Structures for PPP*, *supra* note 20.

balance sheet, and the lender obtains a payment guarantee which provides them with full recourse to the sponsor's balance sheet.²⁵ The financial structure of a PPP will mostly depend on the type of project and expected cash flows – and will aim to minimize the cost of finance for the project.²⁶

The proliferation of PPPs has forced countries to develop frameworks and entities to manage the relationships with investors, and ensure positive outcomes from these relationships.²⁷ In order to do this, both China and India have developed slightly different legal frameworks, and assigned institutions for the management of PPPs. This Note seeks to explain the rise of PPPs in China and India, provide reference to each country's PPP legal framework, and examine the institutions charged with regulation and management of PPPs. Additionally, this Note analyzes the strengths and vulnerabilities of each regime, and proposes several opportunities for continued development of the PPP frameworks in China and India.

Part I of this Note discusses the background of PPPs in China and India, and the main reasons for the proliferation of PPPs in the region. Parts II and III provide an overview of China and India's PPP legal frameworks and institutions. Part IV analyzes the differences, strengths, and vulnerabilities of each system. Part V proposes several opportunities for continued development of the PPP frameworks in China and India.

I. BACKGROUND: THE RISE OF PPPS IN CHINA AND INDIA

Delivering to its citizens essential public services and quality infrastructure is a primary concern for any government.²⁸ In the last 30 years, both China and India have fully adopted the PPP model in executing large scale projects.²⁹ A move that has allowed both countries to stay ahead of the curve in terms of meeting the needs of their increasing populations and growing economies.³⁰ Since 1990, the Chinese government has closed on 1,934 PPP projects in infrastructure, translating to total investment commitments of over \$250 billion.³¹ Similarly, the Indian Government has closed on 1,128 PPP projects in infrastructure, translating to total investment commitments of over

²⁵ *Id.*

²⁶ *Id.*

²⁷ See ECONOMIST INTEL. UNIT, THE ECONOMIST GRP., EVALUATING THE ENVIRONMENT FOR PUBLIC-PRIVATE PARTNERSHIPS IN ASIA-PACIFIC: THE 2011 INFRASCOPE 3-4 (2011), https://infrascope.eiu.com/wp-content/uploads/2017/02/Asia-Pacific_Infrascope_Report_2011_English.pdf.

²⁸ See *PPP Basics: What and Why*, *supra* note 1.

²⁹ See ECONOMIST INTEL. UNIT, *supra* note 27, at 21-22.

³⁰ See *id.*

³¹ *China*, PPP KNOWLEDGE LAB, <https://pppknowledgelab.org/countries/china> (last updated Jan. 30, 2017).

\$281 billion, within the same time period.³² These investments have allowed China and India to relieve pressure from the government by employing private capital and transferring the development and operational risk to private enterprises.³³

While there are multiple ways to develop a proper PPP atmosphere, an effective system will consist of clear policy and legal frameworks, and capable and knowledgeable institutions that can secure and manage partnerships that will add value.³⁴ A system that incorporates these two principles will receive value for money, incorporating the most advantageous combination of cost, quality and sustainability.³⁵ In general, both China and India have been successful in following these principles to develop a decent framework for sub-national level PPPs, however both nations are still in need of a national framework.³⁶ In the case of India, the variation between state legal frameworks and institutions present a constraint to the continuous development of PPP projects at the national level, with most projects concentrated in a limited amount of states.³⁷ Similarly, in China the provincial and city driven PPP frameworks in existence presents a limitation in PPP project proliferation due to the great variance across states and cities' regimes.³⁸

II. CHINA'S PPP FRAMEWORK

A. China's PPP Institutions

The China Public Private Partnerships Center (CPPPC) is China's centralized agency for all matters relating to mainstreaming PPPs, and is mainly responsible for policy research, consultancy and training, capacity building, financial support, information collection, international exchange and other matters related to PPPs.³⁹ The CPPPC further promotes PPPs by providing the necessary technical support and organizational security needed to better promote the healthy development of PPP specification.⁴⁰ Additionally, the CPPPC encourages PPPs in various areas outside of

³² *India*, PPP KNOWLEDGE LAB, <https://pppknowledgelab.org/countries/india> (last updated Jan. 30, 2017).

³³ See ECONOMIST INTEL. UNIT, *supra* note 27, at 3-7.

³⁴ See Ruiz-Nuñez et al., *supra* note 4, at 3.

³⁵ See *id.* at 26-28.

³⁶ ECONOMIST INTEL. UNIT, *supra* note 27, at 13.

³⁷ *Id.* at 22.

³⁸ *Id.* at 21.

³⁹ See *Who We Are*, CHINA PUB. PRIV.-P'SHIPS CTR., <http://www.cpppc.org/en/gywm.jhtml> (last visited Oct. 26, 2021).

