

# Public – Private Partnerships in India: Corporate Governance Concerns and Recommendations

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**Chairperson: Associate Professor Umakanth Varottil, Faculty of Law, NUS**

## DATE, TIME & VENUE

Monday, 14 October 2024

1.15pm to 2.15pm

NUS Law (Bukit Timah Campus), Federal Bartholomew Conference Room (FED-01-02)

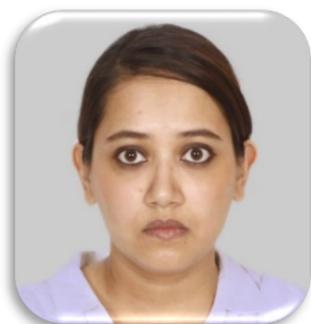
## ABSTRACT

India has been an enthusiastic supporter of the Public-Private Partnership (PPP) model in recent years. A PPP is a long-term contract between a private party and a government entity, for the provision of public services and or development of public infrastructure. In such a contract, the Government can utilise private capital to finance projects and transfer risks to the private sector while taking advantage of efficiency gains. Although beneficial in many ways, there are often concerns as to whether the private sector has the capacity to manage this risk while minimising transaction costs and maximising efficiency.

Corporate governance can be an instrument to address this concern. The emphasis is on corporate governance, rather than governance of PPPs in general. Since India has no special legislation regulating PPPs, this would mean the governance of the special purpose vehicle (SPV) through which the PPP is carried out. Corporate governance is the set of processes that are there to ensure that a company is run in the interest of stakeholders and that self- interested managerial behaviour is curbed. Corporate governance can also be equated with X-efficiency where gains arise from improved use of resources in their existing allocation. Here, the emphasis is on mechanisms for transparency in disclosures, the management of risk and uncertainty and incentives to change products, methods of production and organisation structures to increase efficiency. In this respect then, an almost instantaneous connection can be drawn- as the objective of corporate governance seems to directly address many of the problems that are faced in PPP- projects.

Corporate governance can play a role in the various stages that the PPP goes through- identifying a project, preparing for it, transacting the PPP as well as in its management. The process of identifying, preparing and transacting come prior to the operation of the PPP and thus are administered both by government policy and by the PPP contract. In this context, I propose to study the incorporation contract that creates the SPV as well as any shareholder agreements entered into with the equity providers, considering factors such as distribution of control between parties in the SPV as well as any checks and balances that should be put in place. India regulates corporate governance of unlisted companies through the Companies Act 2013 and SPVs that carry out PPP projects are within the jurisdiction of such statute. Thus, for the management of the PPP I wish to consider the effectiveness of corporate governance mechanisms in the PPP context, through the statute and through other mechanisms, such as investors. These would include voting rights, board composition, nominee directors, risk management committees, reporting requirements and environmental assessments among others.

## ABOUT THE SPEAKER



Anuradha Roy Chowdhury is Assistant Professor of Corporate Laws at The West Bengal National University of Juridical Sciences (WBNUJS). She is an alumna of King's College London (LLB) and University College London (LLM). She completed her PhD Thesis entitled 'Corporate Governance in India- Is Regulation the Solution?' in 2019 and was awarded her degree by the WBNUJS in 2020. Her research interests lie in corporate governance, mergers and acquisitions and corporate social responsibility.

## REGISTRATION



There is no registration fee for this seminar, but seats are limited. Refreshments will be provided on a first-come-first-served basis.

Visit <https://bit.ly/4eauaKq> or scan the QR Code to register by Monday, 7 October 2024, 5.00pm

For enquiries, please contact the ASLI Secretariat at [asli@nus.edu.sg](mailto:asli@nus.edu.sg)