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**A Critical Examination Of Planning Issues Surrounding The
Formulation Of Public-Private Partnership Toll Road Projects In
Malaysia**

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*To my dearest Daughter and Son,
who are resting peacefully in the arms of the Lord*

Abstract

In Malaysia since the mid 1980s, Public-Private Partnership (PPP) toll road projects have been implemented as an alternative road system to the existing roads. Although it has been three decades since PPP toll road projects began to be implemented in Malaysia, the government could not implement certain terms in the contract resulting the government to compensate the private companies in the form of cash or in kinds (extension of concession period, tax exemptions, etc). This research was undertaken to investigate the changes within and among the social relations of actors in the public sector that promoted alterations in the formulation of PPP toll road projects in Malaysia. It aims to understand how changes are advocated which alter the dual relationship between social and institutional structures and individual agency in the production and reproduction of institutions. The institutional context for actors' agency is formed by the policy, legal and regulatory and organisational frameworks. Over time in the PPP process, changes have taken place in these three frameworks which promoted and motivated changes in actors' assumptions and rationales for action. These changes have resulted in alterations to the terms of the Concession Agreement (the agreement which stipulates the obligations between the public sector and private sector which governs the PPP toll road projects until the end of the concession period) which are being used for all the new PPP toll road project negotiations. Since this research is interested in the establishment and changes to actor's social relations which are influenced by institutions, institutional theory is employed, while structuration theory provides a lens to look into changes over time. A qualitative approach was used as the strategy for this research and three methods of data collection were employed: document collection, observations and interviews. The findings indicate that there are significant changes in the policy, legal and regulatory and organisational frameworks which promoted new clauses being introduced in all future PPP toll roads negotiations. These changes alter the existing practices of the actor's social relation. It was also found that, despite having clear expectations of actors, certain circumstances (urgent matters, difficulty in obtaining approval and pressing time) could cause existing rules to be broken. In those cases, the existing official practices are by-passed; however, such arrangements do not last for a long period of time.

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Chapter 1

Introduction

1.0 Introduction

The outcome of this thesis is a product of research aiming to identify the changes within and among the social relations of individuals in the public sector involved in the formulation of Public-Private Partnership (PPP) toll road projects in Malaysia. In Malaysia, PPP toll road projects are products of interaction between many organisations in the public and the private sectors with differing objectives for the implementation of toll road projects. The nature of bureaucracy in Malaysia, which includes continuous interaction between the actors from the public and the private sector, tends to create long-term relationships involving formal and informal interactions. These interactions between actors typically produce and reproduce relationships which are legally binding and by which the PPP toll road projects are governed. The principal legal obligation that governs the building and management of toll roads is known as the Concession Agreement and typically has a lifespan of a minimum of 33 years and a maximum of 65 years.

The research is an attempt to understand how actors coming from different organisations with different rationales, assumptions and operating routines negotiate the process of producing an agreed outcome that includes changes in practices and agreement terms which are produced and reproduced.

This chapter will first start with the motivation for the study that will discuss the current issues faced by the government in implementing the PPP toll road projects. In order to understand the magnitude of the issues, a brief summary of Malaysia is introduced after the motivation which will provide some introduction to the administrative system, social structure and the traffic growth. That will be continued with the aim and objectives of this study and finally will introduce the structure of this thesis.

1.1 Motivation for the study

In the last thirty years, Malaysia has witnessed a substantial growth in the road network following the implementation of the Federal Roads (Private Management) Act 1984. There are three types of roads in Malaysia: federal roads, state roads and local council roads. The federal roads include state-owned roads and privately-owned roads. Privately-owned roads are known as toll roads and in Malaysia, have been implemented through the Public-Private Partnership (PPP) model, which comes under the Privatisation Policy initiated by the Fourth Prime Minister, Dr. Mahathir Muhammad in the early 1980s. It can be seen as an effort of neo-liberalism aiming to promote economic growth through free market forces and minimal government interference. However, the main rationale for the introduction of privatisation in Malaysia was to finance state-owned enterprises which had mushroomed since 1970s with the introduction of the New Economic Policy (Ward 2005).

Public-Private Partnership (PPP) toll road projects in Malaysia are products of interactions and negotiations between government agencies and private companies. This approach started in the mid-1980s and is still being practised as an alternative procurement method to provide road users alternative routes. The interactions and negotiations involved in the formulation of PPP toll road projects create a proposed long-term relationship that includes contractual obligations for both parties which often become issues during implementation. The contracts are confirmed and sealed when both parties enter into what is termed a Concession Agreement.

The first toll road negotiated under the PPP model was built in 1984. The Federal Roads (Private Management) Act 1984 is the governing act which allows private companies to operate, maintain and collect tolls from the users of the facilities. There are 33 Concession Agreements involving relationships between the government and 28 private companies. Most of the private companies which operate toll roads in Malaysia are either government-linked or companies in which government organisations' hold major shares. Until the end of 2016, approximately 1800 km of toll roads have been built in Malaysia by private companies. When a toll road's construction is completed, the private company is allowed to collect tolls from users,

and after a few years¹ they can increase the toll (for example, if a private company collects Malaysian Ringgit 1.00 per passenger car in year 2000, the company may be allowed to collect Malaysian Ringgit 1.50 per passenger car in year 2007, which is a 50 cents increase after seven years). However, there have been some vociferous criticisms of the implementation of PPP toll roads claiming that it only benefits the private companies because the Toll Increment Clause in each Toll Road Contract allows for toll increases at specified intervals during the concession period. This results in users incurring increased costs even when the respective toll road company reports huge traffic growth which translates in higher revenues. A Toll Road Contract under this PPP model typically includes provision for related clauses which tend to be concerned with toll increases and compensation.

Toll increase has become a very sensitive issue and this dissatisfaction has resulted in the government delaying, making adjustments and changes in practices and implementation of the development of toll roads in Malaysia. The toll increase issue is often raised by political parties to gain popularity and the government is often accused of being an incompetent negotiator. Whenever the government announces that there will be a toll increase, there is frequently a public outcry (*Malaysiakini*, 7 January 2007). On the other hand, since toll increases are stated in the contracts, it is a government obligation to allow them.

In the past, in order to fulfil its obligations, the government has decided to compensate the private companies for not allowing them to increase the toll as negotiated. Transfers of cash from government to private companies, extension of the concession period during which several extra years are allowed for the private company to collect tolls and tax exemptions are some of the forms of compensation. Every year the government spends tax-payer funds to compensate the private companies. The rationale for this is often questioned, especially when the private companies report their annual profits. Opposition Member of Parliament (MP), Rafizi Ramli (*Free Malaysia Today*, 17 December 2013) argued that there is no need for toll increases or compensation as the private companies are already making “obscene profits” with the current rates. Such statements often create further queries about the justification of the

¹ Usually three to seven years, depending on the negotiation related to financial aspects

toll increases by other Members of Parliament - from both the ruling party and the opposition – and the public.

Toll compensation has been an unresolved issue in Malaysia since 2008, when the government had to pay large sums in compensation to the concession companies due to the failure to fulfil its obligations in allowing toll increases. In October 2015, the government finally made an arguably unpopular decision to increase the toll rates that saw the rise of between 15% and 80% in the current toll prices of existing tolls. Among the reasons for the decision was a desire to utilise the funds for other infrastructure development rather than compensating concession companies. Following that decision, Opposition Member of Parliament (MP), Rafizi Ramli argued that the government could offer priorities in future PPP projects or "first right of refusal" to highway concessionaires in exchange for not raising toll prices (*The Star Online*, 13th October 2015). He further proposed that the government could easily avoid raising toll prices by allowing concessionaires to participate in future highway projects, so they would not be worried about dwindling profits (*The Star Online*, 2015). Opposition politicians further pressed for a special debate on the toll increment issue when Parliament commenced in October 2015. The Youth and Sports Minister at that time, Khairi Jamalludin vowed that he would oppose the 5 percent toll increase by the North South Expressway Company in 2016 when it was due to be tabled to the Cabinet for approval (*The Star Online*, 2015).

As well as Ramli, a few ruling party MPs - especially from Peninsular Malaysia - were not happy with the decision to increase tolls. But while many people condemned the decision, the Ministry of Works representing the government defended the move, saying that it was in line with the gradual increment of toll rates during the concession period (*The Star Online*, 2015). The government is often accused of negotiating one-sided toll Concession Agreements despite various explanations that current agreements are improvements over previous contracts and are fairer to users.

Despite issues that have arisen during the implementation of many of these projects, the government is still proceeding with this procurement method, explaining that changes have been made to the obligations which address the issues previously

raised. The negotiation processes for road contracts have been in place for approximately thirty years which produce and reproduce what are known as the ‘acknowledged issues of contract terms’² for the government and the private company. Acknowledged issues of contract terms are known future issues that may arise in the agreement between parties which, according to them, are unavoidable in PPP toll road projects.

The government claims that they are at present treating all private companies, including government-linked ones, like any other private companies. But this has produced public criticism led by opposition MPs, to the effect that the parameters and assumptions used in negotiating PPP projects favour the private sector too much, since most of the companies are linked to the government. The government, on the other hand, claims that there have been some changes in clauses related to the toll increases in contracts which were signed after the mid-1990s that provide more protection for toll road users compared with contracts which were executed much earlier. Although the government claims to have made improvements, public outcry is getting more serious and people affected by the increases beginning to demonstrate whenever the intention to increase tolls is announced. In response to such demonstrations and political pressure, the increase in tolls is delayed and compensation is paid to the private company.

In view of this problem and to understand the social interactions by actors and the changes which are produced and reproduced in institutions through the interactions within actors organisation structures and practices, the whole process of formulation of PPP toll road projects is examined in this thesis. Institutions for the purpose of this research are accepted to be consisting different organisations or bodies with many practices, norms and rules that the majority of individuals accept and those practices are modified over time (see Jarzabkowski 2008). The entire negotiation process that produced acknowledged issues of contract terms was examined and the study aimed to identify the claimed changes in the way negotiations are currently being carried out, compared with previously approved projects. The claimed changes are supposed to

² This refers to terms or clauses in an Agreement. Most of the terms are the same across all the Concession Agreements, except for some that are related to parameters of negotiations such as toll rates and concession periods.

address the acknowledged issues of contract terms for future PPP toll road projects. Investigating changes in the contractual obligations is one of the main foci of this research since government agencies have been arguing that there are many improvements in the newly-negotiated PPP toll road project terms compared with the older ones. As argued by the government agencies, the changes are mainly responses to the continuous accusation by law makers and the public that PPP toll road projects are negotiated in ways that only benefit the private sector. The claimed improvements, however, will not change the contractual obligations of the previously-approved PPP toll road projects and the issues will continue to swirl around those projects. What motivates the concern of this research with the negotiation processes is a broader interest in the reproduction of institutions and processes as outcomes of changes in existing social relations.

This research is an investigation using the social science perspective in order to understand a real problem. The investigation focus is on the changes within and among the social relations of individuals in the public sector that promoted alterations in the formulation of PPP toll road projects in Malaysia, and how these social relations have produced and reproduced institutions from the introduction of the Privatisation Policy until the present.

In order to set the scene, the next section provides an overview of Malaysia's economic and political landscape.

1.2 Brief Summary Overview of Malaysia

Malaysia gained independence from the British on the 31st of August 1957. Since then, Malaysia has always been one of the most vibrant economies in the South-East Asia which is a result of years of political stability and industrial growth. The population of Malaysia was recorded as 8.16 million in the 1960s and by 2017, the population is 31,140,797 with a growth rate of 1.3 percent (World Population Review 2017). Total area of Malaysia is 329, 847 square kilometres (127,355 square miles) and it consist two regions which are the Peninsular and the Borneo Island. Malaysia is a federation of 13 states and three federal territories separated by some 640 miles of the

South China Sea (BBC 2016). Nine states are headed by Sultans while the others are headed by ceremonial governors known as the *Yang di-Pertua Negeri*. The federal administration capital is located in Putrajaya, some 40 km from the capital Kuala Lumpur.

Map 1: Map of Malaysia



Source: <http://www.asia-atlas.com/pictures/maps/malaysia-map.jpg>

Malaysia's population consist 3 major ethnic groups, the Malays, Chinese and Indians. Major languages used in Malaysia are Malay (official), English, Chinese dialects and Tamil. The Malays comprise more than 60 percent of the population, the Chinese approximately 26 percent and the Indians and other indigenous peoples make up the balance. Major religions being practiced in Malaysia are Islam, Buddhism, Taoism, Hinduism and Christianity.

The head of state is the *Yang Di-Pertuan Agong* (King), rotated every five years between the nine sultans of the nine states. The head of the government and the executive power is the Prime Minister, while the *Yang Di-Pertuan Agong* appoints the head of the judiciary with advice from the Prime Minister. The legislative body, on the other hand, consist of two houses, the House of Representatives and the Senate. The *Yang Di-Pertuan Agong* has authority to dissolve the Parliament at any time but until the last election which was held in 2013 the *Yang Di-Pertuan Agong* has been doing so upon the advice of the Prime Minister.

Despite introducing various policies such as the New Economic Policy in 1970, and although the Malays have benefited from positive discrimination in business, education and the civil service, the Chinese community continue to hold economic power and are the wealthiest community (BBC 2016). However, the Malays remain the dominant group in politics (BBC 2016). Up to the Asian financial crisis of 1997-98, Malaysia recorded an average economic growth rate of more than 7 percent for 25 years or more, after which growth dropped to an average 5.5 percent and since 2010, economic growth has been 5.7 percent (The World Bank 2017). Malaysia's rapid growth is dominated by exports of electronics and electrical appliances, palm oil and natural gas, a shift from raw natural resources (tin and rubber) producer in the 1970s.

Government policy for poverty eradication is focused on the poorest 40 percent of the population ("the bottom 40") (The World Bank 2017). This low-wage group remains especially helpless against monetary shocks and increments in the typical cost for basic items and mounting money-related commitments. Salary disparity in Malaysia stays high with respect to other East Asian nations, however it is gradually declining (The World Bank 2017). For instance, from 2009 to 2014 the normal family earnings of the last 40 percent of the population developed at 11.9 percent every year, contrasted with 7.9 percent for the aggregate populace of Malaysia, in this manner narrowing pay incongruities (The World Bank 2017). "Following the removal of broad-based subsidies, the government has gradually moved toward more targeted measures to support the poor and vulnerable, mainly in the form of cash transfers to low-income households" (The World Bank, 2017). However, car ownership in Malaysia was the third highest in the world for the year 2014 (*The Star Online* 2014) and this is the basis of the rationale

for the government's search for alternative ways to provide road infrastructure with limited funds. The next section will discuss the aims and objectives of this study.

1.3 Aims and Objectives of the Study

The aim of this research is to identify and understand the changes within and among the social relations of individuals in the public sector involved in the formulation of Public Private-Partnership (PPP) toll road projects in Malaysia and how the changes have produced and reproduced institutions having regard to the interaction between the various parties, i.e. the government and the private companies. In order to understand the changes and the production and reproduction of institutions, the entire process of PPP toll road project formulation is investigated. It is assumed for the purposes of this research that organisations in the public sector involved in the formulation of PPP toll road projects each have different goals, while the private sector has one principal goal which is profit related. Hence, for this research the questions for the public sector are the main focus, but it is also important to get an insight from the private sector to better understand how PPP toll road negotiations are conducted.

It is accepted that the social relations of actors from different organisation promote changes. Social relations are defined as “the individuals with whom one has an interpersonal relationship and the linkages between these individuals” (Due, Holstein, Lund, Modvig and Avlund 1999, p. 662). The concept of social relations is discussed in detail for the purpose of this research (see Chapter 4, Section 4.4) and it is based on the understanding from two theories – institutional and structuration theory. Institutional theory was used as it is concerned with organisational structures, hierarchical arrangements and communication and procedures (Selznick 1996). The other theory adopted is structuration theory as it advocates that actors belong to a social structure and that this structure supports routine actions which are repeated and change over time (Giddens 1984). These two theories supplement each other as one is interested in issues surrounding hierarchy while the other is interested in routinised practices by actors in a hierarchy (as part of a social structure). The understanding provided by the two theories together with the influence of internal and external forces (explained in Chapter 4) provided the grounding assumptions in understanding social relation. The

understanding of social relation is important for this research as the outcome of a PPP toll road negotiation is a result of prolonged interactions between social relations. With that understanding, this research has several objectives, which are:

- i. To identify and understand what forms of social relations are established by actors involved in the formulation of PPP toll road projects;
- ii. To understand what changes, alter and advocate changes to established social relations and how this influences the formulation of PPP toll road projects;
- iii. To appreciate and learn how changes to existing established practices have influenced the current PPP toll road negotiations; and
- iv. To understand how PPP toll road projects in Malaysia are being negotiated.

In order to achieve the objectives, three main research questions were drawn as follows:

- 1. What forms of social relations do actors involved in PPP toll road projects formulation establish? How do established social relations influence actors when managing changes?**
- 2. How do existing sets of social relations and their practices change over time? How are the changes assimilated into actors' respective social relations and then produced and reproduced?**
- 3. What lessons might be learned from the formulation of PPP toll road projects in Malaysia?**

These research questions will seek to develop the understanding of PPP toll road project formulation in Malaysia. This research has provided a significant contribution to knowledge, where the micro dynamics of social relation was explored and understood.

It provides detailed explanation and evidence on how PPP project are being formulated in micro level related to actors social relation. Besides that, this research also identifies elements that influence the actor's social relation which enhances the existing ones. The extended role of the influential personnel was also understood through this research and plays an important role in how PPP toll road projects in Malaysia are formulated in Malaysia.

1.4 Structure of the Thesis

This Introduction has provided an overview of the study. Chapter 2 discusses and clarifies the context of this research. It begins the discussion from a macro-perspective starting with how privatisation is used as a method of infrastructure development, followed by a consideration of PPP practices around the world. It is followed with the public and private sector interactions including: formal and informal actor relations. The discussion then focuses on the advantages and criticisms on privatisation and PPP. Finally, it will introduce the historic background of how privatisation was adopted in Malaysia and the objective to promote 'Bumiputeras'.

The theoretical framework of this research is covered in Chapters 3, 4 and 5. Chapter 3 provides detailed discussions of the theories used in this research - institutional theory and structuration theory. Both the theories were used to understand the influence of organisation on actors and the changes over time and the establishment of social relation.

Chapter 4 then discusses basic understandings of actor relations in the context of formulation of PPP toll road projects. It first discusses social relations more generally and focuses on the main aspects of the role of actors as learners and representatives; the politics of actor relations; the role of culture and social context in interactions; and the influences on social relations which is the organisation's influence, the internal and external forces. It then lays the basic understanding and assumptions used in understanding the term social relation.

Chapter 5 concludes the discussion of the concepts introduced in Chapters 3 and 4 and discusses in detail how the concepts introduced influence the understanding of the social relation and forms the basis of the research questions. The concepts introduced, and the research questions formulated are a guide for the formulation of the Conceptual Framework. The Conceptual Framework pulls all the concepts together in order to form a framework for analytical investigation of three network processes: (1) the production of actors' social relations; (2) the production of actors' 'methods of doing things'; and (3) the reproduction of actor's social relations and 'methods of doing things' (promoting and adopting changes in actors' social relations). In this way, the Conceptual Framework guided the formulation of the Research Strategy and the choice of Methods.

Chapter 6 presents the Research Strategy and Methods and explains in detail the strategy used in order to collect relevant data for this research. It discusses methods selected in accordance with the qualitative approach of this research. The Chapter explains the rationale for the selection of the main case study and four mini-cases which form the bases of the research. It also explains how the data collected were processed and used in order to answer the research questions and achieve the aim of this research. The conclusion of this chapter underlines how the analysis and findings are explained.

Chapter 7 provides a description on the privatisation and PPP context in Malaysia based on the information obtained from the fieldwork. It explains the implementation and the formulation of PPP toll road projects in Malaysia. It also provides details of the policy, legal and regulatory and organisational framework which is the guiding principal to the PPP toll road projects formulation in Malaysia. Finally, it provides detailed explanation on the successive generations of the concession agreements that are used in Malaysia.

Chapter 8 then explains and discusses in detail the two examples of the First and Second Generation PPP toll road projects, while Chapter 9 explains and discusses the latest two examples of the Third Generation PPP toll road projects. Chapters 8 and 9 outline the conditions which influence and promote changes in the actors' social relations which include changes in the policy, legal and regulatory and organisational

frameworks. These chapters analyse the data obtained through the research strategy and discuss the findings.

Chapter 10 presents the concluding ideas from the analysis. It explains how the research questions were answered and includes recommendations for policy and implementation. It also makes suggestions for what could be studied in the future to fill in the gaps left by this research and to develop the approaches further.

As a conclusion, Chapter 1 to 2 provides basic context in Malaysia and privatisation and PPP respectively, while Chapter 3, 4 and 5 provides the theoretical understanding for this research. Chapter 6 then discusses on the research strategy and methods used for this research and the information obtained are used in Chapter 7 to provide the privatisation and PPP context in Malaysia. This is followed by Chapter 8 and 9 providing the analysis and findings of this research which is then concluded by Chapter 10. The next chapter, Chapter 2 provides the context of privatisation and PPP practice around the world.

Chapter 2

Inside Privatisation: Policy and Practice

2.1 Introduction

This chapter aims to provide the insights of privatisation and PPP that are being practiced around the world since the 1980s. It is important to understand the background of privatisation and PPP, in order to appreciate the context that are investigated in this research. All over the world, it is now a standard practice for public and private institutions to partner to deliver ‘large public infrastructure’ such as roads, railways, hospitals etc. The United States, Canada, Britain are leading this initiative by creating a standard framework to support and encourage the collaboration (Siemiatycki, 2007; p. 388). The most widely cited reason for privatisation being adopted globally is to address issues pertaining to improving efficiencies, to reduce government expenditure and to improve private investment in economic development (Megginson and Netter, 2014). However, in Malaysia, privatisation was introduced to bridge the financial gap faced by the government which was generated due to the creation of state enterprises in order to empower the ‘Bumiputeras’. Introduction of privatisation in Malaysia was also due to the exposure to the ideas from the United Kingdom during the premiership of the fourth Prime Minister Dr. Mahathir Muhammad which begun in early 1980s. The different approaches of privatisation adoption are discussed in detail in this chapter.

Privatisation and PPP projects are seen as an outcome of a prolonged set of interactions between social relations. Since this is an investigation from the social science perspective, the background information related to actors’ relations and interactions involved in privatisation and PPP are important in order to investigate and understand issues surrounding the social relations of actors. This research’s focus is on the changes within and among the social relations of individuals in the public sector that promoted alterations in the formulation of PPP toll road projects in Malaysia, and how these social relations have produced and reproduced institutions from the introduction of the Privatisation Policy until the present. It is an effort to understand the claims by

the Government of Malaysia that there are many changes to the Concession Agreements for the latest Public-Private Partnership (PPP) toll road projects as compared to before from the social science perspective.

In order to investigate issues surrounding the social relations of actors involved in PPP projects, it is important to have a background understanding of privatisation and PPP projects. This chapter provides detailed understanding on privatisation and PPP. First, it provides detailed discussion on the trend for privatisation which is accompanied by the insights into privatisation as a method for infrastructure development. This is then followed by the understanding of PPP and the practice around the world. That is followed by discussion on public and private sector which explain the formal and informal actor interactions. The chapter then discusses the advantages and criticism on privatisation and PPP which is followed by details of privatisation in Malaysia and the promotion of the 'Bumiputeras'. The chapter are then summarised underlining key information which are used for this research.

2.2 Understanding the trend for privatisation

The last quarter of the 20th century witnessed numerous state enterprises being privatised which was the result of the strong influence of the neo-liberal economic model (AlHussaini and Molz 2009, p. 391). Privatisation has been a popular policy since the 1980s and has been adopted by many countries from Africa, Asia, Latin America, Western and Eastern Europe (Boycko, Shleifer and Vislly 1996, p. 309). The United Kingdom, the United States, Portugal, France, Korea, Sweden, Australia, Malaysia, Canada and New Zealand are some of the countries which adopted neo-liberal policies involving privatisation of previously government-conducted activities (Kaboolian 1998, p. 189). Although it was introduced to a then sceptical public including many economists, privatisation has now been used as a legitimate tool of state craft by governments in more than 100 countries (Megginson and Netter 2014, p. 321). Privatisation is usually advocated as a method to promote private investment in economic development to expedite growth, often involving major infrastructure projects. It is also an effort to "encourage and allow marketisation of the public sector and the privatisation of public assets and services" (Collyer 2003, p. 1). Privatisation

can be considered an ideology and a symbolic break from the usual government control over a country's productive assets (Megginson 2008, p. 14). Privatisation, broadly can be defined "as the shifting of a function, either in whole or in part from the public sector to the private sector, involves the increased reliance on private actors and market forces to pursue social goals" (Feigenbaum and Henig 1994, p. 185). Privatisation is also advocated as a method to increase efficiency in poorly performing public enterprises (The World Bank 2012, p. 15). Governments adopting privatisation often choose to privatise essential sectors such as health, housing, and infrastructure (Harris 2004, p. 3). According to Stoker (1998), a government when approaching privatisation and partnership focuses on purpose that goes beyond goods or services and includes collective social benefit.

Privatisation became prevalent throughout the world after the Thatcher administration in Britain and the Reagan administration in the U.S. began to consider it at the end of the 1970s and beginning of the 1980s (Tan and Jomo 1992, p. 1). At the time, both administrations had pinpointed similar government service delivery issues: low productivity, inefficiency, bureaucracy and red tape, 'big government', the dependency of the poor on the state and the excessive trade union power (Samson 1994, p. 79). Many governments adopted privatisation as a result of a desire to reform public services (Rhodes 2016, p. 638). Privatisation came to be seen as a measure for governments to increase revenue through reductions in the costs of maintaining existing services and infrastructure. For example, in Malaysia, privatisation seemed to be a workable solution to reduce the government's budget without compromising the objectives of the New Economic Policy³. The New Economic Policy was introduced in 1970 as a result of the racial riots which occurred due to economic disparities between the ethnic Malay and other races (Ho 1992, p. 206). Strongly influenced by neo-liberal economic concerns with service delivery efficiencies, governments around the world were motivated to privatise state enterprises (AlHussaini and Molz 2009, p. 392). Some of the main neo-liberal claims for open-market oriented policy methods view them as alternatives to government monopoly related to efficiency increases, decreases in

³ The Malaysian Government had to find solutions to financing state-owned enterprises which had been established as part of the New Economic Policy 1970, because expenses were increasing and there was a need to provide funding for other development projects.

operation or production costs and reductions in the price of services provided (Hood, 1991; Batley, 1996). As a response to neo-liberal thinking, governments began to relax their holdings in certain sectors and chose to privatise some of their operations to make it easier for private enterprises to participate in economic activity previously conducted by governments (Aucoin 1990, p. 132).

There are many different arguments that might be advanced as to why governments choose privatisation, such as: to increase efficiency; encourage foreign investment; introduce competition; and there are cases of governments promoting privatisation to increase their revenue (Megginson 2008, p. 17). Privatisation seems to be successful generally in cases that result in higher revenues to government without increasing taxes or reducing other benefits (p. 19). The rationale of privatisation being adopted can be seen from three perspectives, which are the administrative perspective, the economic perspective and the political perspective. All three perspectives are explained to indicate the merit by each on privatisation decisions.

Administrative Perspective

From the administrative perspective, public officials often hope privatisation is an option to make the government work better (Feigenbaum and Henig 1994, p. 187). Officials may draw the most appropriate technique from a 'tool-box' which privatisation has to offer that includes contracting out, charging users fees, asset sales and deregulation to meet their needs (p. 187). The selection of a technique depends on the type of objective the officials may have. The administrative perspective assumes that usually the public officials want to serve the public better and recognise the limitations that arise from imperfect information and personal biases (p. 187). There are several considerations in the selection of a technique or combination of techniques which depend highly on the organisational and the economic context. Many factors need to be weighed in considering a specific or mix of techniques which range from tangibility and divisibility of the service, the number of private providers, availability of information and the organisational capacity of government (p. 187).

Economic Perspective

This perspective has both a micro and macro element; the macro arguments accepts that there are limitations to the size and intrusiveness of the public sector; and so any initiative beyond the limits could not be sustained for a long period (Feigenbaum and Henig 1994, p. 188). They argue that such reasoning resonates with both Left and Right wing arguments, where the Left argues that “the Keynesian welfare policies of the post-war period, necessary both to legitimise the capitalist regime and to spur productive investment, suffer from political processes that allocate capital irrationally, in response to power rather than to need” (p. 188). The Right argues that the expenses of the welfare government lead to aggressive taxation policies (p. 188). Macro elements are related to a government policy whereas public choice theory relies on the micro economic considerations. This identifies people in the system such as politicians, bureaucrats and interested groups (such as contractors) gaining more than they lose as taxpayers (p. 188). It looks at the government sector as being composed of self-interested personnel, which results in inefficiency. Privatisation is seen as a model that separates the resources from such personnel and conversely promotes efficiency which is visible through the market (p. 188). The economic perspective categorises privatisation benefits by reference to three major values, which are ownership, competition and the alignment of benefit with price (p. 188). Change of ownership includes sale of the government assets; which immediately reduces the government deficit and size, shifts decision making process that allows more pro-market oriented mechanisms and ensures that the market can participate directly in promoting the economy. Increasing reliance on competitive forces occurs when the government contracts out its services but remains responsible for setting and enforcing goals that reduce bureaucracy and promote efficiency (p. 189). Finally, alignment of price with benefit occurs when the public receive services for the fees they pay and which are not funded by taxes, thereby also reducing the tendency of the government to provide more services to certain groups (p. 189).

Political Perspective

There is an argument that privatisation and its implementation is better referred to as a political phenomenon instead of an application of economic theory or a technical

adjustment to changing conditions (Feigenbaum and Henig 1994, p. 190-191). Feigenbaum and Henig 1994 argue in their paper titled Political Underpinning of Privatization, that “rather than treating privatization as a choice among means to achieve recognized and broadly social goals, it often takes the form of a strategy to realign institutions and decision-making processes so as to privilege the goals of some groups over the competing aspirations of other groups” (p. 191). Hence, at times the decision to privatised is politically motivated.

Table 1 indicates the difference between the three perspectives of privatisation.

Table 1: The difference of privatisation from the administrative, economic and political perspective

	Administrative	Economic	Political
Emphasised goal	achievement of socially defined goals	maximisation of individual’s utilities	redistribution of power and control
Unit of analysis	discrete societal problem	individual/firm	group/class
Concept of privatisation	tool box	preferred mechanism	weapon

Source: Feigenbaum and Henig 1994, p.191

Whichever perspective is used to view and decide on privatisation, the common explanation by most governments adopting the policy has been improving efficiency and promoting economic growth. The transportation infrastructure sector has been a favourite for governments to privatise due to its nature being expensive to operate and maintain other than high initial capital expenditure. There are claims that investment in transportation infrastructure is failing to meet the growth in travel and providing such infrastructure seems to be highly inefficient (Poole 1997, p. 95). The necessary maintenance cost of such infrastructure is huge and most governments which choose to privatise transportation infrastructure believe that it would be appropriate to transfer the cost to the users.

The reforms of the public services by governments around the world started around 40 years ago (Rhodes 2016, p. 638). Privatisation can be concluded as an element of public service reform where it is supposed to reduce bureaucracy for faster and more efficient services for the public. Privatisation also arose due to a perception of inefficiency caused by vendors' misleading information on costs, benefits, risk management and mismanagement of public funds within 'traditional' public sector arrangements (Mukhopadhyay 2016). Governments around the world tend to use a mix of the three ways of governing to implement policies which includes the traditional way, the new public management and the new public governance (Rhodes 2016, p. 639). The key focus of traditional governance arrangements is policy advice and implementation while the key focus of the new public management is concerned with the management of organisational resources and performance. Finally, the key focus of the new public governance is related to negotiation of value, meanings and relationships (Rhodes 2016, p. 639). 'Three waves' of reforms were identified through the new public management, while the first focused on management; the second focused on 'neoliberal belief about competition and markets' and the third on 'service delivery and citizen choice' (Rhodes 2016, p. 639:640). In all of these attempts the public service was negatively impacted in the areas of 'record keeping', staff posting and loss of 'institutional memory'. However, it is important to understand that the new public management has been adopted and continued by many governments around the world. The introduction of the new public management and associated governance forms challenged the traditional governance arrangements and all three waves are still relevant in government administrations which are hierarchical. Despite much focus on new public management and governance in literature that emerges from Europe and North America (Rhodes 2016, p. 645), the traditional forms of governance are still seen dominant within Malaysia. Whilst elements of NPM might be integrated in Malaysia's governance, these have to intersect with more traditional, hierarchical forms of government. Thus, this assumption provides the avenue for this research to investigate privatisation in a context with traditional governance arrangements which is integrated with the NPM.

There is another idea which was famous in the early 1990s which became the mainstay in governments (e.g. Australia and United Kingdom) called the Third Way.

'The third way' discourse has stirred a lot of debate from sociological, economic and political point of views concerning issues of economy and politics between the left and right policies. The Third Way's realism proposes an approach that settles on choices as indicated by the benefits of the case, the achievability of a strategy, and a cautious and conscientious examination of its presumable outcomes – and not based on settled ideological formulae (Shaw 2004, p. 66). This idea put forward by Giddens combines markets with a revised welfare state hoping that globalisation risk could be avoided (Turner 2005, p. 10). As indicated by Le Grand in Shaw (2004) a Third Way rationalism can be discerned that argues the best means are whatever accomplishes the best blend of outcomes, regardless of whether the methods concerned include the market, the state or some mix. Governments began to involve private sector companies and entities to provide public facilities through planning, financing, building and operating facilities and services (Birch and Siemiatycki 2016, p. 177). This process where it involves the inter-relation between the government and private sector is known as marketisation. In a few areas the government ought to remain the immediate supplier of open merchandise; in an expanding number of services or facilities, it should act in association with the private entities, acquiring and directing administrations which the private entity delivers (Shaw 2004, p. 66). The considerable preferred standpoint of public– private partnerships is that they bridle the qualities of the market – 'development, dynamism and efficiencies' – to the conveyance of public sector (p. 67).

According to McLennan (2004) 'the third way' ideology is a 'vehicular idea' or 'nomenclature' developed to resolve conflicting issues which has a life span (p. 484). It was during that era, neoliberalism became the outlook of many conservative parties around the world which advocated free market policies and in contrast the Third Way combines moral and economic issues (Giddens 2008). Marketisation can be differentiated into three categories, which are (1) new forms of external service contracting (outsourcing); (2) new forms of contractual arrangement; and (3) creation of new markets by the state as a result of privatisation of state run facilities such as telecommunications and electricity networks (Birch and Siemiatycki 2016, p. 185-186). Meanwhile, according to McLennan (2004) 'the third way thinking' is broad in nature encompassing such ideas like post-tax regimes, 'smart nations, human capital formation, governance not government, life course policy, partnership at work, carceral

policy, third way development strategy' to mention but few. Turner (2005, p. 10:14) on the other hand, presents the third way idea which favour enterprises, investment, equity and social justice supported by 'a welfare state' and how to avoid the harmful effect of globalization. He advocates how the third way differs from liberal capitalism and social democracy thus finding a middle ground between the left and the right political policies. Privatisation is thus seen as a key strand of marketisation (Birch and Siemiatycki 2016, p. 180) and can be said as a phenomenon that aligned with Third Way thinking.

Privatisation as said earlier can be assumed to have been partly promoted by third way thinking. Taking us through the history and development of 'the third way', McLennan (2004, p. 484-488) affirms that no one knows exactly when 'the third way' concept or ideology came into usage but that it started appearing as a 'media discourse in the UK since 1998. Within this short period, 'the third way' has metamorphosed like any other 'vehicular' idea that must evolve (McLennan 2004, p. 489). Firstly, the observation of change according to McLennan (2004, p. 489) is a 'marked drift from 'left to right' in 'the third way' discourse. It attempts to find a common ground from left to right 'between capitalism and socialism as grand notions of social systems'. Secondly, the 'marked drift' occurred when the third way idea moved from being a 'normative' discourse to one guided by active directions which pushed back the 'socio-ethical presuppositions' (p. 491). It is this shift in sociological perspective that engineered its drift 'away from the 'normative' contributions to fundamental values to a pragmatic realism about going on and the limits that this sets on political transformation' (McLennan 2004, p. 491). However, this drift was queried by scholars, such as Finlayson (2003) who "has usefully dubbed Giddens's whole Third Way problematic as a bad case of myopic 'sociologism'" (cited in McLennan 2004, p. 491:492). Again discourse moved toward the direction of 'representing the culmination of others' which thus brought back the question of the 'success of vehicular idea' (McLennan 2004, p. 492). The term third way transformed into a discourse about 'what's next for New Labour', where Giddens calls out for more ideology and the most Giddens can gather in this regard are liberal thoughts on good society and serving the public interest (McLennan 2004, p. 492). Having undergone all of these changes, critics argued that there is no translation of 'the third way discourse' (McLennan 2004, p. 493) that is not essentially part of neo-liberalism. Scholars such as Bourdieu and Wacquant

(2001) argued the shortcoming of the third way in resolving political and economic issues arises from the free market economy (cited in McLennan 2004, p. 495). It should be noted that the free market is only to the advantage of the 'global elites' and of no relevance to the 'ordinary citizens' (Turner, 2005). McLennan (2004, p. 496) thus argued that 'politically' with these arguments none of the 'critics seem to have in their possession a concrete 'socio-political alternative'. Further he was able to create an insight into the third way politics by exposing the sociological, political and ideological basis surrounding it thus, showing its merits and demerits (p. 497). In view of the shortcomings identified by critics, McLennan (2004) recommends that without ignoring the critics' ideological and intellectual arguments against the third way discourse scholars needs to repackage the idea through serious and creative intellectual capacity.

Privatisation has often deemed to be part of the new right with an underpinning rationale being that of minimal government interference. The Third Way is, as it asserts, seeking after conventional qualities in an advanced modern setting (Shaw 2004, p. 75). The Third Way is a specific kind of union in that it tries to bond neo-liberal ideas and methods of examination to the assistance of public purposes (p. 75). The Third Way is not largely explored for this research as this research is more concerned with the social relation of actors involved in PPP rather than focusing on the rationale of adopting privatisation or PPP. Nonetheless, it is important to place privatisation in context, and this section has discussed the essence behind its introduction and its wider impulses than free market economics and new public management. The justifications for adopting privatisation is rather a blend of free market and the third way thinking where it involves partnerships between the public and private sector. Privatisation has often been used to develop infrastructure facilities and the next section discusses about privatisation being a method of infrastructure development.

2.2.1 Privatisation as a Method of Infrastructure Development

In relation to the idea that it is the government's social responsibility to provide necessary infrastructure for citizens, some governments see privatisation as a tool to provide alternative infrastructure facilities for the people at a higher standard and lower cost. However, in this version, privatisation of certain sectors like roads is not a method of transferring a government's responsibility to private firms. Privatised facilities were

supposed to provide better options for citizens, although often involving the payment of some fees in addition to standard taxation. This situation is best explained with an analogy of taking a flight to a destination, for example from London to Paris. We have the option to fly with a normal commercial carrier or a low-cost carrier. Both will take us to the destination, however, their service differs: the commercial carrier fares are usually more expensive than the low-cost carrier but they offer extra services like meals and extra luggage. On the other hand, if we are flying through a low-cost carrier, we can receive a similar extra service like meals and extra luggage on payment of a fee. In the case of privatisation of road infrastructure, road users are supposed to be able to reach their destinations faster if they use the toll road compared to the old 'free' roads, due to the lower volume of traffic.

Providing a choice of options is typical of neo-classical economic views that every individual seeks to maximise their utility: every individual economic actor has his or her rational preferences and they make their decisions depending on the margins of cost (Arnsperger and Varoufakis 2006). Neo-classical economics introduced the models of perfect micro-economic competition which are the founding concepts of privatisation. The founding concept of privatisation seem to be appropriate in the case of privatising alternative infrastructure services as there is existing acceptable infrastructure in place. Hence, privatised alternative infrastructure services are aimed to provide users a choice. The next section will discuss the details on Public-Private Partnerships.

2.3 Understanding Public-Private Partnerships

While some authors claim that privatisation is seen as a policy or strategy to shift governments' responsibility and create a new entity (Henig, Hamnett and Feigenbaum, 1988; Samson, 1994), Stoker (1998) claims that it is a new form of governing (p. 24). This new form of governing, represents the interaction between the public and private sector, focusing on interdependence between government and non-government actors in meeting public demand and handling problems that cannot be solved unilaterally. The interdependency between government and non-government actors is identified as PPP. It is argued that Public-Private Partnerships (PPP) encourage

innovative ways of implementation which may reduce the overall cost of the infrastructure and service delivery (Hoppe and Schmitz 2013). PPP has been gaining popularity in public service delivery since the 1980s (Siemiatycki 2010, p. 43). It is often used as a procurement method for public infrastructure which is aimed to reduce bottle neck issues such as lack of funds (p. 44). The essence of partnership is that it needs collaboration among the private and public sector despite the fact that most risks are, in theory, transferred to the private sector (Smyth and Edkins 2007, p. 233). Advocates of partnership model argue that it provides for accountability and transparency in the planning process than the public procurement model because it has better risk control and project delivery outcomes (Siemiatycki 2007, p. 390).

The term “partnership” for this research reflects to co-operation between the public and private sector to pursue projects. Non-government refers to the private sector, which includes private entities with substantial or some government interests. Although Stoker (1998) mentioned that the interaction between the public and private sector was intended to meet public demand and handle problems, it can be argued that government with its power and authority should itself have or obtain power to solve problems and meet public demand without needing interdependency with the private sector. Nevertheless, this new form of governance seems to be a favourite amongst developed and developing countries where many reasons are given to justify the adaptation. Consequently, partnerships have been promoted as a way to improve governance effectiveness (Brinkerhoff and Brinkerhoff 2011, p. 4).

Osborne, 2010 claims that there has been a revolution in the approach to service delivery and public policy implementation, which has started to be more of a social contract based on interaction and relations with the public, as compared with the early 1980s, when it was more bureaucratic. PPPs are claimed to increase the efficiency, effectiveness (attending to a problem and capacity to solve them) and legitimacy of governance in terms of being more transparent, democratic and accountable (Borzal and Risse 2002, p. 2).

The birth of a partnership is underpinned by the rationale for forming the partnership. There are three rationales for forming a partnership as explained by

McQuaid in Osborne 2000, which are the (1) purpose, (2) strategic or programme/project driven and (3) the underlying basis of partnership (p. 14). The **justifications and purpose of privatisation** offered by most governments for partnership is to enhance efficiency and effectiveness or efficiency, to invite new investment, to include others to support activities or to overcome opposition (McQuaid in Osborne 2000, p. 14). Partnership may also be **strategic or programme/project driven** where there may be a long term partnership to develop an area that may influence the quality of life for the residents or program/project driven (p. 14). For instance, there are new townships such as Alam Impian and Denai Alam in Malaysia developed with a facility built under partnerships being the connection to the townships. The facility, a PPP toll road highway known as the Kemuning-Shah Alam Highway and the Guthrie Corridor Expressway respectively, provides connectivity to residences from Alam Impian and Denai Alam to other major road networks leading to Kuala Lumpur and other major destinations. Whatever the basis of partnership may be, **the underlying basis of partnership** is trust and parties believe that there is mutual positive gain which may remain even when its focus and rationale changes; but when a partnership is due to self-interest it may result in parties breaking the partnership when their interest or gains are affected (p. 14). Partnership is an outcome of a long-term interaction and relationship between actor's social relations with differing benefits which are reproduced. There are four special components which forms the framework of accountability of PPP model which are transparency, regulatory regime, performance contract and risk distribution (Mukhopadhyay 2016, p. 3). Confidentiality is also an important element required at various stages of partnership planning process. This is sought to protect the private sector's original work on the proposal as the partnership formulation involves stages of negotiations where it includes sensitive information related to commercial interests, the public sector's negotiations for the best value and the competitive bidding process integrity (Siemiatycki 2007, p. 389). It is argued that the step by step decision making process makes partnership a model that will create public accountability and standards which are usually missing in models used by the public sector to deliver projects (Siemiatycki 2007, p. 390). Transparency in PPP begins from the early stages of project development which includes two-way communication where there is participation from the stakeholder; while regulatory regime is required in order to ensure obligations of both parties are fulfilled (Mukhopadhyay 2016, p. 4).

Meanwhile, performance contract is a component of accountability which involves payment to the private sector based on the performance of their product or services rather than paying for a construction (p. 4). It involves the inclusion of performance standards. Finally, the risk distribution, the fourth component of the accountability framework where both the public and private sector share the risks that varies between different PPP infrastructure projects (p. 4).

The most popular form of PPP for toll road development is long-term franchise or concession. It is more known as the Build-Operate and Transfer (BOT) model and also adopted in Malaysia for its toll roads projects. The concept of BOT as an infrastructure procurement arrangement initially originated from Turkey in 1980s as the Prime Minister then wanted to incorporate alternative funding arrangement into Turkey's infrastructure privatisation program (Tiong 1990, p. 315). It is a concept where the private company would finance a project and as a return the company is granted the rights to construct, operate, maintain and collect toll from the users for an agreed duration. This arrangement involves many terms to be agreed by the parties (the government and the private company) and involves many rounds of negotiations that finally result in a contract (which is the focus of this research). This form of partnership is aimed to provide enough time for the private company to pay back its debts, recover its investment and receive a competitive rate of return (Poole 1997, p. 97). The common form of this long-term franchise or concession is known as build-operate-transfer (BOT), where the length of concession may range from 20 to 50 years (p. 97). Toll roads are mostly BOT concession projects with a certain number of concession years being granted to the private company. The rationale for providing a number of concession years is because of the nature of a BOT project. Most BOT projects are financed through debt with a certain amount of equity from the shareholders of the private company.

There are major differences between the conventional methods of providing infrastructure and privatisation or PPP. Under the conventional method, the government designs, finances and operates the road where the private company participation would be only as a contractor to construct the facilities which are usually selected through competitive biddings process (Engel, Fischer and Galetovic 2003, p. 1). At the end of

the construction the road will be operated and maintained by the government; taxpayers finance this conventional method. On the other hand, in the PPP mode, the private company finances, builds, operates and maintains the facility for a specified period of time and the government allows the private company to collect toll during the period from the users (Engel et al. 2003, p. 1). Siemiatycki (2007, p. 399) nonetheless, observed that the conflict among transparency and confidentiality in the formulation of public infrastructure is not peculiar to PPP collaboration but is also part of the conventional government project procurement model.

The private company needs a certain number of years to operate the facility in order to service the debt, recover their investment and make a reasonable return (Ward 2005, p. 34). The amount of fees to be collected from the user are determined from negotiations between the public and the private sector which includes many assumptions. These projects go through various rounds of negotiations and discussion which involves interactions between the public and the private sector. The final arrangements, assumptions and the outcome of the project highly depend on the negotiation by the actors. The outcome of this negotiations and interactions is the Contract (known as the Concession Agreement in Malaysia) which stipulates the obligations between the public sector and private sector until the end of the concession period⁴. The next sections will discuss on the PPP practice around the world.

2.3.1 PPP Practice around the World

The idea of Public-Private Partnership (PPP) has been embraced in various countries as a policy instrument to enable private financing of public services. The common grounds for adopting the method are to reduce government expenditure in infrastructure development and to develop the economy through active private investment. The government aims to provide a suitable environment for private companies to invest in infrastructure projects and usually acts as a regulator. Since the 1980s, PPP has been used as a method for providing infrastructure services to the public. PPP is used by governments not only as a source of alternative funding for

⁴ Concession Period is the duration of which the private company is allowed to operate, maintain and collect toll from the users.

infrastructure expansion, but also as a way to share risks, introduce new ideas and innovation, and transfer technical skills and managerial efficiencies (HM Treasury, 2012; Siemiatycki 2010). The spread of neo-liberal ideas and criticisms of the interventionist state since the 1980s, have influenced many governments to look into alternative methods for economic and social development and to promote private investment as part of their public policies for social and economic growth. Private investment has been used in many developing countries like India, China, and Malaysia in particular, to bridge the infrastructure gap caused by urbanisation and to support social and economic development (Lakshmanan, 2008; Wang, 2013; Yang, Hou and Wang, 2013). Public-Private Partnerships have been utilised worldwide: Australia, Canada and the United States are among the nations with the most numbers of PPPs. To represent the measure of worldwide investment into PPP ventures, between 1985 and 2004 in the Far East, Asia and Europe, there were 1,121 PPP infrastructure ventures worth US\$ 450.9 billion in for example, street, rail, air terminal, seaport and water projects (Abdel Aziz 2007, p. 918). The UK government has been pioneering PPP procurement with concessions for 10 and 40 years (Smyth and Edkins, 2007, p. 233). In 2001, there were around 300 Private Finance Initiative (PFI) ventures in the UK worth £12 billion (Akintoye, Beck, Hardcastle, Chinyio and Asenova 2001, p. 361), and from 2012 there were more than 700 PFI settled negotiations worth around £55 billion (HM Treasury 2012, p. 5).

As mentioned earlier, the main justification for most governments' adoption of PPP is to reduce government expenses in infrastructure development and to increase private investment in the economy. Other than that, it is also usually claimed that PPP can improve efficiency and provide better service quality. In order to ensure the highest quality and control the quality of services, performance criteria that are commonly introduced, known as Key Performance Indicators (KPIs) (Smyth and Edkins, 2007, p. 233). This are used to ensure the set requirements are fulfilled throughout the project cycle (p. 233). Besides that, PPP is supposed to reduce the overall cost of a project. Generally, it can be said that if a project is implemented through competitive bidding, private companies should be able to provide innovative options. This should reduce the overall cost, the project should be implemented more efficiently and give better financial return on the outlay of public funds (HM Treasury, 2012). The issue of cost

depends on the market rate of materials and human resources but it could also depend on the conditions of the contract negotiated. This could allow some elements of manipulation by the actors involved in the negotiation which can result in bad or one-sided (profiting the private company) contracts that may incur higher cost to users.

Active private investment in infrastructure development allows the government to concentrate on and invest in other public priorities. When PPP has been employed in infrastructure provision, the government is able to divert the funds saved into other necessary sectors. It is claimed that through PPP, the private sector manages risks without affecting the quality of construction or service. Although it may cost a little more, in the long run, PPP projects save the government money since the good infrastructure has already been constructed.

Thousands of projects across the world have been implemented through the PPP model and PPP has been the favoured implementation method for most developing countries: for example, in China between 2009 and 2011, PPP projects through private financing included various infrastructure projects such as sewerage, telecommunications, transport, water and energy worth US\$ 116.4 billion (Wang 2013, p. 311). Although PPP seems to have many benefits in improving infrastructure and promoting economic growth, it can be costly too. In Malaysia, the total government investment from 1991 to 2009 exceeded private investment (Tan 2012, p. 2553). This may be an effect due to the nature of earlier public enterprise or Government Linked Companies (GLC) formation due to the New Economic Policy (NEP) which is financed by the public sector.

The next two sections discuss about the public and private sector interactions and then explores the formal and informal actor relations.

2.4 Public and private sector interactions

In PPP projects, the relationships between public and private sector actors start with the initial formulation stage. This is an important element which needs to be explored as it portrays the actors' expectations of how their social relations will work

towards certain outcomes. Given their expectations, actors from both the public and the private sector will attempt to design their interactions in a way which will achieve the shared desired outcome which is to approve and implement the project. PPP literature places importance on the social arrangements of public-private interactions that influence the formulation of a PPP project (F.M.Koppenjan 2005; Teisman and Klijn 2002; 2010). This social arrangement has a pattern since it is used over and over again to formulate PPP projects. According to Teisman and Klijn (2002), the patterns of such social relationships are shaped by policy issues; but as Joyner (2007) points out, in understanding PPP as an instrument of public policy, the specific social dynamics that arise from the public and private sectors coming together are important, but are often neglected. This is because attention has been focussed on external structures and formal cultures rather than on the influence of the formal and informal interactions during the formulation process of a PPP project which are included in this research. The next subsection reviews the literature on formal and informal relations between actors.

2.4.1 Formal and informal actor relations

The outcome of a PPP toll road project depends on the type of relationship between the public and private actors. Both sectors need to work together in setting agreed terms and parameters which include specifications of the proposed project. In setting the terms and parameters together, there is an element of mutual trust and a determined set of rules which both parties should abide by during interactions (Teisman and Klijn 2002; Bovaird 2004). As mentioned by Smyth H. and Edkins A. (2007, p. 233) “trust is a disposition and attitude concerning the willingness to rely upon the actions of or be vulnerable towards another party, under circumstances of contractual and social obligations, with the potential for collaboration”. In the conventional method of implementing infrastructure projects, the government is the organiser and financier of the project; the government specifies the rules and requirements; and selects the appropriate private company to execute the project. This process is different from PPP projects which are more complex and the process is unique to each project. PPP formulation involves actors in complex relationships in formal and informal ways. Partnerships mean that both sectors need to work hand in hand from the beginning in order to agree the separation of responsibilities and obligations and ensure best value

for the project (Teisman and Klijn 2002; Bovaird 2004). Partnerships can also be seen as a network of actors who depend on informal structures in the organisation that are developed and changed over time, based on the actors needs and perceptions (Teisman and Klijn 2002; Bovaird 2004).

Siemiatycki (2011, p. 310) argued that there are areas in PPP that needs research attention; such as the ‘inter-organisational networks’ involved in the production of PPP, as little is known about the ‘inter-organisation networks’ through which PPP works in spite of various analyses. In the governance literature on managerial networking, PPP projects are often viewed as a complex network of interdependent actors (Meier and O’Toole 2010): each actor belongs to a specific set of social relations with different expectations, perceptions and preferences. Networking plays an important role in departmental coordination and conflict resolution (Rhodes 2009, p. 192). Rhodes (2009) further advocates that a trustworthy network promotes good relationship with the top management of an organisation which ease processes. Having a strong network can be considered as part of a strategy to obtain certain decisions or get work done which is important during the formulation process of PPP projects. There is another view regarding PPP that is closely related to the process of managing and that is the elements that need to be managed which are language and culture, aims, power and trust (Huxham and Vangen 2000, p. 274). Partnerships are seen as a linkage-type of governance where public sector actors must accept the mutual interdependency between themselves and private sector actors and try to co-operate and make combined decisions in solving difficult issues (Teisman and Klijn 2002). According to the network advocates, public and private actors’ social arrangements can have effects on PPP project formulation due to differences in knowledge and resources among actors.

Overall, governments adopting privatisation and PPP realise the importance of partnerships with the private sector due to the increasing societal demand for improved infrastructure facilities which results in the interdependency between the public and private sector becoming more important (Bovaird, 2004). Both the public and private sectors are beginning to understand that each have their strengths that could be used in providing better services for users. This interdependency creates a network or a chain of actors from both the public and private sectors working closely to meet those demands.

Siemiatycki (2011) argued that to have knowledge of the workings of ‘the theory of networked relationships in organisations that are engaged in project-based work’ it is pertinent to have an idea of the reoccurring collaboration within the interaction web as well as the practice of infrastructure delivery through PPPs (p. 311). Although public and private sector actors introduce different views and perceptions, they are still able to collaborate in order to successfully implement a PPP project (Edelenbos and Klijn 2007; Teisman and Klijn 2002). However, these differences can create issues which could affect the outcome of a PPP project, especially when each organisation may have quite different goals and work processes. The differences in perceptions and attitudes to risk between the public and private sector actors’ may affect their network of interactions and cause problems during the formulation of PPP projects (Van Ham and Koppenjan 2002; Klijn and Teisman 2010; Joyner 2007). A major issue in developing PPP projects is the institutional barrier against co-operation; for example, the government often has long processes of bureaucratic decision-making as they are supposed to be democratically accountable to citizens, while private sectors is only accountable to shareholders for making profits. However, private sector sometimes may exhibit highly bureaucratic characteristics, but it would not be investigated for this research. The difference in goals causes trouble when formulating PPP projects.

In order to successfully finalise a PPP project, adjustments need to be made to public and private sector actors’ perceptions. The adjustments can be due to either a better understanding of the project and its parameters and the need to make decisions about these; or due to pressing external forces namely politically motivated. These differences have to be coordinated to a certain extent which is not known until the situation occurs (Teisman and Klijn 2002). These adjustments are better known as ‘process management’ directed to building trust and a joint image and creating commitments crucial in sustaining the formulation process (Waddock, 1989; J.F.M.Koppenjan, 2005). During process management, the scope of a PPP project is being formulated without the actors realising it: the specifications of a PPP project are the product of a long process and ideas and are not simply given in advance (Klijn and Teisman 2005; Koppenjan 2005). Interactions between actors are very important for the construction of major policies such as PPP (Béland, 2005), otherwise, it will not be a holistic policy as it does not include the issues and problems on the other side. PPP

constantly goes through changes based on different inputs through the interactions between the public and private sector actors. However, it is essential to have a clear overall accepted goal even if this needs to be re-examined during the formulation process (Waddock, 1989).

PPP is a slow process of learning by public and private sector actors which depends on the long-term continuation of the project so that actors get used to working together over time and includes adjustments and trust between them. It is an adjustment that both sides need to make to the existing beliefs and traditions which influence their social relations. Adjustments have to be mutual and both the public and private sector actors must be accountable with the decision made (Bovaird 2004, p. 208) and believe in long-term relationship rather than short term profits. Before a formal partnership is created, public and private actors are involved in all aspects of the project which may include the technical and financial aspect (Koppenjan 2005). On the other hand, it is crucial to identify the role of the individuals able to make immediate decisions and the charismatic qualities of a person able to foster the commitment of other partners during the process (Waddock 1989).

Partnership can also be related to the synergies created through inter-working (McQuaid 2010, p. 4). Lasker, Weiss and Miller (2001) identify synergy as collaboration on the resources, perspectives and skills of the individuals and the organisations. Synergy is not about only exchanging resources but creates value through group relations and interactions (Lasker et al. 2001; see also Lowndes and Skelcher 1998; Peters and Pierre 1998). Synergy enables different creativity, as well as practical, comprehensive, and transformative thinking, in order to handle complex issues (Lasker et al. 2001; Loiola 2013). Synergy is seen as the combinations of different actors' knowledge and that can be witnessed in the actors' collaborative decisions. Collaboration includes formal and informal relations and seems to be an important element that is created by actors involved in a PPP project formulation process. Collaboration can be a network which involves the interdependency between organisations in either formal and/or informal relationship that creates a shared beliefs and norms (Imperial, 2005).

The next sections discuss the advantages and criticisms of privatisation and PPP.

2.5 Advantages of privatisation and PPP

The advantages of privatisation and PPP can be grouped into three categories, which are effectiveness and efficiency; legitimacy; and resource availability (McQuaid in Osborne 2000, p. 21). There are also other perceived advantages of privatisation and PPPs which can be identified as a means for funding infrastructure projects, risk transfer and innovation (World Bank 2012). One of the main justifications provided by governments in employing privatisation and PPP is to increase effectiveness and improve efficiency. High cost to operate an infrastructure, upgrading existing infrastructure and providing alternative infrastructure by the government are seen as major hurdles to maintain effectiveness and efficiency. Besides that, governments are also burdened with increasing operating cost and have a wide range of responsibilities to be fulfilled which results in existing funds to be distributed to different sectors. This causes the efficiency of the infrastructure not being a focus of attention. It is argued that once public enterprises are privatised, they will begin to concentrate more on profits which motivates steps taken towards improving efficiency (Woon 1989, p. 246). Marangos (2002) mentioned that “according to neoclassical transition model, the transfer of state property to the private sector would have improved efficiency because of the profit motive” (p. 575). Privatisation is also aimed to promote competition, increase the productivity of the services and improve efficiency (p. 246). The improvement of efficiency is prominent when privatisation and PPP is used to provide alternative infrastructure to users. Privatisation and PPP are also commonly promoted to enhance governance effectiveness “through a reliance on comparative advantages, a rational division of labour and resource mobilisation” (Brinkerhoff and Brinkerhoff 2011, p. 4).