⁴⁰ *Id.*

traditional primary infrastructure, these areas include: “energy, transportation, water conservantion, environmental protection, agriculture, forestry, science and technology, affordable housing, medical treatment, public health, elderly care, education and culture,” among others.⁴¹

The CPPPC gathers and analyzes PPP-related theories, case studies, and other PPP related areas, such as government procurement, budget management, investment and financing mechanisms, and risk control in order to determine best practices, and provide insights to government officials.⁴² Furthermore, the CPPPC supports the government in all stages of the PPP lifecycle, including “identification, evaluation, bidding and procuring, and [PPP] contract management.”⁴³

Additionally, the CPPPC is responsible for setting up PPP operational guidelines, contracting guidelines, supporting the government in selecting appropriate industries for PPP, and choosing suitable PPP models.⁴⁴ The Center is also in charge of establishing uniform processes to manage PPP projects, and carrying out the construction of projects.⁴⁵ Finally, the CPPPC facilitates financing for PPP projects, via “equity, loans, guarantees and others.”⁴⁶

While the CPPPC plays an important role on the development and promotion of PPP projects in China, the Center does not directly control the policy making process, and can only issue lower-hierarchy guidance materials.⁴⁷ Currently, PPP regulation and related policies are issued by different agencies of the Chinese government, and no major centralization of these duties has occurred.⁴⁸ However, the State Council (SC), the Ministry of Finance (MoF), and the National Development and Reform Commission (NDRC) have issued approximately 80% of all PPP related policies.⁴⁹

The SC is China’s highest executive body, and its main administrative authority.⁵⁰ “The [SC] follows the system of premier responsibility in work while various ministries and commissions under the [SC] follow the system

⁴¹ Hui Sun, *Chapter 6: China*, in *THE PUBLIC-PRIVATE PARTNERSHIP LAW REVIEW* 64, 65 (Bruno Werneck & Mário Saadi eds., 2nd ed. 2016).

⁴² See *Who We Are*, *supra* note 39.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See generally Yubo Guo et al., *Policy Evolution in the Chinese PPP Market: The Shifting Strategies of Governmental Support Measures*, 11 *SUSTAINABILITY* 4872, Sept. 6, 2019, at 2, 5 (outlining the evolution of Chinese governmental policy with regard to PPPs).

⁴⁸ *Id.* at 6.

⁴⁹ *Id.*

⁵⁰ *The State Council*, People’s Daily ONLINE, <http://en.people.cn/data/organs/statecouncil.shtml> (last visited Nov. 12, 2020).

of ministerial responsibility.”⁵¹ Additionally, the SC is in charge of executing on the principles and policies of the Communist Party of China as well as regulations and laws adopted by congress, and dealing with such affairs as China’s internal politics, diplomacy, national defense, finance, economy, culture and education.⁵² In 1986, the SC published its first PPP policies, and has since issued more documents structuring the framework and popularizing PPP in various sectors.⁵³ Moreover, the SC has increasingly delegated the development of the PPP framework and policies on the MoF and NDRC.⁵⁴

The MoF is an executive department of the SC’s cabinet responsible for the administration of macroeconomic policies and the national annual budget.⁵⁵ It also handles fiscal policy, economic regulations and government expenditure.⁵⁶ Currently, the MoF is the leading agency in PPP development in China, having issued the majority of policies in the space.⁵⁷ In 2014, the MoF established the CPPPC, in an attempt to centralize multiple PPP related resources, and created a PPP working group.⁵⁸ However, the role and responsibilities of this group remained unclear, until the group later merged into the CPPPC.⁵⁹

Finally, the NDRC is an agency working under the SC, its mission is to manage macro aspects of the Chinese economy, employing broad administrative and planning powers delegated by the SC.⁶⁰ The NDRC analyses and creates policies for economic and social development.⁶¹ It is also responsible for maintaining the balance of economic development, and leading the restructuring of the Chinese economy.⁶²

⁵¹ *Id.*

⁵² *Id.*

⁵³ See Guo et al., *supra* note 47, at 11-12.

⁵⁴ See *id.* at 10-11.

⁵⁵ *Ministry of Finance of the People’s Republic of China*, PPP KNOWLEDGE LAB, https://library.pppknowledgelab.org/documents/3754?ref_site=kl (last visited Nov. 12, 2020).

⁵⁶ *Id.*

⁵⁷ See Guo et al., *supra* note 47, at 10.

⁵⁸ See Yongjian Ke et al., *Public Private Partnership in China: Where To From Here*, ORG., 6 TECH. & MGMT. IN CONSTR.: AN INT’L J. 1156, 1158 (2014), <https://hrcak.srce.hr/file/199606>.

⁵⁹ See *id.*

⁶⁰ See Brian Woodall et al., *The Development of China’s Developmental State: Environmental Challenges and Stages of Growth*, 13 CHINA CURRENT, May 29, 2014, https://www.chinacenter.net/2014/china_currents/13-1/the-development-of-chinas-developmental-state-environmental-challenges-and-stages-of-growth/.

⁶¹ See *id.*

⁶² See *id.*

B. China's PPP Legal and Regulatory Environment

While the concept of PPP has been around in China for over thirty years, presently, there is no particular fundamental law on PPPs.⁶³ The regulatory environment consists mostly of related laws, regulations, and other guidance documents issued by the Chinese government.⁶⁴ Similarly, local governments often have their own set of applicable measures.⁶⁵ At the top of the hierarchy is the Government Procurement Law of the People's Republic of China (GPL), its implementing regulations, and the Law on Tenders and Bids.⁶⁶

The GPL, which entered into effect in 2003, was the first national law regulating government procurement, and was a major advancement towards providing clearer standards, more transparency, less corruption, and more dispute resolution alternatives.⁶⁷ Nonetheless, the law did not specifically address the more modern PPP procurement method, which left holes in the law when it came to the PPP context that would later be filled with other national policies, and guideline documents.

Additionally, the Implementing Regulations of the GPL (IR),⁶⁸ which entered into effect in 2015, were promulgated by the Chinese government in response to difficulties faced in the implementation of the GPL, and were meant to serve as supplement and clarification to the GPL. Similarly, the PPP procurement method was not mentioned in the IR, and the topic was left open to interpretation within the existing framework with limited guidance provided in multiple lower hierarchy documents, which are less binding on all parties.

Furthermore, PPPs are subject to the People's Republic of China Law on Bid Invitation and Bidding (Bidding Law);⁶⁹ therefore, the tendering and

⁶³ Sun, *supra* note 41, at 69.

⁶⁴ *Id.*

⁶⁵ *Id.* at 68.

⁶⁶ See LAW LIBRARY OF CONGRESS, U.S. GLOBAL LEGAL RESEARCH DIRECTORATE, GOVERNMENT PROCUREMENT LAW AND POLICY: CHINA 1-2 (2010), <https://tile.loc.gov/storage-services/service/ll/lglrd/2013417417/2013417417.pdf>.

⁶⁷ See generally Zhonghua Renmin Gongheguo Zhengfu Caigou Fa [The People's Republic of China Government Procurement Law] (promulgated by the Standing Comm. of Nat'l People's Cong. [hereinafter NPC Standing Comm.], June 29, 2002, effective Jan. 1, 2003), *translated in* The Laws of the People's Republic of China (2002), 21-42 (China).

⁶⁸ See generally Zhonghua Renmin Gongheguo Zhengfu Caigou Fa Shishi Tiaoli [Implementing Regulations of the Government Procurement Law of the People's Republic of China] (promulgated by the St. Council, Jan. 30, 2015, effective Mar. 1, 2015), Decree No. 658, <https://www.cpppc.org/en/flfg/994705.jhtml>.

⁶⁹ See Zhonghua Renmin Gongheguo Zhaobiao Toubiao Fa [Invitation and Submission of Bids Law of the People's Republic of China] (adopted by the NPC Standing Comm., Aug. 30, 1999, effective Jan. 1, 2001), 5 NPC Gazette 432-41, *translated in* The Laws of the

bidding procedures in the context of PPPs will be subject to the rules stipulated in the Bidding Law. Other laws may become relevant such as those related to electric power, telecommunications, or land management, depending on the type of project contemplated in a PPP.⁷⁰

Finally, the Chinese Government is currently developing a national-level legal regulation on public-private partnership projects with the aim of standardizing the supervision framework of PPPs and aiding local governments in employing the PPP model to fuel economic growth.⁷¹ In the meantime, guidance for PPP project management will continue to be published periodically.⁷²

At a lower level, and in response to the lack of guidelines on PPP regulation within China's existing legal framework, the SC has issued multiple national policies, in the form of Guiding Opinions regarding PPPs.⁷³ These Guiding Opinions, which are official documents issued by the SC to communicate government policies and "put forward non-specific and non-operational opinions and solutions,"⁷⁴ respond to lingering questions about PPPs and other related issues.⁷⁵

The Guiding Opinions of the State Council on Innovating the Investment and Financing Mechanisms in Key Areas and Encouraging Social Investment were issued on November 16, 2014 by the SC in order to promote "the sustainable and healthy economic development" by innovating in the investment and financing space as it pertains to key areas such as "public service, resources and environment, ecological construction, infrastructure, and give full play to the positive role of social capital, especially the private capital."⁷⁶ While most of the opinions issued could be applicable, Section 9 directly states the goal of "Establishing and Perfecting the Public Private Partnership (PPP) Mechanism."⁷⁷ This goal is to be achieved by: (1) promoting the PPP model, (2) regulating the partnership to protect the

People's Republic of China (1999), 143-160 (2000).

⁷⁰ See Ke et al., *supra* note 58, at 1158.

⁷¹ See Chen Jia, *First National PPP Rules on the Way*, CHINA DAILY (Jan. 10, 2019) <https://www.chinadaily.com.cn/a/201901/10/WS5c36a13da3106c65c34e39e6.html>.

⁷² See *id.*

⁷³ See Lana Xiao Yu, *China: Guidelines on Public-Private Partnerships Issued*, LIBR. OF CONGRESS: ARTICLE (Dec. 23, 2014), <https://www.loc.gov/law/foreign-news/article/china-guidelines-on-public-private-partnerships-issued/>.

⁷⁴ *Glossary: Guiding Opinion*, THOMSON REUTERS, <https://uk.practicallaw.thomsonreuters.com/2-522-0010> (last visited Jan. 10, 2021).

⁷⁵ See Lana Xiao Yu, *supra* note 73.

⁷⁶ *Guiding Opinions of the State Council on Innovating the Investment and Financing Mechanisms in Key Areas and Encouraging Social Investment*, CHINA PUB. PRIV. P'SHIPS CTR. (Apr. 14, 2015), <http://www.cpppc.org/en/zy/994006.jhtml>.