The other advantage of privatisation and PPP is legitimacy where it may involve participants or users directly rather than through the representative democracy of central or local government (McQuaid in Osborne 2000, p. 21). However, a privatised or PPP project gains legitimacy in the eye of public if they are involved from the initial stage of a project where the negative impacts are reduced (Ward 2005, p. 37). Another benefit of

privatisation and PPP is related to resource availability. The monetary, social and ecological and different issues confronted by urban zones, especially those regions experiencing multiple deprivations, are regularly interrelated, overlapping and mutually reinforcing. Thus, arrangements for a player in the framework are probably not going to be completely successful in light of the neutralizing effects of different variables (McQuaid in Osborne 2000, p. 19). Partnerships between key actors are therefore important in order to tackle different causes (in so far as these can be handled locally) and also the manifestations of the issues of the local economy (p. 19). Likewise, formal and informal joint working or partnerships are essential instruments to accomplish complementarity and avoid wasteful repetition of effort (p. 19). “Partnership allows a pooling of resources so that larger projects, or more aspects of a project can be tackled than is possible for an individual agency (or it allows the agency to devote some resources targeted at one policy to be released for use elsewhere)” (p. 20). Besides increasing the scales of available resources, privatisation and PPP could bring different resources, for example skills, expertise and information not available in an organisation.

On the other hand, in order to address issues related to reinvestment in poor and ageing facilities, and increasing demand related to public sector services, privatisation and PPP induces new funds from the private sector and allows the public sector avoid up-front capital costs (The World Bank 2012; Kwak, Chih and Ibbs 2009; Ahadzi and Bowles 2004). It is therefore seen as a means to address the funding gap issue. Due to the possibility of pooling resources, privatisation and PPP allows greater innovation and creativity through the sharing of managerial and technical expertise from the private sector which benefits the users with better infrastructure services (Ahadzi and Bowles, 2004). It is also debated that the contribution from the private sector in terms of project and risk management could assure projects completed early without compromising the quality (HM Treasury, 2012). From the view point of innovation, the term ‘Value for Money’ (VfM) does not really signify "less expensive" arrangement of policy implementation through the PPP instrument in contrast with other approach implementation options; VfM could likewise be accomplished by “spending a little more than a conventionally procured solution but achieving a far superior service as a result” (Harris 2004, p. 10).

Finally, privatisation and PPP provides advantages in terms of risk transfer and sharing between the public and private sector (HM Treasury, 2012; The World Bank, 2012). Privatisation and PPP is often advocated as an instrument that allows the private sector to assume responsibilities to better manage the implementation of a project (such as finance, operation and construction) which reduces the overall project cost to the government; while the public sector manages in terms of approvals and regulations (Harris, 2004). However, despite having advantages, privatisation and PPP are also criticised as concentrating on financial outcomes and not social as discussed next.

2.6 Criticisms of privatisation and PPP

Privatisation and PPP, however has received much criticism for not considering the social outcomes and concentrating only on financial and operational outcomes (AlHussaini and Molz 2009, p. 393). Since privatisation and PPP were adopted to increase efficiency, issues pertaining to disparity in wealth and income inequality, unemployment and services' prices began to emerge (p. 393). In the case of privatising state enterprises, the claims of improved services and efficiencies comes at a cost to the users which at the end remove the facility which has been free of cost to users. This seems to deviate from the initial general perception that it is government responsibility to provide basic infrastructure facilities for citizens. When a state enterprise is privatised, one of the contributing factors that ensure the success of the privatisation is managing the operation cost of the organisation. The organisation is forced to look into the supply and demand factors of the service which directly impact the running cost of the organisation. This results in cost-cutting measures and some costs being passed on to the users. Private companies involved in privatisation and PPP aim to maximise profits which, it is argued, is likely to cause substantial social effects which impacts on different groups of people (p. 393). For instance, although the Government of Malaysia delays toll increase, the private companies are compensated. When the year of increase arrives, the private companies notify the government of their entitlement to increase tolls despite in some cases that they report huge profits with the existing toll. Either the increase is allowed or not, the public is affected due to higher cost. On the other hand, privatising existing organisations results in other kinds of social outcomes which are explained in Table 2:

Table 2: The impact of privatisation on social outcomes and their recipients

Recipients	Social Outcome
Former public officials (employees)	<p><i>Job security</i></p> <p>Average employees – especially the less-skilled ones – face job loss, decreased benefits, and longer working hours</p>
Consumers	<p><i>Prices, access and quality</i></p> <p>Removal of government subsidies and transfer from public monopoly to private monopoly lead to increased service/product prices</p> <p>Profit-driven private firms may choose to ignore some regions (e.g. poor or remote), affecting availability and affordability of services</p>
Taxpayers	<p><i>Fiscal effects</i></p> <p>A government with a heavy debt fails to transfer privatisation benefits to taxpayers. They lose the capital income from the enterprise and pecuniary (tax reductions) and non-pecuniary (government expenditure) benefits</p>
Stakeholders	<p><i>Equity/distributional effect</i></p> <p>Ownership concentration: a widening gap between social classes in wealth and income as the rich can buy and hold onto shares from privatised firms, while the poor need to sell</p>

Source: AlHussaini and Molz (2009), p. 393

Privatisation and PPP also may encourage monopoly, especially when government transfer natural monopolies such as gas and electricity supply (Megginson 2008, p. 22). Privatisation and PPP can be claimed as a policy change of a government from a socialist approach to capitalist. As explained earlier, privatisation and PPP can be seen as a policy strategy to shift responsibility and power between various parties. It has interested governments so much that if a privatisation or PPP project is failing it often receives government bailouts (Carpintero and Gomez-Ibañez 2011), which is not

in line with the original intention of privatisation and PPP: which is to reduce government's cost. Usually failed PPP projects receive huge publicity since it might involve in huge government funds to bailout. Despite the risk of failure, many other countries introduced PPP as a method for their infrastructure development (Tang, Shen and Cheng 2010, p. 684).

As discussed earlier in Section 2.2, the third way can be considered as an ideology for privatisation amongst others. Despite politicians having considered the third way as a general ideological problem, it has firmly put itself in the discussion of post-democratic and a particular style of post-socialist (McLennan 2004, p. 492). The third way has been criticised by those who advocate free market economy where it creates conflict since due to opposing objectives between cost and profit because employers know they need to make profit, employees need to be paid higher wages. The third way is a position proposed to find a common ground for the right and left policies of government. It is a concept to re-evaluate political and economic policies that will bring equity, social justice, improvement in investment and so on with the government motivating it by playing the big role.

There are also other potential disadvantages of privatisation and PPP which relates to goals, resource costs and cliques usurping power. Sometimes there are issues related to goals which result in privatisation and PPP failure. Conflict may arise between public and private sectors during the PPP timeframe which may trigger the abandonment of an agreement and a failure to reach the project's ultimate objective (Siemiatycki 2010). As also mentioned by McQuaid in Osborne 2000

Many partnerships have agreed to broad aims, but their detailed goals may be unclear or the partners may have differing understandings of what the goals mean. This could rapidly lead to misunderstanding, lack of co-ordination, and possible conflict between the partners and could be accentuated if some partners had undeclared, or 'hidden', agendas and were deliberately seeking to gain advantage over the other partners or seeking to achieve their own organisational goals, without supporting or reciprocating the efforts of their partners (p. 22).

Next is the resource costs; for example, the time spent by actors in discussions, negotiations and coming up with agreements and the potential delays to decisions as a result of consultation with partners (p. 22). It becomes an issue if a partner claims successful negotiation without considering costs incurred by other partners. In order to reduce that, full costs need to be compared in relation to the social benefits which will provide a greater picture on whether the privatisation or PPP is necessary. Another important criticism of privatisation and PPP lies in their operation. For example, the objectives and operation may be usurped by some actors, cliques or groups, resulting in outcomes benefiting a certain group rather than the overall benefit. This are sometimes translated in respect to the design of agreements and contracts. Due to this, higher risk premium are changed to either the public sector or the users (HM Treasury, 2012).

Another popular criticism is related to the long term commitment of the public sector when implementing privatisation and PPP where that commitment is seen as a hurdle that restrict public sector's flexibility with forthcoming expenditures due to monetary commitment in some privatisations or PPPs (The World Bank 2012; Harris, 2004). Kwak et al. (2009) further mentions that another criticism is based on perception that the public sector could secure cheaper loans as compared to the private sector, so actually the privatisation or PPP project does not necessarily cost less. Besides that, privatisation and PPP could cost the public sector more especially if the government could not fulfil its obligations, like the situation in Malaysia, where the government had to compensate the private companies due to avoidance of toll increment. Finally, another area of criticism is in relation to the accountability and lack of transparency of the whole process, on the profits made by the private sector as well as the future commitment to the taxpayers created by the privatisation and PPP projects (HM Treasury 2012). The next section discusses privatisation specific to Malaysian context.

2.7 Privatisation in Malaysia

In Malaysia, the economic situation in the period of 1957-1969 immediately after Independence (31st August 1957) was robust and economic growth averaged about 6 percent and per capita income rose at a rate of approximately 3 percent per year (Hensley and White 1993). Malaysian development and economic growth are guided by

its Five Year Plans, which started in 1966. The details of the government's development expenditure for each Malaysia Plan⁵ are set out in Table 3.

Table 3: Development Expenditure in Malaysia from 1966 to 2020

<i>Malaysia Plan</i>	<i>Total Development Expenditure (RM)</i>	<i>Development Expenditure (RM)</i>	
		<i>General Government</i>	<i>Non-Financial Public Enterprises</i>
<i>First Malaysia Plan (1966-1970)</i>	4.550 billion (22.738 billion) ^a	4.550 billion (22.738 billion) ^a	-
<i>Second Malaysia Plan (1971-1975)</i>	9.793 billion (42.922 billion) ^a	8.734 billion (38.281 billion) ^a	1.059 billion (4.642 billion) ^a
<i>Third Malaysia Plan (1976-1980)</i>	24.937 billion (78.767 billion) ^a	23.295 billion (73.580 billion) ^a	1.642 billion (5.186 billion) ^a
<i>Fourth Malaysia Plan (1981-1985)</i>	34.730 billion (83.310 billion) ^a	32.029 billion (76.831 billion) ^a	2.701 billion (6.479 billion) ^a
<i>Fifth Malaysia Plan (1986-1990)</i>	61.850 billion (131.266 billion) ^a	44.150 billion (93.701 billion) ^a	17.700 billion (37.565 billion) ^a
<i>Sixth Malaysia Plan (1991-1995)</i>	117.658 billion (215.357 billion) ^a	68.691 billion (125.729 billion) ^a	48.967 billion (89.627 billion) ^a
<i>Seventh Malaysia Plan (1996-2000)</i>	222.877 billion (340.298 billion) ^a	103.409 billion (157.889 billion) ^a	119.468 billion (182.409 billion) ^a
<i>Eighth Malaysia Plan (2001-2005)</i>	339.777 billion (462.616 billion) ^a	178.673 billion (243.268 billion) ^a	161.104 billion (219.348 billion) ^a
<i>Ninth Malaysia Plan</i>	396.112 billion	218.013 billion	178.099 billion

⁵ Malaysian Plan is drawn by the Economic Planning Unit and is a development plan which underlines the government's commitment and planning for a period of 5 years. It is tabled in Parliament for approval. The current Malaysia Plan is the Eleventh Malaysia Plan which covers a period from 2016 until 2020.

(2006-2010)	<i>(478.798 billion)^a</i>	<i>(includes 20 billion for PFI) (263.522 billion)^a</i>	<i>(215.276 billion)^a</i>
Tenth Malaysia Plan (2011-2015)**	<i>230 billion* (246.028 billion)^a</i>	<i>230 billion (246.028 billion)^a</i>	NA
Eleventh Malaysia Plan (2016-2020)***	<i>260 billion* (238.096 billion)^a</i>	<i>260 billion (238.096 billion)^a</i>	NA

- Note: 1. General Government includes Federal Government, 13 State Governments, Local Governments, Statutory Authorities
2. Non-Financial Public Enterprises (NFPEs) – public enterprises
3. * not including allocations to NFPE
4. ** actual figures could not be obtained
5. *** Eleventh Malaysia Plan was tabled on 21st May 2015.
6. ^a is the value as at 2015 calculated based on the Malaysia’s Official Inflation rate and the relevant present value factor

Sources: *The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and the Eleventh Malaysia Plan* (www.epu.gov.my and www.pmo.gov.my)

Table 3 shows the increments in development allocations over the period 1966 to 2020. The amount of government spending during the Second, Third and Fourth Malaysia Plans for public enterprises ranges between 6.5 and 10 percent of the total development expenditure. However, it grew at from 28 percent for the Fifth Malaysia Plan to approximately 50 percent during the Ninth Malaysia Plan. That provides evidence that although privatisation was introduced to reduce government’s expenses, there has been a significant increase in government funding for public enterprises.

Although privatisation in Malaysia was officially announced as a national policy in 1982 with the objective of reducing the size of government and increasing efficiency, the establishment of Government Linked Companies (public enterprises), deemed as private entities, started in 1970. Being a country with three major ethnic groups - Malay, Chinese and Indian - racial unity is a crucial element in Malaysia’s development. The economic situation in Malaysia immediately after Independence was based on race, Malays were more involved in agricultural activities, mainly paddy planting; the Chinese were involved in mining and businesses; and the Indians were working on

rubber estates. The claimed disparity in the share of the economy resulted in racial riots immediately after the 1969 election. The then *Yang Di-Pertuan Agong* (King) declared a state of emergency resulting in the suspension of Parliament and the National Operations Council (NOC) was established as a care-taker government from 1969 – 1971. The aftermath of the riots was the introduction of the New Economic Policy.

The New Economic Policy (NEP) was introduced to address ethnic economic inequality following the 1969 ethnic violence (Hensley and White 1993, p. 72). The aim of the policy was to promote the ‘Bumiputeras’ participation in the economy. The term ‘Bumiputera’ includes Malays and other indigenous peoples (Milne, 1986). New public enterprises, for example, the investment organisation *Perbadanan Nasional Berhad*, were created to empower the ‘Bumiputeras’. Public enterprises grew from 23 in 1957 to over 900 in 1982 (Hensley and White 1993, p. 72). In Malaysia, public enterprises are Government Linked Companies (GLC) and the main objective of the establishment of GLC’s is to empower the ‘Bumiputeras’ and promote their participation in the economy. Malaysia experienced vibrant economic growth during the first decade after 1969, mainly driven by public sector investments. With the substantial growth of public enterprises, the public sector budget grew as well, as most of the public enterprises were financed through the public sector budget. Internal and external borrowings increased substantially. However, Malaysia’s income was growing steadily as well as the price of resources mainly petroleum, rubber, oil palm and tin were also promoting growth (Hensley and White 1993, p. 72).

When the economic recession came in 1980, like any other resource-based country, Malaysia suffered from serious problems when the prices of resources declined (Hensley and White 1993, p. 72). Sovereign debt obligations doubled from 45 percent of Gross Domestic Product (GDP) in 1980 to 93 percent in 1982 and public enterprise expenditure soared due to its growth of 13 percent annually from the introduction of the NEP (p. 73). It was during this critical moment, that Dr. Mahathir Muhammad was sworn in as the fourth Prime Minister of Malaysia on 16 July 1981 succeeding Hussein Onn. There was a major policy shift when the new government began to concentrate on heavy industry, manufacturing and joint ventures rather than the traditional resource-based and agricultural dependent economy (Siddiquee, 2006). The adaptation of the

“Look East” Policy, focussed on demonstrating how certain parts of Malaysian industrialisation and administration could draw on the Japanese experience (Hensley and White 1993, p. 73). Much of this arrangement concentrated on expanding financial collaboration with Japan in the areas of technology venture, and innovation exchange (p. 73). The Malaysian government, under the premiership of Dr. Mahathir Muhammad, created ‘Malaysia Incorporated’, borrowing the idea from ‘Japan Incorporated’. Malaysia Incorporated viewed Malaysia as a corporate entity in which the government provided policy support and the private sector provided commercial expertise (Hensley and White 1993, p. 73). This involved restructuring public enterprises and private sector roles in risk sharing, responsibilities, and rewards. At the same time, in the late 1970s, Thatcher’s government in Britain was reinforcing Privatisation Policy and such policy approaches subsequently became a global phenomenon (Sun and Tong 2013). Countries at all different stages of development adopted privatisation as a key strategy for their economic growth (p. 79). Under the premiership of Dr. Mahathir Muhammad, the Malaysian Government followed Britain and introduced official privatisation in the early 1980s, issuing Guideline on Privatisation by the Economic Planning Unit (EPU) of the Prime Minister’s Department in 1985 (Hensley and White 1993, p. 73).

In the case of Malaysia, besides aiming to provide better quality services, privatisation was introduced to reduce the government’s deficit during the economic recession (Hensley and White 1993, p. 72). Another reason of introducing privatisation and PPP in Malaysia is to finance the expanding cost of public enterprises that consist Government Linked Companies venturing into business of providing public services such as utility services which was set-up post 1969 racial riots to enhance the ‘Bumiputeras’ economic status. The term ‘privatisation’ is so broad in Malaysia that it includes cases of a government-owned entity’s shares being partially or fully sold to private companies with the government still retaining control through majority share ownership or preference shares (Tan and Jomo 1992). This includes cases where private companies are issued with licenses to participate in the activities that were previously exclusive to the public sector and allowing private companies to collect fees or tolls from the public for their services (p. 11).

Privatisation can be seen as a product of negotiation between two parties - the government and the private company. Negotiations and interactions between the public and private sectors started with the introduction of the Guideline on Privatisation in 1985, and are still being used as a method for infrastructure development. It is an alternative procurement method to public procurement. Under the conventional method, the government funds the project and implements it through a tendering process which might take a longer period of time for implementation. The privatisation and PPP method, on the other hand, expedites the process with fewer government funds, which motivates governments to shift to privatisation as a method of implementation. The next section discusses the motivation for adopting privatisation in Malaysia and the different types of privatisation implemented in Malaysia.

2.8 The Shift from the Conventional Implementation of Infrastructure Development to Privatisation

It is generally understood that a government has the social responsibility to provide essential infrastructure for citizens, such as basic transportation, education, health facilities and security. However, with the increase in population and demand such as experienced in Malaysia, which are not paralleled with the government's income, funding social and infrastructure projects becomes more challenging for the government. Besides that, the implementation of privatisation and PPP in Malaysia is also to achieve the underline objective of the NEP which is to empower the 'Bumiputeras'. Providing infrastructure through the conventional method of government finance, staff and resources funded out of tax revenue may take a longer time, since it depends on the financial capability of the government. It might also delay the achievement of the NEP objective.

Under the conventional method, the government Ministries submit their respective requirements to a central agency. In the case of Malaysia, the Ministries submit their respective requirements to the Economic Planning Unit (EPU) of the Prime Minister's Department. The EPU then calls for numerous meetings between the Ministries and decides on the projects, based on the needs of each project submitted by the respective Ministries. The selected projects are then submitted to the Cabinet for

endorsement, and finally, the projects are tabled in the Parliament as the projected development by the Federal Government under the Five Year Plan. The number of projects approved through this conventional method is limited since full financial support is needed through the government's budget. Besides that, only projects which are highly prioritised are approved for implementation during the Five Year Plan. However, with privatisation, even projects which are of second or third priority can be implemented at the same time as those with the highest priority.

The government's limited funds can be distributed to more projects if the private companies are willing to invest too. This formula was seen to be more beneficial to the public as the results of the development process can be achieved faster: this has motivated governments around the world to shift from the conventional methods of infrastructure provision to privatisation like PPP.

A comparison between conventional and privatised projects is set out in Table 4.

Table 4: Comparison between Conventional and Privatised Projects in Malaysia

Method used	Conventional	Privatisation			
		Public-Private Partnership			PFI (Private Finance Initiative)
		Buy-Out	BOT (Build-Operate-Transfer)	BLMOT (Build-Lease-Maintain-Operate-Transfer)	
Purpose	To provide basic infrastructure facilities for the public	To reduce government expenditure and increase efficiency	To provide alternatives for users	To allow the government to have facilities earlier than waiting for government allocation	To allow active participation by the private sector and to assist them in their initial business stage
Type of agreement	Construction contract through tendering process	Sale of equity to a Special Purpose Vehicle	Concession Agreement	Concession and Leasing Agreement	Facilitation Agreement

		(SPV) company established for this purpose and the government has a golden share			
Ownership of assets	Government	Government	Government	Government	Private company
Capital investment	Government	Government	Private company through debt with government support	Private company through debt with government support	Private company and government support
Income to	Nil	SPV company	Private company and government may share some profits if income exceeds certain level	Private company	Private company
Risk allocation	Government	No risk as it is a monopoly	Private company and government	Government	Government

Source: Author's compilation from fieldwork document analysis, 2015

The details of the common methods of privatisation implemented in Malaysia are discussed below.

2.8.1 Buy-Out

The buy-out was the option adopted by the Malaysian Government when privatisation was initially introduced. In the buy-out option adopted by the Malaysian Government, a public enterprise is setup to take over an existing government entity with the aim of reducing government operating expenses. Buy-outs in Malaysia mainly related to electricity and telecommunications, *Lembaga Letrik Negara* (National Electric Authority) (LLN) and *Sistem Telekom Malaysia* (Malaysian Telecommunications System) (STM) are the two examples of buy-out privatisation.

The companies became known as Tenaga Nasional Berhad and Telekom Malaysia Berhad respectively after they were privatised: the government still has a ‘golden share’ in each and there are representatives from the government on the Boards. A ‘golden share’ is a nominal share which can outvote the combined votes of all shares in certain specified circumstances, frequently held by a government, in a government organisation experiencing the procedure of privatisation and change into a stock company. All important decisions still need government approval such as proposed increases in tariffs and sale of the operating entity. Buy-outs must be implemented in a careful manner due to the nature of the end-product where it will be controlled by a private entity. Even if the government chooses to privatise facilities, it still ensures that it has final control over the sector. Since buy-outs involve nationally strategic sectors, stringent criteria are enforced especially on shareholding in the prospective company, where, in the case of Malaysia, no foreign companies were allowed. Buy-outs were only implemented during the initial period of the introduction of the Privatisation Policy. The government then shifted to the method of Public-Private Partnership, which is commonly used to provide alternative road facilities for users and to construct other socially-beneficial facilities such as government offices, schools and hospitals.

2.8.2 Public-Private Partnership (PPP)

Like many other countries, Malaysia had similar rationalisations leading to the government embarking on introducing PPP as a method to develop the country by improving efficiency and reorganising the governments’ funds into more important and significant areas. At the same time, PPP was seen to directly increase private spending in the economy through private financing for infrastructure projects leading to faster economic growth. Two major kinds of PPP are employed in Malaysia: The Build-Operate-Transfer (the BOT model) and the Build-Lease-Maintain-Operate-Transfer (BLMOT)⁶. There are some differences in how each of these models is put into practice in different countries; the Malaysian model is the focus for the purposes of this research. The details of each model are explained below.

⁶ The latest type of PPP being introduced in Malaysia is the Land Swap. Under this type, the Government will provide parts of its land bank to a private company to develop buildings for governments usage. The private company will then collect a monthly lease from the Government or will be reimbursed with a transfer of suitable land to the company for development.

Build-Operate-Transfer

The common form of long-term franchise or concession is known as Build-Operate-Transfer (BOT), where the length of concession may range from 20 to 50 years (Robert 2014). Toll roads are mostly BOT concession projects with a certain number of concession years being granted to the private company. In Malaysia, the private company is given the rights to build, operate and maintain, and transfer the infrastructure back to the government upon expiry of the concession years. During the operation and maintenance periods, the private company can collect a fee or toll from users. Most BOT projects are financed through debt with a certain amount of equity from shareholders of the private company. However, in Malaysia there are projects where the government provides assistance of different kinds in order to make a project viable, and this makes it difficult to implement toll increase as users are of the opinion that the project belongs to them as they have already been paying taxes. When government assistance is given, it means some part of the privatised project is funded from the government's coffers and indirectly, the government owns a certain percentage of the project. This means the project risk⁷ is shared between the government and the private company and the users assume that the government could defer any toll increment since they are the co-owner of the project.

Build-Lease-Maintain-Operate-Transfer

The other common form of long-term franchise or concession is known as Build-Lease-Maintain-Operate-Transfer (BLMOT), where in Malaysia, the length of concession is usually 33 years (including the three years for construction). BLMOT is the method used for privatisation of buildings usually for government offices, hospitals, schools, and universities. BLMOT is relatively new in Malaysia having started after 2000. The concept is similar to BOT but the difference is the building is leased by the government from the private company. The number of concession years granted is based on the construction, operation, and maintenance costs which include a profit. However, this type of concession does not receive many complaints or outcry because the users are not charged when using the facility and the leasing charges is paid by the

⁷ Project risk refers to traffic and financial risks.

government. In granting the concession, the government is giving a guarantee to the private company that it will use the building and pay for the maintenance and operation. Usually, these projects are built on government land which means the land cost is absorbed by the government. The guarantee given by the government allows the private company to finance the construction of the project through debt because it has a guaranteed income upon completion. In this model, the whole risk is borne by the government and the private company is free of any risk. The benefit of this method is that the facilities needed will be constructed much sooner than waiting for government allocation. The next section discusses in detail the implementation of privatisation and PPP in Malaysia.

2.9 Implementation of Privatisation and PPP in Malaysia

Since gaining independence from the British on 31st May 1957, the politics in Malaysia has been stable with the same political party ruling the country until today. Initially, Malaysia was governed by a government formed by the Alliance Party. The Alliance Party consist political party representing the three major ethnic group of Malaysia; the United Malays National Organisation (UMNO) representing the Malays, the Malaysian Chinese Association (MCA) representing the Chinese and the Malaysian Indian Congress (MIC) representing the Indians. However, due to economic disparity racial riots broke in 1969 which saw the introduction of the New Economic Policy (NEP). During the implementation of NEP, various public enterprises were set-up to increase the ‘Bumiputera’ participation in the economy. Despite the racial riots, the ruling government, which is the Alliance Party was still strong in Malaysia and saw other political parties joining hands with the Alliance which resulted in it being the single largest political party in Malaysia until today. The implementation of privatisation and PPP which started from the mid of 1980s could be divided into three generations. These generations of privatisation implemented in Malaysia are arguably a product of the adoption of the new way of governance from the traditional to the new public management and recently the new public governance. The first generation (mid of 1980s – end of 1990s) was the initial introduction of privatisation and PPP, where it saw a few state-owned enterprises like National Electricity Authority and the Malaysian Telecommunications System being privatised using the buy-out model. It was also

during this phase where the first toll road expressway (North-Klang Straits Bypass was implemented in 1984) was initiated under the PPP model. The implementation of privatisation can be explained as the hybrid of new public management and new public governance as the core belief was based on trust and reciprocity and social relations with the objective to improve efficiency, competition and the private sector market (Rhodes, 2016, p. 639). Many PPP toll roads were finalised during the first generation since there was no issues being raised since privatisation and PPP was still new in Malaysia and there was no issue of toll increase. The end of the first generation saw some changes being introduced to the clauses in the concession agreement which was a result from initial unhappiness from users due to toll increases in a few highways. However, the changes undertaken were to protect the government in terms of reduction of government assistance and liability where no more guarantees were given. This phase is known as the second generation (beginning of 2000s – end of 2000s).

There were 15 PPP toll roads approved during this period. More highways from the first generation were due for toll increment and amongst them were highways which were upgraded from existing road (the Damansara-Puchong Highway, the Cheras-Kajang Highway) which was free. Users were beginning to be unhappier and they began to show their dissatisfaction through demonstrations each time when a toll increase were announced. However, due to political stability and having two third majority in the Parliament, the ruling government did not take any drastic measure to overcome the situation. The 2008 Malaysian general election was arguably a political tsunami in which the ruling party lost its two-thirds majority and was reduced to a small majority of 140 Parliamentary seats out of 222. The opposition Parties, formally known as the *Pakatan Harapan*, secured their position in the Parliament with an increase from 21 seats in the 2004 election to 82 seats in 2008. One of the main campaign issues during the elections were related to road toll increases. The government was accused of allowing toll increases on highways with high volumes of traffic. At the same time, the economic situation in 2008 and 2009 was not favorable especially since the oil price was soaring, and all other costs increased. This situation, coupled with the scheduled toll increases for certain highways, caused unhappiness amongst users who supported the campaign promoted by the opposition camp.

The drastic drop in the 2008 election result for the ruling political party saw the government changing their focus towards being more user oriented which saw more changes being introduced. This phase is known as the third generation, which is a period from the beginning of 2010 until the end of 2016 (for the purpose of this research). Even though, changes have been introduced in the Clauses between the generations of Concession Agreement, the process of which a PPP toll road project is formulated in Malaysia remains nearly the same through-out the 30 over years. The next section will discuss on the PPP being used as a method for road development in Malaysia.

2.10 PPP as a Method for Road Development in Malaysia

In Malaysia, the method of Public-Private Partnerships was guided by the PPP Guidelines which were issued by the Economic Planning Unit of the Prime Minister's Department in 1991, but there is no legal document which regulates negotiations over PPP projects. Many countries have their respective PPP law, such as a Public-Private Partnerships Law or Law of Concession (online: <http://ppp.worldbank.org>). However, the only legal document used while implementing the PPP toll road projects in Malaysia is the Federal Road (Private Management) Act 1984.

Other kinds of PPP projects are governed by respective agreements negotiated based on the existing laws in Malaysia. The PPP arrangement in Malaysia is unique and is flexible where it depends more on the negotiation skills. Another guideline issued are in the year 2009 by the Public-Private Partnership Unit after it was established under the Prime Minister's Department as a separate Department from the EPU. Current PPP negotiations are guided by this latest guideline by the PPP Unit. Although there is no legal document that governs PPP project negotiations, PPP projects in Malaysia undergo many levels of negotiations based on the draft agreement. The next section discusses on the how privatisation was used to empower the 'Bumiputeras' in Malaysia.

2.11 Privatisation and promotion of ‘Bumiputeras’

Privatisation has been claimed by the government as the major contributing factor to Malaysian economic growth (Fourth Malaysia Plan, 1981, p. 205). In Malaysia, privatisation and PPP have another silent objective which is to empower ‘Bumiputera’ involvement in Malaysian economic prosperity. It was one of the main objectives of the NEP. All privatisation and PPP projects specifically, or privatised projects in general in Malaysia have to comply with 30 percent ‘Bumiputera’ shareholding⁸. It is an effort to achieve the objective of the NEP, and all existing public enterprises were maintained in order to provide job opportunities for ‘Bumiputera’ and to promote ‘Bumiputera’ ownership.

The size of public enterprises did not shrink as it might have with the implementation of full privatisation and PPP, but instead the government’s expenditure on public enterprises increased over the years (Malaysian Plan). In PPP toll road projects, the government started giving various kinds of support including financial support. That raised questions by the public about the rationale for toll increases when the government already owns part of the projects and tax-payer funds have been used to finance the projects. The government, however, often responds that despite contributing some funds for a privatised project, the private company still funds 70 to 80 percent of the project and in order for them to make a decent profit, the toll rate has to be increased. As mentioned by a Head of Agency that

“in order to promote privatisation, the government always provides monetary support in terms of Land Acquisition Cost, grants, support loans and interest subsidy. It is usually up to 30 percent of the overall project cost. The company is raising funds up to 80 percent to construct the project and they need to make profit, which all companies work for, hence the toll rates needs to be increased for them to pay their loans and make a decent profit.” (HOA1, interviewed on 02/11/2015)

⁸ While the ownership of the PPP company should be 30 percent ‘Bumiputera’, the construction of the project must have at least 60 percent ‘Bumiputera’ involvement.

Empowering the ‘Bumiputeras’ and the involvement of government in terms of financial support is seen as a modification of the privatisation and the implementation of PPP in Malaysia. The next section summarises this chapter with key information obtained from the discussion that will be used for this research.

2.12 Summary of Chapter

This chapter has discussed the overall aspects of privatisation and PPP. It first started by understanding the trend for privatisation which was then enforced with the discussion on the privatisation as a method for economic development. Then the chapter discussed the understanding of PPP and practice around the world. It is followed by a discussion of public and private sector interactions which consist the formal and informal actor relations being an introduction to a wider scope of social relation that are explained in terms of institutional and structuration theory in Chapter 3. The advantages and criticism were later discussed which was followed by the privatisation in Malaysia and the intention to promote ‘Bumiputera’. Privatisation was introduced in Malaysia not only to encourage private sector participation in the infrastructure development, but also to help the government ease the financial burden of public enterprises that had been established to enhance ‘Bumiputeras’ economic holdings. Through this chapter, it was also learned that privatisation and PPP was adopted by governments to reduce their cost, improve efficiency and promote the private sector in economic growth. Privatisation and PPP is an effort of continuous interactions by actors from both the public and private sector. It is important to understand that during the formulation and implementation of privatisation and PPP, there are many levels of interactions between the actor’s social relations.

The next three chapters are related to the theoretical framework. Chapter 3 reviews the related theories for this research - institutional and structuration theory - to provide a better understanding of the research approach. Chapter 4 then investigates the dynamics of the interactions between the parties during PPP toll road project formulation. Following this, Chapter 5 then uses these concepts introduced in Chapter 3 and 4 to formulate the Conceptual Framework which are used as the guidance for this research.

Chapter 3

Understanding Relevant Theories and Building a Connection

3.1 Introduction

The discussion of the theoretical approach of this research is divided into three chapters. The central investigation of this study concerns the social relations of actors in order to understand the claims by the government that changes in agreement terms has been introduced. It is essential to understand that the key assumption of this research is that an institution will have an effect on an actor's interaction which in turn will impact on the actor's social relations. The establishment of social relations is influenced by the organisation, internal and external forces and influential personnel. This chapter aims to provide key theoretical understandings and assumptions for the research, and the elements highlighted and reviewed in this chapter are used in formulating the relevant conceptual framework in Chapter 5. Meanwhile, the details of social relations, the public and private sector interactions and actor dynamics which constitute the influence of organisation – that is, the internal and external forces, will be discussed in Chapter 4. However, in order to understand the theoretical aspect of the influence of organisation on actor's knowledge, institutional theories are discussed in this chapter while structuration theory is discussed to provide insights of changes over time. This research combines institutional theory with structuration because they are complementary in both looking at social relations, where institutional theory makes the theoretical framework more relevant to organisations and institutions and the addition of structuration theory brings insights about the production and reproduction of social relations.

The chapter concludes by discussing key concepts of institutions and social relations.

3.2 Institutional theory

Institutional theory is employed for this research as it is interested in elements circulating around hierarchical arrangement, actors' relations, communications and procedures. Institutional theory follows the development of particular structures, forms, procedures, viewpoints and skills as they arise out of examples of hierarchical communication and adjustment (Selznick 1996, p. 271). Institutional analysis concentrates on the complexity of various external and internal dynamics involved between actor's relation (Healey 2007). Eisner (2011) in Loiola (2013) affirms that for institutional analysis, both the public and private sector are not conflicting forces, but institutionally entangled. The old and the new institutional theory are both projects of research that emerged out of an apprehension with the practically entire absence of thought given to organisations in customary neoclassical economics (Rutherford 1995, p. 443). That foundations matter in forming economic conduct and economic execution is a focal principle of both the old and the new institutional theory, just like the acknowledgment that institutions themselves change over some time and regularly react to economic factors (p. 443). Rutherford (1995) further advocates as

for old institutionalists, the neoclassical approach with its emphasis on the rational economic actor is to be abandoned in favour of one that places economic behaviour in its cultural context while for new institutionalists, or at least a good number of them, the standard neoclassical approach based on the rational choice model is to be extended, perhaps modified, but not abandoned (p. 443).

In PPP toll road negotiations, the influence of institutions which consists different organisations or bodies is important in the processes surrounding the planning, negotiation, signing and management of contracts and the construction. The concept of institution has been a main theme in sociological theory, which has more recently acquired prominence in organisation studies (Barley and Tolbert 1997). Institutions are important elements of governance which occur largely in and through institutions (Bell 1998). González and Healey (2005) show that institutional analysis does not simply focus on interactions as a one-way flow; rather, these interactive processes are products

of, and at the same time, help to form, existing institutional practices through “mutually constitutive and generative processes” (González and Healey 2005, p. 2058). Institutional theory explores formal structures and cultural influences in decision-making (Barley and Tolbert 1997). Underlying cultural influences provide the bases for specific procedures in an institution, although they do not completely determine human action (González and Healey 2005, p. 2062). Establishments that exist for extended periods of time tend to have their inherited practices and norms. Therefore, institutions for the purpose of this research consist different organisations or bodies with many practices, norms and rules that the majority of individuals accept and in which those practices are modified over time (Jarzabkowski 2008, p. 624). Rules, norms and practices also consist of the organisations’ own language of communication. This form of communication has developed into a custom over the years that differentiate it from others. Thus, the actor’s organisation has over the years created layers of language formation which undergo changes over the years (Rhodes, 2009; 452).

Institutions involved in PPP toll road projects consists actors from the PPP Unit, Ministry of Works, Attorney General Chambers, Ministry of Finance and other related organisation, each with different goals working towards a common objective. This involves many actor-relations and the forces structuring those relations are formed and changed over time due to processes of knowing, seeing and acting (Healey 1999). Therefore, institutions consist rules, norms of behaviour and enforcement characteristics motivating repeated actors’ interaction (North 1989). Informal practices in institutions consist of experience, accepted standard behaviours, norms, codes of conduct, prohibitions and beliefs that are based on religion, politics and social (p. 1322). Organisation management and individual behaviour within the organisation are guided by rules and regulations. With that note, the public service has its own structure and membership which has a tradition that experiences changes over the years (Rhodes et. al 2008, p. 461). Cultural beliefs such as giving preferential treatment to higher ranks and superiors can be considered as the informal practices: rules consist parliamentary Acts which govern state institutions and the institution’s constitution and includes administrative structures, decision-making procedures, contracts and job descriptions (Williamson 1998).

Institutions are also important as they, or at least the actors within them, use power and resources in political and governance struggles as can be seen in highly bureaucratic institutions like those involved in PPP each struggling to use their power and governance. Institutions also matter because they are often linked to shaping and constraining political behaviour, perceptions, decision making and powers of political actors (Bell 2002, p. 1). There is an on-going debate about the definition of institutions and institutional boundaries, but in order to understand the rationale for certain views and decisions, a useful approach is to see institutions as a process or sets of processes that shape behaviour (p. 1). It is also argued that institutions are socially-constructed frameworks made up of individuals interacting with each other forming a continuous web of relationships (Zucker 1977; Meyer and Rowan 1977). The set of norms may not be agreed with by everyone but may be adopted and practiced in order to ensure survival in the organisation. The sets of norms differ between organisations because they are influenced by organisational culture and routinised practices. Therefore, further, an institution is defined as a structure or mechanism of social order or set of norms governing the behaviour of a set of individuals within a given organisation. This would include but is not limited to an organisational body created for a specific purpose.

3.2.1 Old institutional theory

The consideration of old institutional theory is needed for this research as it enables concentration on the interactions between actors from different social relations during PPP toll road formulation and their capability to alter and modify their interactions throughout the process. It focuses on all the interactions which involve the formal and informal interactions between the actors' and institutions.

There are two important aspects that need to be included when using old institutional theory. The first is related to the external forces impacting on the interactions (formal and informal) of actors in the production and reproduction of institutional structures. The second is institution-actor relations. Hodgson (1998) argues that socio-economic conditions also shape interactions between individuals, while Selznick (1996) argues that internal and external forces, which will be discussed in

Chapter 4, affect the development of institutions. The results of the sequence of compound actions “are the situated outcomes of inherently unpredictable encounters between many powerful driving forces and specific contingencies” (Healey 2007, p. 127).

External forces and influences have been commonly overlooked in the old institutionalist theoretical framework (Pierre 1999; Healey 2007; González and Healey 2005; Lowndes 1996), and political economy must be considered as a wider force when investigating from an institutional approach (Lowndes 1996; Pierre 1999). Huxley and Yiftachel (2000) argue that in the eagerness to understand practices, other factors can get taken-for-granted. They suggest that research must consider the context and wider external forces in which the practice is taking place, especially when the research is related to the built environment or land development. Others, such as González and Healey (2005) and Healey (2007), support the combination of external forces and internal influences to produce a holistic framework that covers all aspects of influence (see also Pierre 1999).

Interaction between institutions and actor-relations is also a core concept of old institutional theory. The consideration of external factors can become secondary when discussing institutional approach. According to Samuels (1995, p. 573), studies of institutions from old institutional theory perspectives, “emphasise social and economic evolution and so take an explicit activist orientation towards social institutions where institutions are said to be important and are manmade and changeable and cannot be taken-for-granted”. Institutions are not simply the products of actors making decisions independent of the rules and resources of their surroundings. Old institutional theory’s unit of analysis is based on the interactions of the actors being embedded in their social context where factors such as culture, society and politics shape their behaviour and views (Cole et al. 1985; Hodgson 2006; Granovetter 1992; Dugger 1979). Old institutional theory emphasises that institutions are socially-constructed and it is impossible to conduct analysis only based on the aims of an organisation and to exclude human action (Granovetter 1992). Old institutional theory rejects the view that institutions are independent, established automatically when there is a need and operating without human action or control (Granovetter 1992; Samuels 1995). Scott

(2004) believes that the effect of institutions on individuals should not be the sole focus but should include the dynamics of the interactions between actors that create institutions which then influence actors' behaviours.

According to Healey (1999), humans are engaged in dynamic processes of learning, adopting and adapting to changes, being able to decide their choices within their social circle and transform structural forces to shape their lives. A crucial element of old institutional theory is its inclusion of the dynamics of social interactions of people building institutions (Stinchcombe 1997). For Broom and Selznick (1977), the definition of institution creation is “the appearance of systematic, steady, patterns integrating social relations out of unsteady, sloppily organised, or minimal technical activities” (p. 232) while Ring and Ven (1994) argue that an institution is the outcome of interactions between organisations which then reshape those relations over time. That is, institutions are constructed and maintained by the people through their interactions (Barley and Tolbert 1997; Granovetter 1992): they are the final products of collective interactions between individuals in a reflexive-dialogic method initially intended for their own context which becomes reproduced over time (Alexander 2005, 2006). Even though subject to criticism from new institutionalist perspectives (discussed below), old institutional theory allows examination of the ways systems are developed through complex interactions (Healey 1999; 2006; 2007; Coaffee and Healey 2003; González and Healey 2005).

3.2.2 New institutional theory

The next part of this discussion focuses on new institutional theory. New institutional theory's central emphasis is on actors' conflicts of interest (Hirsch and Lounsbury 1997, p. 408 adapted from Powell and DiMaggio 1991). According to the new institutionalist, the organisation of political life makes a difference and political scientists from a wide array of specialised areas started to engage with ideas of new institutionalism (Lowndes and Roberts 2013, p. 2). New institutionalism is therefore seen as a significant new development in political science (p. 2). Two new institutional theories are reviewed for this research: the first is rational choice institutionalism; and the second is sociological-organisational institutionalism. Rational choice

institutionalism is not adopted for this research because it sees actors' behaviour and interactions as predictable whereas the focus of this study is on contingent relations. Sociological-organisation institutionalism concentrates on the way institutions guide actors' behaviour in their interactions. Both the approaches accept that there are constraints on actors' relations and accept the role of institutions is entangled with rules and informal practices. The approaches of the new institutional theory – rational choice institutionalism and sociological-organisational institutionalism are not adopted for this research. This is because the elements related to rules and informal practices and the dynamics of the interactions between actors that create institutions which then influence actors' behaviours has been recognised in the old institutional theory.

3.2.3 Summary of Section

This section has discussed the two approaches of institutional theory, old and new institutional theory. The main consideration of both forms of institutional theory is that institutions influence actors and vice versa. Old institution theory focuses on interactions between actors and institutions including formal and informal relations. The two crucial aspects of old institutional theory are the impact of external forces on actors' interactions, and institution-actor relations. Old institutional theory also believes that the effect of institutions on individuals should include the dynamics of the interactions between actors that create institutions which then influence actors' behaviours (Scott 2004). The influence of institutions on actors and actors on institutions are important considerations for the investigation of changes in social relations over time which are used for this research. Old institutional theory assists investigation of actor's interactions and relations which enable identification of changes in the social relations (discussed in detail in Chapter 5). Actors are considered to have autonomy in their interactions which allows both the reproduction of institutions and changes in them.

The next section is on structuration theory, which is also used for this research to understand routinised activities and changes over time.

3.3 Structuration theory

Since this research is interested in changes which has been over a period of time, structuration theory is employed to understand the changes. The main strand of structuration theory is based on the assumption that actors belong to a social structure and that structure supports routine actions over time (Miles 2012). Structuration theory focuses on a key assumption about the repetition of routinised interactions. This is important as it assists in understanding how routinised activities go through change. The theory examines what is called as duality of ‘structure and action’ (Giddens 1984) which refers to: (1) the boundaries of voluntary actions through which actors create and shape social structures (agency); and (2) the extent to which social structures shape, limit and allow individual behaviour (Miles 2012, p. 1). As proposed by Giddens, structure and agency are a mutually constitutive duality (Jones and Karster 2008, p. 129). Hence social relations are the product of both, structure and agency. Both social structure and agency are dependent of each other. Relatively, actors draw on social structures in their activities, and in the meantime these activities serve to create and replicate social structure (p. 129). Structuration theory allows us to understand social structures as produced by repetitive human interaction which in turn influence individual actions, with or without actors being aware of this.

Every PPP toll road project is a result of various interactions between actors from different sectors with different sets of social relations and particular routinised practices negotiating a final outcome which is the Concession Agreement. The roles of actors and the surrounding factors are important and need to be considered when examining the PPP process and its outcomes. Giddens introduced the idea of structuration in his book *The Constitution of Society* (1984) which explores the relationship between structure and agency and includes concepts of social system, power, contexts and identities. According to the theory, “the moment of the production of action is also one of reproduction in the contexts of the day-today enactment of social life” (Giddens 1984, p. 26). The central tenet of structuration theory is the concept of social structure and for Giddens, structure is an abstract concept without physical form (Ma 2010, p. 2). Structure is seen as, and identified through, routinised activities involving the management of resources and the application of rules.

Separating the concept of system and structure is an element that differentiates structuration theory from other theories that investigate structural relations in society (Moos and Dear 1986, p. 233). The relevance of this separation is that

a system embodies the reproduced relations between actors or collectivities, organized as regular social practices, and situated in time and space; structures exist as recursively organised rules and resources that individuals draw upon and reconstitute in their day-to-day activities and structures do not exist in time-space, but have only a virtual existence in that they are drawn upon and reconstituted continuously in practice (p. 233).

This is known as the duality of structure and is always the main grounding of continuities in social reproduction across time (Giddens 1984, p. 27). According to Moos and Dear (1986, p. 232:233) there are two approaches to structuration theory: while one of the approaches ('functionalism', 'Marxism' or 'structuralism') use objective interpretation emphasizing structure and downgrading the relevance of the individual in social relation, the other approach ('existentialist' and 'phenomenologist') uses subjective interpretation of social relations emphasizing the relevance of the individual. Some difficulties experienced by scholars in applying structuration theory to empirical research are as a result of the complex nature of theoretical framework. In order to explore structuration theory utilisation in practical research, two areas were identified: (i) the 'empirical application of structuration theory will help its further development and the many complex theories; issues may be assisted through practice'; and (ii) in social research the 'conceptual view of structure and agency in structuration theory' have brought in a different perspective which promise to provide a broad explanation into how structure and agency collaborate to bring 'production, reproduction and transformation in society' (Moos and Dear 1986, p. 232). Moos and Dear (1986, p. 234) defined structuration as 'the condition governing the continuity or transformation of structures and therefore the reproduction of systems' They were able to explain that although 'social systems' 'have structure' or 'exhibit structural properties' they 'are not structure'. Rather structures are, in a logical sense, properties of the social system' (Moos and Dear 1986, p. 234). Structure is the means through which interaction 'between individual and social system' takes place. According to

Moos and Dear (1986) ‘the conception of structure forms the basis for Giddens understanding of the institution’.

Aspects of structuration include a number of points which impinge on most general problems of empirical research in the social sciences (Giddens 1984). Giddens (1984) explains the basic concept of structuration theory which consist the understanding basic daily activities. Social actors are all knowledgeable and know what they are doing, and the conditions and the consequences of what they are doing in their day-to-day activities. Giddens’ structuration theory has focused on the unlimited ability of actors to respond to institutional pressures (Jack and Kholeif 2008, p. 31). Day-to-day life is connected to the repetitive character of an individual’s actions and that should not be considered as part that forms complicated connection of social life. Nevertheless, the repetitive character of day-to-day life can tend to become a norm which is not consciously realised. This connection should be understood in terms of an interpretation of social and system integration. The repetition of norms becomes a system in which an individual’s day-to-day life gets embedded. Daily practices do not require conscious motivations to be carried out. Repetitive routine is psychologically linked to the minimising of unconscious sources of anxiety in day-to-day life and daily practices. Routinised practices are the main expression of the duality of structure in respect of the continuity of social life. The principles highlighted above by Giddens (1984) form the practical consciousness of an actor and part of the practical consciousness tend to motivate and influence the discursive consciousness. Unconscious, practical consciousness and discursive consciousness are the three levels of consciousness where the reflexive monitoring of actions occurs (Moos and Dear 1986, p. 235). “Unconscious motives for action operate outside the range of the agent’s self-understanding” while “practical consciousness refers to knowledge which the individual uses but cannot verbalize” (p. 235). Day-to-day activities such as waking up in the morning, brushing teeth and getting ready for work are embedded in practical consciousness. Discursive consciousness is an actor’s ability to describe and provide reasons for actions (Giddens 1984, p. 44). While an actor may provide accounts of their actions, “yet these are not themselves complete explanations because areas of practical knowledge may enter into the act” (Moos and Dear 1986, p. 235). Discursive consciousness forms the main element of actors’ expectations, preferences, perceptions,

views and biasness. Giddens's ideas are very much related to the unreflective nature (practical consciousness) of social action and structures which may influence discursive consciousness. These ideas have been utilised to understand how routinised practices can become norms.

Structuration theory includes consideration of power in relations of action and structure (Giddens 1984 p. 283). Power is an essential idea in sociology centred around the relation of action to structure (p. 283). As mentioned by Hardcastle, Usher and Holmes (2005), "power accompanies action, proposing that both the actor and structures are integral aspects in power analysis and are mutually dependent" (p. 226). Power is used to get things done and is implied in human action. In order to get a view, statement or opinion across, an individual may use power over other individuals. According to structuration theory: "rules cannot be conceptualised apart from resources, which refers to the modes whereby transformative relations are actually incorporated into the production and reproduction of social practices thus structural properties express forms of domination and power" (Giddens 1984, p. 18).

Cohen (1989 in Broger 2011 p. 10) accepts resources as the modalities that actors use to exercise power over other actors (authoritative resources) or objects (allocative resources) to make interferences that modify or transform social events or states. Resources are also known as 'facilities' by Giddens (1984) which allow mobilisation of power to achieve intended outcomes or desires. Giddens's concept of power does not reflect the mobilisation of bias or control over other actors or objects; rather, power is inherently connected to the exercise of agency as the human capacity to intervene in the world – to 'act otherwise' and 'make a difference' (Giddens 1984 p. 14 in Broger 2011 p. 12).

Structures and cultures in an institution influence individuals (Barley and Tolbert 1997) as institutions themselves are a product of social networks. Institutions influence and shape individuals (Hodgson 2000; Barley and Tolbert 1997) but an institution by itself does not have views or opinions. However, actors cannot be assumed to be only influenced by cultural norms or institutional rules since they react differently to constraints, opportunities and external threats influenced by their intrinsic

perceptions and preferences (Scharpf 1997). These perceptions and preferences are shaped within their respective institutions where they interact (p. 43) which may include the influence of influential personnel.

An institution or organisation is usually thought of as spearheaded by certain influential person (Tolbert and Zucker 1983, p. 183). Influential personnel can include government Minister, head of an organisation, head of a division, or senior member of staff, who develop a set of views, statements or opinions on relevant matters through their past experiences, discussions, knowledge, interactions and which are later used by most personnel whenever they represent their organisation. Nevertheless, there are many actors in an organisation and their sets of views, statements or opinions are not only influenced by influential personnel, but are also the result of interactions between the members of the organisation where the views, members and interactions are subject to changes over time. Hence the predominant views, statements and opinions are products of many members of an organisation which have been through many rounds of interactions before being accepted.

In addition, there may be other external factors or events such as economic conditions which influence the predominant views, statements or opinions of an organisation. Usually these views are transmitted through internal memos, discussions, meetings and other informal methods. These kinds of interactions and the resulting views and perceptions are often adopted and presented as feedbacks during PPP toll road negotiations and are explored in the analysis for this research. Many researchers have used structuration theory to rationalise events and identify the patterns which create and recreate institutions. For instance, Barley and Tolbert (1997) have investigated how institutions are created by actors through continuous negotiations which lead to generalised expectations and behavioural interpretations (p. 94). The patterned process then shapes future relations. Structuration theory has been adopted as an approach for developing a framework for the study of the nature of human activity and action, institutions and the relationship between action and institutions. Structuration Theory has been used as an interpretative framework because it expresses the pressures and relationships between internal and external agents and structures (Jack and Kholeif 2008, p. 31:32).

Structuration theory concentrates on the dynamics of how institutions amend and reproduce themselves (Barley and Tolbert 1997, p. 112). Established patterns of behaviour, which are produced and reproduced across time and space, are known as ‘institutions’ (Hardcastle et al. 2005, p. 224). Institutions for this research consists many practices, norms and rules that the majority of individuals accept and in which those practices are modified over time. It is crucial to investigate beyond the formal negotiation settings in order to understand how institutions are reproduced and amended. Institutions consists a group of people with a set of norms which are accepted and practiced in daily routines, interactions and negotiations. For Miles (2012), structuration theory’s central theme is that individuals belong to social structures which support routine performances. From a micro perspective, actors in an organisation belong to a set of social relations which are influenced by the social structure. For example, a group of individuals involved with PPP projects in the Ministry of Works can be assumed to be members of a set of social relations created by them with their routine traditions and practices. Through this, changes to their routine performances and how the changes are incorporated in their new traditions can be identified. Jarzabkowski (2008) typifies Giddens (1979, 1984) work as explaining that structuration theory’s fundamental understanding is that actors produce and reproduce institutionalised social relations that remain over time and provide guidance for an action. Increasing structuration is a process of institutionalisation and a structure is highly institutionalised (Fuenfschilling and Truffer 2014, p. 775).

Structuration theory views a project as an outcome of a chain or network within a system of social relations where human actors in the system actively negotiate meanings and interaction norms (Barley 1986). Hence, it can be assumed that in a PPP toll road project negotiation, each project comprises a network of events that has a relation to one or more institutions which promote actors’ interactions with one another. These networks are results of pre-requisites to interact and are intentionally arranged as in actors’ characters purposely connect and endeavour to structure these interactions with organisations and rules, yet then again, are likewise spontaneous because of adventitious interactions and procedures and already made rules (Klijn et al. 2010, p. 1063). An institution may change; an organisation may adopt changes, learn and benefit from a project. The type of perspective provided by structuration theory potentially

allows using the investigation of interactions between individuals engaged in PPP to explore longer-term implications for patterns of governance. Public-Private Partnerships consist of two main groups of people in continuous interaction within a long-term relationship involving the production of contracts that have differing benefits, concerned in this case with toll roads development. The two main groups of people are members of the public sector and the private sector organisations whose interactions are likely to change subtly through the process of negotiations and implementation of a toll road scheme while promoting understanding for possible future partnerships. During the formulation of a PPP project, each individual involved represents different organisation, that is to say, their ideas could come from their organisation, work group or any level and this will not be known by others involved in the formulation.

For the purpose of this study an organisation may be regarded as a product of a specific pattern of social interaction between individuals, shaped to a considerable extent in relation to formal job descriptions and informal ways of working recognising and reproducing a series of functional roles and hierarchical positions (following Giddens 1984; Barley and Tolbert 1997). This definition of organisation is more detailed than the previous definition which refers an organisation as a group of individuals working towards a goal (following Miles 2012). The new definition of organisation is used from this point onwards as it fits the context of this research by combining the importance of job descriptions with patterns of social interactions between individuals. Each of these organisations have potentially different goals and the relationship between such organisations varies depending on their respective goals. An organisation's goals can be regarded as, in part, products of very deliberate managerial action and in part, as the outcomes of continuing relationships reproducing norms implicitly agreed by the majority of the organisation's members. Since the norms are routinised and practiced, part of the relations between actors in an organisation depends on norms of which the individuals are largely unaware. Those aspects of their relations could be appreciated as it is guided by a job description, vision and mission statements and the operation of different tiers or management.

Although it may be difficult to place boundaries on organisations for the purpose of analyses of this type, wherever they may be placed, it is necessary to

recognise that organisations are always in interaction with other organisations. There are likely to be particular patterns of repeated interaction which will depend substantially on the convergence and divergence of different interests, goals, and objectives between the organisations. Contracts governing particular PPP toll road projects consist of clauses mutually agreed in principle at least - perhaps representing both an outcome of a relationship and seeking to shape the pattern of that relationship into the future⁹. Specific clauses might have been drawn from a general standard contract, itself modified or borrowed from contracts agreed following previous negotiations or model contracts. Periodic negotiations and discussions produce clauses that may be considered as formal outcomes of the relationship. However, that formal analysis of organisations focussing on the formal boundaries, structures, hierarchies, positions and formally organised interactions (meetings, etc) can overlook the importance of what goes on in informal interactions. The periodic negotiations and discussions would enhance trust between parties and create new expectations which may lead to an informal relationship that in the long term may form into strategic partnerships.

In a PPP toll road planning process there are various levels of interactions and negotiations, some formal and some informal. Usually, the outcomes of informal discussions are brought forward to formal negotiations and vice versa. The outcomes from those discussions are influenced by many forces such as policy changes, adaptation of past decisions, external or internal pressure such as economic or political conditions, promotions, officer rankings and other factors (see Chapter 4, Section 4.3.1, 4.3.2 and 4.3.3). Other aspects of interaction which influence the negotiation of particular clauses in a PPP process involve informal activity. Informal activity may include meetings, discussions, one-to-one discussions, chats during breaks, drafting minutes and memos or letters, emails and telephone conversations. All these activities may involve interactions between peers at any level or between superior and subordinate, subordinate and subordinate, and superior and superior. Typically, such informal discussions are not limited to a specific PPP toll project, but involve reflection on general nature of PPP and recurrent issues. Since such points are continually

⁹ There are cases where the private company accepts certain terms just to secure the project, which later causes problems for the relationship, when the agreed terms cannot be enforced during implementation.

repeated, they often become a part of the body of shared knowledge, embedded in individuals' understandings or opinions in an organisation or organisations. Such embedded ideas or opinions may then be reproduced by individuals engaged in PPP toll road negotiations, potentially benefitting the respective organisation either in terms of planning or implementing a project.