⁷⁷ *Id.*

interests of all parties, (3) perfecting the risk prevention and supervisory mechanism, and (4) perfecting the exit mechanism.⁷⁸

In May 2015, the SC approved and distributed the Circular of the General Office of the State Council on Guiding Opinions on Promoting the Public-Private Partnership Model in the Public Service Fields, which issued for implementation the Guiding Opinions of the Ministry of Finance, National Development and Reform Commission and People's Bank of China on Promoting the Public-Private Partnership Model in the Public Service Fields.⁷⁹ The guiding opinions issued jointly by the MoF, NDRC, and People's Bank of China have the goal of restructuring and modernizing the supply mechanism of public services and promoting the PPP model.⁸⁰ This goal is to be achieved by: (1) fully recognizing the great significance of promoting the PPP model, (2) establishing a system guaranteeing the sustainable and sound development of the PPP model, (3) improving regulation of implementation of PPP projects, (4) improving policies that support PPPs, and (5) organizing the implementation of PPP projects.⁸¹

In the Opinions of the State Council on Strengthening the Administration of Local Government Debts published in June 2015, the SC addressed the issue of investment and financing of PPPs, which are crucial to the long-term goal of promoting and implementing the PPP model broadly.⁸² Section II of the opinions encourages local governments to promote the application of the PPP model.⁸³ Local governments are therefore encouraged to provide financial incentives and other benefits in order to attract private partners to undertake projects of a public nature.⁸⁴

Most recently in September 2017, the SC issued the Guiding Opinions on Further Stimulating Effective Private Investment Vitality and Promoting Sustainable and Healthy Development of the Economy, with the goal of increasing effectiveness of private investment in various sectors of the economy and promoting sustained and healthy economic development.⁸⁵

⁷⁸ *Id.*

⁷⁹ *Circular of the General Office of the State Council on Guiding Opinions on Promoting the Public-Private Partnership Mode in the Public Service Fields*, CHINA PUB. PRIV. P'SHIPS CTR. (May 22, 2015), <http://www.cpppc.org/en/zy/994001.jhtml>.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Opinions of the State Council on Strengthening the Administration of Local Government Debts*, CHINA PUB. PRIV. P'SHIPS CTR. (Jun. 14, 2015), <http://www.cpppc.org/en/zy/994005.jhtml>.

⁸³ *Id.*

⁸⁴ *See id.*

⁸⁵ *Guiding Opinions on Further Stimulating Effective Private Investment Vitality and Promoting Sustainable and Healthy Development of the Economy*, CHINA PUB. PRIV. P'SHIPS CTR. (Sept. 26, 2017), <http://www.cpppc.org/en/zy/995763.jhtml>.

Section 4 of the guiding opinions is destined to “[e]ncourage private capital to participate in Public-Private Partnership (PPP) projects, [and] promote the construction of infrastructure and public utilities.”⁸⁶ The opinion seeks to increase the openness of infrastructure and public utilities to private investors and eliminate any existing restrictions, discrimination, or limitations against private capital, in order to create equal opportunities for private investors, particularly in PPP projects.⁸⁷

Finally, agencies involved in the advancement and expansion of the PPP model will, from time to time, issue guidelines and standards for procurement and implementation of PPPs in accordance with existing laws, and national policies.⁸⁸

III. INDIA’S PPP FRAMEWORK

A. India’s PPP Institutions

In 2006, the Department of Economic Affairs, a subdivision of the Ministry of Finance, created the “PPP Cell” to consolidate the government’s origination efforts of PPP projects.⁸⁹ The PPP Cell, one of India’s first steps to centralize PPP efforts at a national level, is currently “responsible for matters concerning [PPPs], including policy, schemes, programmes and capacity building and all other matters relating to mainstreaming PPPs.”⁹⁰ Additionally, the PPP Cell encourages PPPs in various sectors including, but not limited to: public utilities and other infrastructure.⁹¹

Additionally, the PPP Cell “acts as the Secretariat for Public Private Partnership Appraisal Committee (PPPAC), Empowered Committee (EC), and Empowered Institution (EI) for the projects proposed for financial support through the Viability Gap Fund (VGF).”⁹² As Secretariat for PPPAC the PPP Cell is also responsible for appraisal of projects at a central level, and for all matters and proposals relating to clearance by PPPAC.⁹³ The PPP

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ See Lana Xiao Yu, *supra* note 73.

⁸⁹ See Dep’t of Econ. Affs., *Overview, About PPP Cell, DEA, Ministry of Finance*, PUB. PRI. P’S HIPS IN INDIA [hereinafter Dep’t of Econ. Affs., *Overview*], <https://www.pppinindia.gov.in/overview> (last visited Nov. 16, 2020).

⁹⁰ See *Infrastructure Policy & Planning Division*, DEP’T OF ECON. AFFS., <https://dea.gov.in/divisionbranch/infrastructure-policy-and-planning-division> (last visited Nov. 16, 2020).

⁹¹ See generally Dep’t of Econ. Affs., *Overview*, *supra* note 89.

⁹² *Id.*

⁹³ See Dep’t of Econ. Affs., *Appraisal and Approval Mechanisms for Central Sector PPPs*, PUB. PRI. P’S HIPS IN INDIA, <https://www.pppinindia.gov.in/appraisal-and-approval-mechanisms> (last visited Nov. 16, 2020).