Crucially, ideas or opinions articulated informally are not necessarily restricted to those within a particular organisation. There may be informal dialogue between officials within public sector organisations and individuals from the private sector. There may be particular written clauses in the contract which crystallise aspects of those relationships, for example clauses pertaining to the concession period and compensation. The negotiation that accepted such clauses tend to be among high-level senior management from both the public and the private sector which may comprise informal activities such as interactions during sporting or social events.

During PPP toll road negotiations, interactions between the actors may vary depending on the project itself and its general objective. Co-operation may be built between organisations through actors' interactions. The kinds of co-operation built between organisations depend on the dominance of the organisation, the flow of feedback from the dominating organisation and increased interaction. DiMaggio and Powell (1983), outlined four aspects of the process of structuration, which are: (1) the increase of interaction between organisations in the field; (2) the existence of inter-organisational patterns of co-operation and structures of domination; (3) the increase in information with which the respective organisation must contend; and (4) the realisation among participants in the set of organisations that they are involved in a common enterprise. In the case of a Malaysian PPP toll road project, there is a tendency to create dominance by certain agencies in certain areas of negotiations. The existence of an inter-agency committee headed by the Economic Planning Unit (Leeds 1989) is an example of inter-organisational co-operation and domination in a situation the actors are working towards a specific goal. There is a link between the actions of actors and the production of social relations, assuming that actors are knowledgeable of what they are doing (Barley and Tolbert 1997, p. 97).

In Malaysia, the Public-Private Partnership Committee which negotiates PPP toll road projects includes actors from different government organisations and the private sector coming from different knowledge backgrounds. As described earlier, there are numerous informal activities before and after a negotiation, the outcomes of which are brought to the formal negotiations. But in order to research this, an observable element has to be identified which consists actors and their chains of interactions. The chain of interactions is known as social relations (explained in detail in Chapter 4) are seen as the established practices in place in an organisation which are altered to promote changes in the formulation of PPP projects. The changes in the formulation of PPP projects are identified by examining ‘scripts’ as introduced as an observable unit for the structuration.

Barley and Tolbert (1997, p. 98) define scripts as “observable, recurrent activities and patterns of interaction characteristic of a particular setting”. Scripts play an important role as a useful analytic tool for analysing organisation-level institutions, (Barley and Tolbert 1997, p. 100). Patterns of social interactions can be identified by scripts; that is to see the institutions’ day-to-day actions and how actors interpret those actions which are related to institution reproduction (p. 109). However, for this research, scripts have been incorporated as part of ‘methods of doing things’ which is introduced in Chapter 5.

3.3.1 Summary of Section

This section has discussed structuration theory in length and its interest in actors and their routine actions being repeated. Its understanding that routine actions goes through changes is an important aspect for this research as one of the objectives of this research is to understand changes in existing practices. Structuration theory’s acceptance that social actors are all knowledgeable and know what they are doing, and the conditions and the consequences of what they are doing in their day-to-day activities is another important aspect for this research. This is incorporated in the establishment of social relation, which is an enhanced understanding introduced in this research. Other broad elements of structuration related to social structures will not be included in this research. ‘Scripts’ as an observable unit for structuration will not be

explicitly invoked as part of the conceptual framework of this research as it has been incorporated into a term called ‘methods of doing things’. The next section provides some insights of institutions and the influence of social structures on social relations which is crucial for this research.

3.4 Institutions and social relations

3.4.1 Institutions

In the effort to understand changes in the production of the social relations which produce and reproduce changes in long-term contractual relationship between the public and private sectors, a hybrid perspective drawing on both institutional and structuration theories has been adopted. According to Fleetwood (2008), ‘institution’ commonly refers to things like money, gender, the family, property, education, the state, religion, markets, language, sport and medicine, systems of weights and measures, law and table manners. But defining ‘institution’ in such a manner tends to ignore the involvement of human beings: for instance, the institution of money does not contain human beings, while the institution of the family does (Fleetwood 2008, p. 241). Institutions are created by actors through their repeated or routinised interactions influenced by assumptions and constraints that are deeply embedded in their social relations, but which may be subject to changes over time. Institutions can be accepted as the framework of norms, rules and practices which structure action in social structures that are also at the core of the production of social relations (González and Healey 2005).

Barley and Tolbert (1997), argue that institutions are created by actors with general expectations or ‘shared typifications’ and interpretations of behaviour which are products of a history of negotiations. North (1989) accepts institutions as rules, norms of behaviour and enforcement characteristics of rules that motivate repeated actors’ interaction: that is, ‘rules’ and ‘norms’ cannot be separated when discussing institutions. Other concepts commonly used in discussions of institutions are ‘habit and habituation’. The process of habituation includes three processes, which are: (1) routinisation, repetition, continuity and regularity; (2) reinforcement or incentive and

disincentive; and (3) familiarity or close proximity, intimacy (North 1989, p. 249, Fuenfschilling and Truffer 2014, p. 775). According to Fleetwood (2008) when discussing Hodgson's (2006) work, habituation is a process where the norms, rules, customs and values of institutions become internalised by actors, creating the dispositions that are known as habits (p. 249).

The approach used for this research's institutional analysis consists three levels; (1) the operational level (agency permit decisions); (2) the collective choice (the statute governing the agency); and (3) the constitutional (the constitution governing the legislature) (Sabatier 1991, p.151). The constitutional choice level is the first level where the institutional arrangements together with events and the community within comes with constitutional choice situation that is then reflected as symbolic actions known as constitutional decisions which are then implemented and enforced (p. 152). The implementation and enforcement then become the institutional arrangements for the collective choice level and followed by the operational decision level (p. 152). Finally, in operational choice level, the outcomes are distributed which goes back to the three levels. The details of this are illustrated in the findings chapter where it has been framed in such manner. As asserted by Sabatier (1991), there are two fundamental insights when analysing institutions: the first one is the decisions by the given level becomes the rules of the lower level and the second one is the lower levels takes guidance from decisions made by higher levels and the decisions by the operational levels primarily affects the people.

3.4.2 Social structures influencing social relations

Social structures are the outcomes of behaviours and the surrounding environment as well (Giddens 1984) and also results of unanticipated human actions (Miles 2012). Structuration theory allows the examination of the extent of voluntary behaviour which creates and shapes social relations and the extent that social relations shape the behaviours of individuals: this is known as the "duality of structure" (Giddens 1984). This concept is crucial for this research as deeply embedded routines or habits exist in the production of the social relations of actors participating in PPP toll road

formulation. It is important to appreciate this assumption in order to understand how changes shape social relations and how social relations shape changes.

Social structures have been categorised into three broad approaches focussing on institutional, embodied and relational structures (Lopez and Scott 2000). Institutional structures are built from norms and rules which are used by individuals to co-ordinate their actions. Embodied structures include skills and habits embedded in human minds and bodies (p. 254). Relational structures are defined as social relations themselves and understood as patterns of causal interconnections and interdependence among individuals and their actions, as well as the positions that they occupy (Lopez and Scott 2000). There are similarities between institutions and social structures as outlined by Fleetwood (2008), amongst these similarities, the ones most related to this research are the idea that social relations and institutions exist via intentional and unintentional actions of humans who depend on the production of social relations and institutions to socialise, survive and interact. Social relations and institutions are similar because they are formulated, reproduced or transformed by humans: they are dependent on one and another and influence each other. This hypothesis is important as it assists in understanding how changes alter production of existing social relations of actors involved in PPP toll road project formulation.

3.5 Summary and conclusion

The main concern of this research is identifying changes in, and understanding the reproduction of institutions. Changes which become reproduced are motivated by actors' desired outcomes (Scharpf 1997). This chapter has discussed the theoretical framework for this research outlining a hybrid approach drawing on institutional theory and structuration theory. The main analytical focus of this research is actors and how their behaviour promotes and adopts changes in their existing social relations which are then reproduced. Every individual comes with different expectations, preferences and perceptions that are influenced by their institutions. In order to understand that phenomenon in greater detail, institutional theory was introduced. Meanwhile, structuration theory has been adopted to the day to day life activities and how these affect the social behaviour of actors and changes over time.

Both forms of institutional theory were discussed in order to better understand formal and informal organisations and institutions as distinct from social relations in general. Old institutional theory has been adopted for this research as it is interested in formal and informal interactions between actors and institutions. Besides that, the selection of old institutional theory was also motivated by the two important aspects it is interested which are the impact of external forces on actor's relations (Hodgson 1998; Selznick 1996) and the institution-actor relations (Samuels 1995). However, for this research, internal forces are also deemed to have an influence on actor's social relations and it is accepted that the external force may have an impact on internal forces. The details of the internal and external forces are discussed in the next chapter.

The fact that actor-relations are interdependent with the organisation – that is, are influenced by their organisation and vice versa - and are capable of adjusting practices which are produced and reproduced, reinforces the adoption of structuration insights into the production and reproduction of social relations. The basic concept of structuration theory which is assuming all social actors as knowledgeable and who know what they are doing, and the conditions and the consequences of what they are doing in their day-to-day activities is a key assumption for this research.. Structuration theory's understanding that routinised activities are repeated and goes through changes over time is an important grounding assumption for this research. The understanding of institutional and structuration theory provides the grounding assumption of the social relation concept which is discussed in the next chapter.

The chapter then discussed the connections between institutions and social relations. The combinations of institutions and social relations produce the policy, legal and regulatory and organisational frameworks which become the guiding principles for actors. There is a circular relationship between institutions and social relations in which both institutions and social relations complement and influence each other. The concepts introduced in this chapter and Chapter 4 will enhance the understanding of a social relation for the investigation of changes in the production and reproduction of institutions. Chapter 5 then formulates the Conceptual Framework that pulls the concepts together into an analytical framework.

Chapter 4

The Production of Social Relations and the Role of Actor Dynamics

4.1 Introduction

This Chapter is the second portion of the theoretical approach. It explains how discussions from Chapter 3 on institutional and structuration theory are pulled together to make sense on actors and the established social relation. Social relation essentially means interactions between people as social actors. This chapter aims to contextualise the research by identifying and explaining the basics of actor relations involved in the formulation of PPP toll road projects. This chapter reviews literature that throws light on the influences on public and private sector actors' interactions in order to understand the dynamics of interactions between the actors involved in the formulation of PPP toll road projects in Malaysia particularly in the public sector. Two main groups of literature are discussed in this chapter: literature on human relations in organisational, and second on PPP in particular. Materials related to human and organisational relations are important to this research as PPP toll road projects are an outcome of prolonged interactions between social actors. This discussion assists in identifying the human and organisational relations that influence the overall process of PPP toll road project formulation. It is followed by a discussion of the literature on social relations concentrating on PPP in particular.

This chapter is divided into four sections. The first section will start by discussing the different roles an actor assumes while performing duties. The, the discussion are followed with the politics in actor relations. This will be followed by the role of cultural and social context in actor interactions in Malaysian PPP project formulation. The second section is aimed to provide detailed information surrounding actor and their roles.

The third section then discusses actor dynamics, which are the elements that influence actors and their social relations. Forces internal and external to the organisation influencing actors' capabilities, preferences and perceptions are explored and reviewed. Internal forces are elements within the organisation which influence

actors' perceptions, expectations and preferences while external forces are elements outside the organisation influencing the same as internal forces. However, external forces also influence the internal forces. Internal forces do not seem to have been highlighted explicitly in existing research but their importance and influence are discussed in detail in this chapter by identifying three elements: (i) the influence of the organisation on actors; (ii) hierarchical organisation structures; and (iii) delegation of power in an organisation. Similarly, external forces can be seen to consist of five elements (see Harris 2004): (i) policy elements; (ii) political elements; (iii) legal and regulatory frameworks, (iv) organisational structures and (v) strategic aspects of steering the formulation of a PPP project.

The last section of this chapter discusses in detail the assumptions and the understanding of a social relation. It provides the assumptions used and characteristics of social relation which will be used for this research. The chapter aims to provide the fundamentals for this research highlighting the elements surrounding actors involved in the formulation of PPP toll road projects. The concepts are then used in formulating the relevant conceptual framework for understanding how social relations produce and reproduce institutions and how changes in public sector social relations promoted changes in the formulation of PPP road projects in Malaysia.

4.2 Role of Actors

Research into the managerial process has highlighted the roles and skills of actors that can affect the relations between actors and institutions (Noble and Jones 2006). PPP can be seen as a final product of actors' interactions each with their own roles and skills. In order to understand how a department works to fix issues as well as to regulate and harmonise the departmental activities, Rhodes (2009, p.440) identifies three areas namely 'internal management', 'networking', and the 'language that underpins these practices'. The concept of 'internal management' as defined by Rhodes (2009) is the role for each positions of the senior public servant and their lines of responsibility while carrying of internal management within the department and networking functions within the web of the departmental (p. 441). The use of language is also important while communicating and carrying out functions both formal and

informal (p. 441). The literature related to networks and inter-organisational interactions focuses on active actors who can influence the way rules and contracts are developed and, in the case of PPP, would be able to change what has been formulated in the process of a project. It is important to identify the person who can make a decision on the spot (Waddock 1989, p. 85) and such individuals are designated as the influential person for this research. Influential personnel are deemed to be the experts in their particular fields with the ability to influence the management to accept decisions. On the other hand, the area of networking is identified as internal and external where the public servant within the department carries out internal (inside) and external (outside) networking to coordinate and resolve conflicts (Rhodes 2009, p. 443). The internal network involves the relationship within the department while the external involves the relationship across the department to other department (like the Ministry of Finance). PPP formulation seems to get more complicated over time because actors can produce changes in the ongoing process (Noble and Jones 2006; Joyner 2007) through sense-making and adjustments of expectations. The PPP process is dynamic: it is different for every project and actors involved in different types of PPP continuously learn new ways of formulating projects. One of the biggest tasks in PPP formulation is for experienced actors to manage the group of diverse actors competing with each other and encourage them learn from their superiors or the more experienced one amongst them. But there are few investigations into the relations between the processes of PPP formulation and the involvement of actors with influential person and learning capacities (Joyner 2007).

As new individuals take on responsibilities which may have been forced on them, they have to learn about PPP in a very short period of time. Alliances are likely to be formed by these learning actors in order to construct perceptions (Spekman, Isabella, MacAvoy and Forbes III 1996) and the interactions in a partnership can be influenced by the new perceptions obtained through the learning process (Das and Kumar 2007; Kumar and Nti 1998). Das and Kumar (2007) and Kumar and Nti (1998) argue that the learning process involves actors' 'absorptive capacity', as each actor has different abilities to absorb new knowledge gained from interactions. They show that actors' absorptive capacities are influenced by interactions and contexts including the existing organisational culture, actors' existing competency and resources and management

availability. An understanding of the overall process of PPP project formulation involves looking at the participation of actors.

Besides having to learn, actors have to also represent their organisation during the negotiations of a PPP project. There is lack of literature addressing actors' roles as representatives of their organisation. As discussed in the literature, actors as representatives are assumed to be knowledgeable and able to contribute significantly towards the formation of a PPP project by being granted some authority by their organisation (Lasker et al. 2001, p. 192). However, there is another group of actors which is often forgotten who play a crucial role in the formulation of a PPP project. These are the new actors who have recently taken up positions in an organisation involved in the formulation of a PPP project. As explained in Chapter 7, entry-level Grade 41 officers attend PPP road project negotiations usually accompanied by their superiors. In the event that their superior is not present with them, these representatives become more likely to be influenced by powerful members of the Committee and the Committee could get a proposal approved in the expense of those actors.

All actors can be seen to be representatives of their respective organisations and they are involved in inter-organisational interactions. The PPP Committee is not concerned whether an actor representing an organisation is experienced or knowledgeable. When an actor is given the role, whether or not they have performed this role before, or do not have the knowledge, the actor is assumed as a legitimate representative of the organisation. Usually, based on the researchers understanding, a new actor is more open towards new ideas or views as they are not well experienced in that field, especially if their educational background is not related to their work. Sometimes, they are also keen to take ideas back to their respective organisation for discussion and decision, which portrays them being just as a postman.

4.2.1 Politics in actor relations and policy making

Actors go through transformation in their roles from being learners to becoming actively involved and experienced. However, from time to time actors - whether experienced or not - do assume the role of representative at the same time as being

learners. Actors are also known at times to be followers influenced by their institutions where they accept their organisation's ideas and views as their own (Powell and DiMaggio 1991). At any stage, there will be an element of politics (biases and forming coalitions) in actor relations. As explained by Giddens (1984), it is common for coalitions to be formed in a situation where actors are continuously involved in relations and interactions. Actors new to their organisation when assigned a role as a representative in inter-organisational relations have a tendency to interact more frequently with actors in similar situations in the other organisation. Actors may get support from other actors from different organisation with the same opinions (interest-based politics) (Healey 2006, p. 300). The capability of actors to form coalitions and to co-operate with other actors sharing the same opinions based on bias, expectations, perceptions and preferences can be considered as a form of politics (Healey 2006). Politics cannot be separated from actors' relations as it is embedded in their formal and informal interactions that guide their views. Politics in actor relations can also be seen as driven solely by actors' personal self-interests (Campbell 1998). Hence, the factor of politics in actor relations is an important element in this research.

4.2.2 The role of cultural and social context in actor interactions in Malaysian PPP project formulation

Most authors stress that actors' interactions have to be fully appreciated in order to understand PPP project formulation process holistically. For Koppenjan (2005), it is important to investigate and understand each project separately as each of them has a different unique composition which may not work in another project. But he further argues that the complexity of the formulation of PPP processes is influenced by context which must not be forgotten during the analysis.

In order to understand the role of cultural and social contexts on PPP projects, it is necessary to look beyond the formulation of PPP projects themselves. In the highly bureaucratic setting of PPP structures in Malaysia, the element of culture needs to be considered. There is an existing culture among the organisations involved in PPP planning in Malaysia known as "*The Boss is Always Right*". This is the culture portrayed to new officers and it discourages the expression of innovative ideas. The

new officers then start to build a barrier between themselves and their superiors as they come to believe that their views would not be heard since “*The Boss is Always Right*”. This culture then will influence the social relations between the actors from the various organisations. However, actors cannot be assumed as only being influenced by cultural norms or institutional rules (Scharpf 1997). Unlike the assumptions of universal and unchanging interests and goals found in neoclassical economics and neorealist international relations, interests and goals are different between actors over time in the same actor, in reaction to constraints, opportunities and external threats influenced by their intrinsic perceptions and preferences and shaped within their respective institutions (p. 37). Universalistic assumptions are not useful for inter-action-oriented policy research. As rightly argued by Khan (2005), adaptation and flexibility are influenced by actors’ social relations and the impact of adaptation and flexibility are reflected in adjustments of actors’ views in the process of project formulation. Thus with the differences in the context of projects, it is difficult for governments and private sectors to arrive at a template for all agreed contracts and procedures which will be relevant to all future PPP projects.

4.3 Actor dynamics

This section explores the key element of this research - the actor - in more detail. Actors, for this research, represent individuals with expectations, preferences and perceptions that influence their practice of routinised norms and their capacity to adopt changes. This section is the core following concepts underlined from Chapter 3 related to institutional theory, i.e. institutions influence actor and vice versa. After discussing the surrounding issues of actor’s relations and the role they assume in the previous section, this section discusses the influences that shape and impact actor’s social relation. The influences are the influences of organisation, the internal and external forces.

4.3.1 The influence of organisation on actors

As discussed in Chapter 3, Section 3.3 an organisation is regarded as a product of a specific pattern of social interaction between individuals, shaped to a considerable

extent in relation to formal job descriptions and informal ways of working, recognising and reproducing a series of functional roles and hierarchical positions (following Giddens 1984; Barley and Tolbert 1997). This understanding reflects organisation as an internal force that influences actors. The patterned actions and relations that appear from this process slowly acquire the ontological status of taken-for-granted facts and moral guides which then shape the future interactions (p. 94). This section explores and underlines crucial elements of an organisation that influence actors. The elements are identified as: (i) the influence of routine work on actors' knowledge; and (ii) the influence of organisational goals/policies and objectives on actors' knowledge. (González and Healey 2005; Giddens 1984; Scharpf 1997). These three elements can be seen to influence actors' ways of thinking and their future views and opinions.

The influence of routine work on actors' knowledge

The discussion of routine work has been a focus of literature related to organisational practices. Although actors may not like the work they are doing, when it becomes a routine they have no choice but to perform the duties. Routine work will eventually become a habit and subsequently the norm of a group of actors in a place. At times, the routine work may alter their existing knowledge. The impact of routine works which influence actors' knowledge has been discussed by institutionalists such as Giddens (1984) and González and Healey (2005). Because it is so embedded within the system, the pattern of shared typifications and interpretations of behaviour (Barley and Tolbert 1997) may affect actors' perceptions and their ways of thinking without them realising it.

The influence of organisational goals/policies and objectives on actors' knowledge

Routine work that can alter actors' knowledge is influenced by the organisation's goals and objectives. Not all actors in that particular organisation may agree with the formulated goals and objectives, however due to survival they do not go against them. Sometimes it may change actors' perception on certain issues, for instance during the negotiation of a PPP process. Organisational goals and objectives are usually long-term aims of an organisation and do not change frequently. Hence,

when changes are introduced, it may create resistance, especially among those who do not agree. However, the individuals who do not agree with the formulated goals and objectives may not show their resistance within the organisation, but may reflect it when representing the organisation externally.

Organisational policy involved in the PPP formulation has not often been discussed in the literature and it is overlooked in major government policies such as economic policy and similar major policies. Particular policies of government departments usually complement the major policies of the government, however, some elements¹⁰ of a department's organisational policy may be unique to itself in order to achieve a specific outcome (Scharpf 1997). Examining the different elements unique to a department helps to answer the research question relating to the influence of organisational goals and objectives on actors' existing knowledge (see Chapter 5). New staff knowledge is more easily and visibly influenced by the organisation's goals and objectives than longer-serving staff. Those impacts may become deeply embedded elements which incorporate and amend their existing knowledge.

4.3.2 Internal forces

For this research, internal forces are identified as: (i) the hierarchical organisation structures (Abernethy & Stoelwinder 1995); and (ii) the delegation of power in an organisation (Bovaird 2004, p. 202). The two forces mentioned are not explicitly identified in the literature as internal forces that influence the formation of PPP project, but each is mentioned separately by authors as contributing factors during partnership formation. However, for this research, internal forces are seen as key organisational elements that influence actors participating in PPP toll road project formulation processes. Internal forces are elements within the organisation which influence actors' perceptions, expectations and preferences. Authors discussing PPP and institutionalism seem to concentrate on external forces (political situations,

¹⁰ Elements unique to a department depends on its purpose. For example, the goal for the Ministry of Finance is to reduce government expenditure in PPP projects; the goal for the PPP Unit is to motivate more private sector investment with support from the government,; the goal for the Ministry of Works is to provide extra kilometres of road for users; and the goal for the Highway Authority of Malaysia is to ensure the quality of infrastructure.

government policies, legal and regulatory elements and organisational and administrative structures) affecting on actors' relations (Harris 2004; Burke, Joseph, Pasick and Barker 2009; De Schepper, Doms and Haezendonck 2014). For this research, internal forces are seen as extensions of external forces that influence actors' relations within the organisation. This is because changes in government policies, political conditions, legal and regulatory framework and the introduction of new organisational and administrative structures are seen as contributing factors affecting internal forces.

Internal forces are important as they have direct impacts on the way the organisation directs itself towards a certain issue. Although, most of the time internal forces may be the direct result of external forces, there may be situations where internal forces, such as hierarchical organisation structures, cause some changes in organisational views and stances that may affect external forces. This happens especially when the whole team responsible to the formulation of a PPP project is changed leading to the introduction of new ideas that might influence overall government policy changes. In view of that, the internal forces need to be discussed for this research as they are used to identify the changes that have taken place over time.

(i) Hierarchical organisation structures

Hierarchical organisation structures are the structure of an organisation and the roles and duties of an actor in an organisation. It also includes the framework of each organisation, its primary intentions and jurisdictions of power which can be transferred to the actor performing the task and responsibilities. In order to have a clear scope of work, each position in the Government of Malaysia has its job description setting out the role and responsibilities of the position. A list of specific duties accompanies the job description. A further important element of bureaucratic structure is the placement of actors in an organisation generally and in a division or section specifically. These two elements – the job description and position in the organisation - are crucial in directing actors towards performing their tasks or roles. The organisational structure of a government department in Malaysia is usually reviewed every five years and job descriptions are also revised, based on the new or amended structure.

(ii) Delegation of power in an organisation

Power is an essential element in any set of social relations (Giddens 1984, p. 283). Power is also an important element for the survival of forms of social relations. For example, in a family as a form of social relation, the father and mother have power over the children enabling them to instruct the children to do particular things. It is part of the practical consciousness of the children to do what is instructed by the parents. Similarly, in a working environment, the bosses have certain power to instruct their sub-ordinates. Power is an important element of inter-organisational and actors' relations.

Power in an organisation can be divided into two types. The first type is the power that comes with the position or ranking in the organisation. Each position in an organisation comes with its own job description and list of duties which provide the individual occupying the position with enough power in order to perform the task effectively. The second type is power which has been delegated to the actor by the superior to decide on certain issues, for instance, when representing their organisation during PPP toll road project negotiations. This type of power may not be permanently delegated to the actor and it is based on the importance of the issue. Hence, these types of power can be seen as a type of internal force that affect actors' performances when participating in the formulation of PPP toll road projects. Delegation of power in an organisation is another important element to be considered especially when investigating the role of influential personnel in an organisation involved in the formulation of PPP toll road project.

4.3.3 External forces

An actor in a set of social relations is also influenced by the external forces. As noted previously, in this context external forces are identified as elements external to the organisation which have direct impact on the formulation of PPP projects. The influence of external forces often changes the expectations, preferences and the perceptions of the actors in their networks of social relations. As noted before, PPP toll road projects are outcomes of continuous negotiations between actors from different

organisations with different sets of norms. The evolution of PPP projects is highly influenced by external forces, such as increased demand for alternative infrastructure, lack of government funds and great appetite from the private sector to invest (Zhang 2005a; Harris 2004). According to Harris (2004), external influences can be divided into five groups: (i) the legal and regulatory elements; (ii) organisational and administrative structures; (iii) strategic aspects related to how to control and organise PPP project formulation; (iv) policy features; and (v) political elements. For this research, only four of these elements are considered as influential external forces: (i) legal and regulatory elements; (ii) organisational and administrative structures; (iii) policy features; and (iv) political elements. As for Harris's third element (p. 13), the strategic aspect, is modified and assumed to be an internal force for this research (see Chapter 8, Section 8.8). Harris (2004) refers to the diligent approach of resource utilisation over the long-term for successful formulation of PPP projects: however, this concept is modified for this research to refer to the strategy used by an organisation towards achieving an outcome. The core of this strategic aspect is the three internal forces that are used to steer towards achieving desired decisions. This is discussed further in Chapters 8 and 9.

(i) Legal and regulatory elements

A proper and prudent legal and regulatory framework should be in place before the ideas of PPP projects are discussed. This is an important element as the negotiations will end in long-term interactions between the government and a private company which will create a new set of social relations. However, the only legislation which can be referred for the establishment of the organisations involved in PPP toll road projects is the Highway Authority of Malaysia, established under an Act in 1980. Except for the Highway Authority of Malaysia, all legislation and the powers of the Minister and the head of the respective agencies are determined after the establishment of that particular agency. In other words, the organisation comes into existence before there is legislation to guide it. According to Abdel Aziz (2007), this is a major problem in PPP project formulation.

Lack of clear legal and regulatory frameworks may result in each unit involved in PPP planning having their own preferences and without regulatory guidelines it will be difficult to obtain a unified decision. Unclear elements of government policies regarding government guarantees and irregular procedures in selecting the type of PPP model has been seen as an issue (Bing et al. 2005). PPP project implementation requires proper contracts and legal frameworks with effective government regulations that addresses disputes and liabilities (Pongsiri 2002). Amongst the issues regarding PPP process is the need for a standardised practices to ease the highly bureaucratic procedures and improve the negotiations, as well as clearly assigned roles for actors during the negotiations (Harris 2004; Zhang 2005a; Abdel Aziz 2007). For example, there is a need for a law that empowers private companies to collect fees from the users of the toll roads in Malaysia under the control of the Federal Roads (Private Management) Act 1984. Also, there is no legislation that covers the process and procedures to be used in the selection of a PPP partner. That can be seen as one of the causes of the potential problem during the implementation. Legal and regulatory elements are important when considering changes that are made over time in the formulation of PPP toll road projects.

(ii) Organisational and administrative structures

Research indicates that there is a link between the level of government bureaucracy in the public sector and problems with the PPP project formulation process (Ahadzi and Bowles 2004; Abdel Aziz 2007). This is related to hierarchical levels in government organisation which may require longer period for a decision as an issue has to go through various actors in different levels of organisation. Problems related to human capacity and organisational structures may at times interfere with the application of strategic planning during PPP project formulation. Lack of technically-knowledgeable administrative personnel and the absence of proper reporting are problems related to human capacity and organisational structures. In order to overcome problems related to human capacity and organisation structures, it is best to have an appropriate division of responsibility between the private and public sectors to improve PPP project formulation (Zhang 2005a; Abdel Aziz 2007). According to Zhang (2005a), there should be a clear communication procedures between all parties and

well-defined responsibilities and roles to improve the participation of public and private companies throughout the process. Among other issues highlighted in PPP project formulation are the lack of experience, both of the public and private sector actors, inefficient PPP project management and lack of experience for skills synchronisation (The World Bank 2012; Zhang 2005; 2005a; Abdel Aziz 2007). One of the ways to overcome these issues is to encourage the technical and experienced administrative personnel to work more closely together (Asenova, Beck, Akintoye and Hardcastle 2002). There also needs to be appropriate training programmes that would upgrade the individual's skills and competencies (p. 11). That will help improve the formulation of PPP projects.

iii) Policy features

A study by Harris (2004) in the United Kingdom shows that the UK government identified which projects should be carried out by PPP method and then put projects out to tender from private companies. The case is slightly different for Malaysia where, as well as the Government's priority PPP projects, it also processes PPP projects which are proposed by private companies. PPP projects in Malaysia are all negotiated through the direct-negotiation method and the successful private company then tenders out the construction works. There has to be strong political support in order to implement successful PPP projects which includes stability of policies over time and continuous government encouragement to the private sector to participate in PPP projects (Zhang 2005a). It is argued that a clear identification of the significant projects suitable for PPP are needed before any involvement by actors in the formulation of PPP projects. Lack of this clarity is a major issue for the public sector (Harris 2004; Asenova et al. 2002; Ahadzi & Bowles 2004; Zhang 2005; 2005a Pongsiri 2002; Bing et al. 2005). Another important policy aspect is overall economic and commercial stability of the country which gives private companies confidence, especially private firms from other countries. Clear project identification; justification on the need for the project; decent project returns; realistic user affordability assumptions; and government's guarantee to pay for the new investment if the project fails, are all important considerations (Bing et al. 2005; Zhang 2005a). Policy features are closely related to the political elements, which are discussed next.

iv) Political conditions

During the initial stages of the introduction of a PPP toll road project, the Malaysian government provided support in order to make the whole scheme more attractive to the private sector and the financiers (Economic Planning Unit (EPU) 2006, p. 223). This support is essential during the initial stages because private companies need to approach different financial institutions to secure financing (Akintoye et al. 2001). Implementing favourable policies to create a positive PPP environment increases the options for financing and establishes a strong capital market to promote the inflow of new investment into the economy (Akintoye et al. 2001; Zhang 2005a). Therefore, financial aspects are deemed to be crucial issues in the successful implementation of a PPP project, especially in reducing the delays in obtaining financing due to the long negotiations with financial institutions (Zhang 2005a).

However, the policy framework is often influenced by political conditions during the time of implementation. Political conditions may alter the existing expectations and perceptions of actors, especially if there is a major change in the existing policies. For example, when there is major policy change due to political conditions there may be changes in the norms governing the production of the social relations of the organisation.

In analysing PPP, political phenomena have to be taken into account, as the whole program involves the shifting of some responsibility from the government to the market (Feigenbaum & Henig 1994). If the political understanding of the choice of PPP is not clear, it will result in unclear policies that may produce opposition from the public which can result in PPP project failures. For example, two PPP projects in Thailand failed because of the country's political instability (Zhang 2005a). Stability in government policy towards PPP projects is necessary, even despite opposition from sections of society. PPP has to be supported by stable politics so that even if there may be set-backs at times, political willingness is there, and the PPP framework can be redesigned to suit both the government and the private sector (Van Ham and Koppenjan 2002). That is the case in the Netherlands where PPP lost its popularity in the mid 1990s due to set-backs in two PPP tunnel projects. However, after some modifications,

PPP was activated again to develop infrastructure. Some authors indicate political conditions as related to the accusation of corruption, inconsistent government policies and lack of confidence on government actors (The World Bank 2012) while another area include the differences in terms of ideology and philosophy between the public and private sector which determines the way they think and act (Abdel Aziz 2007; Zhang 2005a). As Harris (2004) shows, the public sector is responsible for creating and stimulating environments (i.e. political, legal, economic and commercial aspects) favourable for the formulation of PPP projects: “politicians need to provide a political lead, promote cultural change, explain and defend the policy and broker compromises to reflect political reality” (p. 15).

4.3.4 Summary of section

This section has explained the insights of actors’ dynamics and discussed the influence of organisation on actors. Although the literature surveyed does not explicitly mention internal forces, their importance cannot be disputed. Three different internal forces have been identified and discussed. The elements that form the influence of organisation on actors include: the influence of routine work on actors’ knowledge; the influence of organisational goals/policies and objectives on actors’ knowledge. These are important elements for this research as they have bearing on actors’ relations in their interactions with other actors and their perceptions, preferences and capabilities and are grouped as one type of internal force known as institutional influence on actors. The other two internal forces are within the organisation’s control: hierarchical organisation structures; and delegation of power in an organisation.

All three internal forces can be grouped as strategic aspects that influence the organisation and social relations the actors involved in the PPP toll road project formulation. It is important to identify internal forces as a separate element with three strands: (i) the influence of organisation on actors; (ii) hierarchical organisation structures; and (iii) delegation of power in an organisation. These internal forces play an important role in actors’ understanding of involvement in PPP toll road projects.

Meanwhile, four important and interconnected elements of the external forces which influence the formulation of PPP projects are identified as: (i) legal and regulatory elements; (ii) organisational and administrative structures; (iii) policy features; and (iv) political conditions. The external forces have direct impact on the internal forces as the organisation policy and objective is formulated based on wider government policy; the changes introduced by the organisation responsible for human capacity and organisational structures impacts individual organisational structures.

Both the internal and external forces have impact and influences the establishment of actor's social relations which is the key assumption for this research.

4.4 Social Relation

The Concession Agreement is the final outcome of prolonged interactions between actors shaped by different social relations in a variety of routinised practices. The Government of Malaysia claims that the current changes to the Concession Agreements for the latest Public-Private Partnership (PPP) are to serve the road users' interests. However, despite the claims by the Government, there continue to be difficulties for it to fulfil its obligations. In order to investigate the problem, this research seeks to identify and understand the changes over time within and among social relations of actors in the public sector that promoted alterations in the formulation of PPP toll road projects in Malaysia, and how these social relations have produced and reproduced institutions from the introduction of the Privatisation Policy until the present. The production and reproduction of social relations are embedded in rules, norms and practices that shape actors' expectations, perceptions and preferences. The rules of an organisation are the result of multiple actor translations. For the purpose of this research, rules refer to a set of written statements of what an individual is supposed to do while performing assigned duties: norms, on the other hand, are accepted repetitive actions which become habits for individuals within an organisation. The norms, rules and preferences of social relations consists two elements: structure and function (Due et al. 1999). The structure of social relations is defined as "the individuals with whom one has an interpersonal relationship and the linkages between these individuals" (p. 662). This structure has two dimensions, the formal relations and

informal relations and this is in line with the understanding advocated by the old institutional theory where it focuses on all interactions (formal and informal) between actors and institutions. Given these definitions, the social relation introduced in this research is a concept which includes both formal and informal relations of the social relations.

The second element is the function of social relation and is defined as “the interpersonal interactions within the structure of the social relations that covers the qualitative and behavioural aspects of the social relations” (Due et al. 1999, p. 663). Social relations are combinations of structure and function. Individuals access social structures that consist norms and expectations to help guide their behaviour and every individual accesses social structure in a different way (Miles 2012, p. 3) which results in various social relations. The way an individual uses a social structure depends on the individual’s position within social relations: an individual may have a superior or inferior position within their social relationships compared to others. For example, there will be differences in terms of knowledge or resources between individuals in their network and the position of that individual may restrict or enable his/her behaviour. Just as a physically-visible structure such as a building consists various materials arranged in an orderly relationship with each other, society has its own structure of individuals with own social relations: individuals may change but the structure maintains its continuity.

Miles (2012) in his paper titled ‘Management and Organization Theory’ highlights Giddens’s understanding that individuals in a social structure perform specific typical behaviours or routines which are often taken-for-granted over time (p. 3). These practices become embedded in daily routines of the individuals and come to be performed unconsciously. The repeated performance of such routines reinforces social structures (Miles 2012, p. 3). When a group of routines becomes deeply embedded as part of a social structure, it becomes a “tradition” or custom, which may form the basis of an institution, such as the family (Miles 2012, p. 4). In turn, social relations are influenced by deeply embedded routines of social structures, and in organisations, influence rules and norms.

Two theories have been introduced for this research which are institutional and structuration theory. Understanding and the assumptions from the theories have been used in order to understand the concept of social relation. Institutional theory was selected as its exploration is surrounding organisational structures, hierarchical arrangement and communication and procedures (Selznick 1996). The listed elements are important in influencing the establishment of social relations in an organisation. Old institutional theory is included since there are two important aspects that are relevant to the establishment of social relation. The two aspects are the impact of external forces on actor relations (Hodgson 1998; Selznick 1996) and the institution-actor relations (Samuels 1995). Besides that, old institutional theory focuses on all the interactions which involve the formal and informal interactions between the actors and institutions (Scott 2004). This is an important aspect as social relation is established by actors through interactions and the interactions are influenced by external forces. As advocated by Granovetter (1992); Dugger (1979); Hodgson (2006) and Cole, Cameron and Edwards (1985) that old institutional theory's important assumption is, actors are embedded in their social context and external factors shape their views and behaviour. However, the internal forces within the organisation are also seen to be important in the establishment of a social relation. The external forces at times impact the internal forces such as the hierarchical organisation structure being a result of the impact of external forces, organisational and administrative structures. This promotes the inclusion of internal and external forces as an element that influences social relation.

The other important theory used in establishing the social relation is structuration theory. The important understanding of structuration theory used to examine social relations are that actors belong to a social structure and the structure supports routine actions which are repeated and goes through changes (Miles 2012). The main strand of structuration theory is grounded on the assumption that actors belong to a social structure and that structure supports routine actions over time (Miles 2012). Structuration theory therefore focuses on a key assumption about the repetition of routinised interactions. This is important as it assists in understanding how routinised activities go through change. Structuration theory is adopted for this research to underline basic understanding and assumptions with regards to actors; it assumes that actors are all knowledgeable and know what they are doing, and the conditions and the

consequences of their actions in their day-to-day activities (Giddens 1984, p. 281) and to understand changes over time.

Social relations involved in the Ministry of Works, the Public-Private Partnership Unit, the Highway Authority of Malaysia, the Ministry of Finance, the Attorney General's Chambers and the private companies carry with them expectations (through job routines) of its individuals and the organisational expectations set out in manuals (job descriptions) for how the organisation works. The expectations of individuals in each organisation in the public sector will be different and they are different from those in the private sector. The public sector is made up of different departments with different routines, norms and expectations; and companies in the private sector are also very different from each other in this respect. There are multiple sets of routines, relations and negotiations, and this research is interested in the production and reproduction and change of multiple forms of social relations. Even though the public sector has organisations each with different goals, the ultimate goal for them is to serve the public. This allows the parties involved in the formulation of PPP projects to be categorised as two groups – the public sector and the private sector. However, as explained in Chapter 1, government departments in the public sector are considered to have different organisational goals, while profit-making is assumed to be the common goal for all the private sector companies: since different private sector companies are each assumed to have same organisational goal which is profit-making, the rules, norms and practices practiced by the actors' social relation are deemed to be uniform hence resulting this investigation being limited to public sector organisations. Despite these differences, both parties could agree to a common outcome through negotiation; the result of which is a PPP toll road Concession Agreement. In the process of these negotiations, public sector individuals adapt to the changes brought about by the negotiations and the need to implement the Agreement and the intentions of the individuals (actors) involved are subsequently reproduced in the organisation.

This understanding underscores the main theme of this research which is to investigate the dynamics of the production of social relations in order to identify changes over time and the production and reproduction of institutions promoted by the social relation. The core characteristics of a social relation are as follows:

- i. a social relation consists of actors and their chain of interactions, in addition to routinised formal practices and rules, informal practices and norms that are practiced by actors in a social relation which can be observed;
- ii. the routinised formal practices and rules, informal practices and norms in a social relation will be known as the ‘methods of doing things’ in this research;
- iii. a social relation is established through actors’ formal and informal relations;
- iv. the establishment of a social relation is shaped by the impact of institutions on actor’s knowledge;
- v. internal and external forces impact and influence the establishment of actors’ social relations;
- vi. the establishment of a social relation is at times influenced by influential personnel. Influential personnel are deemed to be the experts in their particular fields with the ability to influence the management to accept decisions since they have been attached with the organisation for a long period of time;
- vii. the establishment of a social relation is usually based on actors’ preferences and their practices which are in line with their interest but not always;
- viii. the established social relation remains even when influential actors involved in the establishment are transferred or are no longer with the organisation and new actors have to adopt and adapt the practices;
- ix. practices and rules in established social relation are routinised;

- x. a social relation is subject to change as actors are assumed knowledgeable and that, new knowledge promotes changes in the actors' social relations; and
- xi. a social relation goes through changes over time and the practices and rules are produced and reproduced.

This concept of social relation will be used for the analysis for this research. In terms of PPP, social relations are arguably seen as the established routinised practices in place in an organisation which are altered to promote changes in the formulation of PPP projects.

4.5 Conclusion

This chapter has explained both the broad approach and some of the detail of this research. It is important to establish that all actors in PPP formulation are involved in producing and reproducing their own sets of social relations, which, it is argued, are different in the public and the private sectors. However, this research only concentrates on the changes to the production and reproduction of social relations in the public sector since it has been assumed for this research that private sector motivation is profit-related. Nevertheless, interactions between public and private sector actors is taken into consideration (see Chapter 2, Section 2.4) for this research because these interactions consist of formal and informal relations and the continuous interaction between the two groups of actors produces a long-term relationship between them which is formalised in an agreement. Actors take on roles as representatives and as learners throughout the interactions and go through transformations over time. Politics appear in the actors' social relations when they start to form coalitions and try to get their views or ideas heard and accepted. The cultural and social context in the organisation is also influential. The existing culture and social context in Malaysian government service is highly hierarchical and has significant influence on the interactions between the public and private sectors.

The next section of this chapter discussed actor dynamics. It first established that each actor has their own set of social relations and practices. When joining a new

organisation an actor is subject to the influence of the organisation on their knowledge. This can be identified in three different categories: the impact of routine work and the effect of organisational goals/policies and objectives. These two categories form one of the internal forces. There are two other internal forces that have been highlighted: the hierarchical organisation structures; and the delegation of power in an organisation. The chapter then highlighted four external elements influencing actors: the legal and regulatory framework; the organisational and administrative structures; policy features; and political conditions. Every actor is influenced by these internal and external forces which affect the expectations, perceptions and preferences present in their social relations. This chapter has reviewed influences playing important roles in shaping actors' social relations which have effects on the interactions around PPP toll road project formulation. The social relations involved in PPP negotiations determine the 'methods of doing things'. The internal and external forces highlighted in this chapter are key assumptions underlying the ideas which are used to understand the influence on actors' social relation.

The concept of social relation has been further detailed out in this research deriving from the understanding and assumptions obtained from the institutional and structuration theory. Discussions related to public and private sector interactions are further support to the concept and explains the insights of such relations and roles an actor assume while performing duties, while discussions related to actor dynamics which includes internal and external forces are to set the foundation that social relation are established based on those influences. The next chapter, Chapter 5 will use the concepts introduced in this chapter to formulate the conceptual framework for this research.

Chapter 5

Conceptual Framework

5.1 Introduction

This chapter combines the concepts discussed in Chapters 3 and 4 in order to formulate a Conceptual Framework to guide the research strategy and methods (Chapter 6). The framework combines concepts introduced in Chapter 4 with understanding from Chapter 3 in order to examine social relations in the context of institutions and organisations and understand actor's interactions through their social relations in the planning process for PPP toll road projects in Malaysia. The case of PPP toll road project formulation illustrates changes in the production of social relations that could be a result of a number of influencing factors acting together which lead to changes in negotiations and clauses of the agreement and this forms the basis of the research questions of this thesis. However, before introducing the research questions, the underlying concepts of norms of social relations are first discussed, followed by the research questions which guide the investigation.

The conceptual framework is introduced based on the discussion of theories and concepts in Chapters 3 and 4 that form the framework for answering the research questions. After formulating the conceptual framework, the analytical framework is outlined, which consists three network processes: (1) the production of actors' social relations; (2) the production of actors' methods of doing things'; and (3) the reproduction of actors' social relations and 'methods of doing things' (promoting and adopting changes). The network processes take into account internal forces, external forces, the dynamics of the formal and informal actor relations, and the 'methods of doing things'. These elements are the core components of the establishment of the social relations. Finally, the chapter is summarised highlighting key elements used to formulate the research strategy and methods in Chapter 6.

5.2 Norms of Social Relations

This research aims to identify changes over time and the reproduction of institutions. In order to identify and understand the changes which lead to the reproduction of institutions, the conceptual framework has to include most significant aspects of the interactions of actors that promote changes. Every actor belongs to a social relation with its own ways of working and doing things. The influences including internal and external forces are elements of the conceptual framework. The conceptual framework's central emphasis is to understand: how forces influence actors; how actors adopt and practice their organisation's policies, goals and objectives when representing their organisation; how actors mobilise and gather support in order to deliver the task assigned to them; what are the hierarchical structures influences on processes of an organisation; and what are the common interests that create collaboration and divergences that make changes a difficult process.

As highlighted in Chapters 3 and 4, the analytical focus of this research is actors. Actors form an institution using negotiation as a mode of interaction between them. The formation of institutions by actors is a combination of different actors coming from different sets of social relations. Both old institutional theory and structuration theory emphasise actors' embeddedness in social relations. Old institutional theory focuses on all the interactions which involve the formal and informal interactions between the actors and institutions (Scott 2004). Structuration theory (Giddens 1984) argues that actors' interactions are embedded in their social relations which are created by them, and that institutions and agency are entangled and rejects the concept of dualism that separates them: these are the key assumptions of this research also. . Hence this research is structured in a way that focuses on the contextual social relation of actors participating in the formulation of PPP toll road projects. The main core of the conceptual framework is the contextual formal and informal relations between actors that contribute to the establishment of a social relation which influences actors' relations.

Since PPP toll road projects have been implemented for more than 30 years, each of the organisations involved tends to have an inherited norm which would have

been expressed in practices since the introduction of PPP toll road projects. This norm is deeply embedded in the social relation established which may be difficult to change. However, since most of the actors involved in the current formation of PPP toll road projects are relatively new (experienced up to 2 years), the norms could be changed with the influence of internal and external forces. Nevertheless, the norms which have been practiced by the influential personnel (who are also the senior staff members) could cause some bias and influence new actors who accept them as their mentors. This factor is important and needs to be considered in order to identify changes in actors' social relations and in the 'methods of doing things'. In order to understand the underlined phenomenon, three research questions have been formulated which are introduced in the next section.

5.3 Research Questions

The Concession Agreement is the final outcome of a prolonged interactions between actors coming from different social relations with routinised practices and the Government of Malaysia claims that the current changes to the Concession Agreements for the latest Public-Private Partnership (PPP) are to serve the road users'. In order to understand that, the social relations of actors involved in the formulation of PPP toll road projects in Malaysia are investigated. The research involves unpacking the activities surrounding the formulation of PPP toll road projects, and understanding the formal and informal interactions between actors in an environment with an unclear privatisation and PPP framework. It is an attempt to identify changes in the social relations created by actors through-out the process of PPP toll road formulation. In other words, the claimed changes are a result of changes in existing social relations and their routinised practices, and can be identified in the formulation of PPP toll road projects. In order to identify these changes, the forces that promote them are explored. The impact of internal and external forces has a direct influence on the routinised practices of actors. The conceptual framework proposed is the key to answering the research questions. The objective of identifying actors' relations and their contribution to changes in the formulation of PPP toll road projects is addressed through the following questions:

1. What forms of social relations do actors involved in PPP toll road projects formulation establish? How do established social relations influence actors when managing changes?

- § How did the existing ‘methods of doing things’ influence actor relations? How did actors working to move away from existing methods?
- § How were the new ideas and changes adopted into their existing ‘methods of doing things’? How did this change the actors’ relations?
- § How did internal and external forces influence the process?

2. How do existing sets of social relations and their practices change over time? How are the changes assimilated into actors’ respective social relations and then produced and reproduced?

- § How do the changes in social relations influence the acceptance of changes in the future formulation of PPP toll road projects?
- § What internal processes are involved in changes over time?

3. What lessons might be learned from the formulation of PPP toll road projects in Malaysia?

- § How might the current practices surrounding the formulation of PPP toll road project be improved?

In order to answer the research questions, a conceptual framework is used to guide the process of investigation. The research questions indicate the main focus of this research, while the conceptual framework connects the various concepts explored in Chapters 3 and 4 into an analytical mode for analysing the empirical material.

The next section introduces the conceptual framework.

5.4 Introduction of the Conceptual Framework

As explained above, this work is based on the understanding of social relations and those elements that influence such relations. This approach allows the analysis of changes in existing social relations which can be observed during actors’ interactions in

the formulation processes of PPP toll road projects. It takes account of internal and external forces. Analysis based on structuration addresses the changes in actors' social relations (the dynamics of actor relations) throughout the formulation of the PPP toll road projects, while analysis of network processes addresses the influencing factors of that relationship and how it promotes production and reproduction of institutions. Network processes is the term used to combine the influencing elements of a social relation and the 'methods of doing things' of the social relation.

The network process considers aspects of changes that promote the reproduction of institutions through three simultaneous processes:

- a. The production of actors' social relations;
- b. The production of 'methods of doing things'; and
- c. The reproduction of actors' social relations and 'methods of doing things' (promoting and adopting changes in actors' social relations).

The concepts outlined in this chapter establish connections between them which provide explanations to the findings presented in Chapters 8 and 9. The concepts identify the conditions for the establishment of a social relation by actors in PPP toll road projects formulation. A social relation produces and reproduces an institution. It is subject to changes, and these changes are then reproduced so that the new social relation and ways of production and reproduction change the nature of the institution. The conceptual framework is represented in Figure 1, which shows the connections between the actors' interactions. Following from this, the analytical concepts investigate the public sector actors' relations and their influence on the formulation of PPP toll road projects. Through exploring actor relations, this research intends to better understand the complexities involved in the overall processes of actors' social relations and the outcomes which later become embedded in their practices.

Diagram of the Conceptual Framework

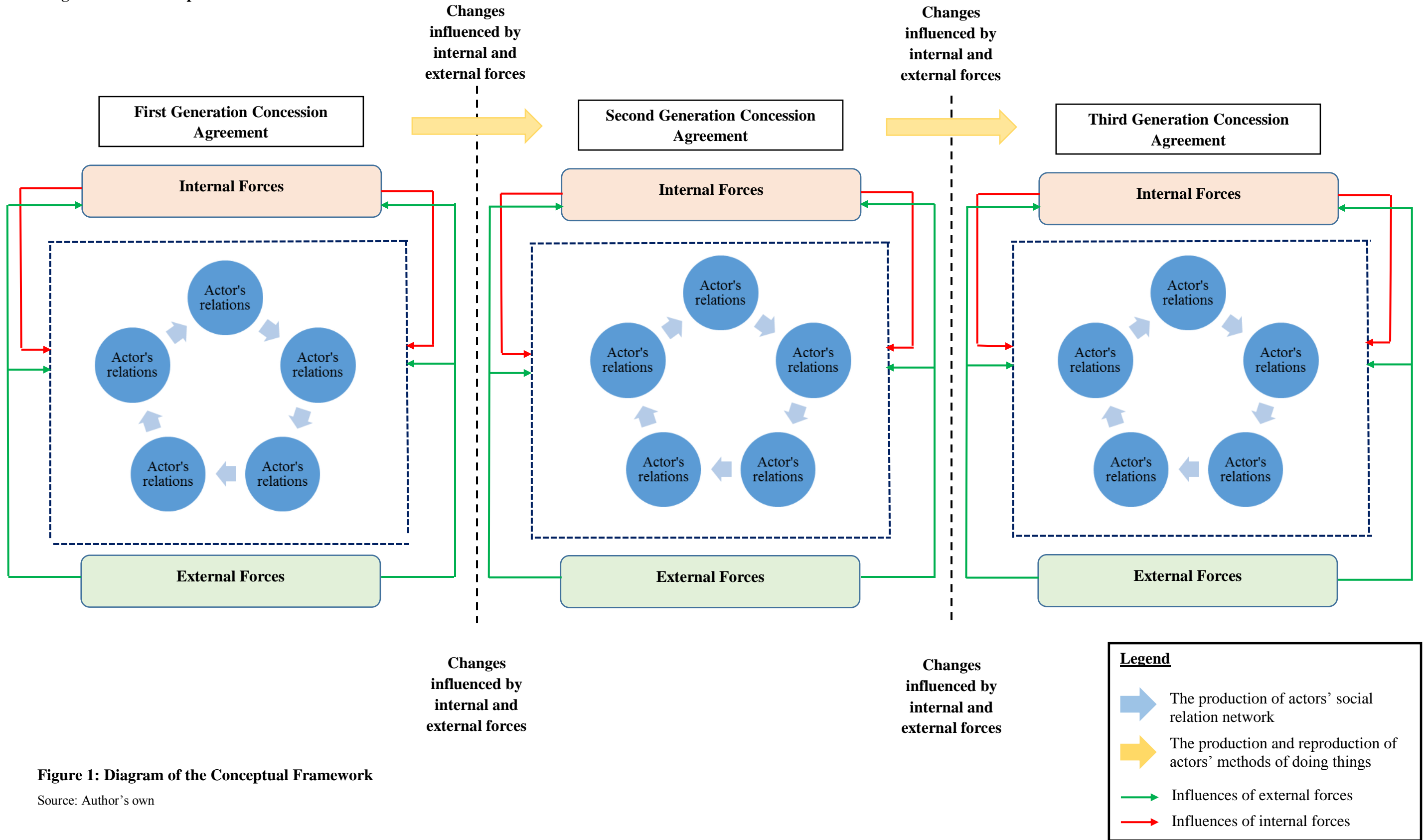


Figure 1: Diagram of the Conceptual Framework

Source: Author's own

The conceptual framework has been divided into three columns as the analysis of this research consists three period of PPP toll road implementation. The shift to the new period ranges from changes due to changes in leadership and changes due to circumstances. The detail on separation of the implementation period and the changes are discussed in Chapter 6 onwards.

The analytical framework is discussed next in the following order: dynamics of formal and informal actor relations; internal and external forces; and the ‘methods of doing things’.

5.5. Analytical Concepts

The proposed conceptual framework includes three elements that are investigated simultaneously in the analysis: (1) the dynamics of actor relations (formal and informal); (2) the internal and external forces; and (3) the ‘methods of doing things’.

5.5.1 Dynamics of actor relations (formal and informal)

In Malaysia, PPP toll road projects are legally bound by Concession Agreements drawn up in line with Privatisation Policy 1985, PPP Guideline 1991 and PPP Guidelines 2009. There is no other PPP legislation which governs the whole process. Negotiations are carried on a case by case basis. For this research, the analysis of the dynamics of formal and informal actor relations is based on the assumption that although actor relations are mostly based on formal arrangements, commitments sometimes go beyond these to include mutually-agreed dependency through informal actor relations (Bovaird, 2004). Formal relations include official meetings, negotiations and official letters while informal relation may include unofficial meetings, discussions, one-to-one discussions, chats during breaks, drafting minutes and memos or letters, emails and telephone conversations. The actors may also be influenced by informal practices and conditions. Institutions can be seen as “the frameworks of norms, rules, and practices which structure action in social context” (González and Healey 2005, p. 2058). Institutions provide the place for interactions according to shared values,

common policy goals and voluntarily agreed rules, a set of understood appropriate behaviours which exist alongside formal shared values and common policy goals (Peters 1998). Therefore, this research considers both formal elements such as the Concession Agreement - a product of shared information based on trust, confidence, collaboration and motivation; and informal elements which include types of interactions, the actors taking action, the expectations of others and the situation that brings them together in the current interactions (McQuaid 2010).

It is important to look beyond the basic identifications of who is interacting with whom to understand the motivations behind the relations and the strategies adopted. This can include both negative and positive aspects of interaction - collaboration and co-operation, contradiction and conflict. In order to analyse the relations involved in a network, it is crucial to recognise the existing structure (actors and their connections), pre-existing assumptions, existing rules of the system and contradicting assumptions (Teisman and Klijn 2002). The network of relations may be strong or weak, where the weak relations have the opportunity to become strong over time (p. 204). Formal and informal actor relations are dynamic which could not be forgotten when analysing change in actor relations, preferences and assumptions. This is important for investigating the effect of actors' bias and assumptions in relation to pressures for change. It is also possible actors may not interact with each other due to existing accusation that both the actors have formed a coalition and fear of exploitation by the private sector. In the case of Malaysian PPP processes, actors from the public sector are not encouraged to meet actors from the private sector outside the formal setting, which is a measure to reduce unnecessary accusations¹¹ of corruptions.

Actors involved in interactions over a period of time may have strategies which are influenced by their embedded understandings and assumptions which can be faced with two situations: one reinforces the existing strategy and the other challenges or changes the existing strategy. The analysis focuses on how changes and adjustments take place and are reinforced by actors' new assumptions that may contribute towards

¹¹ Although the Malaysian Government promotes a closer relationship between the public and private sectors, it also has strict guidelines which prohibit informal relationships. For instance, no gifts should be presented to individual officers during festive seasons, but gifts to a division are allowed.

their participation in the formulation of a PPP toll road project. It also considers the effects of disagreements and reluctance to change. Although actors may have their own views, they will have to acknowledge and acquire new values and assumptions to achieve a common goal (Keast, Mandell, Brown and Woolcock 2004): the new values and assumptions supersede the actors' initial views which is usually temporary. It is also an effect of the actors' own perceptions like frustrations and lack of confidence. The analytical concept will promote an understanding of actors' capabilities to come to an agreement and readjust their perceptions and expectations about their relations, other actors and the formulation of PPP toll road projects.

5.5.2 The internal and external forces

The internal forces are: (i) the influence of organisation on actors (that is impact of routine work and organisational goals/policies and objectives; (ii) hierarchical organisation structures; and (iii) delegation of power in an organisation which was discussed in Chapter 4 were identified and discussed separately because of the relevance of their influence on actors' relations both in the organisation and when the organisation is being represented in negotiations with other organisations (see Chapter 4, Section 4.3.1 and 4.3.2). The external forces underlined in this research are policy features and political conditions, the legal and regulatory element and the organisational and administrative structures. Structures co-exist with knowledge that agents have about what they do in their daily activities.

The analysis of internal and external forces in this research assumes that the existing system is deeply embedded in a wider setting that influences the PPP toll road project formulation process within its specific space and time (Lowndes, 2001). Hence, as well as an assessment of the wider setting that includes external forces which may create threats to or prospects for internal processes (Healey 2007), this research explores the internal forces that influence the existing 'methods of doing things' to be changed. Other external forces such as government decision-making in Cabinet, relationships between government agencies, the tax system, government budgeting or contracting rules are historically and normatively embedded effects (Lowndes 2001). In this research these are seen as the formal structures and procedures, politics and social

and economic activity which are grouped as parts of the policy element and political conditions.

This conceptual framework accepts as external forces; organisational and administrative structures; legal and regulatory elements; policy features and political conditions. It considers the existing elements of an organisation as the internal forces, which are (i) the influence of organisations on actors which consist of the impact of routine work and the influence of organisational goal/objectives; (ii) hierarchical organisation structures; and (iii) delegation of power in an organisation. These forces are assumed to play an important role in influencing changes in existing practices. The influence of the internal and external forces is analysed in terms of their impact and extent of their effects on the social context in which actors actively engage for PPP toll road project formulation process.

5.5.3 ‘Methods of doing things’

In examining ‘methods of doing things’, the main focus is on actors, their interactive practices and networks related to deeper cultural values. It is an approach to studying what Healey (2004) (p. 88) calls transformational governance processes. This research introduces the concept of ‘methods of doing things’ which consist of established and deeply embedded practices and the innovations which interact in many ways within the complex social network. It is a concept of how things are being carried on in an existing set of social relations, and in an organisation, often guided by policy, legal and regulatory and organisational frameworks. However, this situation of complexity may pose challenges to actors who are complaisant and fixed in their existing ‘methods of doing things’ (González and Healey 2005, p. 2065). In the conceptual framework, ‘methods of doing things’ are represented by two analytical concepts, which are: (1) opinions, expectations, perceptions and practices; and (2) strategies, attitudes, skills and resources.

The main considerations for analysing opinions, expectations, perceptions and practices in the production and reproduction of institutions are the concepts of practical and discursive consciousness (based on the idea introduced by Giddens 1984, see

Chapter 3). Actors are perceived as knowledgeable agents who can adapt to, and work in, different ways from the usual taken-for-granted rules and assumptions (Garud, Hardy and Maguire 2007). This research assumes actors' capacity to adopt new ideas is not confined to discursive consciousness but also as practical expressions. Giddens (1984) mentioned "as social actors, all human being are highly 'learned' in respect of knowledge which they possess, and apply, in the production and reproduction of day-to-day social encounters; the vast bulk of such knowledge is practical rather than theoretical in character" (p. 22). Such knowledge is not theoretical but practical knowledge. As explained in Chapter 3 and 4 (see Section 4.2 and section 3.3), actors are assumed to be creative learners, constantly adapting to new situations through reflection to justify their (discursive) practices, or through modifying (practical) actions during interactions. This research explores systemic processes of production and reproduction of opinions, perceptions and practices in which actors are discursively and/or practically conscious about the construction, materialisation and changes of social relations during the formulation of PPP toll road projects.

For the studying the second aspect of 'methods of doing things' - strategies, attitudes, skills and resources - this research focuses on human capacity and capacity development (Morgan 2006; Land, Hauck and Baser 2009; Brinkerhoff and Morgan 2010). 'Capacity' in this case is the combination of strategies, skills and resources used for a specific activity (Morgan 2006). Some capacities derive from existing 'methods of doing things' and some may be acquired through changes in the social process.

Changes in the 'methods of doing things' can be identified by understanding the information from the project documents and observing negotiations.

5.5.4 Summary of section

This section has discussed the analytical concepts that have been adopted to guide this research in understanding the network processes and to answer the research questions. The section combines three elements to be investigated concurrently, which are: (1) the dynamics of actor relations (formal and informal); (2) the internal and external forces; and (3) the 'methods of doing things': All three are founding elements

of the social relation. The dynamics of actor relations (formal and informal) highlights that there is mutual dependency between the public and private sector. Actors involved are also assumed to have embedded perceptions, expectations and preferences which result from their embedded understandings due to routinisation. Sometimes actors are forced to accept new ideas in order to achieve a common ultimate goal, but this acceptance is temporary and they tend to return to their former views once the goal has been achieved or the project ended.

Internal and external forces and how it influences the ‘methods of doing things’ and the subsequent establishment of the social relations were discussed. The impact of internal and external forces varies: some, like political conditions, policy features and influence of organisations on actors, may result in immediate impact, while others, like the legal and regulatory framework, hierarchical organisation structures and staff turnover, may take longer to have effects. However, the impact of these two forces needs to be considered and appreciated when investigating the establishment of the social relations and the changes it has gone through. The forces have been used in the formation of the conceptual framework and how the forces influence the social relation.

Finally, this section discussed the concept of ‘methods of doing things’. ‘Methods of doing things’ consist of embedded practices guided by the organisation’s policy, legal and regulatory and organisational settings. They involve strategies, skills and resources and form actors’ opinions, expectations and perceptions. The ‘methods of doing things’ are the way actors in a social relation perform their duties. When there are changes in social relations, there will be changes in the ‘methods of doing things’ and vice versa.

The next section introduces the network processes which bring together all the concepts which have been introduced.

5.6 Network Processes

The proposed conceptual framework includes three network processes which are investigated concurrently in the analysis: (1) the production of actors’ social relations;

(2) the production of actors' 'methods of doing things'; and (3) the reproduction of actor's social relations and 'methods of doing things' (promoting and adopting changes).

5.6.1 Network process 1 & 2: The production of actors' social relations & The production of actors' 'methods of doing things'

As discussed, interactions may induce changes which lead to new 'methods of doing things'. The continuous pressure for change in the 'methods of doing things' particularly in terms of negotiations in the PPP process, promote innovation in the current practices. The innovation of processes can be deemed as a product of a series of elements and events. The analysis of these processes for this research concentrates on several categories including the identification of the actors proposing changes and the challenges incurred in introducing new 'methods of doing things', such as hierarchical pressure, bureaucracy, internal and external forces, politics, policies and procedures and rules (Coaffee and Healey 2003). Based on a social constructivist perspective, there are three elements of analysis of the production of a social relation which are: (1) the policy framework; (2) the legal and regulatory framework; and (3) the organisational framework of the Privatisation and the PPP Guidelines.

A social relation is considered as a set of resources, practices, rules and norms directly that influences activities in the context of the social system (Edvardsson et al. 2011, p. 332-336). The acceptance of actors as being capable of creating and legislating institutions through interactions allows actor relations and institutions to be seen as socially constructed in particular systemic contexts. Neither institutions nor actor relations are given dominance since this research embraces a dialectic approach. Actors and social relations co-influence and co-create each other through their inter-relationships. Furthermore, the establishment of a social relation is determined by the production and reproduction of embedded 'methods of doing things' and innovations in their interactions. The focus of this research is on how embedded 'methods of doing things' influence actors during the process of PPP toll road project formulation. The conceptual framework for this research adapts the notion that a social relation consists of institutions and is mirrored in the social relations of actors (Giddens 1984, p. 16-17).

Hence, the analysis focuses on the inter-relation in social relations between formal and informal actor relations and the external forces that establish a social relation, that later influences future social relations (Coaffee and Healey 2003). The network is continuously created and modified in the dynamics of actor relations (Healey 1999, 2006).

Giddens's (1984) idea that institutions are related to the social relations of actors' interactions is adopted in this conceptual framework (p. 17). In this case, the focus of analysis is on the interdependence between internal and external forces and the informal and formal actor relations that lead to the creation of a set of social relations. This then influences the actor's relations to the extent that the setup is repeatedly created and reflected in social relations (Coaffee and Healey 2003; Healey 1999; 2006).

5.6.2 Network process 3: The reproduction of actors' social relations and 'methods of doing things' (promoting and adopting changes in actors' social relations)

As discussed in earlier chapters, there is no clear PPP toll road framework in Malaysia, and for the purpose of this research, the network institutions are different from the ones in the Privatisation Policy and the PPP Guidelines. The network institutions being studied are socially constructed and dependent on context while the Privatisation Policy and the PPP Guideline are considered to be forms of external forces. Internal forces, on the other hand, arise in the network institutions themselves. The rationale for adopting this approach is to highlight the network aspect influences the actors' interactions during the formulation of PPP toll road projects.

The social relation is assumed to be an observable set of resources, norms and rules that have direct influence on daily activities in the context of a social network. The two ways an individual is influenced in an organisation can be categorised as follows: (i) rules as direct influence; and (ii) norms as indirect influence. Rules refer to a set of written statements of what an individual is supposed to do while performing assigned duties: norms, on the other hand, are accepted repetitive actions which become habits for individuals within an organisation. Both rules and norms exist in the respective

actors' set of social relations. Assignments consist of instructions, day-to-day and self-initiated duties. An individual in this case is influenced by the organisation's rules and norms especially if these have been practiced over periods of time.

The public-private interactions in PPP toll road negotiations are considered to be influencing elements of the social relations where it includes formal and informal actors' relations, actors' roles as representatives and learners, politics in actors' relations and the role of culture and social context. Adapting insights of institutional theory, in this research, actors are seen as capable of creating and structuring institutions through their observable interactions, and no primacy is given to either the actor relation or institutions. Actor relations and the social relations are created together and influence each other. The creation of a social relation by actors will depend on the embedded production and reproduction of 'methods of doing things' and the influence of routinised practices on actors in the formulation of PPP toll road projects.

Actors may choose to follow long-lasting scripts ('methods of doing things') based on embedded practices accepted in their organisation, which can be relied upon, assumed to be normal, expected and understandable in their context (Olsen 2007). This study explores and analyses the production and reproduction of communal routinised 'methods of doing things', which are accepted by actors and shown in their relations in a socially-established manner. Organisations which have been in existence for a long period of time will have embedded assumptions and rules that are the results of acquired experiences and relations. When two (or more) organisations or institutions interact there are differences in actors' assumptions, goals and 'methods of doing things' which may be thrown into doubt when confronted with each other. The doubt may create issues between the actors and further delays the establishment of trust among them. It is important for an organisation to establish and identify the trust between actors that have worked previously and which may influence future interactions (Keast et al. 2004).

Although embedded assumptions may limit innovations, restrict interactions and making it difficult for new ideas to be accepted, they are not usually fixed and could be changed over a period of time due to actors interactions, especially when there

are issues in the process which promote new elements throughout the network of actors (Healey 2004; 2006). Overall, this framework assumes that actors may depend upon embedded practices and rules when they engage in interactions with other actors in order to complete PPP toll road project formulation. The actors may depend on assumptions in order to decide what to do, the most appropriate strategies, who to approach and why approach (Ring and Van de Ven, 1994).

Since this research is interested in changes over time which are reflected in ‘methods of doing things’, previously approved project documents have to be analysed (see Chapter 6 on Research Strategy and Methods).

5.6.3 Summary of section

This section has discussed the key concepts of the conceptual and analytical frameworks. In order to identify the events leading to changes in social relations, two simultaneous elements are examined: the structuration and the network processes. Each one is dependent on the other: the structuration is guidance for examining the dynamics of actor’s relations; while the network process is the detailed identification and discussion regarding the actors’ relations and is related to the influence of internal and external forces and the establishment of the ‘methods of doing things’. The examination of the network process studies three networks that are identified as part of the formulation of PPP toll road projects: the production and reproduction of social relations; and the production and reproduction of actors’ ‘methods of doing things’ (promoting and adapting changes). These three network processes form actors’ wider relations and are key elements in promoting changes in actors’ social relations. The analytical tool of scripts which has been combined in the ‘methods of doing things’ is used to identify and investigate changes enacted by actor relations.

The section then discussed the analytical framework which includes elements that influence the overall process of the formulation of a PPP toll road project. The elements introduced in this section are the dynamics of formal and informal actor relations, the internal and external forces; and the ‘methods of doing things’.

The connection between network processes and the analytical concept is that examining network processes allows a detailed understanding of the actors' relations, while the analytical framework is the guideline for the empirical approach of this research. In order to understand structuration and since the network processes are inter-related, both the network processes are analysed simultaneously. Simultaneous analysis provides understanding of structuration and identification of changes in social relations. Therefore, it helps to understand and answer the research questions.

5.7 Summary of Conceptual Framework

The proposed conceptual framework is aimed to assist in answering the research questions of this research. However, Research Question 3 (**What lessons might be learned from the formulation of PPP toll road projects in Malaysia?**) needs some explanation in order to be answered. The construction of a social relation for the formulation of PPP toll road project is within the context of actor relations in a social system. However, matters related to institutions have effect on the network. The question aims to identify changes that have been taken up, and by repetition, become embedded in 'methods of doing things' as a result of PPP negotiations. The changes that become embedded assumptions are used by new actors throughout their involvement in PPP toll road projects formulation. However, institutions have lives of their own which become locked in practices that continue even when the social network no longer exists (Granovetter 1992).

This chapter has discussed the conceptual framework for this research which combines two elements: structuration and the network processes. Three network processes - the production of actors' social relations, the production of actors' 'methods of doing things' and the reproduction of actors' social relation and 'methods of doing things' (promoting and adopting changes) – have been identified. Both network processes are investigated simultaneously which embeds structuration. The network processes bring together the linkages between internal and external forces in establishing a social relation and the 'methods of doing things'.

The following Chapter 6 explains the Research Strategy and Methods used in this study. A qualitative approach was adopted in order to understand the social processes involved in the formulation of PPP toll road projects. Chapter 6 outlines the approach to inquire, the methods used to obtain information for this research and how the information was analysed. The crafting of this research through the conceptual and analytical framework discussed in this chapter assisted in the analysis of information. Information through identifications of key words from the documents were clustered into themes, i.e. Knowledge, Instruction, Relevance of Policy, Power, Ranking, Forming Coalitions, Biasness, Procedure/Process and Frustration. Further, it explains how the issues of reliability and validity were addressed and how the issue of ethics was handled. The three chapters following Chapter 6 present the findings of this research based on the analytical concepts presented in this chapter.

Chapter 6

Research Strategy and Methods

6.1 Introduction

This chapter presents the underlying philosophical assumptions guiding the strategy adopted for this research and the methods of investigation, collection of data and the analysis. Since this study is interested in the reproduction of institutions and changes over time, qualitative methods were employed. This research aims to investigate the changes within and among the social relations of individuals in the public sector that promoted alterations in the formulation of PPP toll road projects in Malaysia, and how these social relations have produced and reproduced institutions from the introduction of the Privatisation Policy was adopted until the present. This chapter explains the choice of case study approach through which changes within and between social relations in an organisation can be analysed. The case study is the PPP toll road projects and there are four mini cases examined for that purpose. This chapter further describes the methods and the processes of data collection used, including interviews, documents collection and observations of meetings; and outlines the procedure of data analysis. The approach to the validity and the reliability in the research process is also discussed.

The review of relevant literature has confirmed that there is a lack of research on the social relations of actors involved in PPP toll road projects. Existing literature on PPP can be divided into two groups: the first group considers PPP as inter-organisational relations; and the second group is more structurally inclined focussing on implementation aspects. This section explains in detail the three qualitative methods used – semi-structured interviews, documents collection and participant observation - and describes how the research was carried out. The first method - semi-structured interviews - is the primary source of information for this research. The second, document analysis, is an approach to enquiry that enables tracking changes over time and was also useful for validating some of the responses given by the interviewees.

Thirdly, participant observation was employed to confirm assumptions and to witness events surrounding the PPP toll road project negotiations.

The next section explains the selection of the mini cases used to identify the changes in the 'methods of doing things' that reproduce an institution.

The fieldwork for this research had been planned in two phases: the first phase was conducted over six weeks involving three organisations which are the PPP Unit, the Ministry of Works and the Highway Authority of Malaysia; the second phase was intended to include interviews with representatives of relevant government departments. The main objective for the first phase fieldwork was to obtain information through interviews with sub-ordinate officers and through document collection. The second phase fieldwork objective was to obtain further information from sub-ordinate officers, superior officers, Heads of Agencies, and from the collection of further documentary material, and observe some examples of negotiations related to PPP toll road projects. Second phase fieldwork was supposed to include representatives from the Attorney General of Chambers and the Ministry of Finance. Unfortunately, the representatives from the Attorney General of Chambers could not participate in this study as they claimed to be busy with some sensitive issues at that moment; and no response was received from the representatives of the Ministry of Finance except for one officer from sub-ordinate group.

Since this research focus is on the changes within and among the social relations of individuals in the public sector, the process of PPP toll road formulation is used to understand the generation or reproduction of the contracts between the public and private sectors, and to explore how it is that the contested aspects remain, despite claims by the government that changes have been introduced to remove conditions said to favour the private sector. This chapter also describes the methods and processes used for collecting data, including documents collection, observations and interviews. It discusses the process of data analysis, focusing on the storage, coding and interpretation of the data obtained to answer the research questions using the conceptual framework proposed. In addition, this chapter highlights the limitations of data collection and the ethical issues involved in the research.

6.2 Philosophical Background

This research's main motivation is to investigate and understand why, despite claims of changes in social relations; the government is facing a problem in implementing their obligations as agreed with the private sector. More precisely, the aim of this research is to study the impact of actors' social relations within an organisation and with other actors from other organisations on the formulation of PPP toll road projects. The underlying philosophical assumption is that socially-constructed actor relations are fundamental to the process of PPP toll road project formulation. The focus of this research, therefore, is on the influence of these social relations on actors' preferences and decisions, and on the social construction of an institutional arrangement through actors' interactions. In order to understand the social relations constructed by actors through their participation in the Malaysian PPP toll road project formulation, this research both examines the actors' perceptions of others and also their relations as shown through their behaviour. Since this research is focusing on actors' social relations from all levels which consist beliefs, norms and practices the following concepts are tested: (i) 'interpretive approach', to get the meaning of social actions (belief and practices) of senior civil servants and their ministers; (ii) 'observation' - to bring to the public domain reasons behind the daily human operation the study used the concept of ethnography to capture this aspect of the study (see Rhodes 2009, p. 437).

Qualitative methods are needed for this research, in order to understand actors' behaviours, responses and routinised practices (Creswell 2007). Qualitative methods are seen to be the most appropriate for identifying norms and patterns, especially when observing practices and structures in an organisation. This research involves establishing and interpreting the way actors understand the social relations in which they are embedded. In addition, qualitative methods assist in bringing to light actors' practices for which they are not able to explain the rationale (practical consciousness). That can be observed through a method used for this research which is the observation.

Data was collected from different qualitative sources (documents, observations and interviews) and used to analyse (Dugger 1979). A qualitative approach is helpful in explaining the outcomes, mechanisms and connections between processes involved in

the formulation of PPP toll road projects and exploring the “what and how” research questions. In addition, a qualitative approach assists in exploring and understanding the thoughts and behaviours that decide actors’ responses and the construction of actors’ preferences that leads to specific decisions (Creswell, 2007). A qualitative approach helps to interpret the way actors themselves appreciate the reality that they are deeply involved in through their social relations.

6.3 A Case Study Approach to the Inquiry

As explained above and in the previous chapter, this research is an attempt to understand the production and reproduction of social relations changes in the formulation of PPP toll road projects. It is an investigation to a broader concern to understand the claimed changes in the Concession Agreements by the government. The research attempted to be as comprehensive as possible, aiming to identify most of the relevant relations among these two groups of actors within the unique circumstances of Malaysian PPP toll road projects. Yin (2014, p. 9) suggests there are five approaches to, or methods of, inquiry: history, archival analysis, case study, survey and experiment. There are three conditions for deciding when to use which method: “(a) the type of research question posed; (b) the extent of control a researcher has over actual behavioural events; and (c) the degree of focus on contemporary as opposed to entirely historical events” (p. 9). The relevant situations for different research methods are shown in Table 5.

Table 5: Relevant Situations for Different Research Methods

Method	(a) Form of Research Question	(b) Requires Control of Behavioural Events	(c) Focuses on Contemporary Events?
Experiment	how, why?	yes	yes
Survey	who, what, where, how many, how much?	no	yes
Archival Analysis	who, what, where, how many, how much?	no	yes/no

History	how, why?	no	no
Case Study	how, why?	no	yes

Source: COSMOS Corporation in Yin 2014 (p. 9)

As Flyvbjerg (2006, p. 237) states: “case studies often contain a substantial element of narrative and good narratives typically approach the complexities and contradictions of real life”. The scope of this case study is specified in four mini cases, which have assisted in exploring and appreciating the complexity of actor relations in the processes in which they are involved (Yin 2014). This approach also provides a narrative that demonstrates the complexities and contradictions of actor relations. Based on the research questions set out in Chapter 5 (Questions 1 and 2) and the situations provided in Table 5, a case study method was adopted for this research.

Initially, it was thought possible to conduct the research at an overall federal level to cover all the PPP toll road projects. The formulation process of a PPP toll road project is based on the negotiation being held in the PPP Unit at the federal government level. However due to time constraints and the nature of the negotiations which are basically similar to all Malaysian PPP toll road projects (but with differences in the actual terms of the agreement), it was decided to analyse four mini cases which provided an overview of the whole PPP toll road sector in Malaysia. At the time this research was carried out, there were 33 PPP toll road projects from which four cases were selected in order to represent the whole PPP toll road projects in Malaysia. The four mini cases were able to provide insights into the production of the Concession Agreements as the outcomes of continuous interactions between actors from different sets of social relations.

The terms of those agreements are not the same in each case, which provided rich information on what was approved and what changes had been made to the later examples compared to previously approved projects. All four mini cases are approved PPP toll road projects, of which two of the projects were approved during the initial years of PPP implementation and are currently fully operational, while the other two are the latest approved PPP toll road projects, currently under construction. The cases were chosen from the 33 PPP toll road projects in Malaysia, which consist of six inter-urban

toll roads and twenty-seven urban highways. Two projects were chosen from the inter-urban toll roads and another two from the urban highways, based on a random sample approach (Flyvbjerg 2006, p. 230). A random sample approach aims for a representative sample that allows for generalisation for the entire population (Flyvbjerg 2006, p. 230) through identification of broad connections between the case studies. The rationale for the choice of cases is provided in Section 6.3.1. The selection of the projects used is random from a stratified sample consisting two categories, i.e. inter-urban and urban category.

Case Studies of Previously Approved Projects

As explained above, the approach of this research is the case study. However, as mentioned above, there are 33 Concession Agreements in force at present but to make the study manageable, four individual cases of previously approved PPP toll road projects were selected for analysis (the reasons for selection are set out in the next section). The four projects are: 1. North South Expressway; 2. West Coast Expressway; 3. Damansara-Puchong Highway; and 4. Damansara-Shah Alam Highway. The terms ‘highway’ and ‘expressway’ refer to urban and inter-urban toll roads respectively. The North South Expressway was privatised in 1988 and is an inter-urban connection from Johor Bahru in the south to Bukit Kayu Hitam in the north, and known as the ‘spine road’ of Peninsular Malaysia. The West Coast Expressway on the other hand, is a project recently approved in 2013. This expressway is an inter-urban connection from Banting in the State of Selangor to Taiping in the State of Perak. The Damansara-Puchong Highway was privatised in 1995 and is an urban highway connecting the high density areas of Damansara and Puchong. The other urban highway proposed is the Damansara-Shah Alam Highway, which is another new highway approved in 2013.

6.3.1 Rationale for choice of cases

The rationale for selecting two inter-urban and two urban toll roads is to identify similarities and differences in the clauses in the Concession Agreement (some which could not be implemented) and the processes of how those clauses came to be accepted after a significant period of time. Also, four PPP toll road projects are selected to

provide rich data and to avoid dependency on a single project. These similarities and differences for the clauses will then be compared with the negotiation of current PPP toll road project to identify changes. The rationales for choosing the each of the four PPP toll road projects are as follows:

a) North South Expressway

This project was initiated in the late 1980s and can be assumed as the first largest infrastructure project at that time. It is a project with a mixture of construction of new alignment and taking over the existing alignment which was built and operated by the Highway Authority of Malaysia. North South Expressway is 823 Km long and is the main trunk expressway for peninsular Malaysia connecting Johor Bahru, a city in the south, to Bukit Kayu Hitam, a small town in the north. Since it was the first of that kind project, it received some Government assistance and the company operating this expressway is a Government Linked Company. This project is currently being criticised by the law makers and the road users as a poorly negotiated project which protects the company and not the users, particularly when it comes to toll increases and compensation. This situation is made worse by the fact that even when the company reports huge profits from the existing toll rates it still asks to be able to increase tolls or receive compensation if the increase is not approved by the government. The initial concession period for this expressway was thirty years from 1988 until 2018; however, due to difficulty in implementing the toll increment clause, the negotiation was restructured twice, adding another twenty-seven years. This expressway's toll was for an increment in January 2015 after the restructuring, but it is yet to be implemented (2017).

b) West Coast Expressway

This project was initiated by a private company in the late 1990s. The proposal was to construct a new 233 km alignment from Banting in the State of Selangor to Taiping in the State of Perak which would partly serve as an alternative to the existing North South Expressway. It took almost fifteen years to negotiate the West Coast Expressway and the contract was finally signed in 2013. This project went through

many rounds of discussions and negotiations over the years. Since it took a significant amount of time to be approved, this project provides observations on changes in structures and clauses which finally got it approved. In addition, this project is criticised because it was approved with a huge amount of government support, including a Government Support Loan of Malaysian Ringgit 2.24 billion; and the government agreed to pay for the land acquisition amounting to Malaysian Ringgit 980 million. Even with this assistance, the concession period is sixty years, the longest period of all other toll roads in Malaysia (the usual concession period is 33 years). This project's contract can be considered as the most recent contract with the latest amended clauses intended to protect road users from unjustified toll increases.

c) Damansara-Puchong Highway

This project was initiated by a private company and the negotiations began in early 1994. The proposal was to upgrade an existing two-lane alignment to six lanes and a toll was to be collected from users to recoup the company's investment. The length of the highway is 40 km with four toll plazas: the toll was set at Malaysian Ringgit 1.50 for passenger cars per toll plaza as agreed in the Concession Agreement. The concession period is 33 years and the highway was completed in 1999. However, the agreed rate was not implemented and a lower rate of Malaysian Ringgit 1.00 for passenger car per toll plaza was decided. That decision resulted in the government compensating the private company from the first day of tolling. The Concession Agreement then was renegotiated in 2006 to avoid a huge jump in tolls from Malaysian Ringgit 1.00 to Malaysian Ringgit 2.10 and an intermediate rate was introduced at Malaysian Ringgit 1.60 beginning 1st January 2007. This was supposed to be effective until 2010 and the toll rate was due for another increase of 50 cents to Malaysian Ringgit 2.10 at the beginning of 2011. However, again it was not implemented and the government compensated the private company for the difference (50 cents per passenger car). The rationale for delaying the increment was to avoid public outcry which are often politicised by political parties trying to take advantage of public protests for their own ends. Finally, with increasing costs of compensation, the government decided to increase the toll rate as agreed in the Concession Agreement (Malaysian Ringgit 2.10 per passenger car) beginning in October 2015. There was

supposed to another increase in 2017 (the final increase of Malaysian Ringgit 1.00 making the new toll rate Malaysian Ringgit 3.10) which has been delayed and compensation is being paid to the company.

d) Damansara-Shah Alam Highway

This project was initiated by a private company and the negotiations began sometime in late 2010. The proposal was to construct six lanes of 20.1 km of new alignment from Damansara to Shah Alam. This project is fully funded by the private company with some Government assistance in terms of Support Loan and grant for Land Acquisition. The contract for this project was signed in 2013 and can be considered as the most recent urban highway project to be approved. The concession period for this highway is 55 year subject to 10 more years' extension if the company proves that its Internal Rate of Returns (IRR) is lower than 10%. This project's contract can be considered as the latest contract with current clauses adopted for urban highways.

The four individual PPP toll road project contracts and related documents are crucial and were analysed to identify the process contracts went through before approval. Selection of the four PPP toll road projects aimed to show how the standard clauses were negotiated and approved, and to identify patterns for comparison with current negotiations. The cases also provide insights into how a PPP toll road projects at different period of time are negotiated by different groups of actors from different established social relations. It is important to have projects with different start dates to allow the identification and understanding of changes promoted by social relations which result in changes in the terms of the agreements. The selection of two urban and two inter-urban toll roads provided detailed comparison between the terms of the two types and supplied rich information for analysis.

6.4 Approach to data collection

In qualitative research, the proposed research design and strategy are subject to change as they are influenced by the on-going process of the research itself (Mason

2002). That point is pertinent to this research as there were significant changes in the approach to acquiring data. The changes resulted in adjustments in the approach but it did not compromise the outcome. Qualitative research approach design cannot be firmly prescribed or rigid (Creswell 2007). Creswell (2007) further adds that there might be changes once the researcher begins to put the research design into practice, especially on the phases of process. Such changes may potentially include the method of data collection, the set of questions, and the potential individuals to be involved (Creswell 2007). Initially, the agencies to be involved were the PPP Unit, the Economic Planning Unit, the Ministry of Finance, the Attorney General of Chambers, the Ministry of Works and the Highway Authority of Malaysia. These agencies were chosen because the representatives are the permanent members of the current PPP Committee and each agency has a different role in the government. The role of the PPP Unit is to promote private investment; the role of the Economic Planning Unit is to outline and monitor the overall socio-economic growth of the country; the role of the Attorney General of Chambers is to draft agreements and protect the government's interest; the role of the Ministry of Works is to implement infrastructure projects approved by the government; and the role of the Highway Authority of Malaysia is to monitor and regulate the PPP toll road industry. Involving all of these agencies in this research would have provided a more holistic investigation and understanding. However, despite giving initial agreement to participating, only three agencies actually participated: the PPP Unit, the Ministry of Works and the Highway Authority of Malaysia. Nevertheless, the information obtained from the three organisations was sufficient to understand various social relations created and the changes related to them. Moreover, the information on the participation of the Ministry of Finance and the Attorney General of Chambers was gained from the documents collected. Hence, the lack of interviews with those agencies did not significantly affect the analysis and the findings of this research.

Some peripheral material about the two projects approved many years ago was not fully accessible, forgotten or destroyed. However, the project files which contained important decisions, the minutes of meetings leading to the decisions, Cabinet decisions and other important correspondence between the public and the private sector related to the North South Expressway and the Damansara-Puchong Highway was still kept securely. That documentation provided rich information on previously-approved

projects. Documents related to the latest approved projects, the West Coast Expressway and the Damansara-Shah Alam Highway were not difficult to obtain. It was important to have the documents relevant to the four individual cases to trace changes over time in terms of processes, practices and clauses in the agreements. This is a crucial consideration since the time difference between the approvals of the North South Expressway and the Damansara-Puchong Highway, and the latest approvals of the West Coast Expressway and the Damansara-Shah Alam Highway is more than 15 years. The selection of four individual cases of PPP toll road projects ranging from the latest to the ones approved more than 15 years ago provided data richness over time for this research and allowed to understand changes in the terms and in the approval processes of a Concession Agreement. However, no matter how well the transcription is done, in this kind of research where it involves older cases there is tendency for the respondents to assume certain decisions and processes since they forget information over time (Clausen 2012, p. 13) This is always the risk when pursuing qualitative fieldwork even when it is supplemented with progress reports and observations of the interview situation etc. The risk, however is mitigated by counter-checking the feedback received from the interviews with the information obtained from document analysis.

6.5 Data Collection

All research carried out in Malaysia is required to obtain approval from the Research Promotion and Co-ordination Committee, Economic Planning Unit, Prime Minister's Department. Official application was made, and approval was granted on 18th November 2014.

Three methods of data collection were used: document collection, participant observation and interviews. There were two stages in data collection: the first stage involved document collection which was then analysed to identify similarities and differences in clauses within contracts and to attempt to understand why the controversial clauses that could not be implemented were accepted by the government. The second stage involved document collection, observation and interviews intended to identify patterns and see how changes occur during negotiations by identifying similarities and recurrence of a views or ideas. The purpose of the interviews was to gather more evidence in order to understand how processes of change happen and to

validate data obtained through documents collection and observation. The document collection and interviews were carried out concurrently during the first phase fieldwork. As this research is interested in how reproduced ‘methods of doing things’ are institutionalised, observation and interviews are appropriate methods to obtain primary data (Mason, 2002). Moreover, interviews are an essential source of evidence for case studies dealing with human affairs (Yin 2014, p. 92). For this research, document analysis provides both primary and secondary data as the investigation involves changes over time where some information could only be obtained through document analysis. Document analysis was also used to verify information obtained through the interviews and observations. The flow of data collection set out in Figure 2:

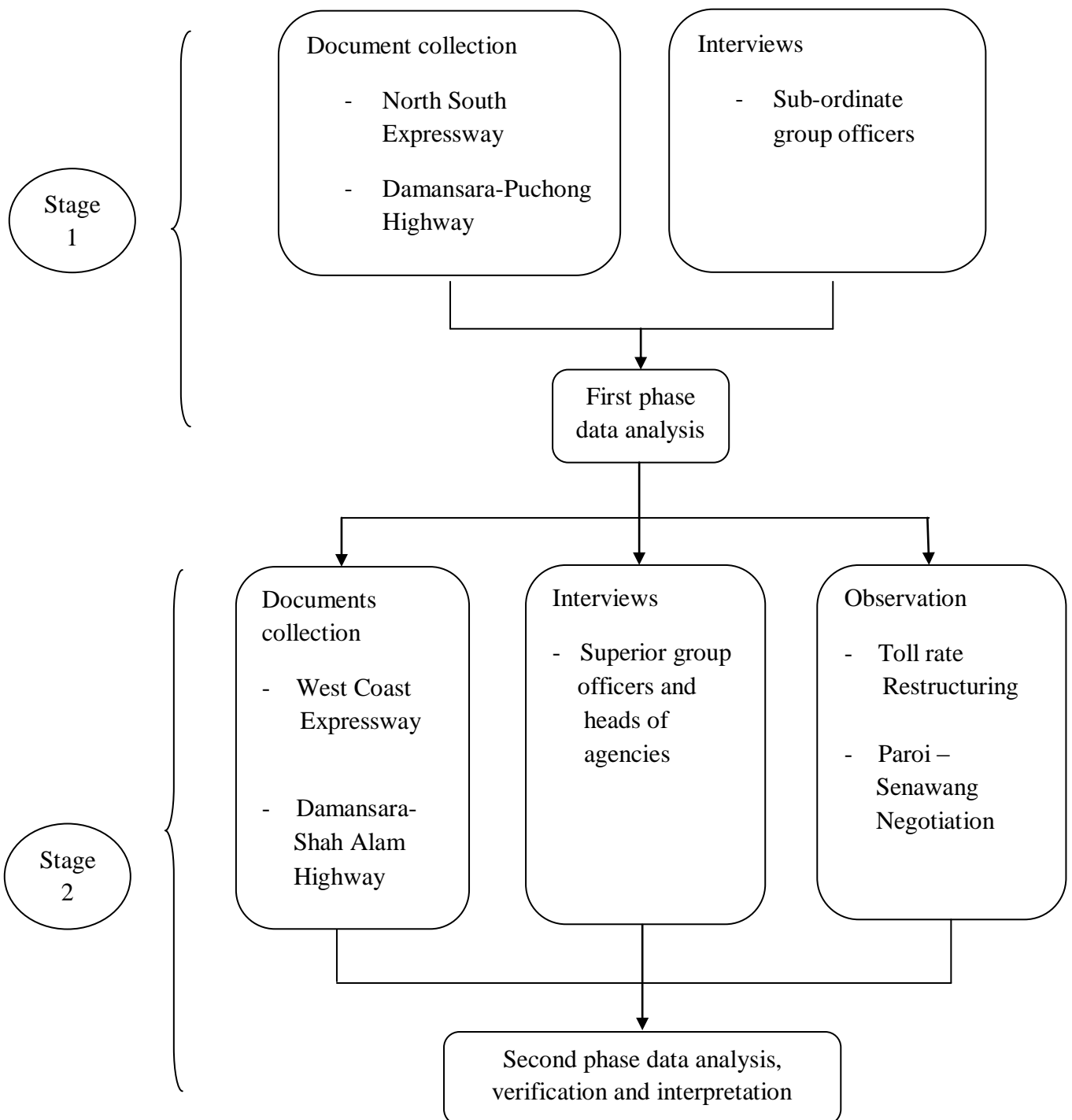


Figure 2: Diagram of the Flow of Data Collection

Source: Author's own

6.5.1 Data collection time frame

The first phase fieldwork was conducted from the 19th January 2015 until 28th February 2015 while the second phase fieldwork was conducted from the 21st

September 2015 until 27th November 2015. The data collection time frame is detailed as Table 6 below:

Table 6: Data Collection Time Frame

Preparation works	<ul style="list-style-type: none"> - Continuous correspondence with relevant parties to fix appointments for interviews - Correspondence through email to access project documents, agreements 	
Fieldwork	<p style="text-align: center;">First Phase</p> <p style="text-align: center;">19 January – 28 February 2015</p>	<p style="text-align: center;">Second Phase</p> <p style="text-align: center;">21 September – 27 November 2015</p>
Activities	<ul style="list-style-type: none"> - Project documents were collected and analysed (North South Expressway and Damansara-Puchong Highway) - Interviews with subordinate group officers (15 interviews) - Two separate interviews with two different Heads of private companies 	<ul style="list-style-type: none"> - Project documents were collected and analysed (West Coast Expressway and Damansara-Shah Alam Highway) - Interview with the top civil servant - Interviews with Heads of Agencies (3 interviews) - Interview with sub-ordinate groups (3 interviews) - Interview with the head of private company (1 interview) - 2 meeting observations

Source: Author's own

6.5.2 Document collection

As shown in Figure 2, some part of the documents collection and the interviews were carried on concurrently. Initially, before fieldwork began, one of the superior officers in the Ministry of Works mentioned that there would not be a problem for me to access documents pertaining to the negotiation of the PPP toll road project. However, when I went to the Ministry, the officer said that I would not be able to access the documents since they are governed by the Official Secrets Act 1972. After negotiating with the officer and understanding that those Concession Agreements has been declassified in 2008, I managed to view the agreements. The two PPP toll road project agreements viewed during the first phase fieldwork were the North South Expressway and the Damansara-Puchong Highway. I did manage to analyse all the files related to these two projects to obtain some crucial evidence. Some information obtained for the document analysis in phase one was used as a basis for the questions asked in the second phase interviews. In that case, some of the evidence obtained through document collection was used to verify information provided during the interviews, while some were used as evidence especially for the projects approved many years ago. The first phase document analysis further assisted in identifying the actors involved in past PPP toll road project negotiations, one of whom was later interviewed.

Document analysis was also used for another purpose in this research, which was to investigate the rationale for decisions that were made and the contributions of particular actors towards such decisions. Document analysis has been crucial in identifying how certain terms and agreements were made or amended, and in reconstructing the steps leading up to the adoption of those amended clauses. The documents which were studied included the project proposal, minutes of meetings, Cabinet papers and all other available related correspondence. After negotiating with the senior officer from the Development and Privatisation Division, Ministry of Works and the Infrastructure Section of the PPP Unit, I manage to obtain access to all the four cases project documents. Those documents assisted in identifying initial clauses in the contracts and how they were modified or changed; and also helped in identifying how changes are adopted in current negotiations. The data collected from legal documents was used to establish the formal procedures that influence the way the actors interact

from the beginning of the negotiation process on the assumption that the actors involved in the negotiations require formal recognition from the management for their participation in the preparation process of a PPP toll road project. PPP toll road contracts were used to study the similarities and the changes in terms used in the contract to understand how they became institutionalised.

Additionally, documents were used to verify, contextualise and clarify personal memories, opinions and interpretations obtained from the interviews: this was an interactive process, and the data obtained from interviews were also used to verify information obtained from the documents (Mason, 2002). For example, where some terms in a contract differ from another contract, interviews might be sought with actors involved in those negotiations, in order to understand the rationale for such different terms being approved. Documents such as minutes of meetings assisted in identifying rationale which lead to certain decisions. Other documents like newspaper articles were used to look into patterns in the reasons for public outcry when toll increases are announced and whether these had effects on project negotiations.

Several of the documents used in this research are available online and it was not a difficult task to access those documents. However, there was some difficulty accessing Cabinet papers and minutes as they are classified under the Official Secrets Act 1972. An official request was made by letter to analyse those documents which was approved because the research is for academic purposes, I was allowed to view the documents but was not able to make copies. Project files that include documents such as the initial proposal, minutes of meetings, internal memos, draft agreements and correspondence were analysed. The actual contracts for the four individual PPP toll roads can be accessed since they have been reclassified as public documents and can be viewed in the library of the Ministry of Works. Legislative documents and newspaper articles were obtained online and in the library of the Ministry of Works.

The documents used in this research are as the followings:

- a. Legislation:
 - Federal Roads Act 1984;
 - Federal Roads (Private Management) Act 1984;

- Highway Authority Malaysia (Incorporation) Act 1980; and
 - PPP Contracts.
- b. Project Documents:
- Files related to the current PPP Toll Road project being negotiated such as initial proposal, minutes of meetings, internal memos, correspondence between agencies;
 - Files related to the negotiation of the North South Expressway, West Coast Expressway, Damansara-Puchong Highway and the Damansara-Shah Alam Expressway such as initial proposal, minutes of meetings, draft agreements, correspondence between agencies, internal memos, Cabinet papers and minutes;
 - Files related to the restructuring of the North South Expressway and the Damansara-Puchong Highway such as minutes of meetings, draft agreements, correspondence between agencies, internal memos, Cabinet papers and minutes; and
 - Projects and programs prepared by the government (municipal and state) – ongoing and still in planning.
- c. Policy Publications, Plans and Guidelines:
- Guidelines for PPP Projects, 2009 – this is the manual currently being used since the establishment of the Public-Private Partnership Unit;
 - Guideline on Privatisation, 1985 – official manual that elaborates the process for project implementation through the privatisation and PPP model. This document is important because it will be adopted by all agencies and become a central guidance;
 - The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and the Eleventh Malaysia Plan – these document are crucial as it outlines the economic and national strategy which sets out five-year perspectives. Studying this document assists in identifying the government’s approach towards privatisation and PPP; and
 - Highway Network Plan – Highway Planning Unit, Ministry of Works carries out studies on the needs of road infrastructure in Malaysia. This includes highways and expressways.

Documentary data were also used as primary data especially for projects which were approved a long time ago. The documents were selected based on the importance of the document towards the formulation of a PPP toll road project. The documents listed above will be used during the formulation and negotiation process. The process of the document analysis is explained in detail in section 6.6.4. However, some information obtained from documents was used as secondary data for verification during the interview sessions.

6.5.3 Observation

As a source of primary data, observation was used as a method for the collection of some of the evidence in this research. Observation is relevant for every case study and helps towards a greater understanding of the case (Yin 2014, p. 115-117). The use of observations should be understood as involving a series of steps which include:

- a. obtaining permission to attend the negotiation;
- b. identifying what is being observed, when and how long the period of observation going to be;
- c. determining the role to be assumed as an observer (which ranges from being a complete participant to a complete observer);
- d. designing an observational protocol as methods of recording notes; and
- e. recording aspects such as the environment, the physical setting, and participant reactions (including the observer's own reaction) (Creswell 2007)

The negotiations of PPP toll road projects are confidential, and although initially the PPP Main Committee's Secretariat gave a positive response to observe a few PPP toll road negotiation during my fieldwork, however, during the fieldwork, I could not observe any PPP toll road negotiations held by the PPP Unit due to opposition from a few members of the meeting. This was because all the negotiations are highly confidential. Nevertheless, I did manage to observe two meetings related to PPP toll road projects in the Ministry of Works: the Toll Increment meeting and the Paroi – Senawang Highway meeting. Attendance at these meetings was approved after I managed to convince the Under Secretary of the Development and Privatisation Division, the Ministry of Works who was the chairperson of both the meeting. However, there is limitations on what information could be used for the purpose of this research and that the data collected would be used solely for academic purposes. None of the financial or contract terms being discussed would be exposed. The researcher was only allowed to note the movement of information during the meeting based on the importance of the matter being discussed. Another limitation was, no recordings were allowed inside the meeting room and all participants' names had to be coded. Observation enabled the researcher to see actors in the middle of negotiations, and the

movement of information was noted. The observation attendance list is as per Appendix 1.

Several broad themes were employed for collecting observational data (see Barley and Tolbert 1997) which allowed systematic data collection. These were Knowledge, Instruction, Relevance of Policy, Power, Ranking, Forming Coalition, Bias, Procedure/Process and Frustration. Data collected through observation served as the primary data to confirm information from the interviews and document analysis.

Making sense of observed patterns

From observations of the two meetings, similar opinions could be identified, since the ‘methods of doing things’ used for both the meetings are similar. Important words and quotations were recorded and to whom it is addressed to during the meeting is observed and recorded. For example, the main objective of the representative from the Ministry of Finance was to ensure that his point was being noted. The point was “*the government side of the negotiations should not offer or agree to giving the private company financial support*” and it was addressed to the PPP Unit representative. This point was referred in both of the meetings observed and was confirmed during the interview with the representative from the Ministry of Finance. Similar analysis was carried on collected documents which resulted in the identification of the influential personnel, and how changes occurred in respective actors’ social relations. Patterns were observed during the two meetings, followed by interviews to obtain confirmation of the points raised during meetings and how these points would be used by the organisation in future negotiations. Similarities were also identified by examining the minutes of meetings for the four case studies. Similar issues were highlighted by actors from the same agency during the negotiations and there were cases where there were changes in their views in the subsequent meeting, which indicates that changes in their social relations had taken place.

6.5.4 Interviews

Semi structured interviews

The guided question interview is the most important source of information for a case study approach (Yin 2014). This research used focussed semi-structured open-ended questions as being the most appropriate for a case study (Yin 2014). These types of questions follow a consistent series of topics that meet the researcher's line of enquiry while being fluid and conversational. In the context of this research, it was important to avoid superficial and broad analysis of the responses and to concentrate in understanding actors' experiences (Mason 2002, p. 63). The utilisation of 'one-size-fits-all' structured approach like formal studies and the standardisation of questions would not have opened door for the constructed learning particular to each interview (Mason, 2002, p. 64). Furthermore, since this study depended on a comprehensive contextual analysis, structured interviews and surveys would not have had the capacity to give the sufficient information about the social relations establishment clarifications and contentions (Mason, 2002, p. 65). It was important to comprehend the in-depth complexity individuals' contextual encounters, rather than gain a general understanding of reactions to standard survey inquiries (Mason, 2002, p. 65).

Interviews allowed the identification of the key elements of actors' views, the influence of their institutions on their views and changes to them, and some indication on the processes involved. Snowball sampling was employed while pursuing the first phase fieldwork which carries far reaching consequences that is often discussed in terms of reproduction of social relations (Giddens 1984 in Noy 2008, p. 329). This way of sampling was used when carrying out the first phase fieldwork which assisted in deciding appropriate individuals to be interviewed. As indicated by Yin (2014), interviews are amongst the most important sources of data for contextual analyses, particularly guided discussions as opposed to organised inquiries (structured questions). The interviews for this study depended on centred open-ended topics or inquiries, most suited for contextual investigations (Yin, 2014). They took a fluid and conversational approach while at the same time keeping to a set of topics that met the line of inquiry of the research. Semi-structured interviews also provided an opportunity to search for

contrary evidence and to assemble evidence of the reproduction of institutions about which no individual participant would likely to be aware. Information and responses obtained from the interview sessions were then checked by the interviewees to ensure that the notes taken were properly reflected their responses.

Preparing for interviews

The sampling method for identifying the interview respondents was the purposive sampling. This guided the identification of actors who represent their organisations and interact with other actors during the formulation of PPP toll road projects. Criteria used to identify and locate interviewees depend on their position and role in their organisation, involvement in project negotiation and decision-making processes, and the researcher's accessibility levels. Possible respondents were selected to participate in this research because they had been directly involved in the formulation of PPP toll road projects from the proposal stage to implementation. Interviewing them about their experience of working on these projects aimed to identify and confirm elements that promote the establishment of the social relations and the changes it goes through.

Before the interviews, necessary arrangements were made, including a protocol (schedule) with guiding semi-structured open-ended questions to assist the researcher organise ideas (as suggested by Creswell, 2007). A list of public and private sector respondents with detailed information on their respective job titles and organisations are set out in Appendix 2. Initial contact was established with the Head of Agency's offices (Office of Director Generals, Secretary Generals and Attorney General) and their respective personal assistants who indicated that, in principle, interviews would be possible. However, they required a few months' prior notice, together with notification of the questions to be asked. All the Heads of Agencies required the questions in advance.

Since some of the interviews were with high-profile respondents (*elite interviews*), it was crucial for the interviewer to be well prepared and follow certain norms of behaviour expected by the senior staff. An initial information email was send

to all those included in the potential interviewees' list enquiring about their readiness to be interviewed. That was done approximately one month before the fieldwork started. There was poor response to the emails as compared to phone calls. However, based on the responses obtained through phone calls, short messaging system (SMS) and WhatsApp messages, a list of confirmed potential interview candidates was drawn up (see Appendix 2). Great co-operation was received from the PPP Unit, the Ministry of Works and the Highway Authority Malaysia which included the Head of Agencies; but there was no response from anyone in the Ministry of Finance (except for an officer from the subordinate group), the Attorney General of Chambers or local authorities. As explained previously, those agencies were busy with some sensitive issues and undergoing transformation.

All interviews were held in respondents' offices during working hours, except for the Heads of Agencies where the interviews were held after office hours due to their hectic schedules and not wanting any interference (from the Minister who might require them urgently) during the interview. Representatives from the private companies were also interviewed. Interviews with private sector delegate and the Managing Directors provided understanding of their roles in changes to, and acceptance of, clauses in the contract. It also helped in identifying their roles and significance in the process of advocating changes. Since some of the interviews were with senior officers, proper arrangements were made prior to the interviews. An Informed Consent form was provided to the interviewees just before the interview to obtain their approval. Initially, the respective Ministers were included in the interview list since the Ministers presents Cabinet Papers in Cabinet meetings for decisions, however due to the nature of the negotiations in which the Ministers are not involved, and since it was difficult to get their time, the plan was dropped. However, I managed to have a discussion session with the "top civil servant", since he is the most senior civil servant and was the Chair of PPP committee between 2009 and mid-2012. He was able to provide insights into the process involved in the formulation of PPP projects in the broader context and some details in terms of the contract clauses and the changes to clauses in negotiations.

Interviews

Interviews are a crucial way of obtaining information from the key actors involved in PPP toll road project formulations. Interviews allowed direct contact with the interviewees and enabled more detailed questions to be asked and semi-structured interviews allowed additional questions on related topics to be explored. (The interview questions and their purposes are given in Appendix 3). Through interviews too, information regarding related documents was obtained which guided analysing relevant documents rather than analysing all documents including unrelated ones. However, as explained above, this research did not fully rely on interview responses alone. Realising the sensitivity of this topic, most interviewees were very careful in providing their responses in case they implicated the government. Information provided through the interviews was mainly used to verify findings from the document analysis and observations.

Nevertheless, there were responses from key actors which indicated the situations during the PPP toll road negotiations. Those responses were used as primary data and were verified through document analysis. As requested by the interviewees, these responses were not recorded and their identities have not been disclosed. The interviewees were chosen based on a wide range of experience. Some had only a year or two's experience while some interviewees had many years of experience to the extent that they were involved throughout the implementation of all PPP toll road projects in Malaysia. That gave responses ranging from the initial implementation when the program was introduced to the current status.

PPP toll road projects were chosen as the case study because the researcher's past experience being part of the organisations (the PPP Unit and the Ministry of Works) involved in the formulation process made it easier to obtain approval for fieldwork as most of the actors knew the researcher. There were 25 interviews during both fieldwork phases with four different groups of actors from different public sector and private sector organisations. They were (1) the top civil servant: 1 interview; (2) the PPP Unit: 6 interviews; (3) the Ministry of Works: 8 interviews; (4) the Highway Authority of Malaysia: 6 interviews; (5) the Ministry of Finance: 1 interview and (6)

private company representatives: 3 interviews. The respondents included the Heads of those Agencies. Their interviews were held after working hours - after 1700 to avoid interruptions. Each interview with the Head of an Agency was approximately two hours long. All three Head of Agencies gave their fullest co-operation during the interviews. All the top officers were once lower-ranking officers and they were able to provide information on how they felt while performing their tasks while at that rank, which was later used to confirm and verify information provided by the current subordinate group. However, they were careful in providing their information on their roles as Heads of agencies since this also includes ensuring their organisation's image is not tarnished. Overall all the interview sessions provided rich exchanges of information between the practitioners' points of view based on their experience and knowledge and the researcher's academic knowledge and experience (Mason 2002, p. 83). I also managed to obtain an interview with an actor from the Ministry of Finance and the top civil servant.

Holding the interviews in the respondents' offices meant that they felt more comfortable about answering sensitive questions and it was easier for them to refer to certain documents when providing responses. Another reason to have the interviews in interviewees' offices was to ensure the environment was quiet, safe and provided surroundings for efficient note taking and voice recording. Before voice recordings were done, interviewees' consent was requested. Three interviewees did not allow their interviews to be recorded digitally and another two interviewees also requested that some sensitive issues should not be recorded digitally.

This research adopted the Individually Focussed Interview method for which the participants were involved in the preparation of the draft interview notes (Clausen 2012, p. 4). The biggest issue or disadvantage of fully transcribing interviews is the excessive use of time. For a beginner, an hour-long interview may take a few days to transcribe. There are five consequences of the total time taken:

- i. restriction on the number of interviewee;
- ii. risk of researcher suffering the "data death" because there is too much material which is difficult to summarise;

- iii. long lapse of time between the completion of the interview and the analysis;
- iv. the time used reduces transparency; and
- v. inability of respondents being unable to correct or remember their statements, because: first, after too long a time, although the transcription is given to the respondent to check, they may have forgotten what was said; and secondly, if a respondent suggests a correction after a period of time, it can be a problem for the researcher who, at that point, may have started the analysis. Hence, the possibility of changes and corrections is very low (Clausen, 2012, p. 12-13).

After considering all the aspects discussed above, the idea of fully transcribing the interviews was dropped and replaced with a more interactive session with the respondents (p. 14). The responses obtained from the interviews (through audio recording) were not transcribed. Instead, an interview note was taken during each of the interview while audio recording was going on. The interview notes were then read to the respondents to ensure what has been captured is what exactly meant by the respondent. This approach is the Individually Focussed Interview advocated by Clausen (2012).

Each interview recording was listened to four times in Sheffield to prepare the detailed notes: the first time was to obtain the responses being delivered; the second time was to ensure that no points were left out; the third time was to verify that the written notes agreed with what had been recorded (both digital recording and interview notes); and the fourth time the detailed notes were compared again with the interview notes while listening again to the recorded interview. The only difference between the detailed notes (produced from the digital recordings and the interview notes) and an interview transcript is that the detailed notes did not capture pauses or interjections. Language for the interviews was English, and all interviewees are used to speaking English.

Information collected

Besides obtaining necessary information related to this research, the interview responses were used to identify new interviewees and to confirm other relevant actors.

From the first phase of fieldwork interviews, some new actors were identified and earlier listed interviewees that were not crucial were dropped. From these first phase interviews, it was learnt that the information from the interviewee based in the Ministry of Finance, the Attorney General of Chambers and other agencies listed during the research proposal was not crucial. During interviews additional questions were added to understand the form of relations the respondent had with other actors involved in PPP toll road project formulation, as each interviewee comes from their own set of social relations within their organisation. The additional questions managed to improve the identification and understanding of the actors' perceptions, interests and opinions. Several interviews involved high-ranking public sector officers and private sector personnel and they were all very co-operative. Overall the interviews provided rich information which enabled issues related to actor relations to be seen from the organisations' perspectives. The interviews were also aimed at understanding important aspects of actor relations and their influence on subsequent changes. All documents were periodically backed-up whenever possible into a USB drive to avoid any the loss of material.

6.5.5 Difficulties during data collection

a) Documents collection

The only difficulty with document collection and analysis was the issue that at first, it seemed that all the agreements were classified under the Official Secrets Act 1972. But it was found that two Agreements had been declassified in 2009 and could be viewed the by public: they are the Agreements for the North South Expressway and the Damansara-Puchong Highway. The Agreements for the West Coast Highway and the Damansara-Shah Alam Highway were not yet declassified, hence I was only able to see the final draft copy which had not been signed, but it contains all the final terms and clauses. I was given the full access to all the Cabinet papers and project files, however, no copies could be taken, so I only noted useful information for this research relating to actors' social relations and changes to them. Where some of the documents, especially the Cabinet papers, were in the Malay language, the contents were translated into

English to the best of the researcher's ability. The focus while translating was to ensure that the meaning was not distorted and the materials were relevant to this research.

b) Observations

In terms of observation, the main obstacle faced was secrecy. All negotiations between the government and the private sector are officially secret and not open to the public. However, I know the Chair of the meeting related to PPP toll roads and after explaining that no notes related to commercial issues or other issues related to the agreement would be taken and no recording would be made, I was granted permission to attend two negotiations. It was challenging to take notes on the conduct of the meetings without noting the details of the issues that is being discussed. The aim of the observation was also to note the movement of information during the meetings and whether it was an opinion/idea of the actor or conveying the organisation's position (an organisational position was often stated as: '*I was told to express this to the meeting by my management*'; and actors' own opinions were expressed as: '*My personal opinion is ...*'). Movement of information was noted as: (a) to and by whom the information was addressed; (b) origins of the information, whether from the organisation or the actors; and (c) the content of the information (related to the project, changes introduced, etc.). The other issue was that the language spoken during the meetings was a mixture of English and Malay. Notes were taken of Malay speakers and the content was translated by the researcher with the focus of translation on the content with regards to this research.

c) Interviews

The main challenges of interviewing include building trust and credibility besides creating a comfort zone for the interviews and convincing respondents to participate in the study (Creswell 2007). The credibility of the researcher is essential to convince key interviewees to participate. The researcher's professional and academic background, as well as the ability to show a level of subject comprehension is essential, but should not inhibit the respondent from engaging freely in conversation. The

researcher's past experience working in the same sector gave some advantage when approaching interviewees for this research.

There were no serious issues faced during the preparation for and conduct of the interviews. The list of interviewees changed during the actual interview phase and some new actors were interviewed as a result of information from interviewees identified in the initial list, and from studying the current organisation chart of their respective division and their responsibilities. The main obstacle faced was the withdrawal of participants from the Ministry of Finance and the Attorney General of Chambers. During the initial planning when scheduling the interviews, participants from the PPP Unit, the Ministry of Works and the Highway Authority of Malaysia were supposed to be interviewed during the first phase fieldwork while the participants from the Ministry of Finance, the Attorney General of Chambers, the Economic Planning Unit, the National Land Commissioner and other related local authorities were supposed to be interviewed during the second phase. During the first phase interviews, I tried to reconfirm the participation of interviewees from the Ministry of Finance, the Economic Planning Unit, the Attorney General of Chambers, the National Land Commissioner and the Kuala Lumpur City Council by email and phone calls. However, their responses were very poor and some never responded at all. Interviews were still carried out with the sub-ordinate group from the PPP Unit, the Ministry of Works and the Highway Authority of Malaysia. Upon returning to Sheffield, information obtained from the first phase fieldwork interviews were analysed and it was found that the responses were similar across the respondents from the three agencies. Hence, it was decided to concentrate on these three agencies - the PPP Unit, the Ministry of Work and the Highway Authority of Malaysia - rather than continuing to attempt to obtain responses from agencies that had not responded to initial requests for interviews. Fortunately, I managed to obtain responses from an officer from the subordinate group in the Ministry of Finance and the interview with him assisted in the analysis of this research.