Cell also manages the VGF, a scheme for financial support to PPPs in infrastructure, which provides grant funding of up to twenty percent of the total project.⁹⁴

In addition to the VGF scheme, the PPP cell is in charge of the administration and supervision of other non-grant debt funding schemes for PPP projects, including the India Infrastructure Project Development Fund (IIPDF), launched in 2007 to finance costs associated with PPP project development.⁹⁵

Finally, the PPP Cell develops support mechanisms to facilitate PPPs in the country, provides support to State and local governments, and publishes PPP related information including guidance material, reference documents and other resources to enhance the ability of the public officials as well as private developers to implement PPP projects.⁹⁶

B. India's PPP Legal and Regulatory Environment

Like China, India currently has no particular fundamental law on PPPs.⁹⁷ The regulatory environment consists mostly of related laws, regulations, and other guidelines issued by the government of India.⁹⁸ Similarly, local governments often have their own set of applicable measures.⁹⁹

The Public Procurement Bill, 2012 (PPB),¹⁰⁰ is the first national law regulating government procurement. The goal of the PPB is to regulate public procurement in order to ensure transparency, accountability and integrity in the procurement process.¹⁰¹ This is achieved by “fair and equitable treatment of bidders,” emphasis on competition to increase efficiency and savings, and society’s confidence in the public procurement process.¹⁰² The PPB explicitly included PPPs within its definition of public procurement, therefore the bill applies to procurement under the PPP model as well.¹⁰³

The Government of India is currently developing the National Public Private Partnership Policy (NPPPP) in order to improve the level and quality

⁹⁴ See Dep’t of Econ. Affs., *Schemes for Financial Support to Public Private Partnerships in Infrastructure*, PUB. PRI. P’SHPIS IN INDIA, <https://www.pppinindia.gov.in/schemes-for-financial-support> (last visited Nov. 16, 2020).

⁹⁵ *Id.*

⁹⁶ See *Infrastructure Policy & Planning Division*, *supra* note 90.

⁹⁷ U.N. OFF. ON DRUGS & CRIME [UNODC], INDIA: PROBITY IN PUBLIC PROCUREMENT 22, <https://www.unodc.org/documents/southasia/publications/research-studies/India-PPPs.pdf>.

⁹⁸ *See id.*

⁹⁹ *See id.*

¹⁰⁰ Public Procurement Bill, 2012, Bill No. 58 of 2012 (May 14, 2012) (India).

¹⁰¹ *Id.* pmbl.

¹⁰² *Id.* pmbl.

¹⁰³ *Id.* § 2(w).

of infrastructure and services. In achieving this goal, the government has created multiple agencies to provide guidance and consolidate the existing framework into a national level policy.¹⁰⁴ The National PPP Policy was published by the Department of Economic Affairs (DEA) in 2011 and has not entered into effect. Nonetheless, the national policy seeks to simplify the current process for PPPs, and advance the model nationwide. The policy will: (1) set out the broad principles for pursuing a project on PPP basis, (2) provide “a framework for identifying, structuring, awarding and managing PPP projects,” (3) delineate “the cross-sectoral institutional architecture and mechanisms for facilitating and implementing PPPs,” (4) standardize “some of the vital interpretations and processes of PPP so that a clear and consistent common position is adopted in key issues,” and (5) identify the next generation of issues to “mainstream, upscale, broaden and expedite PPPs.”¹⁰⁵

At a lower level, in response to the lack of guidelines on PPP regulation within India’s existing legal framework, the MoF has issued multiple national policies in the form of schemes and guidelines regarding PPPs.¹⁰⁶ These documents, issued by the MoF, have not been framed under any statute or provision of the Constitution of India. They are instead considered of the nature of executive instructions or administrative guidelines, and provide guidance on different PPP programs and other related issues.¹⁰⁷ Due to their executive nature, these schemes and guidelines cannot be enforced through the courts.¹⁰⁸

The Scheme and Guidelines for Financial Support to Public Private Partnership Projects in Infrastructure, issued in January 2006, outlines the process to be followed in order to receive financial support under the VGF scheme.¹⁰⁹ The guidelines detail the procedures to be undertaken during submission, appraisal, and approval of a PPP project.¹¹⁰ These guidelines include amendments made, such as the Guidelines for forwarding proposals for financial support to PPPs in infrastructure under the Viability Gap

¹⁰⁴ See Ministry of Finance, Dep’t of Econ. Affs., Draft National Public Private Partnership Policy (Issued in 2011) (India), <http://www.mcrhrdi.gov.in/87fc/policies/Draftnationalppppolicy.pdf>.

¹⁰⁵ *Id.* pmbl. 3.

¹⁰⁶ See Dep’t of Econ. Affs., *supra* note 94.

¹⁰⁷ Seema Jhingan & Neha Yadav, *India: Enforceability Of Government Directions, Policies, Guidelines And Contracts*, MONDAQ (Apr. 24, 2018), <https://www.mondaq.com/india/government-contracts-procurement-ppp/694860/enforceability-of-government-directions-policies-guidelines-and-contracts>.

¹⁰⁸ *Id.*

¹⁰⁹ Ministry of Finance, Dep’t of Econ. Affs., Guidelines for Financial Support to Public Private Partnerships in Infrastructure, F.No.1/4/2005-PPP (Issued on Jan. 23, 2006) (India).

¹¹⁰ *Id.* § 1.

Funding Scheme,¹¹¹ which supplements the January 2006 guidelines.