There were no difficulties in obtaining interview times with the Director General of the PPP Unit, the Secretary General of the Ministry of Works and the Director General of the Highway Authority of Malaysia. One issue which I faced during the interview with the Heads of the agencies is that they always mentioned that I should

know the answers to my own questions since I have worked and was involved in PPP toll road projects before, but it was mentioned as a joke and did not affect the interviews.

However, my position as a public servant did create some issues. I have been involved in PPP toll road projects negotiations since I joined the public sector in May 2002, which may have resulted in some biases in the way I analysed data and expected some results to be. Some potential interviewees may have been worried about being interviewed since they knew that I am also aware of some of the issues. Additionally, interviewees might either refuse to participate or not allow disclosure of the ideas discussed for fear that these issues might be publicly revealed or misinterpreted by the researcher or might be misused by some groups (Creswell 2007). Despite being open and willing to answer all my interview questions, there were situations where some participants were reluctant to answer sensitive questions related to transparency, misuse of power and corruption. When such situations occurred, they tried to avoid answering those questions by replying that everything is done according to the procedures in place. There were cases where I was told not to record the interview and that the information provided was 'off the record'. There was a general hesitance to share their superiors' names when responses were given by the sub-ordinate group. Since the turnover of officers is high in the Malaysian Civil Service, it was difficult to identify which superior the subordinate group officers were referring to. This issue was settled by cross-referencing the interview response with the information obtained from the document analysis.

6.5.6 Ethical considerations

This research did not aim to look into issues surrounding the negotiations, the parameters of the negotiations or the outcomes of the negotiations and it was important to have all interviewees give consent to avoid any ambiguities (Mason 2002). It is the requirement of The University of Sheffield that most research requires the participants' consent. The ethics approval to conduct this research was obtained on 6 January 2015. All requirements were fulfilled where all the participants were provided with Information Sheets and Consent Forms in order to address issues of confidentiality, direct attribution and disclosure of information, etc. as required by the University of

Sheffield. Great attention was paid to ensuring that the respondents understood the information in the Information Notes and the details of the Consent Form (see Appendices 4 and 5). Participants were briefed about the research and its content, emphasising why their contribution was important for the research, reassuring them about the confidentiality of the process, and outlining that benefits to participants from the research were likely to outweigh any risks (Creswell, 2007). It was important to emphasise that the respondents' participation was crucial in order to generate an overall and fairer representation of their views and perspectives (Mason, 2002). As Creswell (2007) argues, a researcher must honestly explain to participants the purpose of the research to gain their support.

Respondents were then requested to sign the Consent Form before the beginning of the interview. All the respondents were also notified that their input would only be used for academic purposes and their names and details would not be mentioned on any part of the thesis. This assurance was needed as some of the interviewees provided information that is crucial to understanding how sometimes existing rules are broken. That information could pose potential harm to the interviewee and hence the information was used carefully to ensure they would not be affected in any way. Matters relating to Informed Consent were taken very seriously, in order to assure the adoption of thorough good practice and to assure the respondents' confidentiality (Mason 2002, p. 80-81). Although no sensitive information such as misuse of power, corruption or bribery was disclosed, there was information related to information bypass or using short-cuts which might not be acceptable to the organisation.

Nevertheless, another issue arises if informed consent is refused or if participants only agree to share information 'off the record' (Creswell 2007). If consent is refused, the interview will not be carried on. Information provided in an interview where it was supplied 'off the record', was used complementary evidence. In order to avoid any misunderstandings about the use of the information provided by the interviewees, time was spent clarifying to the respondents what it meant for them to sign the Consent Form, as well as trying to understand their interpretation of the rights they are giving to the researcher over the information they provide in the interviews (Creswell 2007). The other issue related to ethics relevant to the interview process was

power relations; it is important element as some of the interviews were with people in senior and high-status positions. It was important to ensure all protocols and processes were adhered while arranging the interviews and during the interviews with the Head of Agencies and the top civil servant. All documents collected and information obtained from the observations and interviews including the recordings and notes were all kept secure and stored safely.

Section 6.5 has discussed in detail the data collection process starting from the data collection time frame, different types of data collection methods (documents collection, observations and interviews), the difficulties during the data collection and the ethical considerations.

The next section discusses about the researcher's positionality and followed by how the data was managed and used in analysis.

6.5.7 Researcher Positionality

A research is not just a product (Bourke 2014) but consist rigorous process of information finding and analysis for a period of time. This section is crafted to present the issues of positionality that the researcher encountered during the whole process of this qualitative research. As mentioned by Qin (2016), positionality is the practice of a researcher delineating his or her own position in connection to the research, with the suggestion that this position may impact part of the investigation, for example, the information gathered or the manner by which it is translated. The researcher's positionality as a previous officer involved in the formulation of PPP toll road projects in Malaysia remained at the forefront, throughout the preparation in conducting this research, drafting the initial interview questions, observing meetings and while collecting documents. The researcher's positionality as a previous officer involved in the formulation of PPP toll road projects provided the researcher with an advantage of being well versed in the cultural knowledge of the participants (Samaroo, Dahya and Alidina 2013). In order to build a respectful relationship between the researcher and the participants, the researcher had to constantly be aware and reveal his positionality of being a researcher (Samaroo, Dahya and Alidina 2013). This was achieved through

introducing himself to the participants as a researcher and not as an officer and the researcher have always mentioned that he is listening to their views with an open-mind without any presumptions. Examining the research process based on the researcher's positionality can be said to aid reflexivity (Bourke 2014). Reflexivity is very important for this research as it reduces assumptions that have been built by the researcher regarding the processes and how things are done in Malaysia in relations to the PPP toll road projects formulation. Reflexivity involves reminders of the relationship between the participant and the researcher and also self-scrutiny (Bourke 2014). All measures to delineate the researcher's own position was taken through-out the process of this research which include being open to view, opinion and ideas, engaged with the current actors to identify potential participants, and counter-check the information found through document analysis with interviewee. The researcher remained as an insider when it comes to the approval to analyse documents, obtaining appointments for interviews and when applying to observe meetings. Since the participants knows that the researcher is still an officer, they considered the researcher as one of them (insider) and co-operated well through-out the research. However, to avoid any underlying assumptions that the researcher had over the process of formulation of a PPP toll road project from influencing the research process, the researcher always sought to act as an outsider and reflect my positionality when analysing the information. The researcher always asked himself the question whether decisions are also made due to any external factors rather than depending only on negotiations which the researcher had taken for granted previously. In order to avoid what the researcher had taken for granted from influencing this research, the researcher made sure to ask the respondents whether there are any external factors impacting decisions. The researcher never stopped the respondents from giving their feedback and was open about their comments.

6.6 Data Analysis

6.6.1 Management of Data

Three different kinds of data were collected from – documents; observations; and interviews. The notes made from documents, observations and interviews were stored as hard copy (but were later scanned and stored on computer), while the recorded

interviews were stored in digital format. An annotated index was prepared in order to assist in storage and retrieval of the documents collected. The observation notes were filed with a front p. describing the name of the meeting, time and venue, while the interview notes were filed with a detailed summary in front describing the date, time, initials of participant's name and reference to their position in the organisation. These data were filed and stored safely, especially information regarding the individuals participating in this research in a locker in secured room accessible to me and the key to the locker was kept in a secured safe location. All written materials, such as interview notes, document notes and observation notes were also scanned and stored digitally in a password-safe computer for the purpose of security. All downloaded digital data and scanned paper documents were stored in the same manner as other written materials. Since this research is sensitive, the anonymity of participants was the upmost priority (Creswell 2007). Interviews were recorded digitally on a portable recorder with the consent of the interviewee.

Detailed notes were prepared for every interview session and were later confirmed with the participant to ensure the information has been recorded correctly. Although full transcription was not carried out, the draft interview notes were verified with the participant each time after the respondent answers a question. Upon completing the construction of detailed notes, the next stage was data familiarisation which is discussed next.

6.6.2 Data Familiarisation: rearranging, organising, evaluating and coding the data

The next phase of data management was familiarisation with the data, which is crucial for a case study based research (Ritchie and Spencer 1994, p. 312). Familiarisation attempts to identify the range of the overview, diversity and depth of the material, from the interview recordings and detailed notes the observation notes and the documents (Ritchie and Spencer 1994). It is important to organise the material and code it as part of the data familiarisation. Preliminary organisation of material and coding started during the first phase fieldwork itself which provided assistance in what to look for when preparing for the second phase fieldwork. The coding process included three different approaches ranging from the macro-perspective to the detailed level, known as

open, axial and selective coding (Corbin and Strauss 1990, p. 12-14). Open coding was carried out when listening to the interviews for the first and second time. “In open coding, events/actions/interactions are compared with others for similarities and differences then they are also given conceptual labels. In this way, conceptually similar events/actions/interactions are grouped together to form categories and subcategories” (Corbin and Strauss 1990, p. 12). It is crucial to organise and code data according to relevant themes so it can explain important situations and tell a story.

While organising the information obtained from the documents and when coding the detailed notes from the first phase interviews, the following elements were considered;

- What is the position of the respondent?
 - What is their relation to the organisation?
 - What influenced their decisions about specific issues?
 - What is the influence of their specific set of social relations?
 - What are the new ideas, speculations and guesses about social relations are being highlighted that need to be addressed?
 - Which aspects should I concentrate on during a future interview?
 - What will be my new focus in gathering data for further analysis?
- (Silverman 2013).

The detailed notes from the second phase interviews were coded and used to reinforce ideas and information given during the first phase interviews.

As explained above, the method engaged to organise the interview information was the detailed notes. Repetitive words were noted and clustered into several themes as a result of the open coding. The themes were related to respondents’ daily routines in their ongoing social relations. The themes were: Knowledge, Instruction, Relevance of Policy, Power, Ranking, Forming Coalitions, Biasness, Procedure/Process and Frustration. This was followed by axial coding after listening to the interviews for the third time. During axial coding “categories are related to their sub-categories, and the relationships tested against data” (Corbin and Strauss 1990, p. 13) besides assisting in

further development of categories. Finally, selective coding was done after listening to the interviews a fourth time. “Selective coding is the process by which all categories are unified around a "core" category, and categories that need further explication are filled-in with descriptive detail” (Corbin and Strauss 1990, p. 14). The coding process was carried out twice: once after the first phase fieldwork and once after the second phase fieldwork. Each interview response was included in a theme which was used for further analysis through comparison with the information obtained from the analysis of the documents and observations.

The organisation and coding process started with the situation which had been referred to by actors and the sequence of analysis started from organising and coding (Pescosolido 1992) followed by descriptive narrative and analysis aiming to uncover actions which related to specific situations (p. 1105). Through this, it was possible to recognise patterns in the interactions between and within sets of social relations the interaction periods, sequences of decisions and combinations of social relations over the course of the main periods of interactions. How these periods of interaction were socially organised and constructed is an important focus for the description and later the analysis. For this reason, all documents (letters, internal memos, cabinet meetings minutes, meeting minutes) and situations (meetings, negotiations and discussions) were organised in chronological order which allowed relationships to be drawn from the research material and data.

6.6.3 Description

The next stage of data analysis was creating of a line of narrative from research material. This description stage attempted to include the complexities and diversities found during fieldwork. The main objective of this stage was to understand what is going on based on the information collected and coded. This research is an interpretivist research which means that pure description based on the information collected is difficult to be provided. Nevertheless, all necessary precautions were taken to be as honest as possible to report the data as given by the participants’ from their own perspectives. This is crucial, especially since I have worked in that field before and therefore need to avoid any bias and prejudgement of the participants’ views.

The process of description was in chronological order based on the documents linked that to the participants' comments and related to the network of relations for every period of interaction. The connections identified were based on the observations made during meetings, the formal and informal relations before, during and after the meetings and through the responses given during the interviews. This also includes links based on interviewees' perceptions, participations, biasness, expectations, differences or similarities in opinions and etc. The process of chronological mapping later helped to distinguish viewpoints in which actors accommodated interests or worked together for a particular time, and in addition separating perspectives which made the process of negotiation more troublesome. Since the main focus of the study is on actor relations, the adopted chronological approach was not based on individuals but the relations between them because this research is focussed on chains of interactions and how changes happen in those connections. A chronological descriptive narrative was constructed which gives a detailed summary based on the events described by the participants. Three periods of interactions were derived through this process as follows:

Period of Interactions

Period 1:	First Generation of Concession Agreement Mid of 1980s – End of 1990s
Period 2:	Second Generation of Concession Agreement Beginning of 2000s – End of 2000s (2000 – 2009)
Period 3:	Third Generation of Concession Agreement Beginning of 2010 – 2016

6.6.4 Analysis

Data obtained from three types of methods, document collection, interviews and observations were analysed. Materials collected from document collection were first read and classified into 2 different main categories, i.e. (i) related to the aims of the research or (ii) related to the background PPP projects. Information not related to the aims of the research was used to enrich the background of research especially in Chapter 1, 2 and 7. Key words from the documents were then identified and clustered into themes that had been identified, i.e. Knowledge, Instruction, Relevance of Policy,

Power, Ranking, Forming Coalitions, Biasness, Procedure/Process and Frustration. The process of clustering information into themes was carried on via open coding (Corbin and Strauss 1990, p. 12). The broad themes assisted during the analysis process. In the analysis process, some information was seen to be more important than other compared to the descriptive chronology. This is also a result from the merging of data obtained from the document collection and the interview responses through the axial coding process. However, the information from the description underwent critical evaluation of whether it was appropriate to be used. As explained by Walcott (1994), fieldwork data provides the minimal basis for certainty and has to be thoroughly analysed in order to achieve credibility. The purpose of analysis was focussed to understand what were the main issues and what was surrounding or background (Wolcott 1994, p. 21). The difference between analysis and description was how the materials were handled. Instead of arranging them in a chronological order the analysis included a process of identification, combination of data and separation of certain data (Sandelowski 1998). The separation between descriptive analysis is not straight forward; it involves a dynamic interactive process. The descriptive information was only turned into descriptive analysis after thorough consideration and scrutiny identifying evidence and contradictions from the sources (detailed notes, document analysis notes and observation notes). This is also a product from the selective coding after listening to the interview for the fourth time and comparing notes with the themes that were formulated and the interview notes. When the description mainly focussed on the chronological order of events and the perceived meanings attributed by the participants, the analysis was able to provide explanatory basis linking the events to the conceptual framework used for this research. The analysis was able to identify aspects the actors agreed or disagreed about, and their differences and similarities in different periods of interactions.

Connecting chronological situations and their implications as seen by various actors was the core aim of the description. The process of connecting chronological situations and trying to understand the implications perceived by different actors, gave the informative structure for connecting these situations in light of the conceptual framework adopted for this research. During this stage the connections between the actors, their biasness, motivations, expectations, interests, perceptions, etc. were

checked. This was also the stage where the researcher thoroughly examined linkages between actors and their interests, motivation, perceptions, expectations, etc., which were explicitly made by the respondents or obtained from implicit association revealed during the analysis (Ritchie and Spencer, 1994). This was the stage where different views were noted after detailed analytical examination of material from within the same group of actors (public and private) involved in PPP toll road projects formulation. This was followed by another step which included the researcher's interpretations having in mind all aspects of actors' relations combined with the concepts and theories discussed in Chapters 3, 4 and 5. The original wording of interviews was mainly used as evidence in support of the researcher's arguments. It is common to interpret data obtained in qualitative research, as the raw data of itself does not provide explanation, provided that the interpretation is obtained through a thorough process (Sandelowski 2010).

Upon completion of this process, the three periods of interactions were condensed into two descriptive analytical period of interactions (1) Period 1 – First and Second Generation of Concession Agreements (mid of 1980s – end of 2000s); and (2) Period 2 – Third Generation of Concession Agreements (beginning of 2010 – 2016). A summary was provided for each element of the social relation (policy, legal and regulatory and organisational), at the end of each period of interaction.

6.6.5 Interpretation

The stages of description and analysis included elements of interpretation to make the material more understandable, but care was taken to keep very close to the meanings given by the participants, especially related to the processes, concepts, events and relations. For this research, another form of interpretation was utilised, which included new inferences made by the researcher and discussed in the contributions and recommendations presented in the Conclusion Chapter. In order to do so, there are no ties between the final interpretative contributions to description as the analytical account, however it included assumptions about consequences with a recognisable link to the case study (Wolcott, 1994).

6.7 Validity and Reliability

6.7.1 Reliability: dependability

Generally, reliability relates to the consistency and the dependability of what is found in the research. However, social science research is subjective especially when adopting an interpretivist approach and it allows different valid findings from different angles on the same research. “Reliability is about whether the data are due to measurement error, and whether repeated measurements under the same circumstances would give the same results” (Clausen 2012, p. 10). For this qualitative and interpretivist research, dependability is related to the reliability of the overall process of the methods that include the data collection, the interpretation and the analysis used by the researcher. In order to ensure the consistency of the findings, the whole process of data collection and analysis which includes documents collection, observation and interviews, the data analysis process and interpretation has been described in detail in this chapter. (Information related specifically to the interviews is provided in the Appendices.)

There were two phases of data collection. While taking detailed notes of the first phase interviews and reviewing collected documents, initial findings, ideas and information were cross-checked with the second phase data which was obtained through another set of documents, new interviews and the observations. Through this method, the consistency of the information was assured, and it allowed additional information to be obtained. Various methods used for data collection was another strategy to ensure reliability and validity. The other benefit in adopting multiple methods is not limited in ensuring the reliability of the data but also allows understandings of the various realities in which the actors are involved. The method used for data collection, i.e. the observation of the on-going negotiations, allowed the understanding of the situation of the construction of social relations.

6.7.2 Internal and external validity

a) Credibility

Another important element to be considered in any kind of research is the internal and external validity. The research design and interpretation are related to the internal validity and associated with credibility and rigor. Validity for this kind of research is not about obtaining objective truth; instead it is how the descriptions provided by the participants involved in this research being reported faithfully. It is crucial to have coherence between the methods used and the research design in order to answer the research questions. Since this research was conducted through a case study made up of four mini cases, it allowed deeper understanding of what is happening and happened in the past. It was coherent with the research aim which was to explore the details of changes in the production and reproduction of social relations. The research questions and the theoretical perspective complemented each other and allowed the match of data obtained and the procedures used for the analysis.

This research was approached in a dynamic way with continuous monitoring, verifying and confirming moving back and forth between the research design and implementation. The interpretations and analysis fit the data and correspond with the literature review, research questions, and research strategies adopted (Morse, Barrett, Mayan, Olson and Spiers 2002). It is important that this strategy was adopted, as the details of on-going negotiations of PPP toll road projects were not confirmed prior and during the first phase fieldwork. Interpretation in qualitative research also poses a challenge: the researcher has to be aware of the organisational politics, biasness and context when interpreting the participant's responses. However, since the interviews and responses were in English and the notes were verified with them after the interview, it eliminated the risk of misinterpretation of the data obtained from the interviews.

The main consideration when interpreting the detailed notes, documents and observation notes was to make them comprehensible with the main concern of this research relating to the actors' production of their social relations. A reflexive process was engaged in when drawing conclusions and interpretations from the data to ensure

that it was as close as possible to what the participants meant. During the interviews, participants told their version of the story which was noted by the researcher and detailed notes were prepared keeping the participants' original words and concepts. Participants' original responses were maintained as far as possible and given priority to avoid interference and distortion (Polkinghorne 2007).

For this research, the descriptive discussion is the original responses from the participants with the researcher's interpretations, rewordings and summarisation. However, all interpretation is unique to the researcher and even with full supporting materials, it is possible for another person to view and interpret the data differently leading to a different story.

b) Transferability

The other aspect that needs to be considered for this research is transferability. It is an aspect of external validity, that is, whether this study and its findings could be used on a larger scale at a wider scope or in a different context. The design of this research is a single case study of PPP toll road projects in Malaysia made up of four mini cases. The four cases were representative cases of all PPP toll road projects formulated in Malaysia, and the findings are likely to be relevant to all PPP projects being implemented in Malaysia. The results and findings from this research could also be used to inform the PPP Unit and the related agencies for any type of PPP project and not only restricted to toll roads. This is because the PPP project formulation setup is the same for all. However, these research findings and lessons may only be applicable to the formulation of PPP projects in Malaysia.

6.8 Conclusion and summary of the chapter

The approach of this qualitative research has been explained detailed in this chapter. It includes the research strategy and the methods used which was employed for obtaining the relevant information for this research. The strategy and methods employed are aimed at answering the research questions set out in Chapter 5 (Section 5.3):

- 1. What forms of social relations do actors involved in PPP toll road projects formulation establish? How do established social relations influence actors when managing changes?**

- 2. How do existing sets of social relations and their practices change over time? How are the changes assimilated into actors' respective social relations and then produced and reproduced?**

- 3. What lessons might be learned from the formulation of PPP toll road projects in Malaysia?**

Having set out the methods of data collection and analysis in this chapter, the two following chapters present the findings of the research. The next chapter (Chapter 7) provides the description of privatisation in Malaysia as a context before moving into the empirical chapters. Chapter 8 shows the results of rigorous examination of the actors' social relations during the first, second and third generation of PPP toll road project formulation in Malaysia. Chapter 9 then presents the role of actor relations in performing, modifying and reproducing the social relations.

Chapter 7

Privatisation in Malaysia

7.1 Introduction

This chapter aims to provide a description on the evolution of privatisation and PPP in Malaysia. The information described and discussed in this chapter is obtained from the fieldwork. The information collected assisted in drawing a story of what actually happened in Malaysia in terms of privatisation and PPP implementation. It first starts with the discussion on the rationale of shift from the conventional implementation of infrastructure development to privatisation which includes the way privatisation was implemented in Malaysia. It is then followed by discussions on PPP as a method for road development. The chapter then explores details of the formulation of PPP toll road projects in Malaysia. This is the stage where there are many levels of interactions and communications between the parties involved in the negotiations. The discussion contextualises the whole process, beginning with the presentation of a proposal, followed by the project negotiations, and finalisation and implementation. The chapter then considers the policy, legal, regulatory and organisational elements of the Malaysian PPP framework for negotiating road projects. Finally, the Concession Agreement which governs the implementation of the PPP toll road projects in Malaysia is described in detail. The Concession Agreement contains agreed terms between the Government and the private company that is supposed to guide the implementation of the project, and is the final product of the interaction between parties involved during the negotiation process.

This chapter provides a perspective on the level of bureaucracy involved before a PPP toll road project is approved in Malaysia and provides a background to the interactions and relations involved in the whole PPP toll road project formulation process. This chapter is expected to provide understandings on what happened in terms of privatisation and PPP implementation in Malaysia particularly related to toll road projects formulation in terms of actors relations and interactions which then leads to the findings and analysis Chapters (Chapter 8 and 9).

7.4.1 The implementation of PPP toll road projects in Malaysia

PPP toll road implementation in Malaysia is governed by the Concession Agreement and project implementation is overseen by the Highway Authority of Malaysia (MHA). The Highway Authority of Malaysia is governed by Act 231, the Highway Authority of Malaysia (Incorporation) Act 1980. Under the Act, MHA was established to supervise and execute the design, construction, regulation, operation and maintenance of highways, to impose and collect tolls, to enter into contracts and to provide matters connected therewith (online: http://www.llm.gov.my/corporate_info). Under the Act, MHA is allowed to collect tolls from road users and that was how the user-pay principle started in Malaysia. Initially, when the government provided some alternatives like the partial North South Expressway and the Penang Bridge, MHA was in charge of the operation and maintenance of the road and the collection of the tolls. When the PPP toll road sector became bigger, the operation and maintenance costs became significantly higher which motivated the government to hand over operations and maintenance to the private sector. That was the first type of PPP implemented in Malaysia, where private companies were given some stretches of roads to be maintained and operated. Now the private sector has become more innovative in proposing ideas to the government and has started being involved from the construction stage.

Now that the private sector is more actively involved in road construction, operation, and maintenance, the crucial document in PPP toll road project implementation in Malaysia is the Concession Agreement under the guidance of which the MHA acts as a regulator and oversees the projects¹². Once a PPP toll road project's construction is completed, the concession company begins to operate and maintain the facility until the expiry of the concession period. During this period, MHA will monitor the concession company's obligations in terms of maintenance to ensure that the facility remains at the highest quality to safeguard users' interest as they pay for the facility

¹² The role of MHA is more important now as they are actively involved even during the introduction of a PPP toll road project. The advice in technical aspects are very crucial before the Government makes a decision. After a project is approved, MHA then monitor the construction and the implementation of the project until the end of the concession period.

when using. At the end of the concession period, the whole facility will be surrendered to the government for maintenance and no more tolls will be collected from the users.

The next section explores and discusses the past and the existing formulation structure for PPP road projects in Malaysia.

7.4.2 The formulation of PPP toll road projects in Malaysia

In order to understand the details of a PPP toll road negotiation, it is important to understand the overall process of PPP toll road project formulation in Malaysia. Before the establishment of the PPP Unit, the government in order to implement the Privatisation Policy, created the Privatisation Main Committee in the early 1990s headed by the EPU. The Privatisation Main Committee is an inter-agency committee with responsibility for planning, coordinating, implementing, evaluating, recommending and monitoring privatisation projects (Hensley and White 1993, p. 74). The Committee was chaired by the Director General of the EPU and the secretariat was the Privatisation Section of the EPU. EPU headed all PPP negotiations until April 2009 (Leeds 1989) when a new organisation - the Public-Private Partnership Unit, an expansion of the Privatisation Section of the EPU - was established with responsibility for all PPP projects. Since April 2009, the Privatisation Main Committee is known as the PPP Committee and the chairman of the committee is the Director General of the PPP Unit.

Most PPP toll road projects are proposed by private companies and projects have to go through many levels of scrutiny and negotiation before they are approved. It is the Privatisation Main Committee in the past or the current PPP Committee which decides on whether a project can be recommended to the Cabinet for approval. Prior to submission to the Cabinet for approval, the details of the project are scrutinised by a smaller committee known as the Privatisation Task Force or the Secretariat. The Privatisation Task Force or Secretariat is the technical unit for the Main Committee and plays a liaison role between the Main Committee and the Technical Committee or the Sectoral Committee (Leeds 1989, p. 745). The Technical Committee or the Sectoral Committee evaluates the project on technical and the financial aspects. There are many

interactions during this process between the public and private sectors which may not be only confined to the formal negotiations.

Once the Privatisation Task Force is satisfied with a project and the parameters (project cost, financial rates, toll rates, concession period) used for the projects, then the project is recommended to be brought to the Main Committee. During the Main Committee meeting, the parameters used for the project will be scrutinised again and policy matters which cannot be addressed by the sub-committee will be revisited. The Main Committee is authorised to resolve significant issues within the proposed project (Leeds 1989), such as technical and financial considerations. When the Main Committee is satisfied that the project is viable, the project is recommended to the Cabinet for an Approval In-Principle. However, there are no reports produced on the process outlining the reasons for the recommendation for approval. Rejected projects are notified to the respective private company by the Main Committee. Upon receiving the Approval In-Principle, a private company usually has 12 months¹³ to work on further details of the parameters; for example the structure of their funding for the project and technical aspects (PPP Unit 2009). Projects which received the Approval In-Principle after 2009 are also required to go through a Value Management Workshop before proceeding further. The aim of the Value Management Workshop is to optimise costs by examining construction methods and materials. The Value Management Workshop is the responsibility of, and is organised by the Technical Section of the PPP Unit. The head of the technical section is the chair for the Value Management Workshop and this role is filled by a representative from the Public Works Department. The Value Management Workshop is attended by the representatives of all the organisations which are also members of the PPP Main Committee. Once the members of the Value Management Workshop and the private company are satisfied with the findings, the project is resubmitted to the Main Committee. All PPP toll road projects have to undergo the process of obtaining the Approval In-Principle and value management scrutiny before obtaining the Final Approval.

¹³ An extension may be allowed if the company provides valid reason for the delay in finalising their project parameter assumptions such as some changes in the alignment, changes in broader banking requirement, etc.

In obtaining the Final Approval, the project goes through another series of negotiations and scrutiny before it is finalised and submitted to the Cabinet for approval. For the Final Approval, the project team have several meetings with the legal team of the PPP Unit to discuss the Agreement. Hence, at this level, there is another committee called the Legal or the Agreement Committee which examines in detail the draft agreement submitted by the private company. This committee is headed by the Legal Advisor to the PPP Unit and all the proposed clauses to be inserted in the contract are discussed in detail here. Clauses which cannot be decided or which cannot be agreed by all parties are brought to the Main Committee for further discussion. Sometimes the Main Committee will make the decision based on the arguments of both parties, but there are cases where an issue is brought to the Cabinet for decision. Once both parties (the private company and the Government) are satisfied with all the clauses, then the project will be brought to the Cabinet for Final Approval. All negotiations for PPP toll roads are confidential and not available to the public. Upon receiving the Final Approval, the Concession Agreement is signed by the private company and the implementing agency (the Government representative), which is the Ministry of Works in the case of toll roads contracts.

As can be seen, getting approval for a PPP project in Malaysia is indeed a highly bureaucratic process which involves interactions and relationships between many levels of organisations. Besides the formal meetings and negotiations, there are informal discussions or negotiations within the organisation or between organisations and the results of those kinds of discussions are brought forward to the formal committee. The PPP Unit has drawn up a sequence figure to represent how a project initiated by a Ministry is processed. However, it is only workable for projects which are initiated by the Government for the purpose of PPP implementation. But to date, all the projects being approved to be implemented through the PPP model are initiated by the private companies. All those projects are classified as direct negotiation with the company. Figure 3 explains the process a project goes through when submitted by a Ministry to be implemented as a PPP project.

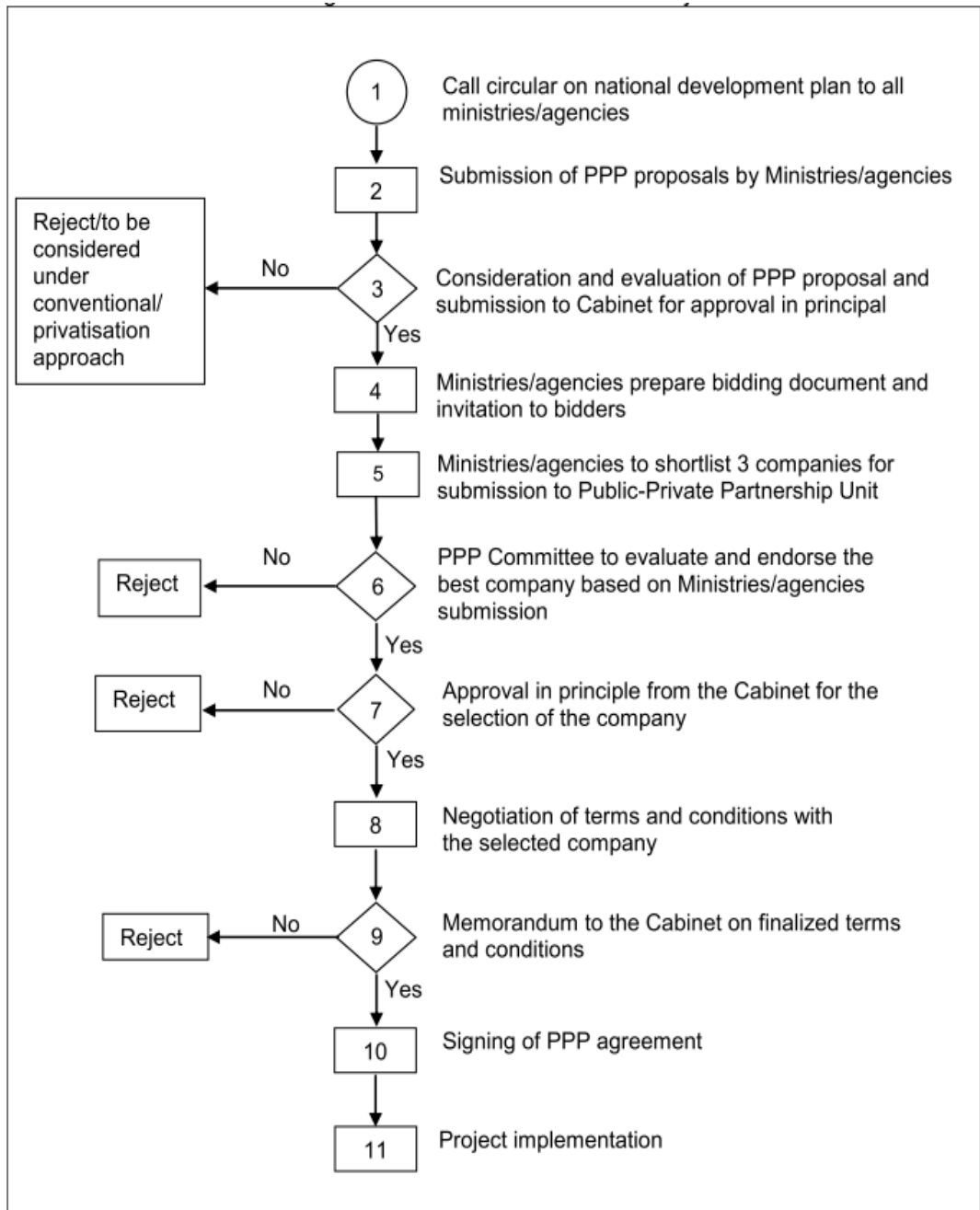


Figure 3: Process Flow of PPP Projects, Malaysian PPP Guideline

Source: PPP Unit, PM's Department (PPP Unit. 2009)

Figure 3 shows the path that a PPP project follows in Malaysia. It is a highly bureaucratic process with many levels of interaction. All the processes involved require continuous interactions between actors within and among public sector organisations. The two important approvals needed before a PPP project is implemented are the Approval In-Principle and the Final Approval, at points 7 and 9 in the diagram.

Pre-negotiation

PPP toll road projects in Malaysia are usually initiated by a private company. After pursuing their own investigation and research, the private company will propose a PPP toll road project to the government. There are two agencies that receive proposals; the PPP Unit and the Ministry of Works. The responsible division to receive and evaluate a proposal in the Ministry of Works is the Development and Privatisation Division, while the responsible division to receive and evaluate a proposal in the PPP Unit is the Infrastructure Section I. Each of these divisions evaluates the validity of a proposal and considers whether it is in line with the Highway Network Development Plan (HNDP)¹⁴. If they find it beneficial to the overall infrastructure development strategy and to the advantage of users, the proposal will be taken to the next level. The Development and Privatisation Division of the Ministry of Works forwards the proposal to the PPP Unit with their recommendations; but if they find the project is not valid or viable, they will inform the company. The pre-negotiation process is very important as it is the first round of scrutiny which will determine whether a project is worth exploring further. It is the initial contact between the company and the responsible individual in the relevant government department. The detailed process of a PPP toll road project is shown in Figure 4 below.

¹⁴ HNDP is a study carried on by the Highway Planning Unit, Ministry of Works on the overall road network in Malaysia. It will provide details on traffic numbers, traffic growth, potential new alignments and potential upgrading works.

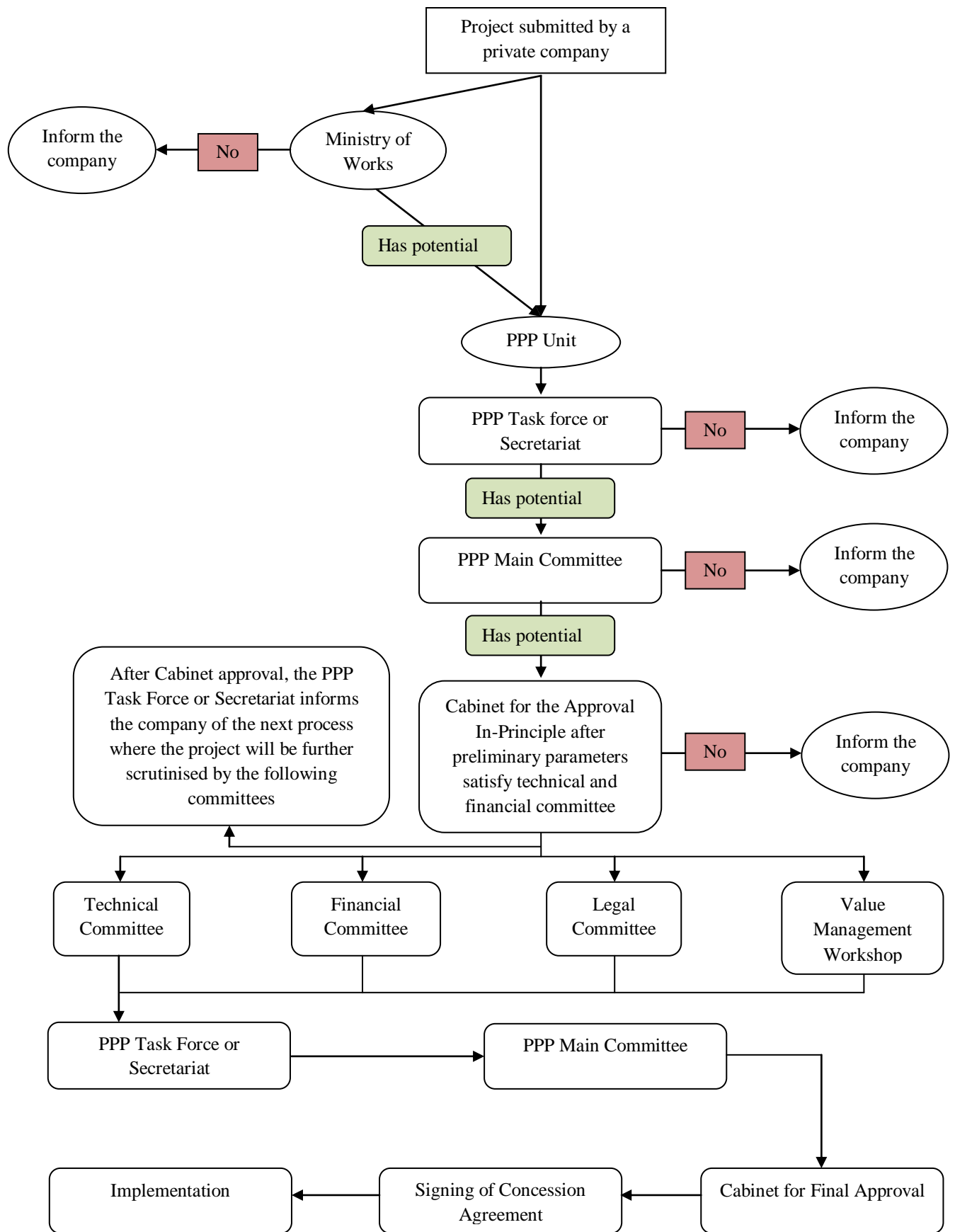


Figure 4: Current PPP toll road project approval process

Source: Author's compilation from fieldwork document analysis 2015

PPP main committee

After April 2009, the Public-Private Partnership (PPP) Unit took over the role of EPU in order to encourage the private sector to participate more in developing the national economy. The PPP Unit is an organisation under the purview of the Prime Minister's Department, headed by a Director General who is also the Chairman of the Privatisation Main Committee. The Privatisation Main Committee is now known as the Public-Private Partnership Committee with representatives from different departments and divisions of government. A list of the different divisions and departments represented on the Committee are presented in Table 7.

Table 7: Composition of Divisions from Organisations Represented in the Privatisation Main Committee and in the Public-Private Partnership Committee

The Privatisation Main Committee		The Public-Private Partnership Committee	
	Prior to April 2009		After April 2009
Economic Planning Unit (Chairman)	1.Privatisation Section 2.Budget Section 3.Infrastructure Section 4.Legal Section	Public-Private Partnership (PPP) Unit (Chairman)	1.Corporate Section 2.Infrastructure (Highway) Section 3.Legal Section 4.Technical Section 5.MACC* representative 5.Advisors
Ministry of Finance	1.Privatisation Section 2.Loans Section 3.Budget Section	Economic Planning Unit	1.Infrastructure Section
Attorney General of Chambers	1.Advisory Division	Ministry of Finance	1.Privatisation Section 2.Loans Section 3.Budget Section
Ministry of Works	1.Development and Implementation Division 2.Highway Planning Unit 3.Legal Section	Attorney General of Chambers (Principal Legal Advisor to the Government)	1.Advisory Division
Highway Authority of Malaysia	1.Planning Section 2.Project Section 3.Toll Section 4.Land Acquisition Section 5.Budget Section	Ministry of Works	1.Development and Privatisation Division 2.Highway Planning Unit 3.Legal Section

National Land Commissioner	1.Land Acquisition Section	Highway Authority of Malaysia	1.Planning Section 2.Project Section 3.Toll Section 4.Land Acquisition Section 5.Budget Section
Relevant Local Council	1.Project Section 2.Planning Section	National Land Commissioner	1.Land Acquisition Section
The Private Company		Relevant Local Council	1.Project Section 2.Planning Section
		The Private Company	

Note: MACC = Malaysian Anti-Corruption Commission

Source: Author's compilation from fieldwork document analysis, 2015

These departments and sections are the permanent members of the Committees representing their respective agencies. There are different levels of meeting: at times a senior ranking officer might attend and most of the time it is the same officer who attends the meetings. There are also other members from different agencies such as the Ministry of Federal Territories, called to attend the meetings if their feedback is necessary.

PPP Task Force or Secretariat and sub-committees

There are three PPP sub-committees¹⁵; each reports to the PPP Task Force or Secretariat and the Main Committee on their outcomes. The three PPP sub-committees are the Technical, Finance and the Legal Committee. The Technical and Finance Committees discuss a PPP toll road project once the project has been deemed viable for implementation. The feedback from those two committees is incorporated into the project and the project is submitted to the PPP Main Committee for further process. Once the PPP Main Committee is convinced with the parameters and the project, the PPP Task Force or Secretariat will forward the project to the Cabinet to obtain the Approval In-Principle. Upon obtaining the Approval In-Principle, the Legal Committee,

¹⁵ Each committee will give their feedback on the project which should be incorporated into the project. In the event it cannot be incorporated and or implemented, the project might be cancelled. This decision is made by the PPP Main Committee.

together with the Technical and the Finance Committees will scrutinise the project further. The details of each Committee are set out in Table 8 below.

Table 8: The Details of the Technical, Financial and Legal Committee

Name of committee	Committee		
	Technical	Financial	Legal
Role	To discuss all technical issues pertaining to a proposed PPP toll road project including the final road alignment, construction methods, road specifications and approval of designs	To discuss all financial issues pertaining to a proposed PPP toll road project including whether the project needs financial assistance, the debt and payment structure and counter-checking the company's financial assumptions, such as the proposed toll rate and proposed concession period	To discuss all legal issues relating to the clauses of the Concession Agreement of the proposed PPP toll road project
Chairman	Director General of the Highway Authority of Malaysia	Under Secretary for Private Investment in the Ministry of Finance	Director of Legal Division, PPP Unit
Representatives from the	<ol style="list-style-type: none"> 1. PPP Unit 2. Ministry of Works 3. Ministry of Finance 4. Attorney General of Chambers 5. Private company 	<ol style="list-style-type: none"> 1. PPP Unit 2. Ministry of Works 3. Attorney General of Chambers 4. Highway Authority of Malaysia 5. Private company. 	<ol style="list-style-type: none"> 1. PPP Unit 2. Ministry of Works 3. Ministry of Finance 4. Attorney General of Chambers 5. Private company

Source: Author's compilation from fieldwork document analysis and interviews, 2015

The feedback from each Committee is crucial in informing the Main Committee decision on the final technical, financial and legal aspects of the project. Disputes between government representatives and a private company related to the technical, financial and legal aspects are often solved at the Main Committee level. However, at times disputes related to legal aspects are referred to the Attorney General of Chamber's Office for views and opinion but even so, the final decision on the issue is by the PPP Main Committee. In cases where disputes could not be resolved by the PPP Main Committee, the issues are forwarded to the Public-Private Taskforce Committee (JTAS) for direction and decision. JTAS is chaired by the Chief Secretary to the Government. This Committee was established in June 2012 when the Director General of the PPP Unit was elevated to Chief Secretary to the Government.

Approval process

There are two approvals that are involved in a PPP toll road project in Malaysia as shown in Figure 3 and 4; the Approval In-Principle and the Final Approval. If a project is deemed necessary and viable it will be studied further. In order to do so, the project first needs to obtain the Approval In-Principle. Prior to obtaining this, the Technical and Financial Committees scrutinise the project and report to the PPP Task Force or Secretariat and the PPP Main Committee. Once the Approval In-Principle is obtained, detailed negotiations are carried on between the three sub-committees, i.e. the Technical Committee, the Finance Committee and the Legal Committee related to the technical, financial and legal (clauses in the agreement) aspects. After this, with the recommendation of the PPP Main Committee, the project is submitted to the Cabinet for final consideration. After deliberation, the Cabinet approves the project for implementation and then delegates power to the Secretary General of the Ministry of Works to sign and execute the Concession Agreement, after which the PPP toll road project will be implemented.

7.4.3 Summary of section

This section has outlined the current overall process for approval of a PPP toll road project in Malaysia. It is a highly bureaucratic process with many levels of negotiations and interactions. The establishment of the Public-Private Taskforce Committee has created another level of negotiation where even projects deemed unviable may be approved as long as the Committee feels it is beneficial to the public. Each Committee has its own remit but they are also dependent on each other: technical changes will result in financial changes and legal terms changes, and so on. The introduction of the Value Management Workshop is another level of check and balance where the technical aspects of the project will be looked into. The Cabinet, on the other hand, acts on the advice of the PPP main committee which is in turn, influenced by the Technical, Financial, Legal, Value Management and Public-Private Taskforce Committees. Various committees with different roles provide complexity and means that there may be interference by any member from any committee at any level which may change the parameters of the project.

7.5 The Elements of the Malaysian PPP Framework for Road Projects

After discussing the overall process that a Malaysian PPP project goes through, it can be construed that there are three main elements which impact and guide the formulation of a project. The main elements that characterise the PPP toll road project formulation framework in Malaysia are the policy, the legal and regulatory and the organisational aspects. These three elements have been put in place to strengthen the formulation of projects. This section discusses each of the elements in detail to allow a clear understanding of how they provide the foundations for the processes involved in the formulation of PPP toll road projects.

7.5.1 Policy framework

The policy aspect encompasses key elements of projects including policies on finance, commercial and economic considerations. The Privatisation Policy 1985 and the PPP Guideline 1991 issued by the Economic Planning Unit of the Prime Minister's

Department (EPU) and the PPP Guideline 2009 provide the policy, legal and regulatory frameworks for PPP toll road project formulation. In addition, privatisation and PPP have been the main thrust of the Malaysian Government's development policies informing each Malaysian Plan from the Second Malaysia Plan (1971-1975)(<http://www.epu.gov.my/ms/rmk/rancangan-malaysia-kedua>). The Privatisation Policy which includes the PPP element has undergone various changes over time but is still the main policy for infrastructure development in Malaysia. This consistency provides greater certainty to private investors to actively participate in the nation's infrastructure growth, and is the foundation of a successful formulation of a PPP project. In Malaysia, PPP toll road projects are private sector driven and active participation by the private sector is evidence that the policy framework backed-up by political support promotes the implementation of PPP toll road projects. Consistent policy and the capability of the government to fulfil its obligations encourage private companies to engage with the PPP concept because these features enable private companies to secure financing for their project more easily. However, during the initial period of PPP toll road project implementation, in 1980s, the government had to give support in terms of guarantees¹⁶ which aimed to give security to the lenders when financing PPP toll road projects. In later years, these guarantees have not been needed as there is experience of many projects being successfully completed within this prudent policy framework.

7.5.2 Legal and regulatory framework

Current PPP practices are based on the Privatisation Policy of 1985, and the PPP Guideline (2009) by the PPP Unit (Hensley and White 1993; PPP Unit 2009). The earlier PPP Guideline (1991) established by the EPU has been enhanced into the latest PPP Guideline (2009). The PPP Guidelines explains the objectives and processes of privatisation, and to date, there are no enacted law governing PPP projects in Malaysia. The main policy which supports and drives PPP projects in Malaysia is the Five Year Economic Plan, mainly beginning with the Ninth Malaysia Plan (2006-2010) (Ismail

¹⁶ Traffic guarantee is an example of this kind of support. It was given to the North South Expressway where, in the event that the forecast traffic is not achieved, the Government will compensate the private company up to the forecasted traffic income.

and Harris 2014). This lack of a legal framework in Malaysia is unique because most other countries have PPP or similar Acts to govern PPP projects. For example, in Brazil, there is a law known as the PPP Law which is used at Federal and State levels and is one of the main instruments used for attracting private investment in Brazilian PPP projects (Loiola 2013).

Despite not having a specific law on either privatisation or PPP, the Malaysian officials involved in the negotiation of PPP projects take into consideration important elements:

- a. The importance of a proposed PPP project;
- b. The benefit the PPP project provides to the economy and people;
- c. The Government's financial commitment involved;
- d. The risk involved for both parties (the Government and the private company);
- e. The value for money and cost savings to the Government; and
- f. The increased level of accountability, efficiency and effectiveness.

These are the six main criteria, clearly spelt in the Privatisation Policy 1985 (Economic Planning Unit, 1993) and the PPP Guideline 2009 (PPP Unit 2009), which are behind any PPP project negotiation.

The implementation of a PPP toll road project is monitored by the Highway Authority of Malaysia. The Federal Road (Private Management) Act 1984 is used to gazette the privately-constructed road as a federal road where it is managed by a private company and a toll will be collected from users.

7.5.3 Organisational framework

Another important element of the Malaysian PPP framework is the organisational framework which includes organisation responsibilities and officer placement. PPP toll road negotiations in Malaysia involve two parties: government agencies and the private company. There is no specific requirement for the appointment of officers representing their respective organisation in PPP toll road negotiations. In

relation to officer placement, the organisation responsible for these matters for the whole Malaysian Civil Service is the Public Services Department (PSD). The PSD assigns officers to agencies depending on the departments' respective needs and currently there are no specific criteria for the assignment of officers. However, to negotiate a PPP project, the organisation essentially should have officers with relevant skills and experience. This seemed to be an issue to organisations involved in the formulation of PPP toll road projects and in order to retain some officers which have been attached to an organisation for a long period of time, due to their knowledge and experience in PPP toll road issues, the organisation juggles the existing position and grade: trying to retain them even when they are required to be transferred due to a promotion. Organisational strength is a crucial element in balanced PPP toll road project negotiation. Hence, the officers involved in such negotiations should be trained accordingly and have relevant experience.

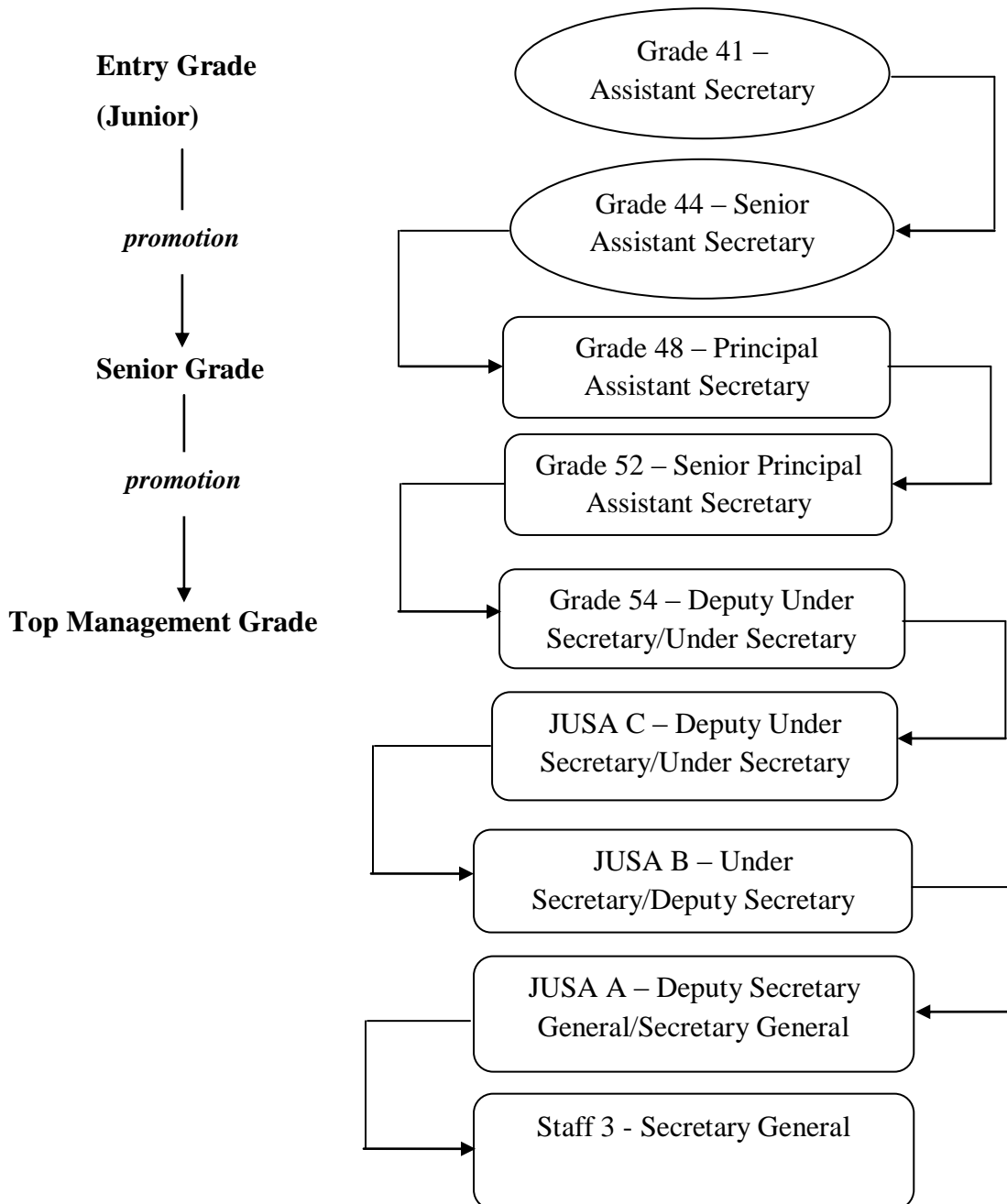
Organisational structures

As outlined earlier in this chapter, an organisation is taken as a group of individuals working towards a goal. The definitions can be visualised at two levels:

- i. individuals interacting with each other within the same organisation; and
- ii. individuals interacting with each other between the organisations involved in the formulation of PPP toll road projects.

The working responsibilities for PPP in the public sector in Malaysia include several levels. Each organisation has its own division familiar with and responsible for everything related to PPP and its processes. Typically, in the Ministry of Works the Privatisation Unit is placed under the Development and Privatisation Division under the responsibility of two to three senior officers. Each of them will have two or three subordinates working on specific projects. In the Malaysian Civil Service, the entry grade for a new officer is Grade 41 and Grade 41 officers usually represent their organisations at sub-committee meetings and negotiations. That officer will be promoted in stages from Grade 41 to Grade 44. Then the next promotion will be

considered as a promotion to senior position which is the Grade 48 and Grade 52. Usually the officers in the Grade 41 or 44 will be accompanied by their respective superior who comes from Grade 48 or 52 when attending PPP toll road project negotiation. The grades in the Malaysian Civil Service are shown in figure 5 below:



*Note: for the Attorney General of Chambers, the Public-Private Partnership Unit and the Highway Authority of Malaysia, the grades are still same but the title Secretary is replaced with Director.

Figure 5: The existing organisational ranking of officers in the Malaysian civil service

Source: Author's findings during fieldwork document analysis, 2015

Figure 5 shows the levels involved in a typical organisation in Malaysia, and demonstrates the highly bureaucratic and complex processes of working and decision-making. Attendance at a PPP toll road project negotiation is usually by a junior grade officer, usually accompanied by their immediate superior, either a Grade 48 or Grade 52 officer. The officers convey the outcome of the meeting to their top management for any decisions that may be required which will be conveyed at the next meeting or through official letter to the Chair of the PPP Committee.

Each level in the structure is important to staff at lower levels because the more senior staff at the level above are the primary assessors for yearly appraisals. For instance, in Malaysia, in order to apply for scholarships offered to government officers, any foreign transfer program, any attachments to the private sector or Government Linked Company or any promotion, the applicant must do well in their annual appraisal and this very much depends on their superior. It is a requirement that the applicant must achieve a grade of 85% and above for three consecutive years in order to be allowed to apply for these schemes. There will be two assessors of an appraisal and they are (i) the immediate superior and (ii) the next level superior. This clearly shows how important it is to an actor working with the government organisation in Malaysia to ensure that their relationship with their superior is always good. This could be a factor which motivates actors to follow their superiors' instructions and it influences the role actor will pursue when representing their organisation. It can also affect whether an actor agrees with changes or not, especially if the changes go against the actor's superior's ideas.

7.6 Concession Agreement

The outcome of the continuous relations between actors guided by the policy, legal and regulatory and organisational framework involved in the formulation of a PPP toll road project is a long-term commitment between the parties – the government and the private company. This long-term commitment involves obligations for each party for a specified period of time documented as a Concession Agreement. Every

successful negotiation is finalised with the signing of this agreement. The next section provides details of the Concession Agreement governing PPP toll road projects in Malaysia.

7.6.1 Successive Generations of the Concession Agreement

The first PPP toll road Concession Agreement was for the North South Expressway which was signed in 1988. Since it was the first such agreement and the PPP toll road industry was new to the economy, the government at that time gave guarantees so that the company could secure financing to complete later sections of the road. That is, part of the North South Expressway was constructed by the government and later given to PLUS (*Projek Lebuhraya Utara Selatan*, the private company) to operate and maintain. As a compensation for maintenance of the existing road and construction of the balance of the expressway, PLUS were allowed to collect toll from users. The agreements entered into by the government during this period are known as First Generation Agreements. Under the First Generation Agreements, there was a Clause relating to the Level of Indebtedness. Level of Indebtedness clause is a clause where it protects the Lender and the company is free from the loan obligations if it could not pay. The Government will have to pay. In a nutshell, the risk is totally on the Government's shoulder.

After some years of experience in implementing PPP toll road projects, the Agreements were modified, and a new set of agreements was put in place, known as Second Generation Agreements beginning 2000. A new clause known as the Toll Review Mechanism were included in the Second-Generation Agreements which does not allow automatic toll increment but highly depends on the actual traffic numbers. If the traffic numbers are high, then the company may only be allowed to partial toll increase or no increase at all. Agreements negotiated after the establishment of the PPP Unit or beginning of year 2010 are known as Third Generation Agreements which introduces more new clauses aiming to protect users. It included clauses such as the Expiry of Concession upon achieving a certain agreed Internal Rate of Return (IRR), Cost Savings and more comprehensive Sharing of Excess Revenue which provides the avenue for early termination of the Concession period or a reduction of toll rates if the

amount obtained in Sharing of Excess Revenue is substantial. In this Third Generation of the agreement, elements of Key Performance Indicators (KPIs) were also introduced to ensure that the high quality of the facilities.

Table 9: Summary of the First, Second and Third Generation of Concession Agreements

	First Generation Concession Agreement (Mid of 1980s – End of 1990s)		Second Generation Concession Agreement (Beginning of 2000s – End of 2000s)		Third Generation Concession Agreement (Beginning of 2010 and onwards)	
Highways	1.	North Klang Straits Bypass	1.	SMART Tunnel	1.	West Coast Expressway
	2.	North South Expressway	2.	Western KL Traffic Dispersal Scheme	2.	Damansara-Shah Alam Highway
	3.	Penang Bridge	3.	Kemuning-Shah Alam Highway	3.	Sungai Besi-Ulu Kelang Highway
	4.	North Klang Valley Expressway	4.	KL-Putrajaya Highway	4.	KL-Putrajaya Highway Phase 2
	5.	New North Klang Straits Bypass	5.	Eastern Dispersal Link	5.	Duta-Ulu Klang Highway Phase 2
	6.	Damansara-Puchong Highway	6.	Duta-Ulu Klang Highway	6.	Duta-Ulu Klang Phase 3
	7.	Sungai Besi Highway	7.	Kuala Lumpur Outer Ring Road	7.	East Coast Expressway Phase 3
	8.	Cheras-Kajang Highway	8.	Assam Jawa-Taman Rimba	8.	East Klang Valley

	9.	Ampang-KL elevated Highway		Templer Highway		Expressway
	10.	Jalan Kuching				
	11.	Jalan Pahang	9.	Kajang Seremban Highway	9.	Senawang Paroi Highway
	12.	Senai Highway	10.	Senai-Desaru Highway		
	13.	Seremban-Port Dickson Highway	11.	Butterworth Outer Ring Road		
	14.	Malaysia Singapore Second Link	12.	South Klang Valley Expressway		
	15.	Butterworth-Kulim Expressway	13.	New Pantai Expressway		
	16.	Shah Alam Expressway	14.	East Coast Expressway Phase 1 &2		
	17.	Kajang Outer Ring Road	15.	Guthrie Corridor Expressway		
	18.	KL-Karak Expressway				
Key Differences	Some projects were given traffic guarantees. The Level of Indebtedness clause means government guarantees the lender. Some companies manage to get		Introduction of new clauses: 1. Toll review mechanism 2. Sharing of excess revenue Removal of Level of Indebtedness clause		Introduction of new clauses: 1. Expiry of concession based on IRR 2. Cost savings 3. KPI with penalty for non-	

	Government contribution. Some companies manage to secure a government loan at a reduced rate.	which removes government risk.	fulfilment 4. Introduction of Independent Consultant 5. Sharing of excess revenue based on Government contribution during loan tenure and equal share upon paying debt
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Source: Author's compilation from fieldwork document analysis, 2015

The Clauses listed under the Third Generation Agreement column in Table 9, are the latest addition to existing clauses as of end of 2015 which are being used for all new PPP toll road projects negotiations. However, the actual details of the agreement reached may differ depending on highway parameters - the length, estimated cost, site condition, and method of construction - and the outcome of the negotiations.

Despite adopting PPP over the last 30 years as a method to provide infrastructure facilities, some of the contract terms have not been implemented as agreed. There have been some legal and public accusations that the negotiation is one-sided. Most of the terms of agreement involving technical issues are not disputed: it is the toll and finance clauses which become present difficulties for the government. There are claims that the use of the roads level of tolls is sufficient to allow the repayment of loans and there is no need for toll increment. On the other hand, the private companies have argued that the toll increase has to be implemented because maintenance costs increase over time and the agreed IRR should not be reduced. This results in a dilemma for the government which it resolves by compensating the private company for not increasing the toll. Although the issue of increasing tolls for users is postponed, politicians from the opposition accuse the government of failing to negotiate

proper terms and therefore having to pay compensation to companies which are already making a profit. This happens during every Parliamentary debate on the additional allocation or yearly budget and means that in order to address various accusations, many changes are frequently made to the terms of PPP toll road projects' Concession Agreements.

7.7 Conclusion

This chapter has described in detail how privatisation and PPP are implemented in Malaysia which also includes the factors influencing the implementation. Historically privatisation started in Malaysia not only to encourage private sector participation in the infrastructure development, but also to help the government ease the financial burden of public enterprises that had been established to enhance 'Bumiputeras' economic holdings. The initial stages involved privatising some government entities through the buy-out mode. Then the government adopted the PPP concept to expedite infrastructure development. Many infrastructure facilities, especially toll roads, were built under this rationale. However, the problem faced in Malaysia now is the difficulty in implementing the obligations which have been agreed between the parties under Concession Agreements. In the process of negotiations, many changes have been introduced in order not to burden users. However, the changes are politically motivated where the government began to realise that toll increment issue has become a serious issue which needs attention in order to retain their popularity.

This chapter has also illustrated the levels of bureaucracy and interactions involved through-out the formulation of PPP toll road projects. This information is crucial for this research as it is interested in identifying and understanding the reproduction of institutions and the changes over time that involve the policy, legal and regulatory and organisational framework. Through-out the three generation period of PPP toll road projects implementation there are various interactions between actors' social relations which leads to changes. This chapter provided a background of what is currently happening in the PPP toll road formulation in Malaysia and the next two chapters (Chapter 8 and 9) will provide the empirical evidence to understand the phenomenon circulating the social relation of actors involved.

Chapter 8

Part 1 - Descriptive Analysis

Actor Relations in First and Second-Generation PPP Toll Road Project Formulation: the creation of the social relations

8.1 Introduction

This chapter is a descriptive analysis of first and second-generation PPP toll road project formulation, in this study designated as Period 1. This was the period in which the public and private sector actors constructed their initial sets of social relations through the rules and practices used for the PPP toll road project formulation processes. The initial social relations were then modified and reproduced during the third generation PPP toll road formulation (Period 2) discussed in the next chapter. The discussion in this chapter starts with the classification of social relations, followed by the role of the influential person. Then the discussion describes the elements of the social relations including the policy, legal and regulatory aspects, organisational structure and human capacity, and the strategic arrangement that influenced the establishment of the social relations. It also introduces the two methods for approval of PPP toll road projects and other related projects followed during the period. The last section of this chapter summarises the main aspects of the analysis of Period 1 focussing on how the different elements of external and internal forces influenced the ‘methods of doing things’ which became the practices of the social relations. This chapter is aimed to provide evidence and explain the details of changes that happen from the First-Generation to the Second-Generation PPP toll road formulation. These changes were motivated by the actor’s social relations which are influenced by institutions, internal and external forces and influential person at times.

8.2 Types of Social Relation

This section discusses what has been found during the fieldwork on the types of social relations in place during the formulation of the PPP toll road projects. PPP toll

road project formulation involves two major groups of actors (the public and the private sector) actively involved for a period of time in a project that produced long-term obligations between them, documented as the Concession Agreement. The actors involved in the PPP toll road project formulation carry out internal (inside) and external (outside) networking to coordinate and resolve conflicts (Rhodes 2009, p. 443). The internal network involves the relationship within the department while the external involves the relationship across the department with other department (like the Ministry of Finance and the private sector) (p. 443). The networks which are actual social relations consist four types. The four different types of social relations were identified from the evidence obtained through the fieldwork: the first is the social relation created by actors within a public sector organisation; the second one is the social relation created by actors between different public sector organisations; the third is the social relation created by actors from one public sector organisation with the actors from a private sector company; and finally, the social relation created by actors from across different public sector organisations with actors from the private sector. The identification of different types of social relations established between actors are in line with the first research question i.e. **What forms of social relations do actors involved in PPP toll road projects formulation establish?**

The first type of social relation identified is the social relation established by actors within a public sector organisation. This social relation is an outcome of a long-term relation between actors in an organisation influenced by their existing rules, norms and practices. This social relation includes formal and informal interactions between actors since there may be interactions at any level of the organisation hierarchy. During the formulation of first and second-generation PPP toll projects, an officer's assignment to the PPP toll roads negotiations remained for a long period of time until they are promoted elsewhere, on average, about 10 years. As a result of this long association with a project, officers responsible for the formulation of Period 1 PPP toll road projects were seen as experts. As mentioned by a head of agency:

“We have an expert in PPP toll road project as he was involved since the inception of the PPP concept.” (HOA3, interviewed 30/10/2015)

The expert/‘influential person’¹⁷ played a significant role in the social relations established around PPP toll road projects in Malaysia. Rules and practices related to the PPP toll road were established by actors involved in the negotiation with the advice of the influential personnel. Since the established rules and practices are routinised over a period of time they become embedded into the social relation: when an actor represents the organisation in a PPP toll road negotiation, a pattern could be seen when analysing documents in terms of the ideas/views/opinions that reflect the social relations of the organisation (see discussion in Chapter 4, Section 4.2 and 4.4). This type of social relation is related to the ranks of actors in the organisation. There are social relations between subordinate actors with their immediate superiors, subordinate officers with the Head of Division, Head of Division with the Head of Agency and many other different levels depending on the hierarchical position of the actor. A new-comer has to adapt to and adopt the deeply embedded social relations (existing rules, norms and practices) of the organisation. As well as being influenced by the experience and knowledge of the influential personnel, the establishment of these social relations are also affected by internal and external forces. During Period 1, the role of a superior as a mentor was very strong and a new actor reporting for duty was highly influenced by the existing rules and practices reflected in the routinised work and the organisation’s goals/objectives and policies.

The second type of social relation are the social relations established by actors between the different public sector organisations. This social relation includes informal as well as formal actor’s interactions as sometimes the actors’ counterparts are their friends since the intake to the public service. Elements of bias, preferences, assumptions and perceptions play important roles in the establishment of this social relation. Since the social relations established by actors within public sector organisations are influenced by the influential personnel, the social relations established by actors between different public sector organisations are highly dependent on the elements introduced by the influential personnel during the initial establishment of these social relations. That is one reason for the contradictory opinions regarding privatisation given

¹⁷ Influential personnel refer to actors who have been in an agency for a long period of time doing the same type of job, who are referred to as ‘experts’ and have the direct connections and capabilities to convince and influence top management to accept decisions.

by some of the PPP toll road privatisation schemes. The Ministry of Works did not support every aspect of the Damansara–Puchong Highway which resulted in a lower toll being charged compared to the rates approved in the Concession Agreement. The initial toll rate at the opening the Damansara–Puchong Highway was supposed to be Malaysian Ringgit 1.50 per car when passing a toll plaza, however the toll rate approved following a suggestion by the Ministry of Works was Malaysian Ringgit 1.00, and compensation was paid to the private company for the difference. This view was mentioned by SP3 during the interview as:

“LDP (referring to Lebuhraya Damansara Puchong) was not agreed by us. That is why the toll rate is lower than agreed in the agreement.” (SP3, interviewed 18/11/2015)

The social relation established by actors between different public sector organisations is very dynamic and changes depending on the project. For example, the Ministry of Works did not agree with the EPU on the Damansara-Puchong Highway toll structure, however the Ministry of Works agreed with the EPU on other similar existing road upgrading schemes like the Cheras-Kajang Highway. Even now the respondents tend to blame the EPU for decisions related to toll rates and approval of certain PPP toll road projects, saying:

“It was the EPU’s decision, we never agreed but now we have to answer the parliament and the public. Sometimes, we forward their questions to the EPU to answer.” (SP3, interviewed 18/11/2015)

Forming coalitions was common during the negotiations as the social relations established between the various public sector organisations were based on different goals. It was a case of two or more influential personnel from different public sector organisations trying to agree on an idea when, as a result of their prolonged experience, they were deeply embedded in their differing routinised practices and rules and their biasness, preferences, assumptions and perceptions.

The third type of social relation identified is the social relation established by actors from a public sector organisation with actors from the private sector. It was apparent that this social relation was prominent during first and second generation of PPP toll road projects (Period 1). This social relation includes formal and informal interactions between actors involved. There is evidence that certain private companies were close to a certain public sector organisation:

“PLUS [the private sector company] is close to EPU, that’s why they could get more assistance during the negotiations. Furthermore, it was a government-linked company and the representative from the Ministry of Finance was present on the board.” (HOA3, interviewed 30/10/2015)

This social relation often created issues for the public sector organisation as the private company was not favoured by the other public sector organisations. However, due to the company’s links and good relationship with central agencies (the Economic Planning Unit and the Ministry of Finance), they were favoured with a several PPP toll road projects with extra benefits which others did not receive. For example, *Projek Lebuh raya Utara Selatan (PLUS)*, the private company that operates the North South Expressway were also given the concession for the Malaysia – Singapore Second Link, the North Klang Valley Expressway and Federal Route 2. The establishment of this type of social relation created conflicting approaches between the public sector organisations. Forming coalitions to overthrow certain ideas was common as actors from the opposing team were not happy with the way the private company dealt with the public sector organisation. The officers in the public sector often called this a “divide and rule strategy” by the private company as mentioned by SP3 during the interview on 18th November 2015. This was evident among the opposing actors as their existing social relations are influenced by bias, assumptions, perceptions and preferences which trigger rejection of any new ideas or proposals by the private company or by the organisation close to the private company. There was a tendency whenever a private company proposed new idea, it was viewed with scepticism and often rejected. However, the private company’s proposal still got approved with the assistance of the public sector organisation close to them, usually a central agency (EPU and the Ministry of Finance).

The final type of social relation is the social relation established by actors from different public sector organisations with actors from the private sector. This social relation is created every time a PPP toll road negotiation takes place, and consist actors from both public and private sector organisations. The elements of bias, assumptions, preferences and perceptions were evident when observing the two PPP toll road negotiations on 13th and 18th October 2015. It could be identified when analysing the minutes of meetings approving past PPP toll road projects and from the observations carried out during the fieldwork, as this social relation was also seen in Period 2. This social relation is a formal type where it happens only during formal negotiations between the public and private sector. This is when the social relation becomes clearly visible as patterns could be observed in the actors' 'methods of doing things'.

The identification of these different types of social relation is part of the findings of the fieldwork (document collection and interviews). The next section will provide the detail discussion with evidence on the existence of influential person which has been discussed in this research.

8.3 Influential personnel

From the information obtained through the fieldwork and analysis, it can be seen that influential personnel play a pivotal role in formulating PPP toll road projects in Malaysia. It was a difficult task to identify the role of influential personnel in the approval of certain Terms included in the Concession Agreement in first and second-generation PPP toll road projects as the sources of the suggestions was not documented. However, there was some indication from some respondents during interviews on the existence of influential personnel.

“The previous Senior Assistant Director was very knowledgeable and he always represented MHA [Highway Authority of Malaysia]. He attends every PPP toll road negotiations and gives his opinion during the meeting and the management always accepted his ideas.” (SO11, interviewed 10/02/2015)

There were influential personnel in every organisation involved in PPP toll road formulation. Another respondent from the Ministry of Works confirmed:

“Last time [Period 1], the Assistant Secretary was very powerful, he had direct links to the Minister and the Secretary General, he attended all PPP toll road meetings and gave his opinion. Even the Under Secretary listened to him and never interfered. He was very experienced since he was doing the same job [PPP] since he joined the Ministry. Somehow things were moving fast when he was around.” (S08, interviewed 29/01/2015)

From the analysis done, an influential person is created by other individuals assuming that because the person has been in place for a period of time or at times being a senior, he is knowledgeable and experienced. The term ‘expert’ when referring to an influential person does not have the same meaning as ‘expert’ in certain fields like a consultant doctor or economist. In the social relations of Malaysian government organisations, ‘expert’ means that the person has been doing the same job for a period of time. Hence, the duration of being in the position plays an important role on the establishment of the influential person. The person has knowledge of how previous PPP toll roads were approved and what was the rationale behind the approval. The rationale behind the approval or rejection of certain clauses such as the rejection of the profit-sharing clause are not documented because they are deemed to be one-off decisions specific to that particular PPP toll road project. Such details are needed by the organisation when questions are raised about why that PPP toll road did not contain a profit-sharing Clause when others have. Such information is tacit knowledge and only the person from the organisation who attended the negotiation knows the rationale. As one respondent explained:

“PPP toll road negotiations are based on case by case. Although we have standard clauses, there are some differences between highways. It depends on why it was approved such. Like the North South Highway did not have the Profit Sharing Clause initially because the government’s objective at that time was to promote private sector participation in the economy and providing an alternative facility to the user that will provide a wider socio-economic benefit.

The new officers do not know these details as the details were not documented. That's why we always try to retain an officer who has been involved in the PPP negotiation for a long time. Their knowledge regarding the rationale for certain decision is needed when questions are asked by the public or the law-makers during the Parliament sitting on why such decisions were made..." (HOA3, interviewed 30/10/2015)

Knowledge acquired over time allowed the person to have access to the top management. PPP toll road formulation in Malaysia is a continuous effort which makes the knowledge of the previously-approved projects important for the later negotiated projects. The influential person's opinion is seen as the organisation's since the person has the knowledge of past approved project and has strong linkage to the top management including the Minister or the Secretary General/Director General. The particular attention given to the influential person's views motivates the person to initiate certain rules and practices which become the organisation's views/stand/opinions on certain issues related to the PPP toll road project. Since staff turnover in Period 1 was not as high in the later Period 2, those rules and practices were routinised and became deeply embedded in the social relations of first and second-generation PPP toll road project formulation. The impact of influential personnel on certain issues could not be identified during the fieldwork for the first and the second-generation PPP toll road projects since information was obtained through documents and interviews. However, some examples of the role of influential personnel during Period 2 (the third generation of PPP toll road projects) were discovered during the observation of meetings, which are discussed in the next chapter. The influence of an influential person in establishing norms and rules was verified by one respondent who has been with the Ministry for the past eight years:

"When I joined the Ministry, the previous Principal Assistant Secretary was the person who had been there the longest responsible to PPP toll road negotiations and we all did what he told us. He always explained that this was the way that things were done in this Division and since he was close to the then Minister and Secretary General, we did not question it and just followed as what he told us to do." (SO5, interviewed 29/01/2015)

This section has discussed the existence and effects of influential personnel in the overall formulation of PPP toll road projects in Period 1. From the evidence obtained, the influence of influential personnel is seen to be important in the establishment of different types of social relation. An influential person's impact is embedded in the establishment of social relations, but these are also guided by the policy, legal and regulatory and organisational framework.

The next section discusses the findings related to policy arrangement and its influence on the establishment of social relations.

8.4 Policy arrangement: PPP toll road projects as a policy mechanism that influences the creation of social relations

This section focuses on the policy arrangement that guides the creation of the four types of social relation, concentrating on first and second-generation PPP toll road formulations. It first discusses the influence of the internal and external forces on the creation of policy that later influenced the establishment of the social relation. The second aspect is the introduction of changes in first and second-generation PPP toll road project formulations. The policy arrangement shows how the existing policies of the government and the political conditions during Period 1, coupled with internal forces, influenced the creation of the actors' social relations. The policies of the government then became embedded in each actor's social relations with others in their organisation shaping their biases, assumptions, preferences and perceptions when articulating their 'methods of doing things'. These practices are then used when negotiating PPP toll road projects.

8.4.1 The influences of internal and external forces

The internal forces have been established as an element that influences actors in their daily routines and the production of their daily rules and practices. Three internal forces have been identified by this research that have an impact on actor relations involved in the formulation of PPP toll road projects in Malaysia: (i) the influence of organisations on actors; (ii) hierarchical organisation structures; and (iii) delegation of

power in an organisation. The first internal force is the influence of organisations on actors: the effects of routine work and impact of organisational goals/policies and objectives (see Chapter 4, Section 4.3.1). These two elements are considered to have direct effects on actors, while the other two elements discussed earlier: (i) hierarchical organisation structures and (ii) delegation of power in an organisation are more indirect.

During Period 1, there were no clear organisational goals/policies or objectives related to the PPP toll road projects. The only overarching idea was the Privatisation Policy which was introduced in 1985. This was confirmed by a few respondents from the Ministry of Works and the Highway Authority of Malaysia, one of whom said:

“We never had any specific policy regarding PPP toll roads. We have been always referring to the Privatisation Policy introduced by the EPU in 1985.”
(SP2, interviewed 29/01/2015)

The next internal force is hierarchical organisation structures. State actors involved in the formulation of PPP toll road projects come from highly bureaucratic organisations where there are many layers of ranks and hierarchies of officers. As described before (see Chapter 7, Section 7.5.3), in the Malaysian civil service system, a good relationship between a subordinate and a superior is very important for the subordinate in order to ensure that they receive marks above 85%¹⁸ in their yearly appraisal. These appraisal marks are important when applying for scholarships, internships or when being considered for promotion. Due to the way rewards are given to actors, subordinates tend to always want to please their superiors and do not dare to go against their opinion. This is rampant among new officers joining the service as it is the crucial period of their career. They tend to obey all superiors’ instructions and generally become “*Yes boss*” officers. This attitude does not promote creative or innovative thinking among actors as they accept the norms and rules promoted by their superiors and prefer not to “*rock the boat*”. One of the respondents explained:

¹⁸ In order to be considered for any kind of scholarship, internship or promotion, civil servants need to have appraisal marks of 85% and higher for the past three years.

“I just joined this service three years ago and I need good appraisal marks in order to apply for a scholarship to further my studies like you [referring to researcher’s PhD scholarship], so why [would] I want to go against my superior? I will just follow the boss and do as what instructed. He is happy, our relationship is good and my appraisal marks have been around 90s for the past 3 years.” (SO9, interviewed 29/01/2015)

Another internal force was the delegation of power in an organisation. Delegation of power in an organisation is a common practice throughout the implementation of the PPP toll road in Malaysia. The Cabinet assigns the power from the Minister of Works to the Secretary General of the Ministry of Works to sign the Concession Agreement. It is a measure for smoother implementation of the whole process as the Secretary General will have more time and resources to thoroughly vet the agreement before it is signed. The Secretary General can delegate this power to the officer attending the PPP toll road negotiation to decide on matters, within a window of tolerance. For example, there was a note scribbled on the letter of invitation for a PPP toll road negotiation, in which the Secretary General wrote:

“PAS(DP)6 [Principal Assistant Secretary (Development and Privatisation Division)], kindly ensure that the beginning toll rate does not exceed RM1.00”. (Letter calling for meeting on the proposed Senai-Desaru Highway, 05/01/2006)

However, due to the frequency of receiving such notes from the Secretary General, PAS(DP)6 believed he had the knowledge and knew what the organisation wanted and so he instructed his subordinate to attend the meetings and told him what to say. This was confirmed by one respondents, who served as a subordinate initially when joining the organisation:

“My boss at that time was the pioneer in PPP toll road project negotiations, he was always consulted by the top management. He told us on various occasions that he knows what direction is being enforced by the top management. We followed his instructions and that was the way we do things then.” (SP2, interviewed 10/02/2015)

Delegation of power in the organisation influenced the establishment of a social relation that promoted the creation of influential personnel who later initiate rules and norms in that established social relation.

Other elements that influence the creation of a social relation are external forces related to the Government Policy on Privatisation and PPP during Period 1. During the formulation of first and second generation of PPP toll road projects, public and private sector actors agreed on the PPP toll road policy with mutual dependencies (public sector to increase private sector participation in economic growth and provide better infrastructure to users, while the private sector prefers a long-term concession with the government as there are guarantees). In Period 1, all new PPP toll road proposals were evaluated by the Privatisation Section of the Economic Planning Unit, Prime Minister's Department. Discussions were based on the general Privatisation Policy introduced in 1985. There were no specific guidelines on PPP projects for each of the agencies involved. However, the project scope (location of the toll road, toll rates) was influenced by external forces, namely the then government policy and political conditions. Around that time, the main priority was to increase private sector participation in the economy to address the ultimate goal of the NEP objective and to improve existing roads and to provide alternative facilities for road users. It was a period when the country was implementing mega projects such as the Kuala Lumpur International Airport and Putrajaya (the Federal government administrative center). It was also when the ruling Party was very strong with a two-thirds majority in Parliament. As mentioned by a respondent:

“During that time, the emphasis was more on providing better facilities for the public and since the PPP industry was still very young, there were not many issues faced during implementation.” (HOA2, interviewed 20/11/2015)

Issues mentioned are related to the public outcry and criticism from the opposition law-maker who politicise toll issue during election campaign. During Period 1, most of the PPP toll roads were under construction and newly operated, there was no toll increment, yet which means no public outcry. Since there is no public outcry, there

were no criticisms from the opposition politicians. That comfort promoted the approval of 28 toll roads during Period 1.

The policy which was introduced during this period seems to be giving the government a motivation that the current general Privatisation Policy is being accepted by the public since there were no issues. Having that in mind, there were no specific policies initiated by the organisations involved in the PPP toll road formulation. All agencies are guided by the Privatisation Policy and the relevant Malaysia Plan (see Chapter 2, Section 2.7). Privatisation has been a major policy since the Second Malaysia Plan. Besides promoting Privatisation and PPP, the government has been allocating sufficient funds for infrastructure development. It was a mixed mode of development during that period of time. Due to that fact, specific importance was not given in terms of formulating a comprehensive PPP framework. This was confirmed by one of the respondents:

“We only followed instructions from our superiors and the Privatisation Policy was sufficient as the government was also upgrading and building more roads.”
(SO2, interviewed 04/02/2015)

This situation seems to happen due to the complaisant situation where there were no issues and the actors involved in the social relations felt that what they were doing is right and there is no need for any major changes on what has been practiced.

That results in policy being more fluid and the role of the influential person was very strong. The Ministry of Works was also active in negotiating projects related to approved PPP toll road projects, such as extensions to existing roads and constructing additional lanes. Due to the concentration of power in certain agencies and actors, changes in the terms of the agreement during this period of time can be said to be motivated by certain personnel, for instance, the Minister or the Head of a Department involved in the formulation process. A respondent illustrated this as:

“In those days [Period 1], the Minister of Works and the Under Secretary of the Development and Privatisation Division was very powerful; whatever the Under

Secretary proposed was accepted by the Minister and brought to the Cabinet. The Minister once even convinced the Cabinet that an extension of time should be given to a Company in order to secure financing [exceed 12 months as agreed in the Agreement]. That allowed the project to take off and it's completed now which provides an alternative to users to Putrajaya.” (HOA3, interviewed 30/10/2015)

The motivation for policy during first generation PPP toll roads was to provide more incentive to investors and lenders. The government provided assistance, including forms of guarantees, to private companies coming forward with PPP toll road proposals. The stable political situation coupled with the government financial constraints resulted in the government privatising even projects already under construction. In the early 1980s, the Government of Malaysia realised that in order to promote economic growth, it had to provide excellent infrastructure facilities to allow easier movements between States within the Malay Peninsula. The existing Federal Route 1 had become congested and the government decided to construct an alternative road parallel to Federal Route 1. That was the first project which was privatised i.e. the North South Expressway. The decision to privatise the North South Expressway would also free up more funds to upgrade other facilities such as schools and hospitals. Initially, to fulfil the intention of providing an alternative main trunk expressway, the government allocated funds to construct a number of stretches of the expressway. However, the cost of constructing an expressway parallel to the Federal Route 1 was very high, and that moved the government to opt for a privatisation scheme. The privatisation of the North South Highway was a ‘one-off’ because it included not only the construction of a new road but also taking over existing road being constructed by the government.

However, the government wanted to keep the facility within its control and the North South Expressway was privatised under the PPP scheme to a government linked company. The Letter of Intent (letter from the government offering to take over and construct) was awarded to United Engineers Malaysia (UEM) to take up the completion of the whole expressway. The concession company is called *Projek Lebuhraya Utara-Selatan* (PLUS). UEM were taken over by Khazanah National Limited just before the full completion of the North South Expressway (See Appendix 6 for details of the North

South Expressway). Khazanah National Limited is the government investment arm which is one of the outcomes of the larger policy of the Malaysia Incorporated. It is an offspring of the wider Privatisation Policy and the NEP.

Figure 6 shows the current shareholder structure as at November 2011 of the North South Expressway. The information was obtained from document collected (Fourth Supplemental Agreement, 2011) and the shareholdings never changed since.

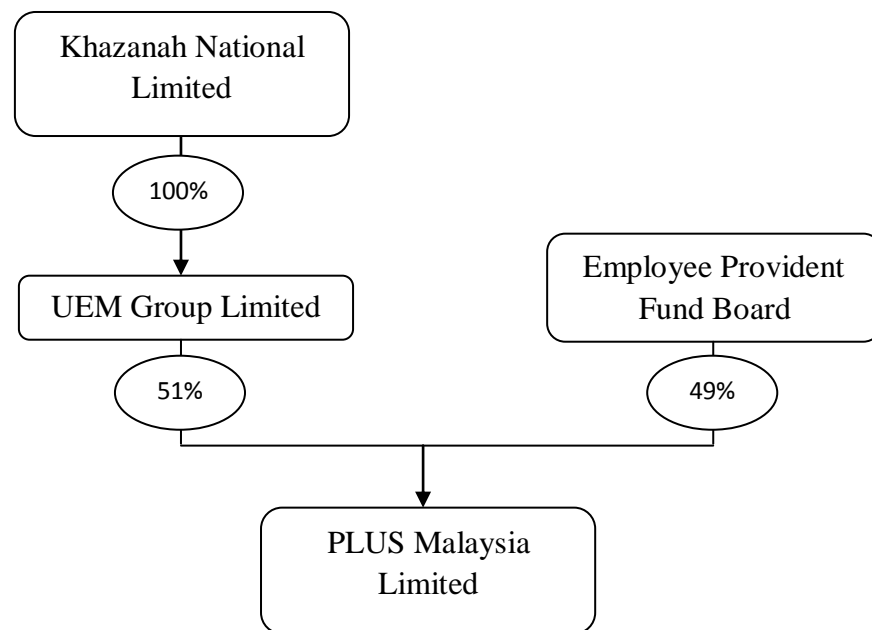


Figure 6: Current shareholders of the North South Expressway

Source: Author’s compilation from fieldwork document analysis (Fourth Supplemental Agreement,2011), 2015

Upon the successful implementation of the North South Expressway, various private companies came forward to the government proposing more PPP toll road projects, including green field¹⁹ and brown field²⁰ proposals. One of such project is the Damansara – Puchong Highway which involved upgrading an existing road. The rationale for approving this privatisation scheme was to ease traffic congestion at the least cost to the government. The proposal to upgrade and operate this highway was brought to the Economic Planning Unit, Prime Minister’s Department by a private

¹⁹ Green field proposals refer to new projects involving the construction of new alignment.

²⁰ Brown field proposals refer to upgrading existing road projects.

company in 1995 (see Appendix 7 for details). The private company that proposed this scheme was LITRAK. The current shareholders of LITRAK at February 2017 are shown in Figure 7 below:

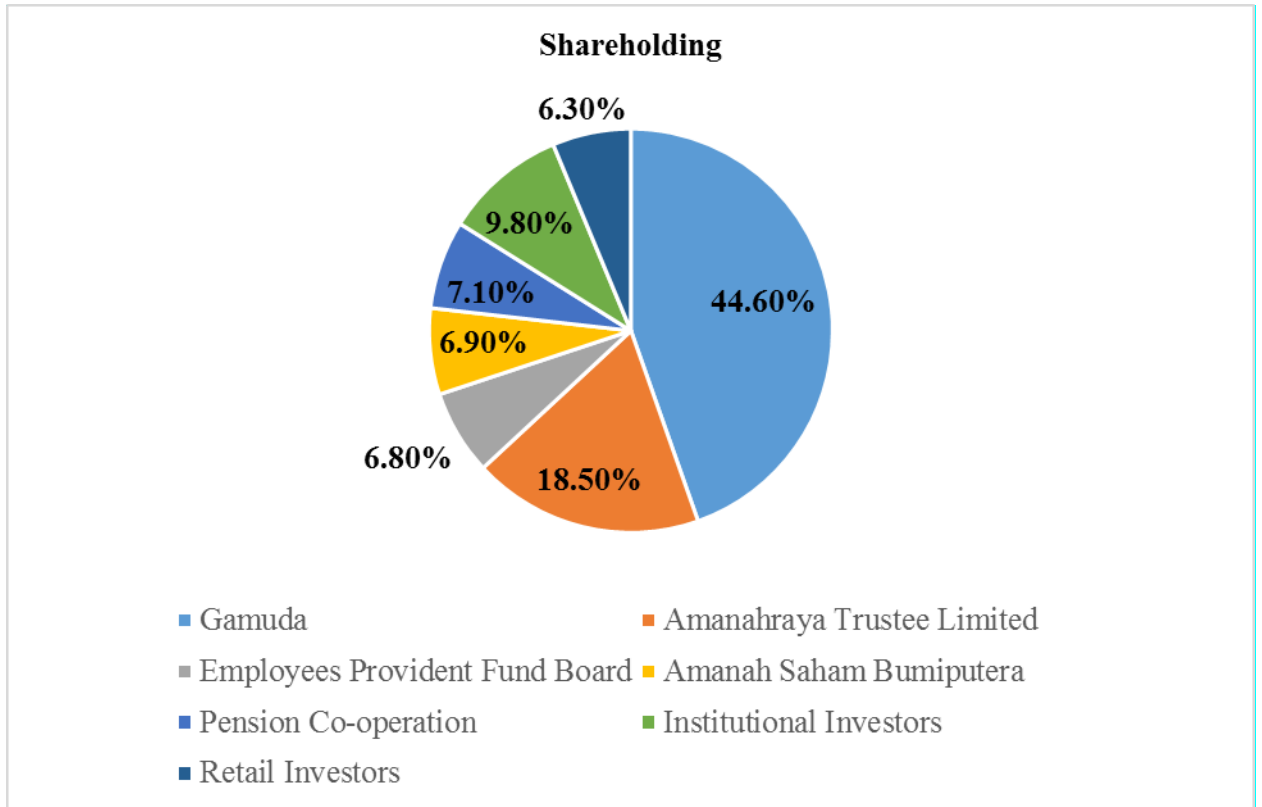


Figure 7: Current shareholders of the Damansara-Puchong Highway

Source: online website: <http://www.litrak.com.my/litrak-corporate-structure/>

Shareholdings in the Damansara – Puchong Highway as at 31st March 2017 consist of 39.3% government related entity.

Interviews with the private sector representative revealed that during Period 1, the government’s motivation was to induce more private investment and promote the growth of new infrastructure that could serve as alternatives to existing infrastructures. Perceptions among the government agencies were very positive and the private companies were very interested in doing business with the government. This unified interest promoted the growth of the PPP toll road in Malaysia during that period of time. Interviews revealed that the private companies perceived a clear political interest of the government in promoting the PPP toll road concept. The representatives of the

private companies (Private 1 and Private 3) mentioned that they never had any issues when working with the government. They worked closely with all the government agencies and the government always helped them when they faced problems. The private sector respondent further praised the government: he said that the government had:

“never in any way run away from its obligations to compensate us according to the provisions in the Concession Agreement when we are not allowed to increase the toll rate.” (Private 1, interviewed 05/02/2015)

This clear and prudent policy by the government encourages private companies to propose more PPP toll road projects to the government, since the policy promotes confidence among the private sector and investors.

The government realised that it depended on the private sector in order to promote development at a faster rate.

“It has been the government’s policy since the early 1980s to promote the private [sector’s] participation in the country’s infrastructure growth. We need their involvement in order to promote faster growth ... economically and [in] infrastructure. The government’s funds are limited, and the people’s wish list is always long, so we have to get assistance from the private sector. On the other hand, the private sector is happy to do business with us as we fulfil our promises. It’s a win-win situation and we depend on each other and with the stable political condition, PPP toll road projects were a success. People ... [appreciate] the government and the outcome of the appreciation can be seen from the election results. Our policies were right.” (HOA2, interviewed 20/11/2015)

Actors involved during period 1 of PPP toll road projects believed that since the PPP toll road projects were still new to Malaysia, positive measures in terms of support had to be provided to the private companies because the risk involving a substantial amount of debt was still not known. The North South Expressway, for instance, has many forms of government assistance and support including guarantees such as traffic

and external risk guarantees. When asked during an interview, one of the government respondents stated that:

“NSE (North South Expressway) is one of a kind and in order to obtain financing, the government had to give lots of guarantees to comfort the lenders.”
(SP2, interviewed 29/01/2015)

The total cost of constructing NSE was 7.236 billion, and it would have been very difficult to obtain financing for such an amount during that period without government support. The government had to provide guarantees related to revenue since it was the first PPP toll road project. After that, the financial market became more aware and the government never had to give any such guarantees to other projects. The common support provided by the government throughout first and second generation PPP toll road projects was the Land Acquisition Cost. The evident changes in toll road negotiations over this time (from the first generation to the second generation) were the reduction of government support and guarantees for such projects.

All the government agencies involved during the PPP toll road projects formulation worked closely towards the success of a project. As learned from interviews, the understanding of win-win, shared interest and interdependencies on each other brought to a vibrant growth of the PPP toll road projects during this period.

8.4.2 Introduction of changes over the generations of PPP toll road project negotiation

Changes were introduced during the first twenty-year period of PPP toll road project formulation. The changes introduced concentrated on the reduction of the government’s risk in the event of project failure. Terms which were allowed for in the North South Expressway Concession Agreement, such as the Traffic Volume Supplement and the External Risks Supplement, were no longer allowed in other PPP toll road projects. The changes had been promoted by a group of actors from the same set of long-lasting social relations. The changes which happened during first and second generation PPP toll road projects were more related to the process of the PPP toll

industry becoming mature. Initially the government had to provide guarantees to reassure the financial institutions; however, after the successful implementation of the North South Expressway, the financial institutions become more relaxed about their terms which allowed the government to remove guarantee clauses. The Level of Indebtedness Clause introduced during the second generation PPP toll road projects, was to cap the total exposure to the government in the event the private company fails to repay their loans taken for the construction of the PPP toll road. Another change that was introduced during the second generation of PPP toll road was the introduction of the toll review mechanism. It was an initiative from the government as they realised brewing unhappiness among the toll road users.

Document analysis (North South Expressway Concession Agreements, 1988, 1999, 2002, 2005 and 2011), showed that new clauses were inserted by various Supplementary Agreements. There has been a shift in terms of policy elements from the first to the second generation of PPP toll road projects. There was not much change in the political conditions as the dominance of the ruling party was still great during the period, resulting in marginal changes in the terms of the Concession Agreement during the second generation. Dominance in ruling the country for a long period of time (since independence in August 1957) has given an impression and complaisance that the policies that are being implemented are accepted by the public. Hence the changes were more towards protecting the government's financial risks. This change in policy was also amplified when there was a failed PPP toll road project (Seremban-Port Dickson Highway) beginning 2002. The private company could not pay the commercial loans it borrowed to complete the project and finally due to the clauses in the agreement, the government had to pay off the loans and salvage the project. That bitter lesson motivated public sector actors involved in the formulation of PPP toll road project being more careful in clauses that might put government at a financial risk, thus introducing changes in that line.

The introduction of new clauses exemplifies that changes are being introduced in PPP toll roads as a result of policy shifts to reduce government exposure to financial risks in the event the private company fails to service the loans and to reduce government financial assistance to the private company during the initial years of the

project implementation. The role of influential personnel could be seen during these two generations, especially when standard Terms are excluded in later second generation PPP toll road Concession Agreements. One respondent calls these acts by influential personnel their ‘magic’:

“That time the boss [influential person] decides whether to include the Terms or not. There is a highway [Highway A] which has two traffic thresholds - one for profit sharing and one for revenue - while other highways only have one threshold. The threshold is used to determine when to share the profit. Initially the Committee insisted Highway A also have one threshold, but they [Highway A] met my boss and the Minister and suddenly there were two thresholds and was accepted by the Committee. That is the magic my ex-boss could do.” (SP2, interviewed 29/01/2015)

8.4.3 Summary of Section

The policy arrangement is seen as a contributing factor that influences the social relations created by actors. It is the overall guiding principle for the formation of social relations and practices. The influences of internal and external forces affected the establishment of the social relations during Period 1. The proactive policies of the government during first and second generation of PPP toll road formulations saw a tremendous growth in that industry. The policies provided opportunities for the actors involved to experience different issues depending on the PPP toll road project which made them more knowledgeable. That contributed towards the creation of influential personnel, who later influenced the rules and norms in the established social relations. Experience in many different PPP toll road project negotiations also allowed actors to propose changes which favoured enabling the PPP toll road industry to operate with less government support. The established social relations remained throughout Period 1 without major changes in terms of the ‘methods of doing things’. Established social relations had their own ‘methods of doing things’ with their own rules and norms also influenced by the influential personnel.

The next section discusses the findings related to the legal and regulatory arrangement influencing the formation of the social relations.

8.5 Legal and regulatory arrangement for the PPP toll road formulation process influencing the social relations

Between the mid of 1980s and the end of 2000s, the Malaysian Government's Privatisation Policy was the only guide to road toll PPP; and the only governing Act which allowed private companies to collect road tolls was the Federal Road (Private Management) Act 1984. The Highway Authority of Malaysia was established under the Highway Authority Malaysia (Incorporation) Act 1980.

As many respondents noted:

“We refer to the Privatisation Policy and there are no other guidelines or statutes which relate to PPP toll road formulation and we only look into the terms in the agreement after we realise that it creates issue, like the toll increment creating public outcry.” (SO5, interviewed 29/01/2015)

During this period, two agencies were processing PPP toll road projects; the Economic Planning Unit for all new proposals; and the Ministry of Works for proposals related to existing PPP toll roads. This method of implementation promoted the creation of influential personnel, mentioned by some respondents as:

“Previous management could directly deal with the Minister.” (SO6, interviewed 06/02/2015)

Since there is no legal and regulatory framework for privatisation, the actors involved always refer to the influential personnel for suggestions. The lack of enacted PPP law also enables parties responsible for mistakes to avoid blame and the government has to solve the problem. As one respondent said:

“When we negotiate a PPP toll road project, it depends very much on the traffic numbers. The traffic consultant always presents high traffic volume projections in order to make a project viable. But after completion, the actual traffic is barely around 20% of the projection and as a result, the company could not service the loan due to lack of revenue. Finally, the government had to step in and settle [with] the lenders. That’s what happened to Seremban-Port Dickson Highway. If we had a PPP law, we could hold the traffic consultant responsible...” (HOA2, interviewed 20/11/2015)

Lack of specific PPP law also provided a fluid situation for actors negotiating PPP toll road projects during Period 1 as they were free to negotiate all clauses and decide what is was suitable include. Some new clauses, such as the step-in rights by the government, removal of level of indebtedness, etc. were included during this period. It was not a standard procedure though, and some projects were approved without those clauses being included or being removed during first and second generation of PPP toll road projects.

“If the company can negotiate well, they will get more.” (SP4, interviewed 10/02/2015)

If there was a specific law, the whole negotiation could be standardised ensuring all key clauses to be included in all PPP toll road projects.

During Period 1, the social relation created was heavily influenced by the existing Privatisation Policy, influential personnel’s knowledge and other broader policies of the organisation. The next section discusses the findings related to organisational structure and human capacity during Period 1 which influenced the establishment of the social relations.

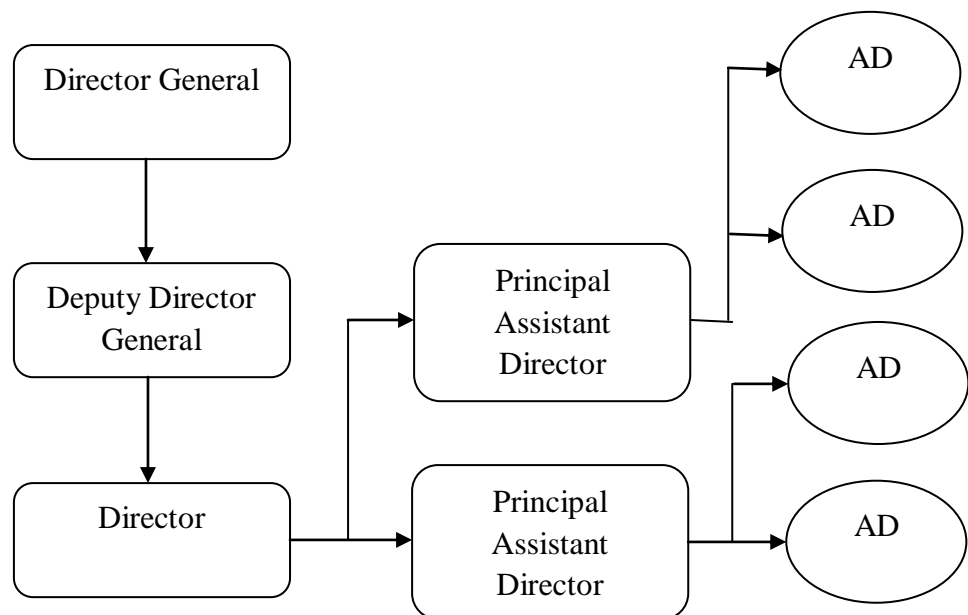
8.6 The organisational structure and human capacity influencing social relations establishment during Period 1

Prior to the establishment of PPP Unit, proposals of new PPP toll roads were sent to the Economic Planning Unit to be evaluated and processed by the Privatisation Section. However, at that time only new projects were brought to them and any other works related to existing projects, such as additional works and extensions, were sent to the privatisation unit within the Development and Privatisation Division of the Ministry of Works. which was responsible for evaluating and processing those proposals.

The following section will explain the organisation structure of the respective agencies during Period 1.

a) Organisational structure

All new PPP proposals were processed by the Privatisation Section of the Economic Planning Unit which is headed by a Director and had two Principal Assistant Directors each of whom has two Assistant Directors. The Director then is responsible to the Deputy Director General and the Director General of the Economic Planning Unit. The structure is represented in Figure 8 below:

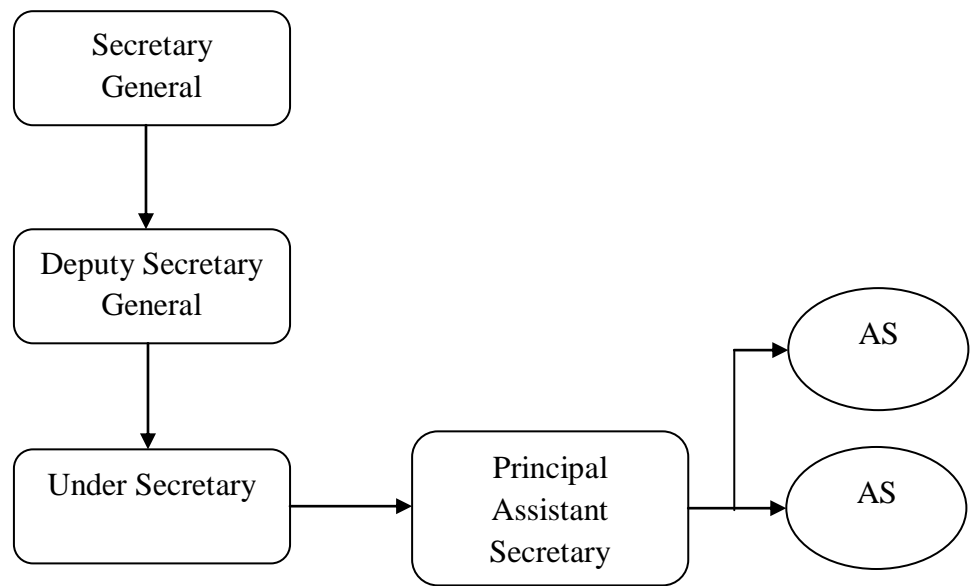


*Note: AD represents Assistant Director

Figure 8: Diagram of organisation structure of the Privatisation Section, the EPU during Period 1

Source: Author’s compilation during fieldwork interview (SO2, interviewed 04/02/2015)

The Privatisation Unit of the Development and Privatisation Division of the Ministry of Works is responsible to the Under Secretary who is responsible to the Deputy Secretary General and the Secretary General of the Ministry of Works as shown in Figure 9 below:



*Note: AS represents Assistant Secretary

Figure 9: Diagram of organisation structure of the Development and Privatisation Division, the Ministry of Works during Period 1

Source: Author’s compilation during fieldwork document analysis, 2015

The structure shown above was the original structure when earlier PPP projects were processed and approved (Period 1). Over the years, when more projects were in the pipeline, more people were added by creating more Assistant Secretary positions. However, the preference given to the original officers involved remained, especially when the superior had been there for many years. This added to the possibilities for the creation of influential personnel. As mentioned by a respondent:

“During that time, when I reported duty as Assistant Secretary, there was another officer, also Assistant Secretary and the boss was close to him and

listens to him. My views were not taken seriously.....”(SO5, interviewed 29/01/2015)

The social relation created during this period consist a selected few individuals in the organisation who were frequently involved in the PPP toll road project formulation. As shown in Figure 8 and 9, there are four levels of organisational positions: the Ministers are not included in the system or in the creation of social relation as they belong to the executive body responsible to the Parliament. However, during Cabinet meetings, Ministers do play an important role in deciding some crucial elements based on advice of the actors in the respective Ministry involved in the PPP toll road project (but as explained previously, this is not directly relevant to this research). The complexity of the organisational levels influences new officers to adapt and adopt existing rules and practices and embeds them into existing social relation. For instance:

“At that time [Period 1], bosses were very knowledgeable and influential. We as new-comers have to learn from them.” (SO11, interviewed 10/02/2015)

The case is different with the Highway Authority of Malaysia: since it is a ‘closed’ organisation in which the recruitment of officers is done by its own Human Resource Department, and officers are only promoted internally, the organisation expanded by recruiting more lower-level officers and the existing officers were promoted within the organisation. Some of the officers had been attending almost all the negotiations throughout the period of formulating the PPP toll road projects. Due to being involved in the PPP toll road project formulation for a long period, the influential person seems to be very visible during negotiations. Since staff turnover was not as frequent, the social relations created were heavily influenced by their existing practices, bias, assumptions, preferences and perceptions. Since there were two ways a project could be processed, influential personnel from the Economic Planning Unit and the Ministry of Works were actively involved in the approval of new PPP toll road projects or works related to existing PPP toll road projects. This arrangement caused conflict between the two organisations since there are cases where one of the organisations did not agree with the other on the principles of the negotiations. For example, matters

related to the toll rates raised concerns in the Ministry of Works, but for the Economic Planning Unit it was not a major issue. One of the respondents from the Ministry of Works mentioned that:

“We did not agree to the terms of the North South Expressway, EPU made the decision and now we have to answer to the Parliament and the public.” (SP2, interviewed 29/01/2015)

Even the then Minister of Works was not happy with some of the decisions made by the EPU, as reported in the *New Straits Times*:

“DATUK Seri S. Samy Vellu, fed up of being blamed for toll increases, hinted yesterday that it was the Economic Planning Unit (EPU) that should be in the line of fire. The Works Minister said he would no longer accept decisions on tolls without questioning the EPU "on every single detail".

"It is time for new thinking on this. I am going to fight them from now on at every turn," he said to thunderous cheers from backbenchers and opposition members. Samy Vellu said the EPU was the final decision-maker on tolls and concessions and that he had found himself at a disadvantage each time any announcement on toll was made.

"My Ministry is just a tool of the EPU but I cannot allow this anymore. I will question them on every single detail," Samy Vellu told opposition leader Lim Kit Siang. But Lim was not pleased with Samy Vellu's reply, telling him that he should not be answering questions pertaining to toll matters if he and his Ministry were "only the tools".

He said the Prime Minister, as the EPU head, should be present to explain the matter. The move was unusual for Samy Vellu who has always accepted public criticism against his Ministry on tolls.

His outburst came after he had answered a supplementary question from Tan Lian Hoe (BN-Bukit Gantang) who asked if studies were done prior to the recent toll hike and the rationale behind it. Samy Vellu replied that his Ministry could not provide the rationale behind the increase as it did not get much information on the costs involved.

"The EPU compiles the report for the Cabinet to approve but it is my Ministry that feels the burden when people call us heartless and stupid. I am going to question and check everything including whether the costs of construction as claimed by the concessionaires are accurate," he said, adding that every toll hike proposal would be fully reviewed." (*New Straits Times*, 6th April 2007 p. 2)

<http://www.kkr.gov.my/en/node/3189>)

The dissatisfaction was a typical result of two organisations with two different sets of social relations arise from two different influential personnel with different perceptions and assumptions. Such news was a common issue during first and second periods of PPP toll road project formulation.

The next section discusses the strategic arrangement which is the strategy used by an organisation for achieving an outcome.

8.7 Identification of new internal forces

While investigating and analysing the information collected for this research, it has been identified there are another two forces which influence the actor's social relation. These two forces are proposed as an internal force and it is a new finding from this research and are not listed in Chapter 4. The two forces are (i) senior staff member as a mentor and (ii) staff turnover. The details are explained below

(i) Senior staff member as a mentor

This is an important finding of this research which has not been explicitly discussed in any literature, however since it is important, it has been classified as part of the influence of organisation on actors and mentioned in this section rather than listing

as a finding. In most cases of high-level interactions and negotiations, the junior actors are usually accompanied by a superior. It is common to have clearly-defined rankings in a highly bureaucratic setup like the ones dealing with the PPP toll road project formulation. The dependencies of actors on each other create a situation where new actors rely on actors who have been in the organisation and part of its social relations for a certain period of time. One of the elements of analysis for this research is to identify the training and courses attended by the actors, usually decided by their senior staff, which are assumed to be an important element in the formation of actors' initial understanding and ideas. At times, the superior is the influential person that may be able to persuade his sub-ordinates to perform the task as he would like.

The role of a superior officer as mentor has been practiced since Period 1, which was confirmed by the minutes of meetings, which always listed at least two or more officers attending PPP toll road negotiations; one superior officer with at least one subordinate officer. The minutes of meetings show that only the superior officer gave comments or ideas, which allowed the assumption that the subordinate is learning from the superior. The ranks were identified from the attendance list in the minutes of meetings. The impact of routine work plays an important role in an actor's taken-for-granted 'methods of doing things' which becomes part of their discursive consciousness. This internal forces have been confirmed by a few respondents as

“We gain our knowledge through on-the-job training where we follow our superior to meeting and learn from him/her.” (SO9, interviewed 29/01/2015)

“My superior is my mentor. She has been doing PPP for a long period of time so I learn from her and she teaches me on how to identify and address important issues.” (SO4, interviewed on 05/02/2015)

“Most of the officers doing PPP here are mentored by the previous Principal Assistant Director.” (SO6, interviewed on 06/02/2015)

The next identified element found which has been classified as internal force is the staff turnover.

(ii) Staff turnover

Another area that has not attracted much attention in the social network, organisational and PPP literature is the staff turnover. Imperial (2005) has identified that staff turnover is a potential problem in relation to loss of institutional memory (page 299). However, staff turnover has not been explicitly identified as an internal force by any literature. Actors' expectations, perceptions and preferences get produced and reproduced in the social relations of the organisation and the maintenance of appropriate organisational expectations, perceptions and preferences depends on the continuity of actors in given positions. In the Malaysian government organisational setup, actors are most likely to be transferred when they are promoted. This is seen as a measure to avoid misuse of power and for transparency purposes. These movements, however, result in a vacuum in experience and knowledge such as is needed in the formulation of PPP toll road projects. Every time an organisation receives a new actor, that actor will have to start everything new and in PPP negotiations has to assume the role of representative while at the same time, learning about the organisation. It takes time for that specific actor to acquire the required experience, knowledge, and skill. On the other hand, when an actor has been in the organisation for a very long time, being promoted internally and performing the same task, it promotes the creation of the influential person. Sometimes, the dependency on that influential person is so great that the organisation creates a new position at a higher grade in order to prevent the officer being transferred out of the department.

Although the decision to retain actors seen to be influential personnel benefits the organisation in terms of keeping their knowledge and experience, it might sometimes create trouble. Actors in rankings above and below the influential personnel may at times feel de-motivated since their ideas and views might not be accepted by others in the organisation, as the influential personnel may disagree with the ideas and views, thus convince the organisation not to change existing ideas and views. That may result in new actors being hesitant to learn and the culture of "*Yes Boss*" and "*The Boss is Always Right*" will prevail amongst the new actors which prevent the flow of innovative ideas. This problem is quite common among new actors and even though the rationale to retain influential personnel is to ensure that their knowledge and experience

are not lost, it also blocks the expression of innovative ideas. However, based on Rhodes (2009 & 2016) and Rhodes et al (2008), the culture of depending on a specific officer and the 'Yes Boss' culture is common in many countries' public service. Evidence to prove the existence of this internal force could be seen since Period 1 of formulation of PPP roll road projects.

During Period 1 of first and second generation PPP toll road project formulations, individuals posted to an organisation remained in that post for at least five years and some remained in position for 10 years. Usually an officer is allowed to transfer out of the organisation for a new post after five years, while promotions only take place when staff have served at least 10 years in the same organisation or combination of different organisation. This proves that the traditional way of governing was giving importance in ways to prevent loss of institutional memory as advocated by Rhodes (2016). This results in actors remaining in one position for long periods performing the same tasks and becoming influential personnel. New actors joining the established social relations tend to respect, and have high regard for, the long serving actors. One respondent mentioned that:

“At that time officers were not transferred frequently, so when I joined the service I had to respect my superior as he had served more than five years and had been involved in PPP toll road project negotiations. Obviously he knew more than me, and I just followed his advice.” (SO5, interviewed 29/01/2015)

This routinisation of existing rules and practices over a long periods embeds new actors in the existing social relations, and this does not promote contributions towards new ideas for facing challenges in the formulations of PPP toll road projects. Staff turnover could have positive and negative impact. Positively, staff turnover could promote new innovative ideas if every actor involved are transferred. However, when the most important actor is retained that might be a stumbling block to new innovative ideas. Another negative impact is the loss of institutional memory since PPP projects are negotiated based on assumptions from previously approved projects.

8.8 The strategic arrangement

The data obtained from the fieldwork provided explicit elements which influence the establishment of the social relations by actors: (i) legal and regulatory arrangement; (ii) organisational arrangement; (iii) policy arrangement; and (iv) strategic arrangement. While the first four elements as advocated by Harris (2004) are external forces that influence the establishment of the social relations, strategic arrangement is considered as part of the internal force within an organisation that influences the establishment of the social relations. The strategic arrangement by Harris (2004) refers to the diligent approach of resource utilisation over the long-term for successful formulation of PPP projects: however, this concept is modified for this research to refer to the strategy used by an organisation towards achieving an outcome. The core of this strategic aspect is the three internal forces that used to steer towards achieving desired decisions. The other internal forces have been identified as: (i) the influence of organisations on actors which includes the effects of routine work; the impact of organisational goals/policies and objectives and senior staff member as a mentor; (ii) hierarchical organisation structures; (iii) delegation of power in an organisation; and (iv) staff turnover, influence the establishment of the social relations through two main implicit components. The components are: (i) power and authority; and (ii) rules and norms. These components form the base of the internal forces which then influence the establishment of the social relations.

Power and Authority

Previous discussions on internal forces has identified that the delegation of power in an organisation influences the establishment of the social relation by actors. This research has shown that power which comes with rank is often used to attain a specific objective in highly bureaucratic organisation like the Ministry of Works, the PPP Unit and the Malaysian Highway Authority. Authority can be considered as the subset of power implying formal official permission to do something, while power may not need that. Most definitions of power include the capability of an individual to overcome resistance in achieving a desired objective or result (Pfeffer 1981, p. 30).