The Guidelines for Formulation, Appraisal and Approval of Central Sector Public Private Partnership Projects, published in January 2006, presented the central government's system for appraisal and approval of projects to be undertaken through PPP.¹¹² It outlined the procedure from the project identification stage to the bidding and approval phase.¹¹³

In December 2007, the MoF published the Scheme and Guidelines for the India Infrastructure Project Development Fund, which lays out the procedures to receive funding from the IIPDF.¹¹⁴ The purpose of the IIPDF is to lower the procurement costs of PPPs, particularly the costs of Transaction Advisors, which are substantial and "often pose a burden on the budget of the Sponsoring Authority."¹¹⁵ The ultimate goal of the IIPDF is to increase the amount of high quality "bankable projects" that are submitted and processed through the Central or States' project pipeline.¹¹⁶ The guidelines set out the application process, the evaluation criteria and timeline, the monitoring requirements for the project, the funding recovery process, and risk management procedures.¹¹⁷

In addition to the laws and guidelines mentioned, other laws may become relevant such as the National Highways Authority of India Act of 1988 for transportation projects, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 for projects that require public land, or others, depending on the type of project contemplated in a PPP.¹¹⁸ Furthermore, most States have their own PPP laws that differ from the existing national framework.¹¹⁹

Finally, agencies involved in the advancement and expansion of the PPP model will, from time to time, issue guidelines and standards for procurement

¹¹¹ Ministry of Finance, Dep't of Econ. Affs., Schemes and Guidelines for Financial Support to Public Private Partnerships in Infrastructure, at 35 (Issued on Nov. 4, 2013) (India), https://smartnet.niua.org/sites/default/files/resources/VGF_GuideLines_2013.pdf.

¹¹² Ministry of Finance, Dep't of Econ. Affs., Guidelines for Formulation, Appraisal and Approval of Central Sector Public Private Partnerships (Issued on Jan. 12, 2006) (India).

¹¹³ *See generally id.* §§ 1-12.

¹¹⁴ *See* Ministry of Finance, Dep't of Econ. Affs., Schemes and Guidelines for India Infrastructure Project Development Fund, OM No. 7/2/2007-PPP (Issued on December 5, 2007) (India), https://www.pppinindia.gov.in/documents/20181/21751/IIPDF_GuideLines_2013.pdf/b315100e-0c65-4cbd-8985-a6718d96c589.

¹¹⁵ *Id.* § 1.2.

¹¹⁶ *Id.*

¹¹⁷ *Id.* §§ 2.9-2.11.

¹¹⁸ Ministry of Finance, Dep't of Econ. Affs., PPP Guide for Practitioners, at 107 (Issued in April 2016) (India), <https://www.pppinindia.gov.in/documents/20181/33749/PPP+Guide+for+Practitioners/e3853cb9-ac07-4092-b8ac-60a8c4d4ed35>.

¹¹⁹ *Id.*

and implementation of PPPs in accordance with existing laws, and national guidelines.¹²⁰

IV. KEY LESSONS

Both China and India have effectively implemented the PPP model at the sub-national level, and have found continued success in attracting investors to take on projects by means of the PPP model. However, both countries have fragmented PPP legal frameworks, and neither of them has a unified national level PPP policy.¹²¹ The absence of a national level PPP policy leads to a very high degree of variance between the legal and regulatory frameworks used by different cities and states.¹²² In India, the variation between state legal frameworks and institutions has caused most projects to be concentrated in a limited amount of states due to different factors such as attractiveness of the policies in a given state or investors' familiarity with some states.¹²³ Similarly, in China, the provincial and city driven PPP frameworks in existence have caused the proliferation of PPPs to fluctuate amply throughout the different cities and states.¹²⁴

Despite the absence of a national policy, both China and India are seeking to centralize their PPP efforts, and have taken decisive steps towards that goal. While many agencies in China are currently involved in the PPP management process, the MoF established the CPPPC in a move to consolidate all matters relating to the proliferation and management of PPPs.¹²⁵ However, the Center does not directly control the policy making process. The Center does supplement existing laws and policies by issuing operational and contracting guidelines regularly in order to assist all agencies in managing PPP projects.¹²⁶ Conversely, the PPP Cell, India's centralized PPP management authority, is responsible for policy level matters concerning PPPs, including Policies, Schemes, programmes, Model Concession Agreements, Capacity Building, and related financing duties.¹²⁷ This difference is understated yet critical to the success of the central authority, as it has been shown through over twenty years of evidence that PPP programmes are most effective when they are managed by a PPP authority handling both the policy making process as well as the project delivery

¹²⁰ See *id.* at 109.

¹²¹ See ECONOMIST INTEL. UNIT, *supra* note 27, at 17-18, 21-22.

¹²² *Id.* at 18.

¹²³ *Id.* at 13, 17-18.

¹²⁴ *Id.* at 18, 21.

¹²⁵ See Yubo Guo et al., *supra* note 47, at 17.

¹²⁶ See *Who We Are*, *supra* note 39.

¹²⁷ See Dep't of Econ. Affs., *Overview*, *supra* note 89.

process.¹²⁸ Limited authority places a considerable burden on the overall effectiveness of a PPP unit.