Authority, on the other hand is given by someone with the power to do so. For instance, the Cabinet authorises the Secretary General of the Ministry of Works to sign the Concession Agreement. Another example would be when the Secretary General authorises the Deputy Undersecretary to agree to a project if it is less expensive than the budget allocated. These two examples showed how the body with power authorises another party to execute certain actions. Although power is important in organisational activity, the extent it is used for decisions and actions differs (Pfeffer 1992, p. 33). Usually power and authority come together: however, in organisations with high turnover, power and authority to perform specific tasks could be lie with different individuals from different ranks in the organisation. This agrees with the previous argument that an influential person can be at any level of the structure. As a result of an influential person being at any level, conflict may occur if the new leader begins to realise that a lower-ranking individual is more influential than him or her.

To implement the Privatisation Policy, a Privatisation Main Committee was created in early 1990s, headed by EPU. This was the first move of formal power delegation to an organisation established to negotiate and implement PPP toll road projects. Although EPU had the formal power and authority on matters related to policy, it seemed to be working based on the input it received from the Ministry of Works and the Malaysian Highway Authority. There were cases where the Ministry of Works had to resort to the Cabinet for a policy decision. This scenario often happened when there was resistance from other organisation to accepting or changing clauses or ideas related to the implementation of a PPP toll road project. The Minister explained and got approval during Cabinet meetings. This was confirmed by a respondent from the ministry as:

“I heard [that in] those days, sometimes the Ministry of Works had to go to the Cabinet directly for some policy approval although we are just the implementing department. The Minister had no choice as the ministry deals with the public and we need to respond quickly. If we wait for the Main Privatisation Committee [chaired by EPU] to take action, it might take a few months. The delay is due to the fact that EPU had to be first convinced that it is a real problem and then they will call for meetings before preparing the Cabinet paper.

Sometimes, they [EPU] fail to understand that we are the implementing agency and we know what the problem is on the ground.” (SP3, interviewed 18/11/2015)

During such cases, the EPU and the Ministry of Finance used to provide their responses in the Cabinet paper and the respective Ministers discussed them during the Cabinet meeting. This method often happens when there are misunderstandings between the agencies, as commented on by a respondent:

“In those days [referring to Period 1], there were decisions that we did not agree with EPU but was still approved. When comes to the implementation, we had to face the problems, and that created misunderstanding between us and EPU. And to avoid any further problems with them [EPU] we go straight to the Cabinet to resolve the issues. If we don’t do that the issue will get worst and we can’t allow that to happen since we are public servants” (SP2, interviewed 29/01/2015)

Actors in the Ministry of Works during Period 1 are seen to be very proactive: they start preparing Cabinet papers after receiving feedback from the Minister during the post-cabinet meeting²¹. A respondent from the Ministry of Works illustrates this:

“We are very proactive. We take notes from the post-Cabinet meeting and prepare a Cabinet paper for the Minister’s approval. That was the way things were done during that period [referring to Period 1].” (SP2, interviewed 29/01/2015)

For example, the New Pantai Expressway Extension was initiated by the Ministry of Works and was approved and implemented despite resistance to the toll rates and financing structure by the Ministry of Finance. The EPU only provided their feedback in the Cabinet paper prepared by the Ministry of Works. This seems to have been normal practice until 2008 when the Ministry of Works was headed by the then Minister of Works. It gives some evidence that power and authority depends on the

²¹ A post-cabinet meeting is chaired by the Minister to brief the Ministry what was discussed in the Cabinet meeting relating to the Ministry of Works.

seniority of certain individuals. The Minister of Works then served as the Minister for 22 years, while the Ministers from the other agencies involved in PPP toll road negotiations only held the post for the normal term of five years.

However, power and authority do not necessarily come with certain rank in an organisation. This is common in organisations where the officers are being transferred after working in that organisation for a period of time. Individuals performing the same task for a period of time can be seen to acquire power and those individuals are valued as an asset to the organisation. The biggest problem the Secretary General of the Ministry of Works faces is:

“Every time, by the time an officer is fully trained, we lose that officer. It takes a lot of effort and resources to train a person and after a few years that officer is transferred out and we have to start training a new person again.” (HOA2, interviewed 20/11/2015)

This creates a huge vacuum and disparity between members in the PPP toll road negotiating team where the newer staffs, even though they are superior in rank, is often overridden by the longer-serving but more junior officers. That is, the established social relation remains with minimal changes as the new comers do not want to initiate changes. It can be one of the reasons that there have been no actual changes to the terms in PPP toll road Concession Agreements. Even though the government has been trying to argue that the newer agreement protects the toll road users (see Chapter 1, the motivation for the study), the majority of the clauses still remain. This can be seen as the result of the tendency for individuals to be influenced towards adopting the existing norms of the organisation and conforming to the existing ‘methods of doing things’ established over time in the social relations. So even though specific clauses were changed between the first and the second generation PPP toll road projects, these did not have an impact on the overall style of PPP toll road negotiation.

Rules and Norms

As discussed in theoretical framework, institutions tend to influence directly and indirectly, in such a way that actors are inclined towards practicing existing rules and norms while the actors are with that organisation. The two ways an individual being influenced in an organisation can be categorised as: (i) rules as direct influence; and (ii) norms as indirect influence (see Chapter 5, Section 5.6.2).

Individuals working in the PPP toll road sector have been assigned their duties for at least two years, while some have been in position for up to 10 years. The interview responses provide evidence that those individuals are indeed influenced by their organisation's rules and norms. A few respondents had similar views to those expressed in this interview

“I will have to do what my organisation's stand is and we always protect the users and safe guard the government's rights. That is the basic rule and norm of this organisation.” (SO2, interviewed 04/02/2015)

Evidence from the fieldwork suggests that there is a dependency between an institution and individuals working in it which allows the individuals to be influenced and shaped by the institution (Veblen cited in Hodgson 2000, p. 326; Commons 1965), especially when the individuals are performing the same kind of assignment every day and believe that what they are doing is correct and acceptable to the institution. As explained earlier, in PPP toll road projects, when a specific individual remains in the institution for a long period of time, he becomes known as the 'expert' in that field and this contributes to the creation of an influential person.

Commonly when an individual reports duty in an organisation, he will be assigned to certain responsibility. Their responsibilities are specifically mentioned in a document named 'job description'. Every post in all levels has its own job description. The individual reporting for a specific post is expected to work as specified in that job description. The list of duties explains the details of what the individual has to do and is mentioned in a job description. The job description also contains the responsibilities for

the officer. An example of a job description, responsibilities and list of duty for a subordinate officer is as per Appendix 8. When discussing job description, a respondent illustrates as:

“When we join the department, we are given a *Fail Meja* [refers to a file, sort of a starter kit for new-comers]. It has the detailed job description and list of duties. Rules and norms are not explicitly mentioned anywhere; we learn while working.” (SO8, interviewed 29/01/2015)

New-comers learn their prospective job by tagging along with their “senior” in that organisation, who usually happens to be an influential person. This seems to be the normal way an individual learns his role and duty especially in highly bureaucratic organisations like the Ministry of Works, the PPP Unit and the Malaysian Highway Authority. Many respondents had similar views to those expressed in this interview

“I accompany my boss for meetings to get an exposure and learn.” (SO11, interviewed 10/02/2015)

Under normal circumstances the Under Secretary is the senior to the Deputy Undersecretary, Principal Assistant Secretary and Assistant Secretary, while the Deputy Undersecretary is senior to Principal Assistant Secretary and Assistant Secretary. An Assistant Secretary tends to learn from other Assistant Secretaries in their unit besides being exposed to the role and duties by their respective Principal Assistant Secretary. That is an example of an official or formal order in which a task should be carried out. It can be accepted as one of the work procedures. However, since individuals are promoted and transferred out of the organisation, the official practice of remaining individuals is not effective, and the existing official reporting line is frequently broken. It has been so frequently broken in the past that it became a norm in that division, where the Assistant Secretary frequently reports directly to the Deputy Undersecretary and the Principal Assistant Secretary also frequently reports directly to the Deputy Undersecretary. This situation is common when the Assistant Secretary or Principal Assistant Secretary has been performing the job for a long period of time and has been posted to the division much longer than the Deputy Undersecretary and the Under

Secretary. In this event the influential person can be at any level within the organisation and the existing reporting chain rule was broken and practiced so often that it became a norm.

Some of the interview responses confirm that respondents learn from their seniors and from on-the-job training. Detailed clarification with them reveals that they learn norms from their seniors and on-the-job training is gained from the repetitive action of performing a similar kind of job in different PPP toll road projects. The respondents further explained that after practicing a specific task for a certain PPP toll road project which was initially practiced by their seniors, they repeat the same for other similar PPP toll road projects. This is considered as on-the-job training.

There are two types of norms that were observed in relation to toll road negotiations, which are classified as follows:

- i. norms that are related to work procedures;
- ii. norms for representing the position of the organisation in PPP toll road negotiations.

There may be a set of official rules for work procedures that are supposed to be used when performing a specific task, for example reporting meeting discussions and outcomes when an individual attends a PPP toll road meeting outside his organisation. One of the respondents explained:

“Previously a subordinate could discuss with the Secretary General directly but after this new boss came [refers to the current Under Secretary], we have to go through the matter with him and he will discuss with the Secretary General.”
(SO5, interviewed 29/01/2015)

In this case the actual official rule was broken and was repeated (during the tenure of the previous Under Secretary) which became a norm. These norms are usually used by all officers in that particular organisation when they represent their organisation and are usually acquired from their seniors when they attend meetings together.

However, this type of norm can only be identified from the minutes of the meetings or by being at the meeting. During a participant observation session, a representative from the Malaysian Highway Authority stated that:

“I cannot change my Department’s view as it has been practiced all this while for previous projects. I will have to get back to my superior and give our opinion in writing.” (G5, observation 12/10/2015)

The response given by G5 provides evidence for how an established social relation remains for a long time and is difficult to change. This is because the view provided has been used for a while and was accepted in previous negotiations which has been the ‘methods of doing things’ for that particular social relation.

According to the respondent changes in Type 1 norms (norms related to work procedures) occur when there is change in leadership. Changes in Type 2 norms (norms for representing the position of the organisation in PPP toll road negotiations) occur when there is an event which forces a change. For example:

“Usually when a new boss reports [for] duty, there will be changes in work procedures, like the format of memos, letters, and the lines of reporting.” (SO9, interviewed 29/01/2015)

“We usually don’t do changes until something happens which forces us to change our way of doing things.” (SO5, interviewed 29/01/2015)

Changes in the existing norms promote the creation of a “new” rule which then promotes the reproduction of social relations. These changes in response to a specific event are usually discussed and made official as the new rule after the Strategic Committee Meeting. Usually the new rule supersedes the previous one and when it is practiced repetitively it becomes a new norm. However, this only happen to rules which are actually being followed. There are some norms which are deeply embedded in the organisation which cannot be changed even if new rule is introduced.

The strategy of domination and power had been used as the way for the influential personnel or the institution ensure their ideas and views are always taken into consideration. During first and second generation PPP toll road formulation, only a specific officer was allowed to attend meetings with the EPU or the Ministry of Works. It was a strategy to ensure that the Committee would not ignore the issues being pointed out since the specific officer was experienced and had been around since the PPP toll road project scheme introduction. The actors representing the organisations were delegated power by the management and were well-versed in the embedded rules and practices. This strategy was confirmed by a respondent, who said

“If the management is not happy with the proposal, they will send this person to attend the meeting as he is very experienced and will make sure our views are heard.” (SO6, interviewed 06/02/2015)

The established social relations are the outcomes of power and authority, rules and norms, and the influences of internal and external forces and of influential personnel. The established social relations then become a network where all actors involved are oriented towards the ‘methods of doing things’ as accepted in the social relations. When the original contributor to the social relations leaves the organisation, the existing social relations remain strong as they have been routinised over a long period of time, and new comers follow the existing ‘methods of doing things’. Hence, the existing social relations carry on until there are substantial changes to the organisational arrangement. The strategic arrangement is an outcome of prolonged routinisation of ‘methods of doing things’ which in turn are a product of policy, legal and regulatory and organisational arrangements.

Social relations are elements of both organisations and institutions. The social relations of an actor involved in PPP toll road project formulation from the first generation and the second generation (Period 1) was the same with same practices being routinised. The strategic aspect (Harris 2004) relates to how to control and organise PPP project formulation. However, for this research, the concept of the strategic aspect has been modified as the strategy used by organisation towards achieving an outcome. It is an exploration how social relations are used strategically by

actors in an organisation involved in the formulation of PPP toll road projects to work out ways of establishing their ‘methods of doing things’. As discussed above (see Section 8.2), social relation Type 1 is established by actors through routinised rules and practices guided by internal and external forces and the influence of the influential person. The social relation established has its own ‘methods of doing things’ which are practiced by actors when performing a task or representing their organisation during the PPP toll road project formulation. The social relation then becomes a network when practiced by the whole unit or division dealing with PPP toll road project where it consists deeply embedded ‘methods of doing things’.

Strategic Management Meetings have been held since the mid-2000s and are the venue for discussing changes to existing organisational social relations. Only superior group officers are invited to attend the meetings which are usually held once a year over a two-day period, during which they discuss organisation policy and objectives, implementation problems, considerations of views and policies from other agencies and changes in work processes. There is an open discussion on how to improve the ‘methods of doing things’, but because the meetings only include superior group officers, the changes proposed are usually biased by superior group officers’ views. It is an important meeting but does not cover the whole spectrum of the organisation.

8.9 The process of approval

The approval process in Period 1 differs from the current processes. The Main Privatisation Committee was chaired by the Privatisation Section of the Economic Planning Unit for new proposals; while for additional works and extension proposals, the committee was chaired the Privatisation Unit of the Development and Privatisation Division, Ministry of Works. The main privatization committee is supposed to be the central secretariat which is in line with the explanation by Rhodes (2009, p.440) that the central secretariat enables the organisations to fix issues. The two different routes which were available during that period further created dissatisfaction among two prominent organisations involved in the PPP toll road project formulation. The different routes of approval caused misunderstandings between actors from both the organisations:

“We never agreed the extension of the highway to stop at where it stopped now. That eventually caused a bottle neck to the connecting junction causing heavy traffic jam during peak hours. The Ministry of Works took the extension project to the Cabinet and got it approved.” (HOA1, interviewed 02/11/2015)

The general process of approval during Period 1 is shown in Figure 10 below:

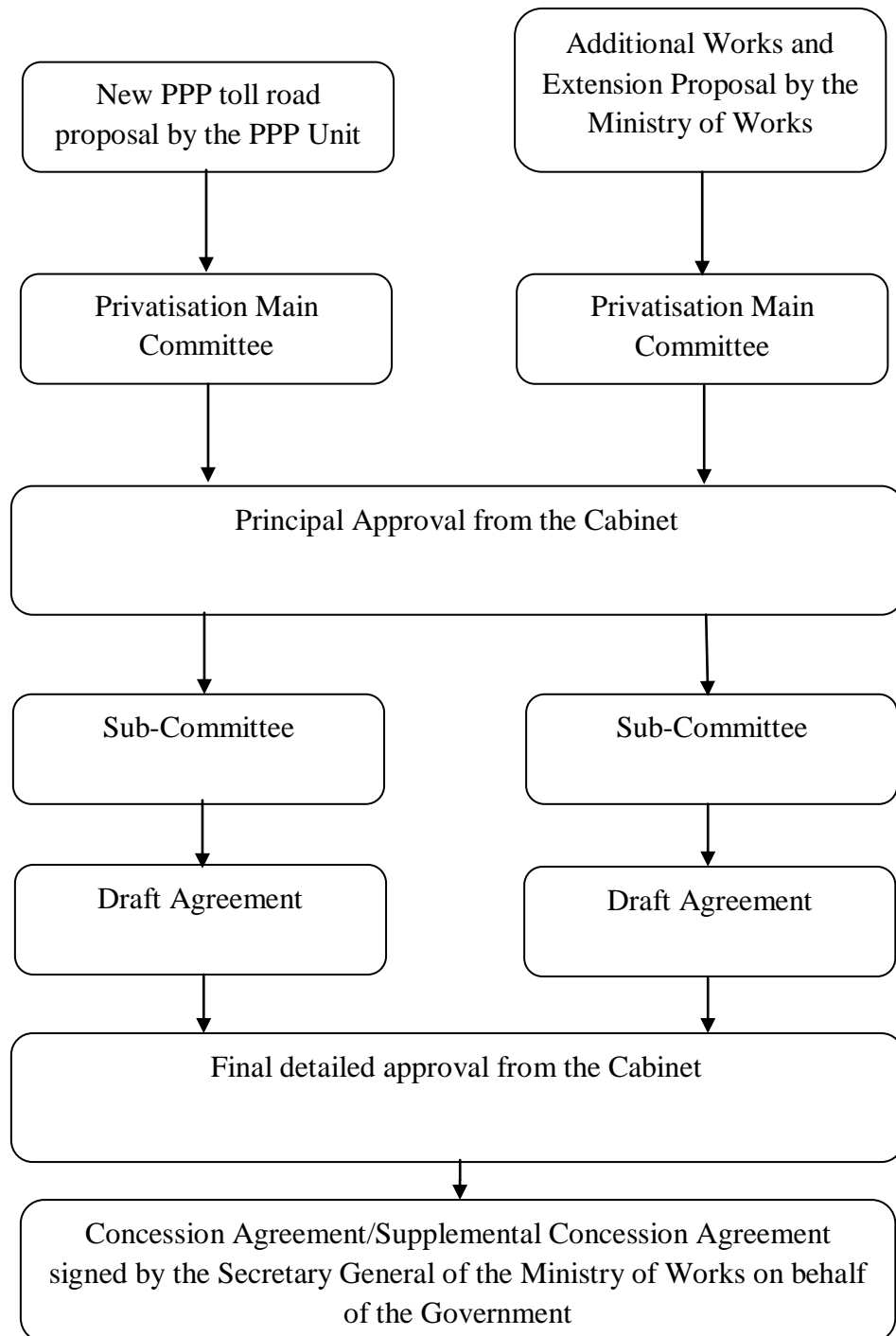


Figure 10: Diagram of process of approval during Period 1

Source: Author’s compilation during fieldwork document analysis, 2015

The existence of two routes of approval created rules and norms that embedded in actors' 'methods of doing things' from each of the organisations. This method of doing things then formed part of the practices adopted in the social relation which remained throughout the Period 1. This method of doing things however, created a more competitive situation between the organisations and when problems begin to surface, both organisations began to blame each other. This situation changed for the third generation PPP toll road projects which will be discussed in the next chapter.

8.10 Summary of Chapter

The summary of this chapter is arranged in terms of the forces that influenced the creation of the social relations produced by actor's relations in Period 1 (mid of 1980s until end of 2000s). Through the investigation of both the cases, the North South Expressway and the Damansara-Puchong Highway, the actors involved in the PPP toll road formulation during first and second generation projects lacked of a clear PPP framework for the process. Over the period of interactions, the actors constructed a social relation. From the analysis, the role of the influential person was clear in terms of establishing the rules and practices for their respective social relations. The existing system promoted the creation of influential personnel who tended to block innovative ideas in favour of long-standing routinised rules and practices. As Moos and Dear (1986, p. 246) used concepts of 'strategic conduct analysis' to explain the power relation where in the model there are five types of agents in the urban space, namely the 'politicians', the 'bureaucrats', the 'interest group', 'influential' citizen and the 'ordinary citizen'. As for this research, the influential personnel whom are the bureaucrats are powerful since they can influence the top management towards certain decisions. It is difficult for a new actor to introduce changes into the existing social relation because the existing rules and practices are so deeply embedded. The existing rules and practices are products of tradition that grew over time having adapted different sets of belief from both the 'administrative and legal domain' which provided public service the privilege of 'institutional continuity' which helped to promote the interest of constitutional bureaucracy (Rhodes et al 2008, p. 463).

The summary of each element concentrates on how it influences the ‘methods of doing things’, practiced in established social relations. The policy arrangements during the formulation of PPP toll road projects aimed to encourage the participation of private sector in the economy by creating improved infrastructure and contributing to the overall agenda of the NEP policy. Different kinds of assistance and guarantees were promoted during the formulation of the first generation PPP toll road projects, but with experience of successful projects, guarantees were not given to the second generation PPP toll road projects. The policy changed to protecting the government from the risk of covering debts in the event of private company failure. The political condition during first and second-generation PPP toll road project formulation was stable for the ruling government and no drastic changes were needed to the policy. However, some changes have taken place which confirms the conclusion by Rhodes et al (2008, p. 473:474) that changes have taken place in the public services. Rhodes et al (2008) further observed that the old ‘idea, notions, historical legacies’, ‘adaptable sets of beliefs’, which were jettisoned during the reforms have survived over the years thus shaping ‘today’s practice’ where the ‘key components of the old’ are adapted into the new to tackle current challenges (p. 463). The similar situation is observed in the PPP toll road projects formulation in Malaysia for Period 1.

During the Period 1, there was no enacted PPP Law which could be used by actors when creating rules and making decisions about the social relations for negotiating first and second generation PPP toll road projects. The implementation of privatisation was based on the Privatisation Policy introduced in 1985 and the regulation governing the Highway Authority of Malaysia. Lack of enacted PPP law resulted in differences of opinions that ended in the organisations blaming each other for bad decisions. Attaining unified decision was an issue during Period 1 as there were two ways of getting a project being approved.

In the case study of first and second generation PPP toll road formulation in Malaysia, issues pertaining to organisational structural arrangements related to lack of innovative and creative ideas. The organisational structure was more stable, with existing actors remaining in post for a number of years. However, the dependence and the bureaucratic hierarchy and dependence on the good will of superiors in the system

prohibited the flow of innovative ideas. This is because the actors did not find the space and voice to propose new innovative ideas (Rhodes et al 2008, p.473-474). It was an effect of the high dependency on supervisors' evaluations of subordinates' performances. Besides that, the influential personnel in each organisation tended to conflict with other influential personnel from other organisations which saw blame games being played in the media. On the other hand, there has been a systematic procedure in place for the execution of tasks due to clear job descriptions and lists of duties.

During the analysis as well, two new internal forces has been identified and used for this research which are the (i) senior staff member as a mentor and (ii) staff turnover. The discussion of the strategic arrangement covered the internal forces which includes the two new forces that influence the establishment of the social relations, classified into two components: (i) power and authority; and (ii) rules and norms. Power and authority has been the key element which influences the establishment of social relation and are part of the influence of influential personnel. Rules and norms have direct and indirect influence respectively on the establishment of the social relations and are also part of the influence of the influential personnel.

The established social relations during Period 1 is a product of routinised practices of rules and norms. The social relation's 'methods of doing things' is guided by the policy, legal, regulatory, and organisational frameworks and the input from influential personnel. The strategic arrangement used by organisation remained even when the contributor to the established practices leaves the organisation as the practices are deeply embedded. The embedded strategies influence the formation of new social relations. The changes as advocated during Period 1 was more towards reducing risk on behalf of the government which was not fully changes to protect the users. The findings in this chapter is common among civil service in many nations and not particular to Malaysia. The levels of reporting and approval in the day to day work is inevitable and the top of the hierarchy is the nodal point for the flow of information (Rhodes 2009, p. 193), this will be explained further in the next Chapter.

The next chapter analyses Period 2 which includes the changes advocated for the first and second generation the PPP toll road projects and which led to the third-generation projects.

Chapter 9

Part 2 – Descriptive Analysis

Actor relations in advocating changes from the first and second to the third generation PPP toll road project formulations: modifying and reproducing the ‘methods of doing things’

9.1 Introduction

Based on the analysis of Period 1, it can be seen that there had been active social relations that influenced the formulation of the PPP toll road projects during the first and second generations which lasted for more than 20 years. In Part 2 of the analysis, the main changes in toll road project negotiations in Period 2 between 2010 and 2016 are discussed. This third generation of PPP toll road projects includes projects that had been approved between 2010 and 2016. Over this period, the involvement of influential personnel in modifying and promoting changes which reproduce the ‘methods of doing things’ was further consolidated, while the four types of social relations remained the same (see Chapter 8, Section 8.2).

This chapter starts with the changes in the policy arrangement that influenced changes to the ‘methods of doing things’, the influence of internal and external forces promoting changes and the changes that did take place. The chapter then discusses the changes in the legal and regulatory arrangement that affects the formulation of PPP toll road projects. The next important elements discussed are the organisational arrangement and strategic arrangement. The changes in the organisational arrangement show that crucial changes had taken place in the process and formulation of the third generation of PPP toll road projects. The discussion of the strategic arrangement shows how elements of internal forces that influence the social relations affect the ‘methods of doing things’ that enable an actor to gain experience and knowledge related to PPP toll road projects. An explanation of the current process of PPP toll road project approval follows. Finally, this chapter summarises the key findings of this research which will be discussed in the concluding chapter.

This research, however did not explore the voices of people outside the social relation that is formed by actors during the formulation of a PPP toll road project. The outsider's voices such as academicians, scholars, public and others were not explored due to the limitations the researcher had in terms of time. Though the outsider's voices are not explored in this research, their influence towards changes in policies and changes on how things are done is acknowledged.

9.2 Policy arrangement: advocating changes to the 'methods of doing things'

Abdullah Ahmad Badawi, Prime Minister from 2004 to 2008, resigned from office on 3rd April 2009, handing over his Premiership to the current Prime Minister, Najib Tun Razak, the son of the second Malaysian Prime Minister, Abdul Razak Hussein (1970 -1976) who introduced the NEP after the racial riots. Under Najib Tun Razak's premiership, a specific organisation - the Public-Private Unit (PPP Unit) - under the purview of the Prime Minister's Department was established in April 2009 to co-ordinate and evaluate all privatisation and PPP projects. (<http://www.ukas.gov.my/en/latar-belakang>). The third generation PPP toll road projects have been negotiated since the establishment of the PPP Unit which aimed to foster stronger relationships between the public and private sectors (PPP Unit 2009) and promote more private investment in infrastructure projects. A new guideline known as the PPP Guideline was introduced at the end of 2009 which has become 'the Bible' to actors involved in project formulation. The Guideline further strengthens the existing Privatisation Policy introduced in 1985.

The key features/characteristics of the Guideline are as follows:

PPP is a public procurement model in which the value for money as shown in Box 1 is optimised through efficient allocation of risks, whole life service approach, private sector innovation and management skills as well as synergies from inter-linking the design, finance, construction and operations. Some of the key features/characteristics of PPP projects are as follows:

i. Relationship between public and private sectors is based on partnership;

ii. Public sector procures specified outputs or outcomes of a service for a concession period;

iii. Private sector determines the required inputs to achieve the specified output and the private sector is given latitude to introduce innovation into their designs and development to reduce overall costs;

iv. Payment for services is based on pre-determined standards and performance;

v. Promotes 'maintenance culture' where the concessionaires will be responsible for the long term maintenance of the assets throughout the operational tenure agreed upon;

vi. Integration of design, construction, finance, maintenance and operation – total package;

vii. Transfer of assets at the end of the concession period becomes an option to the Government;

viii. Optimal sharing of risks whereby risk is allocated to the party who is best able to manage it; and

ix. Whole Life Cycle Costing ('WLCC') whereby PPP projects are usually awarded based on lowest total cost over the concession period compared to lowest construction costs under the traditional procurement method-a paradigm shift in the form of procurement objectives.

Box 1: Value for Money

The main driver of the PPP Programme is Value for Money (VfM), defined as 'the optimal combination of whole life cost and quality to meet the users' requirements'. Generally, VfM is achieved through:

- risk transfer which allocates risks optimally between the public and private sectors*
- long term nature of contracts (which embodies whole life costing)*
- the use of output specification which allows bidders to innovate*
- competition that provides fair value of the project*
- performance-based payment mechanism*
- private sector management expertise and skills*

Source: *Public- Private Partnership Guideline* (2009, p. 5-6)

The introduction of the PPP Guideline provided new guidance for the selection of PPP projects to be negotiated. It also ironed out the process of approval for all new PPP toll road projects and any other projects related to existing PPP toll road projects. All projects must be negotiated by the PPP Main Committee compared to the previous situation when EPU was negotiating new PPP projects while the Ministry of Works were negotiating any works related to approved PPP toll road projects.

The general criteria for PPP project selection are as follow:

The selection for PPP projects involves a 'filtering process' whereby certain general criteria should be met as follows:

- Output specification can be clearly identified and quantified*
- Economic life of the asset or service should be at least 20 years*
- Projects with technological obsolescence risk (technology used will be superseded in short term) will not be considered*
- Project sponsor must be financially strong with a paid up capital of the special purpose vehicle (SPV) to be at least 10% of the project value*

Source: *Public-Private Partnership Guideline* (2009, p. 8)

The Guideline created changes in the methods of negotiating a new PPP toll road or related project proposal. However, the main government policy, which was to encourage private investment, was implemented through providing more financial

support to private companies. In fact, PPP projects was given greater priority with the introduction of the Facilitation Fund (UKAS 2010) at the start of the Ninth Malaysia Plan. An amount of Malaysian Ringgit 20 billion was allocated in the Tenth Malaysia Plan to encourage and assist private companies with potential economically beneficial projects. This is a change of the government policy compared with PPP toll road projects in Period 1. In Period 1, the second generation PPP toll road project seen a reduction of government support as compared to the first generation PPP toll road projects and now for the third generation the government's policies saw an increase in financial support.

The Facilitation Fund Guideline was established to provide key information to applicants on the objectives of the facilitation fund and the selection criteria as follows:

Objectives

The objectives of the Facilitation Fund are:

- i. to bridge the viability gap in private sector investment in the implementation of high value projects that have huge spill over effects as well as high strategic impact to the economic development;*
- ii. to become a catalyst for private investment in the strategic sectors; and*
- iii. to rationalise the Government's involvement in business and increase participation of the private sector in the economy.*

Criteria and Qualifications

Key characteristics of projects that will be considered under the Facilitation Fund include:

- a. Investment that has high impact to the economic growth and has added value and high multiplier effects;*

- b. *potential to create sustainable employment opportunities to Malaysian citizens particularly at the management and professional levels;*
- c. *potential to contribute towards enhancing the country's economic competitiveness;*
- d. *projects shall be technically feasible and commercially viable on a standalone basis;*
- e. *value of the project investment (fixed investment) is not less than RM100 million; and*
- f. *projects with strategic value in line with the strategic thrusts outlined under the Five Year Development Plan.*

Project with the following characteristics is not eligible to be considered for the Facilitation Fund:

- a. *Projects in the financial/banking sector;*
- b. *Projects in the incubator or R&D stage;*
- c. *Projects which involve mergers & acquisitions;*
- d. *Projects that have received government allocation and/or funded by funds provided by the Government;*
- e. *Government procurement projects;*
- f. *Investment in foreign countries;*
- g. *Projects that are highly dependent on Government support; and*
- h. *Projects whereby the Government needs to bear a significant portion of the risks.*

Source: *Facilitation Fund Guideline, PPP Unit* (2010 p. 1-2)

The Facilitation Fund Guideline complements the PPP Guideline being used for all new PPP proposals. Currently, the Facilitation Fund is also used to finance the land acquisition costs of approved PPP toll road projects. Despite these new measures of

government support for PPP projects, there is a strict policy on toll increment as a result of the drastic change in political environment giving the governing party such a small majority. Since 2009, there has been a struggle to ensure that future negotiations concentrated on ensuring that toll road users were not burdened with toll increases.

The existing social relations in the Ministry of Works and the Highway Authority of Malaysia had to incorporate these changes. The first generation PPP toll road formulations saw the government providing various forms of assistance and support, but those kinds of support were reduced during the second generation PPP toll road projects. The third generation now looks for more government support. Despite providing more financial support, the government began to concentrate on toll issues when negotiating the third generation PPP toll road projects. The change in overall government policy on PPP toll road projects reflects political conditions (stress on toll issues) and economic conditions (promoting private investment). The loss of many parliament seats and a few states (Penang, Selangor, Perak, Kelantan) out of the 13 states during the 2008 general election was the wake-up call for the government. During the campaign, the oppositions were using the toll increase matter as a campaigning tool and this made the government realise the seriousness of the issue. After the general election, the ruling party is still in power with lesser majority and made a policy shift towards protecting toll road users. These events lead to the 2008 general election and the establishment of PPP Unit in April 2009 has motivated the formulation of the 2009 PPP Guideline, which introduced the concept of Value for Money. The Value for Money concept was introduced to ensure that assistance by the government are maximized towards the benefits of user, for example, the more financial assistance from the government the lesser toll to be collected from users. This could be achieved since the government promotes innovative bidding using the output specification.

9.2.1 Introducing changes

a. Challenges in advocating and adopting changes

As discussed in the previous chapter, under the social relation's strategic arrangement, there are two types of norm which are:

- i. norms that are related to work procedures; and
- ii. norms for representing the position of the organisation in PPP toll road negotiations.

There are hundreds of government agencies in Malaysia, each with different tasks and objectives. Officers working in these agencies are usually transferred when they are promoted especially when there are no suitable posts for their new grade. It is expected that when a new officer joins an organisation, they will work according to the existing rules and adopt existing norms (Type 1 norms that are related to work procedures). In carrying out duties, as learners and/or representatives, actors may be required to deliver the views of their superiors, (become an observer or a listener or, if they are an influential person, give their own ideas/views or opinions. Once the ideas/views or opinions given by influential personnel are accepted by the meeting, they then become those of the organisation. A respondent illustrated it this way:

“My previous superior attends PPP toll road meetings and gives his suggestions, usually they are accepted as the other members of the committee know of my superior’s past experience. Then my superior will instruct me to prepare a report to the management on what was suggested and the rationale behind the suggestion which will be accepted by my organisation. The next time when we attend similar meetings, we use the same suggestion.” (SO1, interviewed 15/10/2015)

The above evidence provides suggestion that sometimes Type 1 norm becomes Type 2. When representing the organisation, the influential person was drawing on Type 1 norms, then when the organisation accepted the suggestion and other actors began to use the suggestions, they became Type 2 norms. Type 2 norms are norms when representing the position of the organisation in PPP toll road negotiations – are being adhered to, especially for the Ministry of Works, the PPP Unit and the Malaysian Highway Authority.

Respondents from the three organisations confirmed that there may be briefing or discussion with their superior before attending a PPP toll road meeting. It depends on the level of meeting and whether it is related to policies or requires a decision. If a senior ranking individual attends PPP toll road negotiations, he may sometimes use the power and authority which comes with the rank to express his opinions/ideas/views. The organisation expects that individual to carry out his duties in the way which has been accepted by the organisation. Currently officers representing their organisation give their ideas/opinions and views based on advice and instructions from their superiors. That is the accepted norm for the organisation confirmed by some of the respondents as follows:

“Usually there will be a briefing with my boss on what I should convey to the meeting.” (SO4, interviewed 05/02/2015)

“If it is my boss’s instruction I will have to just follow and convey, even though sometimes I don’t agree.” (SO2, interviewed 05/02/2015)

“I will just listen and take notes which I will later convert into a report to my boss.” (SO3, interviewed 05/02/2015)

“My boss is experienced and he voices ... our Department’s concern in meetings to avoid repeated mistakes.” (SO1, interviewed 15/10/2015)

“That is our Department’s stand now. We cannot exceed the opening toll more than Malaysian Ringgit 1.20. That’s our view for all the new PPP toll road projects.” (G5, observation 18/10/2015)

Any changes introduced might create resistance and to avoid any issues, a newcomer – especially a lower grade officer - just follows the existing norms.

“I will just follow my boss’s instruction as my boss has more experience and knows better than me. Why should I create a problem?” (S07, interviewed 30/01/2015)

Similar comments were made by most subordinate level actors during the interviews. This may be regarded as an instance of the influence an organisation typically has on individuals (Hodgson, 2000). Each PPP toll road project is governed by its own agreement known as the Concession Agreement. There are many clauses in each agreement which bind both the government and the private company involved. Over time, certain clauses such as the Toll Increment Clause and the Compensation Clause have proved more difficult to implement due to the sensitivity of the public. Despite having trouble implementing certain clauses, these acknowledged issues of contract terms are still used and negotiated in new PPP toll road projects. However, the difficulties in implementing certain clauses have become circumstances for change as commented by respondents as follows:

“We only change our terms once we know there is problem and once there is public outcry.” (SO6, interviewed 06/02/2015)

“Why don’t we just use the existing Clause? ... There are no issues with that, all the companies have accepted the Clause.” (G9, observation 18/02/2015)

Another reason that could be related to resistance to changes is the actor’s existing knowledge when joining an organisation. Officers negotiating PPP toll road projects come from various educational backgrounds. Some of them mentioned that their work does not relate to what they have studied or their previous work experience. Most of them claimed that they accumulate the necessary knowledge and experience in their day to day work as *on-the-job experience or training*. On the other hand, there are some who mentioned that their current work is very much related to what they have studied and their previous work experience. This difference may result in huge disparity among individuals involved in the negotiations. An inexperienced individual in such negotiations tends to give views or opinions similar to those their superior has given in the past or just delivers his or her superior’s view or opinion.

“My background is not engineering or finance, I did not have any knowledge regarding PPP, I had to learn while working [on-the-job experience] and by attending some training.” (SO7, interviewed 30/01/2015)

“The boss is always right and I will follow his instruction. My knowledge background is not related to PPP and I am [too] inexperienced to question his opinion.” (SO3, interviewed 05/02/2015)

“At that time [Period 1], when I joined this Department I was inexperienced and my background had nothing to do with PPP. I learnt through experience and from my ex-boss.” (SP5, interviewed 16/02/2015)

These respondents claim that it is the safest strategy when asked for any view or opinion about an issue on PPP toll road and tend to repeat what has been said for previous PPP toll road project negotiations based on the input from their seniors or juniors or documents of previously approved PPP toll road projects. They then accept it as their organisation’s view or assume that these opinions stand for all future PPP toll road projects, without realising that each previous PPP toll road project was negotiated on different parameters. An example was given as follow:

“The new officers lack experience and they tend to repeat what has been mentioned by their colleagues for other projects. They don’t know the rationale [for] approval and the parameters used to negotiate the previous projects. Sometimes, they give their responses based on what they found in their past PPP toll road project files. It is difficult to change their perspective, especially if they are senior officers. This is the problem we face....” (HOA1, interviewed 02/11/2015)

It may be accepted as one of the reasons certain terms in the agreements are repeated, even though they are not necessary for future PPP toll road projects. This scenario frequently happens when a subordinate ranking officer represents the organisation. However, when a senior ranking officer such as the Deputy Undersecretary or Under Secretary attends negotiation, they tend to give their own view when pressured to do so.

Although in organisations, such as the Public-Private Partnership Unit, the Ministry of Works and the Malaysian Highway Authority rules tend to be followed, it is

far from uncommon for rules to be broken when issues are important and stakes are high. It happens more frequently when superior level officers such as Deputy Under Secretary/ Under Secretary/Director/Deputy Secretary General or Deputy Director General attend PPP toll road negotiations. The rules are often broken at policy meetings in a negotiation rather than sub-committee meetings such as technical or financial committee meetings. Policy-level meetings here are referred to the Public-Private Partnership Committee meeting chaired by the Director General of the PPP Unit and the Higher Committee of Public-Private Partnership meeting chaired by the Chief Secretary to the Government. During the fieldwork, some of the responses received regarding implementation of PPP toll road projects' Concession Agreement clauses provide evidence that public resistance has forced these officers to carry out negotiations on some clauses differently.

“It is so difficult to implement certain clauses now, especially those related to the Toll Increment. Every time, when we decide to increase the toll there is public outcry and the issue is politicised. We had to defer the increment. We had to look back at the existing clauses on how to strengthen them to ensure we could avoid such situations.” (SP1, interviewed 04/02/2015)

This has resulted in the strengthening the Toll Review Mechanism Clause introduced in the second generation PPP toll road projects which does not allow automatic toll increment but is subject to traffic numbers and other verification. In addition, new clauses have been introduced which should protect the users and prevent the private company making excessive profits. The strengthening of the existing clause and the introduction of new clauses is a shift from the existing clauses which the officers or their organisation had been using for previous negotiations. The existing rule or norm is now altered to incorporate this change and is used in all new PPP toll road project negotiations.

The discussion in this subsection has provided evidence that there are challenges in terms of introducing changes to the existing 'methods of doing things' in the social relations in Period 2 due to lack of background knowledge and deeply embedded routinised practices. However, external issues have forced changes to the third

generation of PPP toll road projects. The next subsection elaborates and discusses the changes that happen when there are changes in leadership.

b. Changes happen when there are changes in leadership

When the Minister who had held the position for 22 years left the Ministry of Works, there were changes in the way individuals worked in that organisation. As mentioned in Chapter 8, Section 8.7, one of the respondents said:

“Previously a subordinate could discuss with the Secretary General directly but when this new boss came [refers to the current Under Secretary], we had to go through the matter with him and he will discuss with the Secretary General” (SO5, interviewed 29/01/2015).

This is a typical example of the individual building up personal power and authority by being in a position for a long time. That Minister allowed key officers to prepare Cabinet papers to resolve issues without consent and approval from other relevant agencies. After he left, the Ministry was then led by a first-time appointed Minister who told the high ranking key officers not to initiate any Cabinet papers without consent and approval from other relevant agencies. Another example of change due to change of leadership was when the new Prime Minister took office in 2009, and private companies were given more support to participate in economic growth while at the same time ensuring the interests of the public or road users were seriously considered. Leadership change has also induced the introduction of new clauses into project agreements and improvement to existing clauses. For example, a new Concession Expiry Based on Internal Rate of Return Clause was introduced by the Director General of PPP Unit and is being used for all new negotiations. Being the Director General, his proposal was accepted by everyone present during the negotiations due to his power and authority as Director General. As a private sector representative commented:

“Now the government is being kinder, they support our proposals and provide more financial support. This helps in our participation for the nation’s growth.

We don't mind the introduction of new clauses as long as it is fair to everyone, the government, the users and the private sector.” (Private 3, interviewed 04/11/2015)

Type 1 norms (norms that are related to work procedures) often go through changes when there are changes in leadership. However, the changes in Type 1 norms may not necessarily affect the higher ranking officers like the Head of an Agency who have been in the organisation much longer. This is due the existing power within the ranks which entitles them to discuss with the leader and sometimes the leader may accept the higher ranking officers' suggestions and implement them as new rules and norms.

“When the new Secretary General took over, he called all the Heads of Divisions for a meeting and we discussed how to improve our existing rules. There, our suggestions were accepted and the changes were implemented; some changes were specifically for the subordinates” (SP2, interviewed 29/01/2015)

On the other hand, changes in Type 2 norms (norms for representing the position of the organisation in PPP toll road negotiations) usually result from a specific event but may also be the result of change in leadership. For instance, one of the respondents mentioned that:

“I no longer attend PPP toll road negotiations as I am from the lower ranks, and this was decided after there was a change of Head of Agency.” (SO8, interviewed 29/01/02015)

Some respondents mentioned incidents relating to a new instruction from the management that the comments or inputs related to the acknowledged issues of contract terms could not be referred to during meetings before they had been discussed with the organisation.

“I am sorry I can’t give any comments on the government support as it will impact the toll rates. I will have to discuss with my management and get back to the Committee.” (G8, observation 18/10/2015)

During fieldwork observation of meetings, it was noted that the frequent comment from the public sector attendees was:

“I will get back to my management and write to you officially.” (G12, observation 12/10/2015)

In interview, when asked to clarify, one of the respondents replied that previously he had the confidence to offer opinions and ideas during meetings, but with the new boss everything had to be consulted about first.

“Last time when I attend meetings I can agree or disagree and give ideas, but now I have to bring back the suggestion to the management for their deliberation first, then we write to the Ministry of Works directly. My boss does not like my grade of officer to write to other Heads of Agency. He wants to sign such letters, so we follow the new instruction.” (SO3, interviewed 05/02/2015)

The superior requires an internal memo with all information about the project, what was discussed and the proposed suggestions for him to decide. Here the role of the subordinate is crucial as the information comes from him and it is possible to steer the superior towards his suggestion, especially if the superior is still new and has no experience related to PPP toll road projects.

“Every time after attending a meeting, we have to prepare a memo to inform what was discussed in the meeting and the proposed suggestions. We can also include our suggestions based on past experience. I will also attach the draft letter for my boss’s approval: if my boss agrees she will sign, otherwise she will amend the draft and I will prepare another memo with the amended letter for her approval.” (SO8, interviewed 29/01/2015)

The discussion above clearly shows that changes do happen when there are changes in leadership. The established social relation will have to alter when there are changes in the ‘methods of doing things’. Nevertheless, sometimes the changes do not impact long serving high rank officers in the organisation as the new leader eventually will discuss with them before implementing changes. Changes could also happen responding to circumstances which could be coupled with changes of leadership. The next sub-section will discuss on that.

c. Changes often happens in responding to circumstances

Organisation has been crudely defined as a group of people working in the same place interacting with each other to achieve a common goal (see Chapter 3, Section 3.3). Although it is defined as being directed towards a common goal, it is not unusual for individuals working in a same place to have different goals which may overlap or contradict with one and another. It is the researcher’s view that, when people within an organisation have been there for a certain number of years practicing the same rules or norms, they become complaisant and start to assume that any decision/plan/program/project suggested and implemented is right and acceptable. This was indicated by one of the respondents:

“We don’t change until we are forced to...” (SO6, interviewed 06/02/2015)

When circumstances (for instance, public protest) disrupt the situation, the changes introduced to address the circumstances will be adopted as the social relations’ new rules and norms which then alter the ‘methods of doing things’. In the case of PPP toll road projects in Malaysia, it can be claimed that the changes in the clauses being initiated in new negotiations are the effect of past decisions. As one respondent said:

“When the first and second generation PPP toll road projects were approved, we could not see [that there were any] issues in implementing what has been agreed. Situations change like economy and leadership and what was thought appropriate and could be implemented is no longer achievable. It is difficult to make changes on what has been agreed but we are more careful with the newer

PPP toll road projects and changes are introduced in them.” (SP1, interviewed 04/02/2015)

The main reason for initiating major change was the difficulty in implementing obligations related to toll matters for the Period 1 PPP toll road projects. Due to the issue being politicised as a political manifesto, the government decided to freeze all toll increments and had to pay huge amounts of compensation. Each year, the Ministry of Works has to submit the compensation figures to the Ministry of Finance to be included in the yearly budget and tabled in Parliament. During each sitting of Parliament, the compensation allocation is a hot topic because the amount of cash compensation paid to private companies operating toll roads has surpassed Malaysian Ringgit 2 billion as at November 2015. The government realised that the money used to compensate the private companies could be used for other purposes such as improving hospitals (Ministry of Works Press Release 15th Oct 2015). This meant the public officers needed to be more vigilant when negotiating PPP toll road projects.

However, the changes proposed are only for new negotiations and not for past decisions. In relation to past decisions, at that time the people within the organisation would have assumed that such decision would protect the organisation’s interests. The organisation later begins to realise that its decision which resulted in contractual commitment was actually creating an issue for itself due to the rights given that could not be fulfilled during implementation. However, the proposed changes proposed come too late and it is too difficult to correct the past decisions. The organisation will have to live with these decisions and avoid similar decisions in the new negotiations. In this case the organisation begins to discount existing opinions in order to facilitate change that will help to avoid disputable decisions. Nevertheless, there were attempts to negotiate some changes in the first and second generation PPP toll road projects, and some of the changes were accepted, such as the contribution to highway research, training and development.

Changes can be motivated by external circumstances, and the main circumstance that promoted changes to certain clauses in the PPP toll road agreements has been in response to public outcry. The changes introduced between the first and

second generations of PPP toll road projects (Period 1) was more internally initiated by the public sector actors in order to minimise the government's risk and exposure in the event if the project fails. The changes are proposed internally, usually by officers with substantial experience and knowledge who feel that change will promote better results for all parties in terms of project implementation. For example, the deletion of the Level of Indebtedness Clause in all new agreements has reduced the risk of the government guaranteeing all loans taken by the private company for the project. The private company involved in this negotiation was willing to remove that clause since investors were convinced with the ability of the government on fulfilling their obligations.

Meanwhile, changes introduced in Period 2 are motivated by external circumstances. When the time came to implement what has been agreed for PPP toll road projects in Period 1 (toll increment), the government could not implement due to external events such as responding to the public outcry and accusations of corruption. That forced the government to look at the terms being negotiated in a wider perspective which included from the perspective of the users instead of only concentrating on the government's perspective. The external circumstances eventually forced more material changes in the third generation PPP toll road projects.

The next subsection lists the differences in the agreement Terms between the Period 1 and Period 2 PPP toll road projects.

9.2.2 Differences between the First and Second Generation and the Third Generation Concession Agreements

There seem to be more aggressive changes in terms of the negotiation of a PPP toll road project, and a more unified method of doing things promoted in the latest changes since 2009. There was a time during the first and second generation Concession Agreement period where no assistance by the government was given other than the Land Acquisition Cost, but the new set of projects in Period 2 began to receive other financial assistance besides the Land Acquisition Cost that has to be paid back during the operation of the project. There are no further guarantees or government subsidies given. The most popular assistance being considered for the Period 2 PPP toll

road projects are the Government Soft Loan²² and the Interest Subsidy²³. Again these facilities are given on case to case basis and only if the company and project really needs them. In this case, it had to be decided whether such project needed to be approved and implemented and whether it provided benefits for users. The most recent (third generation) changes aim to reduce the burden of toll payment for users and sanctions on private companies if they do not perform according to the agreement. Responses on the changes in the terms in the Concession Agreements are as follows:

“There are many changes in the clauses in the Concession Agreement, the changes from phase 1 to phase 2 is motivated by the shift in priority from enhancing private sector investment to protecting government interest. While in Phase 3, the priority is to protect the users, that’s why now we have started to provide assistance to projects in order to keep the fees (referring to toll) lower” (HOA1, interviewed on 02/11/2015)

“When we were negotiating toll highways in phase 1, our priority was to boost the private investment and allow them to obtain financing through the local capital market, hence we had to couple the terms in the agreement with some goodies, such as traffic guarantee, and guarantee to the lenders. In phase 2, the government changed some of these terms in order to protect the government’s interest as the market has seen some successful toll road implementation. However, when there were many grouses from the users, we had to look back at our terms and change terms in relations to toll rates and compensation as those were the terms that affect users. That is the priority of changes in phase 3” (HOA2, interviewed on 20/11/2015)

²² The Government Soft Loan is a facility given to company with nearly 20 basis points lesser interest than the commercial lenders. The determination of the interest rate depends on the negotiation between the Ministry of Finance and the private company and is highly dependent on the project parameters. The repayment is usually after the company settles the private debt, however the current negotiation ranks the government soft loan *pari passu* to the commercial loans.

²³ Interest Subsidy is a facility through which the government provides support in terms of topping up interest payments to commercial lenders more than the project revenues affordable rate. For example, if the commercial lending rate is 6.5% and the project’s cash flow can only bear up to 5.5%, then the government will top-up the 1%.

“The current changes (referring to Phase 3) in clauses or terms in the Concession Agreement is because we have become smarter and the priority is the users. Those days some changes in clauses were introduced as to reduce the risk in the project, I am referring to the shift from Phase 1 to Phase 2 highway projects” (HOA3, interviewed on 30/10/2015)

Crucial changes as listed in Table 10 have been promoted by a group of actors from the new social relation. The impact of this is discussed in Section 8.4. In current practice, officers are no longer allowed to stay in post for more than five years, and this will reduce the creation of influential personnel, but may result in delays in certain decisions due to inexperience.

The changes introduced during the first and second generation PPP toll road projects were more about protecting the government and reduction of government support, while the changes made during third generation PPP toll road projects, were more to ensure that private companies do not make excessive profits. Many other smaller changes have been introduced but in this discussion, only those with significant material effects on both the government and the private company are highlighted. A summary of a few new (completely new clauses introduced in the third generation PPP toll road projects) and amendments to the existing clauses (clauses used from first and second generation) of Concession Agreements are listed in Table 10 below:

Table 10: New and changes to the First and Second Generation of Concession Agreement used in Third Generation PPP toll road projects

	Changes to first and second generation clauses	New clause
1.	Concession Period	
2.		Cost Savings
3.		Non-completion of Construction Works – Liquidated and ascertained damages
4.		Independent Consultant of the Company
5.	Consequences of Delay in Issuing	

	Gazette Order	
6.	The Agreed Toll and Toll Review Mechanism	
7.	Utilisation of Excess and Sharing of Revenue	
8.		Flexible Tolling and Level of Service
9.		Termination on Corruption, Unlawful or Illegal Activities

Source: Author's compilation from fieldwork document analysis, 2015

The clauses above are now included in all new PPP toll road negotiations but they are not standardised and not all clauses are included in all new negotiations. Each project is different in nature and parameters, hence the detailed terms of the new clauses may differ from project to project, and which are included will depend on the actors involved and the stance of their social relations on that particular issue during the negotiation.

A summary of the changes is as follows:

a. Concession Period

The first and second generation PPP toll road project Concession Agreements are fixed and there is no avenue open for them to expire early. However, the third generation PPP toll road project Concession Agreements are secured with the Actual Internal Rate of Return (IRR) achieved by the company. In this case, if the IRR is achieved, then the concession period expires. However, the determination of the Actual IRR depends on the committee that negotiates with the private company it could be any figure, which is reflected in the response of:

“If the company is good at negotiating, they get more” (SP4, interviewed 10/02/2015).

b. Cost Savings

This clause is a new clause introduced in third generation PPP toll road project negotiations. It applies to projects with Government Soft Loans where, if the actual construction cost is lower than was anticipated, the savings should be used to reduce the Government Soft Loan or for any other purpose as decided by the government.

c. Non-completion of Construction Works – Liquidated and Ascertained Damages

The first and second generation toll road projects did not have this clause and the private company was not penalised for delays in completion. The third generation PPP toll road projects have this clause which is intended to ensure that the project is delivered as promised. However, the rate of the liquidated and ascertained damages²⁴ is decided by the PPP committee and depends on the project total cost compared to the government's assistance.

d. Independent Consultant to the Company

This clause is introduced in third generation PPP toll road projects to ensure that there is no bias in a consultant's report on the progress of a project. The appointment of a consultant must be with the consent of the government.

e. Consequences of Delay in Issuing Gazette Order

This clause was inserted in the first and second generation PPP toll road projects, where the delay by the government in gazetting toll rate order was to

²⁴ Liquidated and Ascertained Damages is a penalty imposed by the Government on the private sector company in the event there is delay in the completion of the project. The penalty amount is charged on daily basis and the quantum of penalty payable by the private company is based on a calculation which takes into consideration the government's contribution in the project.²⁵ Level of Service is the measurement used to evaluate traffic condition on roads. It ranges from A to F (free flow traffic until traffic standstill).

be compensated with an extension of time. However, for the third generation, there is an avenue for the private company to receive cash compensation for such delay.

f. The Agreed Toll and Toll Review Mechanism

Second generation PPP toll road projects had this clause. However, it has never been triggered as the traffic numbers used was unachievable. It was revisited at the beginning of the third generation projects to ensure the traffic numbers used is realistic and the clause could be used to avoid full toll increase. With this clause, the private company will only receive partial or no increase depending on the actual traffic numbers.

g. Utilisation of Excess Revenue and Sharing of Revenue

The second generation toll road projects had this clause, however, the clause specified a standard rate through-out the concession period, for example 50% sharing of excess revenue to the government until the end of concession period after all debt settlement. In the third generation, the rate of sharing revenue changes depending on whether the private company has settled their commercial debt. For example, the company shares 30% of excess revenue with the government while servicing debt and 50% of excess revenue after servicing debt.

h. Flexible Tolling and Level of Service²⁵

This is a new addition to the existing terms of third generation PPP toll road project Concession Agreements. The intention of this clause was to ensure that the road is not congested and that the private company continuously ensures that the level of service is acceptable and the road is in good condition. Otherwise, the company will have to remedy these shortcomings

²⁵ Level of Service is the measurement used to evaluate traffic condition on roads. It ranges from A to F (free flow traffic until traffic standstill).

and improve the level of service which includes the flexible tolling (lower toll when congested).

i. Termination on Corruption, Unlawful or Illegal Activities

The first and second generation Concession Agreements did not have this clause. It was introduced to ensure transparency and to ensure that the project is implemented with the highest grade of integrity. The clause provides for the termination of the Concession Agreement if the private company or its related personnel are found guilty involved in corrupt practice, unlawful or illegal activities.

As well as the clauses listed above, clauses related to Key Performance Indicators were also introduced in third generation PPP toll road projects. These clauses were used when analysing how these changes was being transmitted in the organisation (see Section 9.4.2). (The details of the two projects, the West Coast Expressway and the Damansara-Shah Alam Highway are in Appendices 9 and 10.)

The subsection above has discussed how the new policies have promoted changes in the ‘methods of doing things’ which had been established since the formulation of Period 1 PPP toll road projects. The material changes introduced are an outcome of external events which forced the established social relation to view negotiations in a broader perspective. In spite of facing challenges in advocating changes, material changes were made to the Period 2 PPP toll road projects because the changes could not be ignored due to the force of external events. Changes were also introduced due to changes of leadership which sometimes are also result from responding to circumstances.

The next subsection will discuss the influence of internal and external forces in promoting changes in the established social relations.

9.2.3 The influence of the internal and external forces

As discussed in the conceptual framework (see Chapter 5, Section 5.5.2), an actor's relations are influenced by internal and external forces. These affect the 'methods of doing things' and the dynamics of formal and informal actor relations and result in changes in the actors' social relations. This section further elaborates the internal and external forces using the responses and information obtained by this research.

a) Internal forces

Organisational Policy

The idea of organisational policy was discussed in Chapter 4 as part of the actor dynamics. It is an element that forms one of the internal forces which is the influence that institutions have on actors. As discussed earlier (Chapter 8, Section 8.4), there is no clear organisational policy pertaining to PPP projects for the Ministry of Works. However, for the PPP Unit there is a PPP Objective for its Infrastructure Section I which deals with the PPP toll road projects.

The objectives are:

To ensure that the implementation of PPP programmes for the Highway, Rail and Town Services sector is effective and fulfils the Government's goals as follows:

- i. achieving high economic growth through increased investments and smart partnership between the public and private sectors;
- ii. attaining Value for Money through effective cost and optimum risk distribution;
- iii. increasing efficiency and productivity;
- iv. optimising national financial resources and public and private sector expertise; and
- v. identifying new and innovative business models for implementing PPP projects in order to foster closer cooperation between the public and private sector.

Source: *UKAS Website*: <http://www.ukas.gov.my/en/11>, date accessed: 30/08/2016

Similarly for the Highway Authority Malaysia, the vision and objectives are as follows:

Mission

- To undertake the development, maintenance and regulation of highways including the planning, design, construction, operation and maintenance of high quality toll highways in accordance with international standards
- To provide highway services that are efficient, comfortable and safe with the highest level of customer satisfaction
- To ensure the needs of society and the environment are fully met
- To be an expert referral organisation in the development and management of toll highways

Objectives

The establishment of the Highway Authority was based on the following objectives:

- To plan, design, develop, manage and administer a network of modern highways equipped with sufficient facilities for the purpose of:
 - providing a fast, safe and efficient transportation system on a national scale
 - connecting all major towns and their surrounding with potential for economic, cultural, social development and national unity
 - enabling an effective inter-urban public road transport system throughout the country.
- To enhance employee skills and expertise through training in all of highway development and maintenance.