Both China and India are in the process of introducing new national level legislation, in the meantime, each country has adopted a different approach to provide much-needed fix to the lack of direction in their PPP efforts.¹²⁹ New legislation seeks to standardize the project structuring and implementation processes, and centralize management of PPPs. India opted to define PPPs within the scope of public procurement in the PPB, effectively recognizing the practice as a procurement function and not merely as that of a partnership.¹³⁰ However, this approach creates confusion and could potentially leave gaps within the law where the PPB does not fit the PPP context. Besides, the PPB limits the definition of PPP to those arrangements that have a time-frame longer than five years, whereas the NPPPP does not include such restriction.¹³¹ Instead, China has not included PPPs within the GPL or its implementing regulations, choosing in its place to issue periodical guidelines and standards to operate and manage PPPs using the existing legal and regulatory framework.¹³² These periodicals are aimed at clearing confusion in the application and interpretation of existing laws in the context of PPPs, a simple yet practical solution.¹³³ This idea is best illustrated by the United Nations Economic Commission for Europe in its Guidebook on Promoting Good Governance in Public-Private Partnerships: “Investors in PPPs need predictability and security in legal frameworks, which means *fewer, simpler and better rules*. In addition, the legal framework needs to take account of the beneficiaries and empower them to participate in legal processes, protecting their rights and guaranteeing them access in decision-making.”¹³⁴

At a lower level, and in response to the lack of guidelines on PPP

¹²⁸ Alberto Lemma, *Literature Review: Evaluating the Costs and Benefits of Centralised PPP Units*, ECON. & PRIV. SECTOR: PRO. EVIDENCE & APPLIED KNOWLEDGE SERVS., Apr. 2013, at 12, https://assets.publishing.service.gov.uk/media/57a08a49e5274a31e0000510/Evaluating_the_Costs_and_Benefits_of_Centralised_PPP_Units_24.pdf.

¹²⁹ See Jia, *supra* note 71; Ministry of Finance, Dep’t of Econ. Affs., Draft National Public Private Partnership Policy (Issued in 2011) (India), <http://www.mcrhrdi.gov.in/87fc/policies/Draftnationalppppolicy.pdf>.

¹³⁰ See Public Procurement Bill, 2012, Bill No. 58 of 2012, § 2(r) (May 14, 2012) (India).

¹³¹ UNODC, *supra* note 97, at 19.

¹³² See, e.g., Zhonghua Renmin Gongheguo Zhengfu Caigou Fa Shishi Tiaoli [Implementing Regulations of the Government Procurement Law of the People’s Republic of China] (promulgated by the St. Council, Jan. 30, 2015, effective Mar. 1, 2015), art. 1, Decree No. 658, <https://www.cpppc.org/en/flfg/994705.jhtml>.

¹³³ See Lana Xiao Yu, *supra* note 73.

¹³⁴ U.N. Econ. Comm’n for Eur., Guidebook on Promoting Good Governance in Public-Private Partnerships, ECE/CECI/4, at 29 (2008) (emphasis added), <https://unece.org/fileadmin/DAM/ceci/publications/ppp.pdf>.

regulation, both China and India have devised alternative methods to provide guidance both to government authorities and investors. China has issued PPP guidance in the form of Guiding Opinions discussing different PPP issues.¹³⁵ These Guiding Opinions, official documents issued by the SC, communicate policies and respond to lingering questions about PPPs and other related issues.¹³⁶ Similarly, India has issued guidance in the form of schemes and guidelines regarding PPPs.¹³⁷ These schemes and guidelines, issued by the MoF, are considered of the nature of executive instructions or administrative guidelines, and provide guidance on different PPP programs and other related issues.¹³⁸ Since procuring a PPP contract is a complex matter, it is ideal to provide guidance constantly and throughout the life cycle of a PPP.¹³⁹ It is far more difficult to change a law than it is guidance, therefore the issuance of guidelines is a very effective, and flexible tool for PPP management at a lower hierarchical level.

Lastly, both nations have had success in managing, implementing, and providing institutional support within the current sub-national PPP framework.¹⁴⁰ However, the current system leads to overdevelopment in some of the more urban areas, sometimes leaving areas in dire need of infrastructure without the ability to compete for PPP projects due to their city or state lacking an attractive PPP framework.¹⁴¹ Therefore, a national level policy will also help level the playing field for those areas.

V. PROPOSALS & RECOMMENDATIONS

Both China and India have successfully courted remarkable amounts of foreign investor's capital into PPPs. Yet both countries can maximize the proliferation and socioeconomic impact of these projects by further centralizing their PPP management and implementation efforts. There are several steps that both China and India can take to improve their PPP legal and regulatory frameworks. Some of the proposals for reform are aimed at the institutions managing the process in both countries, while others focus on altering the legal and regulatory environment.

First, China would benefit from accelerating their PPP centralization efforts, and further developing its main PPP institution, the CPPPC. For example, China could potentially benefit from emulating India's PPP Cell,

¹³⁵ See Lana Xiao Yu, *supra* note 73.

¹³⁶ See *Glossary: Guiding Opinion*, *supra* note 74.

¹³⁷ See Dep't of Econ. Affs., *supra* note 94.

¹³⁸ See *supra* note 107 and accompanying text.

¹³⁹ E.g. U.N. Econ. Comm'n for Eur., *supra* note 134.

¹⁴⁰ See ECONOMIST INTEL. UNIT, *supra* note 27, at 7, 12.

¹⁴¹ See *id.* at 3, 21-22.

and further integrating the CPPPC into the policy making process.¹⁴² While it does appear that the Chinese government is moving in this general direction, the policy making process in regards to PPPs remains vastly fragmented with multiple agencies, including the SC, CPPPC, NDRC, and MoF, issuing policies in this space. China should follow India's approach and delegate policy level matters to the CPPPC, which is the country's expert authority in the PPP space. While both countries could benefit from further centralization of their PPP Units, China stands to gain most from fast-tracking the process, and extending the CPPPC's authority to develop and implement policies aimed at proliferating PPPs.

Additionally, China should consider alternative ways to provide PPP support and guidance while the new national PPP policy is developed. Neither, the GPL, the Implementing Regulations of the GPL, or the Bidding Law mention the PPP public procurement mode.¹⁴³ Yet all three laws are relevant to structuring PPPs. While government agencies have done a good job of advancing, and publishing guiding opinions for the development and proliferation of PPPs, more direction is needed in terms of applying existing laws to the structuring and implementation of new projects. Guiding opinions are an effective tool to inform and put forward non-specific and non-operational opinions and solutions to these issues, but more work is needed at a higher and more binding hierarchical level so as to further clarify the rights and obligations of all parties within the PPP process.

Next, China should work on drafting guiding opinions that are simpler, clearer, and more user friendly. For example, the Guiding Opinions of the State Council on Innovating the Investment and Financing Mechanisms in Key Areas and Encouraging Social Investment set out goals such as promoting the PPP model and regulating the partnership to protect the interests of all parties.¹⁴⁴ Although these goals are generally what the PPP unit is aiming for, the guidelines provided to stakeholders should be clear and actionable, with the primary objective of directing the PPP process through its life cycle. That is, guidance should set out how these high-level goals will be obtained.

India would also benefit by emulating some of the practices that China's PPP authorities have adopted. For example, China's CPPPC is active in providing guidelines and guiding opinions multiple times per year, these include policy interpretations, implementation opinions, and other circulars addressing PPP management and financing issues.¹⁴⁵ India has been successful in the centralization of PPP efforts with the establishment of the

¹⁴² See Dep't of Econ. Affs., *Overview*, *supra* note 89.

¹⁴³ See *supra* note 67 and 71 and accompany text.

¹⁴⁴ See *supra* note 76-78 and accompanying text.

¹⁴⁵ See *Who We Are*, *supra* note 39.

PPP Cell. Now, it is crucial for the country to build a comprehensive system on this foundation, one that not only publishes PPP policy, but supplements it with continuous guidance that lays down clear parameters and principles, identifies proper procedures, sets achievable objectives and communicates how to achieve them.

A comprehensive system will require that PPP policy sets a roadmap for the management and implementation of projects in all sectors. However, India's policies and guidelines aim to advance the PPP mode generally, yet the proliferation of this mode of public procurement has not been as successful as elsewhere. This problem can be addressed by initiating and promoting sector-specific policies that facilitate the structuring and implementation of PPPs in industries that require cutting-edge guidance and regulation. To that end, India will need regulators with specialized backgrounds, who can provide expertise and support in industries in which the country is looking to attract new PPP projects – this will enable the government to develop better policies targeting those activities.

Finally, China and India may benefit from introducing comprehensive PPP legislation at all levels. Of course, both nations should focus on continuing their PPP centralization efforts, and expediting the ongoing development of national-level legislation. National PPP policies should aim to: (1) increase the support of the population for the PPP approach, (2) build governmental capacities, (3) provide security and incentives to investors, (4) transfer risk to the private sector, (5) promote competition and transparency, (6) improve society's quality of life, and (7) integrate the principles of sustainable development.¹⁴⁶

CONCLUSION

In this Note, we have examined the key PPP institutions, and the legal and regulatory frameworks of China and India. While both China and India have been able to court vast amounts of investment capital into the PPP modality, the absence of a national level PPP policy leads to a very high degree of variance between the legal and regulatory frameworks used by different cities and states.¹⁴⁷ By analyzing the subtle differences between their PPP frameworks, we are able to analyze the root of inefficiencies in their systems and propose changes to maximize the proliferation and socioeconomic impact of these projects by further centralizing their PPP management and implementation efforts.

Both China and India have successfully implemented the PPP model at the sub-national level, and have found continued success courting vast amounts of foreign capital to undertake projects by means of the PPP model.

¹⁴⁶ See U.N. Econ. Comm'n for Eur., *supra* note 134, at 13-64.

¹⁴⁷ ECONOMIST INTEL. UNIT, *supra* note 27, at 13.

Nonetheless, both nations lack a unified national level PPP policy. The absence of a national level PPP policy leads to a very high degree of variance between the legal and regulatory frameworks used by different cities and states, translating into PPP projects concentrating in a small number of cities or states.

Similarly, China and India have made progress toward their goal of centralizing their PPP regimes. While both countries await the introduction of new national level PPP legislation, they can look into the strategies that have worked for each other to lead their short-term efforts of centralizing PPPs.

First, China may benefit from fast-tracking their PPP centralization efforts, and extending the CPPPC's authority to develop and implement policies aimed at proliferating PPPs. Additionally, China should consider issuing PPP guidance at a higher hierarchical level so as to further clarify the rights and obligations of all parties within the PPP process. Next, China should focus on issuing guidance that sets out how the country's high-level PPP goals will be obtained.

India may benefit from emulating China's CPPPC in providing periodical and continuous guidance that lays down clear guidelines, procedures, and sets achievable objectives and communicates how to attain them. Additionally, India should work on developing sector-specific policies that facilitate the structuring and implementation of PPPs in industries that require cutting-edge guidance and regulation.

Finally, China and India should focus on continuing their PPP centralization efforts, and expediting the ongoing development of national-level legislation. While national level PPP policies are tailored depending on the country, and input sourced many stakeholders, a successful policy should balance social, governmental, private and environmental interests to obtain the desired outcome.