Source: *Corporate Profile*: http://www.llm.gov.my/corporate_info/profile_vision, date accessed 30/08/2016

At the time of this research, the PPP Unit Guideline was the current policy being used for PPP toll road project formulation. It is an expansion of the PPP Unit's mission and objectives and concentrates on achieving value for money as follows:

- i. Optimum risk transfer between public sector and private partner;
- ii. Comprehensive concession contract, including life cycle of asset;
- iii. Innovation of bidders through specifying output specifications;

- iv. Competitive prices for projects;
- iv. Performance-based payments to companies;
- v. Making maximum use of private sector expertise and skills.

While the PPP Unit's concentration is on value for money, the Highway Authority of Malaysia's priority is technical aspects and the Ministry of Works does not have a clear policy related to PPP. This explains why every respondent commented that their organisations' views are important to them since there is no uniform policy to serve as a guideline.

Hierachical organisation structures

Over the years, the Public Services Department, had various organisational restructures which included adding new layers of structures and increasing the number of officers. The introduction of new layer of positions has some impact on the method of doing things and brought more material changes to the terms of PPP toll road contracts. However, the creation of new layer of positions and a new layer of bureaucracy has also caused some demotivation among existing actors. This was mentioned by a few respondents, one of whom commented:

“Last time I used to deal with the Under Secretary directly, but with the introduction of the Deputy Undersecretary position, I have to go through her. It is very tiring to explain to her first then I have to explain again to the Under Secretary.” (SO5, interviewed 29/01/2015)

This is because the new level of officers are new to the organisation and need to be trained but are ranked higher than the existing actors. For example, Grade 52 officers are higher than Grade 48 but they have no experience or knowledge related to PPP toll road projects. In placing officers, the Public Services Department does not match the officers' knowledge or backgrounds to the position they are going to fill because all officers involved are categorised as 'common-users' (*guna-sama*) which means they can be posted or transferred to any government agency and it need not to be relevant to

their education, experience or knowledge. Most of the respondents provided similar responses and this is a typical comment:

“I don’t have any educational background or experience related to finance or technical. I was posted here and have to learn in order to do my duties.” (SO8, interviewed 29/01/2015)

The lack of relevant knowledge and experience could be seen in terms of decision-making, where every issue is brought to the new PPP Action Committee.

“I am not sure if we can decide that in this meeting, this is something new as I just took over the position. Do any of you have any idea...or shall we bring this issue to the Main PPP Committee or the PPP Action Committee...?” (SP3, interviewed 18/11/2015)

Staff turnover

The PPP Main Committee consist actors from different organisations and one of the main issues faced by respective Heads of those organisations is staff turnover. Unlike the MHA, officers in the PPP Unit and the Ministry of Works can be transferred when they are promoted or after a certain period of time. Although it a good move to ensure transparency and avoid corruption or any misuse of power, it a loss of experience to the organisation and creates gaps in their social relations which take time fill. There were many occasions when continuity of discussion in the Committee was affected by the different representatives attending, especially in recent times when negotiating third generation PPP toll road projects. Staff turnover is dealt with through providing training and retaining promoted key officers. This becomes rampant each time the Public Services Department has a reorganisation. Each department tries their very best to retain their experts by creating positions that they can fill when promoted. As a Head of Agency commented:

“It is difficult when officers get transferred out after being trained for a number of years. That’s why sometimes we write to the Public Services Department to

retain certain officers in order to ensure the continuity of negotiation. Otherwise we have start all over again...” (HOA1, interviewed 02/11/2015)

Delegation of power in an organisation

Delegation of power in an organisation could also be seen between actors attending the negotiations of the PPP toll road project. During the PPP toll road project related negotiation observation on 12/10/2015, an actor representing the Ministry of Finance mentioned that he is mandated to decide on the value of compensation that will be paid to the concession company for the delay of their toll increment. When the delegation of power to a particular actor is done for a long period of time, there is tendency for that actor to assume being influential and some of the decisions are made without the actors organisations’ approval. This may lead to misuse of power or corruption, but these are not the core focus of this research. However, a respondent did refer to this issue:

“My ex-boss used to decide on the spot when attending PPP toll road negotiations, not sure whether my ex-boss has the mandate to do so. There are times where the ex-boss told me that sometimes we have assume that the organisation will agree to what we say. We don’t simply agree, it is after analysing the information...” (SO8, interviewed 29/01/2015)

The ex-boss in that situation has taken-for-granted the delegated power and started to decide by himself hoping that it will be accepted by the organisation. The next section will discuss responses related to the external forces.

b) External forces

Legal and regulatory framework

Interview respondents were aware that the only guiding principles for PPP toll road project formulation are the Privatisation Policy and the PPP Unit Guidelines. They admitted that while the Privatisation Policy is still relevant, it needs to be revised to be

more appropriate to the present time. Respondents stressed that the Privatisation Policy is an important document and is still considered relevant to the current PPP programme.

“The Privatisation Policy is still relevant today but with some modifications to suit [the] present situation. Our [PPP] guideline enhances the policy and provides clearer direction on the implementation of PPP projects with the overarching Privatisation Policy.” (SP1, interviewed 04/02/2015)

The top civil servant responded:

“PPP is not new in Malaysia. Going back into history, PPP started in 1983 with the introduction of the Malaysia Incorporated Policy focusing on the private sector taking the lead in the nation’s development. Privatisation Guidelines were formulated followed by the Privatisation Master Plan in 1991. In addition, specific PPP Policy on specific sectors such as infrastructure was formulated under various development plans.” (CS, discussion 21/09/2015)

Despite lack of enacted PPP law, the social relations involved in the formulation of PPP toll road projects have embedded the Privatisation Policy into their ‘methods of doing things’. This was further strengthened when the PPP Guidelines were introduced in 2009.

Policy features

“Being a government officer, I need to ensure that what we are doing is trying to help the wider government policy. Now the government policy is to ensure the road users are not burdened with frequent toll increments, so we have to make changes in our negotiations to fulfill that.” (HOA1, interviewed 02/11/2015)

That is the answer from a Head of Agency when asked about what motivates their organisation to decide on introducing when implementing PPP toll road projects. The current policy being promoted is the Blue Ocean Strategy. This strategy allows ‘thinking outside the box’ and aims to show how resources can be reorganised without

increasing cost. In order to do so, a new committee was established named the Value Management Committee that further scrutinises PPP toll road project proposals to ensure the cost is not exorbitant and optimal engineering practices are adhered to. The introduction of this new committee was to reduce unnecessary spending by the government since in Period 2, the government assistance has been introduced again. This committee has been actively involved in recent PPP toll road negotiations. One of the respondents noted that:

“Now all PPP toll road projects are supposed to be discussed and detailed out in the Value Management Committee after the principal approval before the final approval is granted. However, there are cases where the project only goes to the Value Management after obtaining the final approval.” (SP1, interviewed 04/02/2015)

The other policy currently being followed by the respective PPP toll road committees is the avoidance of providing cash compensation in the event a toll increase is deferred. When such policies are introduced the respective actors will convey the information to those in their respective social relations to ensure that when another person is taking over or representing their organisation, the views are in line with the major policy. It is a form of routinising practices and over time a pattern can be identified in their scripts since they repeat the same policy-related views.

Political conditions

Political conditions are an overarching element for the whole PPP project implementation in Malaysia and they are often mentioned in interview responses, not only by the public sector actors but also the private company actors. They always mention that the government has to fulfill its obligations in order to paint a positive picture for the investors. In order to ensure that the ruling Party remains in power, the toll issue has been considered seriously and all PPP toll road negotiations are monitored closely to ensure a fair deal is attained for both the private sector and the users. The reason for delaying the toll increase was previously related to public outcry and politicising by the opposition Law-makers. However, the government realised that

delaying the toll increases created a new issue related to compensation which in turn again affects political conditions. A respondent commented on this issue:

“Previously we could not increase the toll rate because of public outcry and riots, now when the compensation to be paid to the private company is getting higher we are again questioned by the opposition law-makers. We can’t renegotiate past projects, we can only be more careful for the future ones [third generation PPP projects].” (SP1, interviewed 04/02/2015)

9.2.4 Summary of Section

This section discussed the findings related to the policy arrangement in place for third generation PPP toll road projects. During the first and second generation PPP toll road formulations, the only guiding principal was the Privatisation Policy introduced in 1985. Since the establishment of the PPP Unit, there is a clearer guideline for the processes involved and how a PPP project will be evaluated. The inspiration for a new guideline was not only because of the establishment of the PPP Unit but also drew on broader government policy promoting private participation in economic growth. All the respondents mentioned that the initial Privatisation Policy is still relevant but needs to be modified to reflect to current changes. The response of the top civil servant on this matter confirms this:

“While privatisation in Malaysia has evolved and the relationship is now commonly referred to as PPP, some of elements in Privatisation Policy are still relevant such as the principle of user pays for tolled ways.” (CS, discussion on 21/09/2015)

Regarding the steps taken to ensure smooth implementation of PPP toll road projects, he further added:

“In providing the best highway network for the country, a more careful analysis must be carried out before its implementation. For example, emphasis on creativity and innovative approach should be given to ensure value for money.

This includes implementation methods to cost optimisation, value engineering, careful alignment selection and maximising ancillary revenues.

One of the key parameters is to ensure affordable toll rates. At the moment, typical funding tenure is only up to 20 years. It is timely for a longer term instrument with a more competitive rate being introduced for toll highways.

The Government is willing to have discussions with the private sector especially in terms of allocation of risks as well as the rules that the government and concession company should assume.

The toll rate is determined based on the financial model/cash flow analysis and stipulated in the agreement to ensure bankability.” (CS, discussion on 21/09/2016)

On the changes of policy that are being introduced, he stated that

“Policy changes happen to cater to the current needs of stakeholders, to accommodate current law practised and to improve the shortcomings of past policy. Engagement with all relevant stakeholders should be carried out to ensure the intended results to be achieved.” (CS, discussion on 21/09/2016)

Internal and external forces are seen as important factors that influence actors in terms of their views and how the embedded rules and practices of their existing social relations are changed. These forces are seen as contributing factors in the changes that are being introduced. As mentioned by one of the respondent as

“the situation now forcing us to change [referring to the political climate].” (SP1, interviewed 04/02/2015)

The impact of influential personnel seems to be minimal as there are new layers of staff positions which promote the flow of innovative thinking. The existing social relations could accept new ideas because frequent staff turnover alters the ‘methods of doing things’ that produce and reproduces institutions. The findings proves what has

been advocated by Kingdon (1981) that policy reforms is a result of established window of opportunity due to response to recognised problems, people in charge of policy formulate a feasible proposal and it is advantageous to politicians to approve it. In the case of Malaysia, the introduction of new clauses is a typical example of what mentioned by Kingdon. As mentioned by Sabatier (1988) that external events such as changes in socio-economic conditions and systemic governing coalition may cause policy changes and this research has found the same, where changes happen due to changes in leadership and in response to certain circumstances. The next section will discuss findings related to legal and regulatory arrangements.

9.3 Legal and regulatory arrangements: supporting efforts to advocate changes in the ‘methods of doing things’

Legal and regulatory arrangement provides the guideline to the ‘methods of doing things’ which will be used by the social relations when formulating PPP toll road projects. PPP toll road projects approved after 2009 were guided by the main Privatisation Policy and the 2009 PPP Guideline, and more recently steps have been taken to empower the Highway Authority of Malaysia, by increasing the coverage of the existing Highway Authority Malaysia (Incorporation) Act 1980. However, the introduction of the Key Performance Indicators in all new negotiations is a new move towards empowering the regulatory framework. As explained by one respondent:

“Although we don’t have PPP law, the Privatisation Policy and the PPP Guideline is sufficient for us to work and formulate PPP toll road projects. Our existing Act [Highway Authority of Malaysia Act] has been revised with more power to us, just waiting to be tabled in Parliament for approval [and it] should be sufficient once approved and accepted. On top of that, we have also introduced Key Performance Indicators to ensure the private company provides excellent service. I think these are sufficient.” (S010, interviewed 10/02/2015)

The establishment of the PPP Unit in 2009 has improved the flow of PPP toll road projects and related projects by bringing the negotiations under the heading of one agency. This has reduced unwanted conflict and bureaucracy and the process is much

clearer, and many new clauses have been introduced in this generation of Concession Agreements. The 2009 PPP Guideline clearly explains how the structure of a PPP project should be.

The roles and responsibilities of the public and private sector organisations are:

Special Purpose Vehicle created specifically for the project (SPV) by the private sector:

- raising the funds to develop and maintain the assets*
- making payments to the subcontractors, financiers and other creditors*
- delivering the agreed services to the public sector according to the levels, quality and timeliness of the service provision throughout the contract period*
- ensuring the assets are well maintained and available for use throughout the concession period*
- ensuring that revertible assets/facilities are transferred in the specified conditions (good working order) to the public sector at the end of the concession period*

Financiers:

- the financing of the project is provided by a combination of equity investors and debt providers*

Construction Contractors:

- to carry out construction works according to the contract with the SPV*

Facilities Management Operator:

- to carry out comprehensive facilities management of the assets according to the contract with the SPV*

The Public Sector is responsible for:

- identifying, assessing and prioritising projects for implementation via PPP*
- preparing and managing the projects for competitive bidding process*

- *providing clear objectives and scoping of the projects, output specifications, payment mechanism and KPIs*
- *ensuring equitable and optimal allocation of risks*
- *contract management and performance monitoring*
- *safeguarding public interests*

Source: *Public- Private Partnership Guideline, 2009* (p. 10)

The introduction of detailed guidelines provides clearer guidance to the actors involved and. In addition, these changes aim to ensure that companies do not make excessive profits and road users' interests are protected. The most significant change in terms of project formulation is that only the PPP Committee in the PPP Unit evaluates and negotiates all PPP toll road and related projects.

In summary, although there is no enacted law on privatisation or PPP in Malaysia, the guidelines which are in place has been guiding the actors in terms of legal and regulatory issue when formulating the PPP toll road projects. The introduction of the Key Performance Indicators in the new negotiation is an improvement to the regulatory framework which ensures the private companies delivers what is promised. Besides that, the establishment of the PPP Unit in 2009 has brought the whole process clearer by providing guidance in all PPP toll road formulation. The establishment of 'methods of doing things' which is embedded in the social relations is influenced by the policy, legal and regulatory, organisational and the strategic arrangement. From the discussion in this section and Section 9.2, it is clear the influence of policy and legal and regulatory arrangement towards the modifications and reproduction of the 'methods of doing things' which then reproduce the changes in social relations. The next section will discuss on the findings related to organisational structure influence in the medication and reproduction of the 'methods of doing things'.

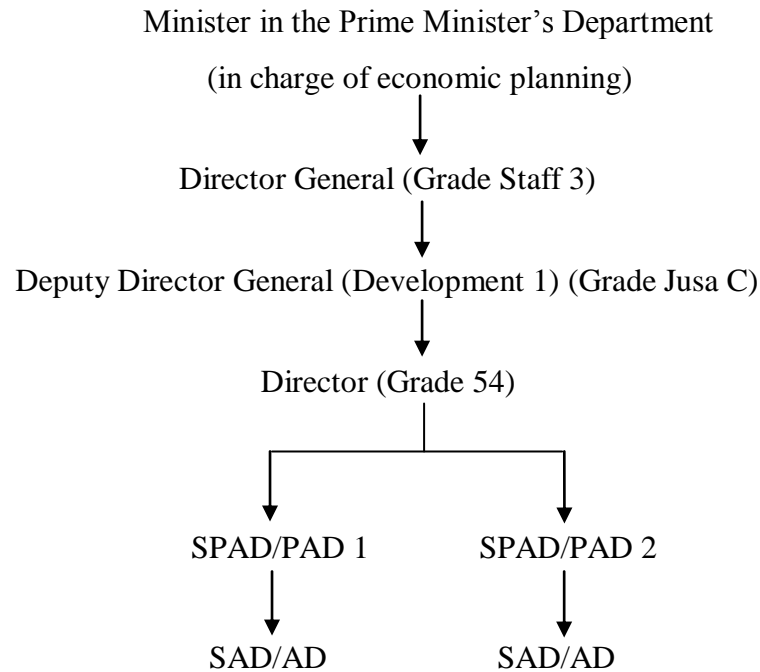
9.4 Organisational structure arrangement

Organisational structure arrangement is another external force that influences the production of 'methods of doing things' and the social relations. It is an important element as when there are changes in organisational structure there are changes in the 'methods of doing things' which will be discussed. In terms of organisational structure,

the difference between the first and second generation and the third generation is that a new level of officers and ranks were introduced. The public sector in Malaysia is a complex institution made up of different organisations, and the Public Services Department is the organisation responsible for all human resources matters overall. The Public Services Department is the organisation that is responsible in officers' placement in organisations and processing their promotions. However, there is also a human resource division or section in each organisation in charge of its own human resources. Officially, when the Public Services Department issues the new Staffing Warrant, it includes the new positions, promoted posts, official reporting chain for the respective position. Due to a major reorganisation exercise carried out by the Public Services Department in 2007, more officers have been promoted and empowered with new roles and responsibilities than previous role, where they were more a kind of instruction follower. It was understood by the researcher that the major reorganisation exercise carried on in 2007 was to increase the intake in to the civil service and was part of PSD's every 5 years planning. The existing social relations began to include new actors with higher rank (Grade 44 and 52). These changes happened only in the PPP unit and the Ministry of Works where new actors joined the organisation. As for the Highway Authority of Malaysia, existing officers were promoted to the new grade and only entry level officers (Grade 41) were recruited. There were no much changes as for the organisational structure of the Highway Authority of Malaysia is concerned. Hence this section will concentrate on the PPP Unit and the Ministry of Works. At the time of research, the details of each organisational structure involved in the formulation of PPP toll road project for the two agencies after the reorganisation are as follows:

a) Infrastructure Section 1, PPP Unit

The current official structure of the Infrastructure Section 1 (the Section responsible for toll roads), PPP Unit is as figure 11 below:



Note: SPAD = refers to Senior Principal Assistant Director (Grade 52)

PAD = refers to Principal Assistant Director (Grade 48)

SAD = refers to Senior Assistant Director (Grade 44)

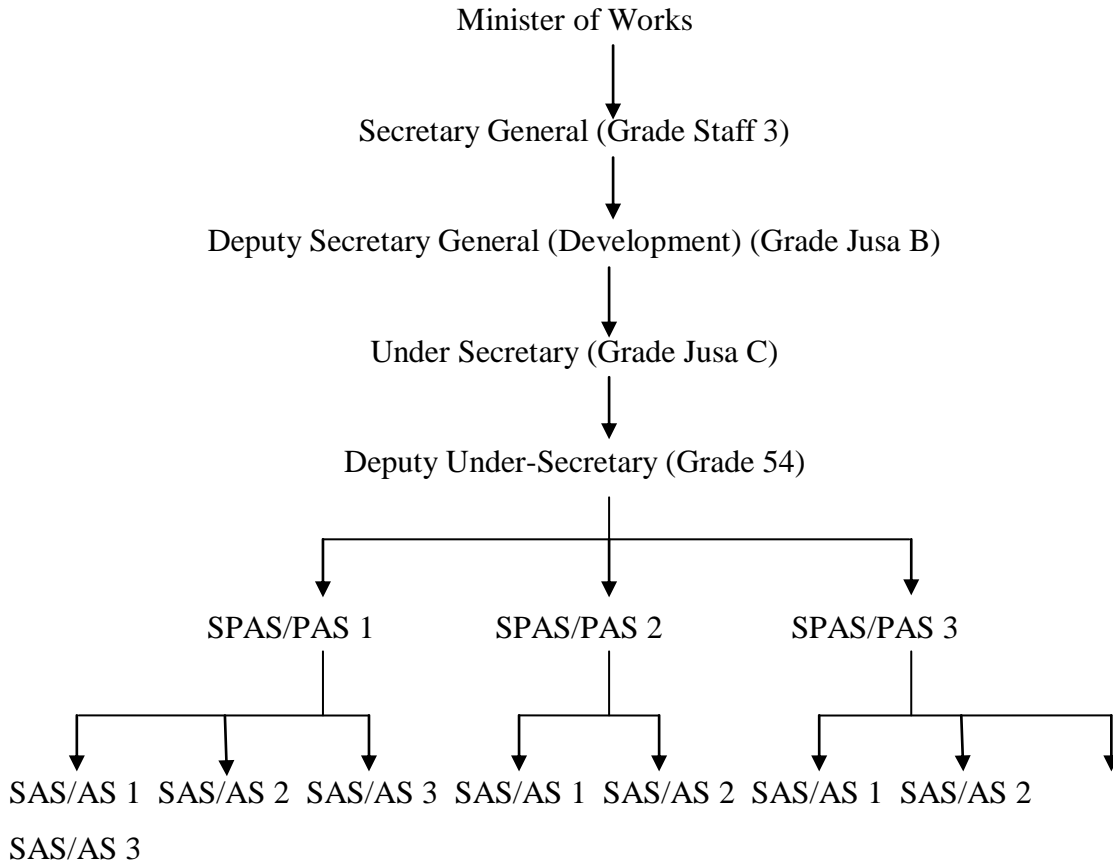
AD = refers to Assistant Director (Grade 41)

Figure 11: Current Organisation Chart, Infrastructure Section 1, PPP Unit

Source: Author's compilation from fieldwork observation and document analysis, 2015

b) Ministry of Works

The current official structure of the Privatisation Unit, Development and Privatisation Division, Ministry of Works is as figure 12 below:



Note: SPAS = Senior Principal Assistant Secretary (Grade 52)
 PAS = Principal Assistant Secretary (Grade 48)
 SAS = Senior Assistant Secretary (Grade 44)
 AS = Assistant Secretary (Grade 41)

Figure 12: Current Organisation Chart, Privatisation Unit, Development and Privatisation Division, Ministry of Works

Source: Author's compilation from fieldwork observation and document analysis, 2015

The official reporting chain is from the bottom to top. There is a difference in the current organisational structure as compared to those in Period 1. In Period 1, the new

layer of officers at Grades 44 and 52 was not there for all organisations. There are pros and cons associated with this new layer of officers, summarised from the interviews:

i) increased bureaucracy

With the introduction of new superior officers, a specific memo has to be prepared explaining the details of the case and that new superior has to approve the memo directed to the other level superior. As mentioned by the following respondents

“Last time I deal with the Director, now I have to brief the new boss and both of us meet the Director.” (SO3, interviewed 05/02/2015)

“Now we have to prepare another memo, which is from me to the new boss to forward a memo from the new boss to the Under Secretary. Previously, it’s only one memo from me direct to the Under Secretary.” (SO5, interviewed 29/01/2015)

ii) increased processing time

Since there is another layer of superior, the processing time increases where the new superior has to read, understand and approve the matter before it could proceed further. This is mentioned as the following respondents

“Now the process is even taking more time as everything has to go through the new boss.” (S02, interviewed 04/02/2015)

“Because of the introduction of a new memo from me to the new boss, it takes longer time to get a decision as the new boss is new and takes time to understand and forward to the Under Secretary.” (SO5, interviewed 29/01/2015)

iii) introduction of new/innovative ideas

The introduction of new layer officer allows new ideas to flow as the new officer is still on the learning curve which motivates the officer to explore more options. This is confirmed by the following respondents

“The new boss thinks in a different angle than us, which makes us introduce new ideas.” (SO3, interviewed 05/02/2015)

“The new boss often calls us for discussion and open for new ideas. The strengthening of the Toll Revenue Mechanism was an outcome from that discussion.” (S07, interviewed 30/01/2015)

iv) no more influential personnel

The introduction of new layers of officers also reduced the dependency on a specific officer which reduce the influence from the influential personnel. As mentioned by the following respondent

“Now is not like before [Period 1]...The new boss is more open to suggestions and changed some existing practices. All of us work as a team now.” (SO1, interviewed 15/10/2015)

“The Deputy Under Secretary is always discussing with us and the management on any proposals. She does not agree to any proposed Terms like before. She wants the Terms to be agreed by every level of officers in the organisation before accepting.” (SO6, interviewed 06/02/2015)

9.4.1 The network of information during a PPP toll road project negotiation

It is important to understand how information is transmitted during a PPP toll road project negotiation. It assisted in understanding that an actor representing their organisation is important no matter what their role (representative or learner or

influential personnel) are. The detailed network of information diagram is as below. It was formulated based on the two observations (12 and 18 October 2015). Through this diagram, it can be concluded that subordinates are assuming roles as learners and representatives while there are superiors assuming role of learners, representatives and influential personnel. The diagram shows that there are various social relations being formed during the negotiation of a PPP toll road project.

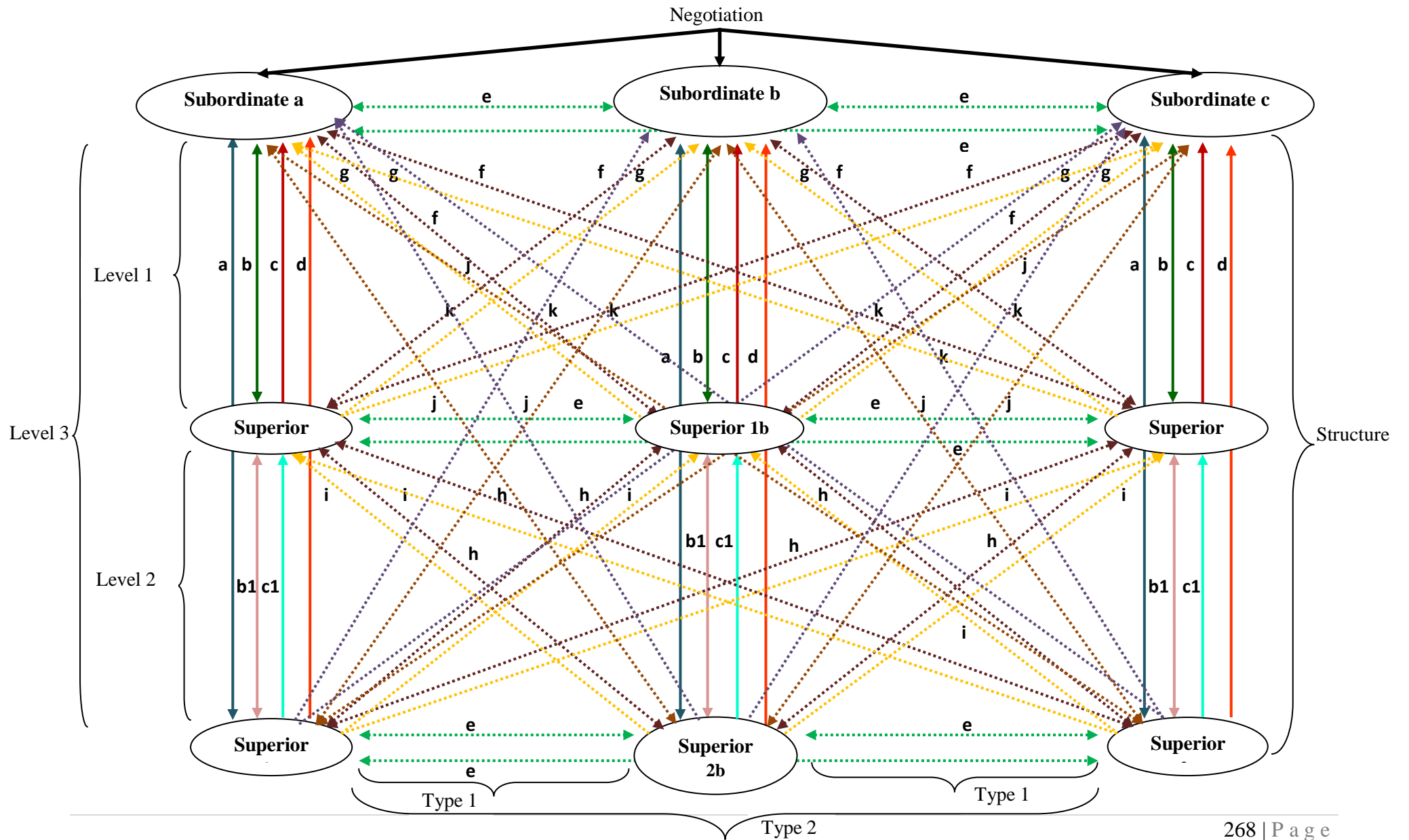


Figure 13: Network of Information Diagram

Note:

Level 1 = interaction between superior 1 and subordinate which may involve discussion and/or instruction

Level 2 = interaction between superior 2 and superior 1 which may involve discussion and/or instruction

Level 3 = interaction between superior 2 and subordinate which may involve discussion and/or instruction

Type 1 = interaction between same level representative from different agency

Type 2 = interaction between different level from different agency, i.e. between superior 1a and subordinate b,c, superior 2a and superior 1b,c, superior 2a and subordinate b,c which may involve discussion and/or instruction

<p> a = third level discussion (superior 2a with subordinate a, superior 2b with subordinate b, superior 2c with subordinate c) (level 3)</p>	<p> f,h = discussion between different level from different agency (superior 1a with subordinate b,c, superior 2a with superior 1b,c, superior 1b with subordinate a,c, superior 2b with superior 1a,c, superior 1c with subordinate a,b, superior 2c with superior 1a,b) (type 2)</p>
<p> b = first level discussion (superior 1a with subordinate a, superior 1b with subordinate b, superior 1c with subordinate c) (level 1)</p>	<p> g,i = instruction from superior of different agency (superior 1a to subordinate b,c, superior 2a to superior 1b,c, superior 1b to subordinate a,c, superior 2b to superior 1a,c, superior 1c to subordinate a,b, superior 2c to superior 1a,b) (type 2)</p>
<p> b1 = second level discussion (superior 2a with superior 1a, superior 2b with superior 1b, superior 2c with superior 1c) (level 2)</p>	<p> j = discussion between different level from different agency (superior 2a with subordinate b,c, superior 2b with subordinate a,c, superior 2c with subordinate a,b) (type 2)</p>
<p> c = first level instruction (superior 1a to subordinate a, superior 1b to subordinate b, superior 1c to subordinate c) (level 1)</p>	<p> k = instruction from superior of different agency (superior 2a to subordinate b,c, superior 2b to subordinate a,c, superior 2c to subordinate a,b) (type 2)</p>
<p> c1 = second level instructions (superior 2a to superior 1a, superior 2b to superior 1b, superior 2c to superior 1c) (level 2)</p>	
<p> d = third level instruction (superior 2a to subordinate a, superior 2b to subordinate b, superior 2c to subordinate c) (level 3)</p>	
<p> e = discussion between same level representative from different agency (type 1)</p>	

Source: Author's compilation during fieldwork observations, 2015

9.4.2 Breaking the rules

Organisation is thinner when there is a need for a decision and it is easy to be influenced when issues are at stake

High turnover does not only mean loss of experts but also promotes the creation of a remaining officer as an influential person. This is because the remaining officer is the one who has been involved in the formulation of PPP toll road projects as compared to the newer ones. As a Head of Agency comments:

“The biggest challenge faced is to retain officers who have been trained. After many years of training and being involved in the PPP toll road formulation, they are transferred. This results in dependency on specific remaining officers and we try to retain them.” (HOA1, interviewed 02/11/2015)

The response above indicates that the organisation is dependent on a specific officer who, over time, becomes the influential person. This results in the organisation being handicapped by lack of experience and only a few officers knowing what they are doing. Despite having a large number of officers responsible for PPP toll road projects, only a fraction of them are really doing the job.

The influential person may become so powerful and highly valuable to the organisation that in the event they are transferred, the whole organisation could be easily influenced by other agencies because the person taking over the role might not have the experience in negotiating PPP toll road projects. For example, according to a respondent (SO5) during the interview on 29/01/2015, there was an officer in the Ministry of Works responsible for all PPP toll road projects for the past 12 years. He was promoted in the same division and his position was upgraded in order to retain him. He seems to be given the authority to speak on key issues during PPP toll road negotiations. After that officer left, apparently the representative from the Ministry agreed to any proposal put forward by other agencies with a convincing tone.

“After that experienced officer left to another agency, other agencies are taking us [referring to Ministry of Works representative] for a ride. The new officer began to accept proposals from the other agency as they are more experienced. Previously, no decisions were made without our presence, but now [referring to Financial Committee] they assume we agree.” (SO5, interviewed 29/01/2015)

That shows the importance of the influential person to the organisation. However, such dependence on specific officers may create opportunities for misuse of power. This aspect is not investigated by this research but the dependency on specific officers demonstrates that there is a tendency for the organisation to operate with only one person actually responsible for PPP toll road negotiations. When that is the situation in the organisation, the layers of structure do not work properly which leads to some layers being by-passed in decisions. As discussed in Chapter 8, Section 8.3, the influential person could be at any level in the organisation. At times, the influential person could not provide the suggestion (if the influential person is from the subordinate group) when the meeting is attended by top officers from other organisations. For such cases, the influential person tends to convince the superior to agree and convey the matter to other agencies. In this situation, the existing structure fails to work and rules are broken due to the urgency of the matter. There are five examples of this occurring provided by a respondent from each of the PPP Unit and the Ministry of Works (SO2 and SO5 during their interviews on 04/02/2015 and 29/01/2015 respectively). The information provided is confidential and the respondents did not want to speak about it at first, however after being convinced of their anonymity, they provided the information.

The examples are as follows:

1. Insertion of two-tier profit sharing between the Government and the Concession Company

At the time of research, the West Coast Expressway was one of the latest approved highway projects. Its Concession Agreement was signed on 2nd January 2013. It is supposed to serve as an alternative to the North South Expressway because the

North South Expressway is getting congested frequently during peak hours and weekends. According to the concession company supported by traffic figures from the consultant, the highway is not fully financially viable except certain developed sections. In order to make the whole project viable, the concession company applied to the government for assistance in the form of a grant of RM2.24 billion. But after series of negotiations, the grant application was converted to a government support loan which was approved. It was a practice in Period 1 that any project receiving government assistance (excluding support loans) should share their revenue when it exceeded the projected amount after the repayment of debt. The calculation of the profit-sharing percentage depends on the amount of government contribution towards the project compared to the whole project cost. The percentage share after the concession company fully repays the loan remains the same until the end of Concession. However, for the West Coast Expressway, the government support loan was taken into consideration when calculating the profit-sharing and there are two tiers of profit sharing. The government has a 30% portion during loan period and a 70% portion after the loan period. Initially this proposal was not accepted when tabled during the Concession Agreement meeting, however the desk officer (Principal Assistant Director) in charge of this project briefed the Director General who is the Chair of the meeting and the proposal was approved.

Levels by-passed: Director and Deputy Director General

2. Cash compensation for delay in issuing toll gazette

All Agreements have a Consequences of Delay in Issuing Gazette Order Clause, which is if the government delays in issuing the Gazetted Order, the company will be delayed in collecting tolls and the government will have to compensate to the company for the delay, usually in terms of an extension of the concession period. However, during the detailed negotiations for the West Coast Expressway, the company requested that the compensation should be in the form of cash and not an extension of time since they will still be servicing their loan although no toll is being collected. No one on the government side agreed to the proposal. The company then met the Director of Infrastructure Section 1 and managed to convince him of the proposal. Then the

Director with the Principal Assistant Director met the Director General and got it approved. This clause is unique to only this Agreement.

Levels by-passed: Deputy Director General

3. Exit clause based on Internal Rate of Return (IRR)

This clause is one of the latest new clauses inserted into current PPP toll highway projects Concession Agreements. In previous Agreements, concession periods are mostly fixed at 33 years including a construction period of 3 years, giving the concession company 30 years of toll collection. In this time the company should have been able to repay its loan and be making a profit. This clause was formulated to ensure that the concession companies are not making excessive profits. However, the newly-approved PPP toll road projects were negotiated based on at least 50-year concession period. However, the government representative during the Legal Committee meeting negotiating the Terms of the Agreement wanted to ensure that the concession company is not making huge profits from toll increments after they completed paying off all loans. Hence, the Principal Assistant Director discussed the introduction of this new clause privately with the concession and forwarded the suggestion to the Director General. Then the suggestion was discussed during the PPP Committee and everyone accepted the proposal. That clause is now inserted in all new PPP toll road project agreements.

Levels by-passed: Director and Deputy Director General

4. Government to upgrade Federal Route 5 to become part of the West Coast Expressway

Usually for PPP toll road projects, the concession company constructs the whole alignment or the upgrading of an existing alignment. However, for the West Coast Expressway, there was a stretch where the concession company proposed that the upgrading should be carried out by the Public Works Department. Although many members in the PPP Committee did not agree to that proposal, it was still approved

since the project was claimed to be aimed at boosting the economy of the western corridor of Peninsular Malaysia. The concession company managed to convince the Minister and instructions came from the top for this proposal to be approved.

Levels by-passed: Assistant Director, Principal Assistant Director, Deputy Director General, Director General

5. Restructuring of the Damansara-Puchong Highway's toll rates

In 2007, the Damansara-Puchong Highway was due for its first toll increment from RM1.00 to RM2.10. The initial actual toll rate at the time of opening on 25th January 1999 was to have been RM1.50, however the government felt this was too high for users and approved only RM1.00 to be collected and Compensated the concession company for this. When the first increment came close to being due, the Assistant Secretary in the Ministry of Works felt that the increase of RM1.10 might be too much for users and sent a memo to the Secretary General followed by the Minister to obtain approval for modifying the toll increase. Once the approval to modify the rate was obtained, the Assistant Secretary negotiated with the company to arrive at a new toll rate of RM1.60 instead of RM2.10. Compensation of RM150 million cash and three-year extension of were given to the concession company. Then the proposal was tabled in the PPP sub-committee meeting in the Ministry of Works which was then tabled in Cabinet and approved.

Levels by-passed: Principal Assistant Secretary, Deputy Under Secretary, Under Secretary, Deputy Secretary General and Secretary General

These examples provide evidence that policy, legal and regulatory and organisational frameworks can be ignored. At times, when there are issues that cannot be resolved, influential personnel in the organisation try to solve matters outside the structured procedures. The influential personnel using the links with the top management bypass levels to solve matters. The influential personnel have a significant role in the formulation of PPP toll road projects in Malaysia. The examples given above are changes which have material effects on the Agreement Terms and are results of

existing rules being broken. It is not the intention of this research to investigate the impact and the details of such clauses, nevertheless the examples provide evidence that the social relations established are modified without going through formal procedures when there are difficult issues at stake.

9.4.3 Summary of Section

This chapter presented the current organisational structures of responsible divisions/sections in the PPP Unit, the Ministry of Works and the Highway Authority of Malaysia. There is a clear, well-defined structure and delegation of responsibilities in place for each of the organisations which are supposed to be followed when officers are executing their duties. The influential person could be at any level within the organisational structure. It has been argued that PPP toll road projects are outcomes of interactions within and between sets of social relations. From the document analysis, it can be seen that there are changes (Table 10) which are material coming from the PPP Main Committee which are used for projects in Period 2.

There is information that does not go through all levels in the organisation structure even though it is a specified procedure. This was brought up during an interview with a respondent from the Ministry of Works who stated that such situations happen when the immediate boss is away, the next level superior tend to confirm information from the respondent. It shows the established social relations are across many levels depending on the actor's knowledge and length of time in the organisation. Evidence suggests that although influential personnel are officially said to have less influence than previously, they still make a difference to information flows and decisions in the formulation of Period 2 PPP toll road projects. One respondent (who did not want their name to be mentioned and spoke 'off record') confirmed that influential personnel still exist in the system and their role becomes apparent when issues that could not be settled through meetings and negotiations are later approved. This shows that the established social relation is actually very vulnerable when it comes to approving issues that are highly important to the organisation. Issues highly important to the organisation could be such as being instructed by the Minister, a private company's link to the office of the Prime Minister, a government-linked

company or a politically influential company. Despite having orderly structures, there are situations (urgent matters, difficulty in obtaining approval and pressing time) where a temporary social relation involving only a few key personnel in the organisation decides matters. The key personnel are the influential personnel. Although temporary, this social relation is more powerful than the established social relation with routinised practices because the actors in this relation are capable of making important decisions. This temporary establishment is not visible and is so deeply embedded within the organisation that it could not be removed. Nevertheless, there is some indication that efforts are being made to enable all actors to be knowledgeable which reduces the establishment of the temporary social relation. These efforts are discussed in the strategic arrangement section below.

9.5 The strategic arrangement

The strategic arrangement introduced in this thesis is the strategy used by an organisation to achieve an outcome. This section discusses the strategy used by organisations in Period 2 formulation of PPP toll roads (extending the discussion in the previous Chapter). As explained in Chapter 8, Section 8.8, strategic arrangement consist the power, authority, rules and norms used in strategising an outcome. Another element influencing the strategic arrangement is the knowledge of the actors who represent the organisation. Interview responses showed that there was a group of subordinates who said that their qualifications are not related to engineering or project financing (economy/accounting). These different backgrounds and areas of expertise provide various viewpoints and ideas which influence the ‘methods of doing things’ and the production of the social relations. One respondent explains this:

“We have lawyers, accountant[s], engineers, arts graduate[s] and science graduates joining the [Civil] Service and becoming part of the team involved in the current formulation of PPP projects. The variety in their education backgrounds allows us to work more creatively and allows new ideas and ways of doing something.” (SP1, interviewed 04/02/2015)

The diversified knowledge available now in the organisation coupled with staff previous work experience promotes introduction of new innovative ideas which are seen as the new clauses being introduced. In Period 2, there is a clean slate with a new establishment co-ordinating PPP toll road formulation. When asked about how actors obtain knowledge and experience, the responses given are as follows:

“I learn through experience and doing the job. My organisation also provides a course for me to improve my knowledge related to PPP.” (SO3, interviewed 05/02/2015)

“I have attended training related to finance and PPP and it is very helpful to me when performing my duties.” (SO9, interviewed 29/01/2015)

“On-the-job training is the most important, coupled with attending seminars and PPP related trainings.” (SO11, interviewed 10/02/2015)

“I have been in this department for approximately two years and I usually accompany my bosses during meetings. I learn a lot through that, besides attending training and courses related to PPP. But most of us involved in the PPP toll road gain our experience through on-the-job training.” (SO6, interviewed 06/02/2015)

The rules and practices formed are constantly changing as actors gain new experience every time they attend negotiations. This strategic arrangement allows more innovative ideas to flow into the social relations and alters the ‘methods of doing things’. Power and authority is seen to come with the level of ranking, whereas in first and second generation negotiations power and authority were highly dependent on the person’s duration in that organisation.

The platform for discussing the proposed changes in the existing practise and new ideas related to the formulation of the PPP toll road projects is the annual Strategic Management Meeting. All the three organisations have their own annual Strategic Management Meeting. In the earlier period, strategic management meetings only

involved superior group officers (Grade 54 and upwards) for officers in the Ministry of Works; but since 2013 all officers are involved. As for the PPP Unit and the Highway Authority of Malaysia, all the officers are involved in the Strategic Management Meeting. This is an attempt to gather more innovative ideas during implementation and to hear from the implementation officer on the real issues. It is carried on in two phases: in the first phase, the immediate superiors have meetings and discussions with their subordinate officers; and in the second phase, the results of these meetings are discussed at a meeting between the superiors with the Head of Agency.

“We have a meeting with our superior at least two weeks before the Strategic Management Meeting to discuss relevant issues and any new suggestions to improve our participation in the PPP toll road project negotiations. Then our boss will take [up] the issue with the management during the actual meeting.” (SO8, interviewed 29/01/2015)

All the Heads of Agency have said that they are open to new ideas from their subordinates which allow more significant changes to be introduced in the third generation PPP toll road projects. Their responses are as follows:

“We are very open to new ideas, any officer can propose their ideas to their respective bosses which will be brought into the weekly Departmental meeting [if the boss feels it is a good idea] to be discussed.” (HOA1, interviewed 02/11/2015)

“My doors are always open to new and innovative ideas, the officers can come directly to me.” (HOA2, interviewed 20/11/2015)

“Our Department is very open, any officer can propose ideas, no restriction.” (HOA3, interviewed 30/10/2015)

The openness of the top management to different views is an effort to allow all levels of officers to share their knowledge and experience in promoting new and

innovative ideas. It also reduces frustrations among actors as they have the opportunity to be heard.

“Previously it was very depressing as the management favoured the ideas from only specific officers. That made us very demoralised and just work for the sake of survival, but now since the management is more open and we are included in the policy making process, I feel the belongingness to this organisation. I feel more motivated and don’t feel shy to propose any new ideas.” (S05, interviewed 29/01/2015)

“Now, the bosses are very open to ideas. We are encouraged to give ideas, there are no restrictions.” (S06, interviewed 06/02/2015)

The inclusion of all levels of positions and ranks of staff in the policy formulation of the organisation through the Strategic Management meeting has brought in changes to what was practiced during Period 1. The changes, coupled with the introduction of a new process of approval, have reduced conflict between organisations which used to be common in Period 1.

9.6 The process of approval

This section discusses the current PPP toll road project approval which has changed compared to Period 1. After the establishment of the PPP Unit in 2009, all PPP toll road projects proposals and any other related proposals were processed by the PPP Unit. Project proposals are now discussed in the PPP meeting chaired by the PPP Unit Director General (see Figure 3 and 4, Chapter 7); and there is only one way to achieve an approval. To strengthen the process further, the *Jawatankuasa Tindakan Awam Swasta* (JTAS) (Public-Private Actions Committee) was established in June 2012 to discuss matters that could not be resolved in the PPP Main Committee. It is an initiative to reduce the involvement of Cabinet which usually takes a longer time to resolve a matter. The Committee is chaired by the Chief Secretary to the Government. The new Committee promoted the creation of a new set of social relations which includes the Chief Secretary to the Government. This is another change to what had been practiced

before and has its own ‘methods of doing things’. It is a reproduction of social relations and institutions which have impact on all agencies involved in the PPP Unit that requires changes to their strategies.

9.7 Summary of Chapter

This chapter has presented a descriptive analysis of Period 2 third generation PPP projects between 2010 and 2016, focusing on actor relations in advocating changes made to the processes followed in the first and second generation formulation of PPP toll road projects. Public sector actors are seen to change their strategic positions through modifying their ‘methods of doing things’ in the process of promoting a new strategy for PPP toll road project formulation. The summary of this chapter is presented in terms of elements of the social relations that guided and influenced the actors’ interactions in Period 2: policy, legal and regulatory, organisational and strategic arrangements.

Policy Arrangement:

In Period 2, due to changing political conditions, there was a major policy shift from previous practices. In Period 2, the PPP Unit was established to co-ordinate and evaluate all PPP projects. Although the government’s intention was to promote and assist the private sector to participate of the country’s infrastructure growth by introducing the Facilitation Fund, it was more concentrated on ensuring the public or users would not be burdened with high fees when using alternative infrastructure in the future. This is a shift from Period 1, where the policy was to promote private sector investment while protecting the government’s interest through minimising government’s financial assistance. The changes in policy are partially due to external events especially since there were changes in leadership, as mentioned by Sabatier (1988) that external events such as changes in socio-economic conditions and leadership and in response to certain circumstances. The former premier, Dr. Mahathir Muhammad retired in 2003, and the country was led by Abdullah Ahmad Badawi, where there was a policy change in generation 2. This was followed by more changes in generation 3 to protect users since Najib Tun Razak took over the premiership in 2009.

The PPP Guideline was established which enabled actors to make changes in their respective organisational social relations. The introduction of the PPP Guideline and changes in the government's overall policy and its desperate political condition produced substantial changes in the way a PPP toll road project are negotiated. Some changes are due to the changes in leadership and force of circumstance. The difficulty in advocating changes in practices which have been deeply embedded in taken-for-granted 'methods of doing things' over the last twenty years has been a challenge for these organisations. Despite the challenges, substantial material changes have been introduced, which is hoped to address the issue of being blamed for one-sided negotiation. The strong influence of internal and external forces also brought about many changes.

Legal and Regulatory Arrangement:

In Period 2, the legal and regulatory framework available is still the Privatisation Policy which has been proposed to be modified, the new PPP Guideline, the existing Federal Road Act (Private Management) 1984 and the Highway Authority of Malaysia (Incorporation) Act 1980. There is still no enacted law that governs the PPP process or privatisation industry in Malaysia. Hence, the actors currently use the existing provisions in the PPP Guideline as their guide alongside the Five Year Malaysia Plan and the Highway Network Development Plan. The new PPP Guidelines are actually a combination of feedbacks and practices from the past rules and practices which are products of tradition that grew overtime having adapted different sets of belief from both the 'administrative and legal domain' which provided public service the privilege of 'institutional continuity' which helped to promote the interest of constitutional bureaucracy (Rhodes et al 2008, p. 463). Measures to improve the alternative roads facilities have been introduced through the Key Performance Indicators in all third generation PPP toll road projects. At the same time, the PPP Guideline has streamlined and improved the processing and implementation of PPP toll road projects.

Organisational Arrangement:

In Period 2, tremendous changes had taken place in terms of the organisational arrangement. In Period 1, the attendance at PPP toll road project negotiations can be said to have been monopolised by specific actors who happened to be the influential personnel. But with the restructuring of organisations and the addition of new layers of officer positions, the taken-for-granted practices of over twenty years have been reduced. Detailed diagrams were presented on how information and issues flow through the current organisational structures. However, despite having clear organisational structures with well-established roles and rules, the established practices and structures are avoided when there are urgent matters that require a decision. This happens as the officers in newly-created positions (Grades 44 and 52) are new and inexperienced. Although the role of influential personnel is limited in the current PPP toll road formulation, there is evidence that it still exists when matters are urgent. The adaptation of the institutional theory which is interested in organisational structures, hierarchical arrangements and communication and procedures (Selznick 1996) and the structuration theory which advocates that actors belong to a social structure and that this structure supports routine actions which are repeated and changed over time (Giddens 1984) is appropriate for this research. Both the theories assisted in understanding the linkages between organisational structures and changes.

Strategic Arrangement:

The strategic arrangement in Period 2 involves actors 'learning from experience'. It takes a different role from Period 1 when the arrangement concentrated on the rules and norms established by actors in their social relations. However, in Period 2, the social relations are constantly changing due to frequent staff turnover. From interview responses, it appeared that actors prefer to learn through experience by 'tagging along' with their superiors and attending courses related to PPP toll road projects in order to gain experience and this is encouraged by the organisations. The strategic arrangement by Harris (2004) adopted for this research refers to the diligent approach of resource utilisation over the long-term for successful formulation of PPP projects: however, this concept is modified for this research to refer to the strategy used

by an organisation towards achieving an outcome. This modification has been reflected in this research as actors are tuned towards certain decisions through learning from superiors. On the other hand, staff turnover has been identified as a potential problem in relation to loss of institutional memory by Imperial (2005) which resulted in dependency on one particular actor during Period 1. However, with the changes in Period 2, elements of power and authority are reduced compared with Period 1 as no one remains in the organisation for very long. There is evidence that current practice is more open to new ideas and innovations. The openness concept is also advocated by scholars Béland (2005) and Healey (1999), which enables new ideas to flow into institutions which motivated the formulation and adoption of new clauses for the third generation projects.

This chapter has also explained the current process of approval which is clearer than in Period 1, and there is only one way for the private company to get their project approved. It has demonstrated the current practice in place during the formulation of PPP toll road projects and discussed the four aspects involved in the formulation: the policy, legal and regulatory, organisational and the strategic arrangements.

Drawing on the findings, it can be concluded that:

- (i) the established social relation with routinised practice is dynamic and subject to frequent changes which produces changes in the ‘methods of doing things’;
- (ii) the changes introduced are products of innovative ideas. The public service is more open to ideas professionally to handle a wide range of policy issues and heads of the civil services are more receptive to new innovations because they now have found space and voice (Rhodes et al 2008, p.473-474);
- (iii) organisations are more open to all levels of actors and do not discriminate based on their ranking;
- (iv) the influence of influential personnel could not be totally avoided since there are situations (urgent matters, difficult in obtaining approval and very limited time) which need them to work; and

- (v) the clearer process of approval reduces conflict which was common during Period 1.

The next chapter situates concluding thoughts on this research in a broader perspective.

Chapter 10

Conclusion

The motivation of this research is the enthusiasm to investigate and understand the claims by the government that there are many changes being introduced in the formulation of the new PPP toll road projects and why despite such claims the government is still facing issues to fulfil its obligation as stipulated in the Concession Agreement particularly related to the toll increment clauses. In order to investigate, a social science perspective was adopted to understand the relations between actors and the surrounding issues. The main aim of this research was to identify changes in social relations and understand the production and reproduction of institutions in the formulation of PPP toll road projects in Malaysia. Institutions for the purpose of this research are accepted to be consisting different organisations or bodies with many practices, norms and rules that the majority of individuals accept and those practices are modified over time (Jarzabkowski 2008, p. 624) as defined in Section 3.2, Chapter 3. In accordance to the aim of this research, the specific objectives are:

- i. To identify and understand what forms of social relations are established by actors involved in the formulation of PPP toll road projects;
- ii. To understand what changes alter and advocate changes to established social relations and how this influences the formulation of PPP toll road projects;
- iii. To appreciate and learn how changes to existing established practices have influenced the current PPP toll road negotiations; and
- iv. To understand how the PPP toll road projects in Malaysia are formulated.

This research was an effort to understand the changes brought to the formulation of PPP toll road projects through apprehending the changes in actor's social relations within the bureaucracy of the highly hierarchical organisations. It also endeavoured to understand the social relations which have been in place for the past thirty or more years resulting from continuous actor relations in the formulation of PPP toll road projects. The conceptual framework that guided this research to answer the research questions was based on insights provided by institutional and structuration theory. The main strands of this research as per old institutional theory are (i) actor's interactions involve formal and informal; (ii) external forces impacts on actor relations and (iii) the institution-actor relations where both influence each other, while, the main strands as per structuration theory are (i) actors are knowledgeable and (ii) actors belongs to a social structure and the structure supports routine actions that are repeated which goes through changes.

In line with the objectives set for this research, three research questions were formulated to investigate the issue as follows:

- 1. What forms of social relations do actors involved in PPP toll road projects formulation establish? How do established social relations influence actors when managing changes?**
- 2. How do existing sets of social relations and their practices change over time? How are the changes assimilated into actors' respective social relations and then produced and reproduced?**
- 3. What lessons might be learned from the formulation of PPP toll road projects in Malaysia?**

Besides that, this research is also an observation of when and how rules that have been practiced in the social relation are sub-versed and when and how the rules of operations change the methods of doing things of the organisation. The social relation is influenced the organisation, internal and external forces. The previous two chapters described and analysed what was happening in detail in two different periods of actor

relations, categorised as Period 1, first and second generation PPP toll road projects (mid of 1980s to end of 2000s); and Period 2 third generation PPP toll road projects (beginning of 2010 to 2016). For the purpose of investigation and data collection three methods was employed which are the document collection, interviews and observation as explained in Chapter 6. In order to summarise the findings, the study identified changes in the social relations of actors involved in the PPP toll road formulation in Malaysia through four types of social relations: (i) social relations established by actors within a public sector organisation; (ii) social relations established by actors between different public sector organisations; (iii) social relations established by actors from a public sector organisation with actors from the private sector; and (iv) social structure established by actors from different public sector organisations with actors from the private sector. This concluding chapter summarises the research findings, contributions, reflections from the research process, future directions and recommendations.

10.1 Summary of Findings

In summary, there are three major findings from this research. The major findings of this research can be seen to be common among civil services in many nations since they have many levels and are frequently hierarchical. The research confirms that the levels of reporting and approval in day to day work are inevitable and that the top of the hierarchy is the nodal point for the flow of information (Rhodes 2009, p. 193). The three major findings are as follows:

- i. changes happen when bosses change;
- ii. changes happen when there is political controversy; and
- iii. changes happen when bypassing takes place in specific cases.

As mentioned by Coaffee and Healey (2003), hierarchical pressure, bureaucracy, procedures and rules are challenges to actors when proposing changes, which, in the case of this research proved to be right since there are changes which were advocated after bypassing existing procedures and rules. Changes in actors' social

relations involved in the formulation of PPP toll road projects have been presented in parallel with policy, and legal, regulatory and organisational framework changes.

Changes happen when bosses change

It has been identified that there has been a significant changes in the ‘methods of doing things’ when there are changes in bosses. There is clear evidence in Chapter 9 which indicates changes when the Minister who had held the position for 22 years left the Ministry of Works. There were issues that resulted from the change of bosses, such as preparation of important documents including Cabinet papers without any feedback from relevant departments. On a higher level change, when there was a change in Prime Minister, private companies were given more support to participate in economic growth. Leadership change has also induced the introduction of new clauses into project agreements and improvement to existing clauses. For example, a new Concession Expiry Based on Internal Rate of Return Clause was introduced by the Director General of PPP Unit and is being used for all new negotiations.

Both types of norms (type 1 norms (norms that are related to work procedures) and type 2 norms (norms for representing the position of the organisation in PPP toll road negotiations) often goes through changes when there are changes in bosses. There are changes in work processes and the actors embedded in existing social relation have to adopt to the changes that are being introduced.

Changes happen when there is political controversy

This research concluded that changes in social relations and ‘methods of doing things’ can result from political controversy. These changes are highly influenced by the policy environment and political conditions. Among the four external forces as highlighted by Harris (2004), the main contributor to changes is the political condition as far as the Malaysian context is concerned. The drastic change in voter’s selection during the 2008 election has motivated the government to change their priority when negotiating PPP toll road from previously reducing government risk and financial contribution to more protecting users and reducing toll increments (see Chapter 9,

Section 9.2). This provided evidence that changes happened due to political issues surrounding the PPP toll road implementation, which also saw changes in the leadership of the country. Besides that, the introduction of new layers of ranks and officers in organisations by the Public Service Department promoted changes where more substantially related to changes in organisation leadership. As mentioned by Sabatier (1988, 1991), policy making and changes are closely related to politics and socio-economy factors, and that was identified in this research. It is also an impact from what has been advocated by Giddens (2008) as the Third Way where neo-liberalism has to be hybrid with social democracy.

Changes happen when bypassing takes place in specific cases

Another type of change happens when there are bypassing in specific cases. This is another important finding of this research - that despite having orderly structures and rules there are situations (urgent matters, difficulty in obtaining approval and pressing time) when they are bypassed for quicker decisions. This type of change is more important as it had a material effect on the concession agreement and the PPP toll road project itself. It was found that important decisions were made through this method. One of the reasons this happens is due to the lengthy bureaucracy involved to obtain an approval which has to go through many levels in an organisation and being subject to many rounds of negotiation by the PPP committee. The other reason is due to the various levels of knowledge in actors involved in the negotiation where not all of them understand the issue; this might take a longer period for the issue to be deliberated and a decision to be made. In such cases, the influential person begins to emerge and gets the issue sorted fast through bypassing levels and procedures. The top management, have trust in the influential person which allows this to happen even in Period 2. Tolbert and Zucker (1983) mentioned that an institution or organisation is usually spearheaded by a certain influential person, which is a true finding for this research. This is also because the influential personnel are those who can make decision on the spot as advocated by Waddock (1989). The role of the influential person has been identified as important in the formulation of PPP toll road projects in Malaysia. Influential persons refer to actors who have been in an agency for a long period of time doing the same type of job, and who are referred to as 'experts' and have the direct

connections and capabilities to convince and influence top management to accept decisions. Their role seems to be clearly visible in Period 1 as compared to Period 2 as explained in Chapter 9. However, the roles of influential persons have reduced since the introduction of new layers of rankings in the organisation and the admission of new officers in Period 2 which promoted innovative ideas to be introduced. The changes introduced by the new officers alter the existing practices in the actor's social relation or the 'methods of doing things'. The altered practices then produces and reproduces practices in the actor's social relation and the 'methods of doing things'. Besides that, when changes are promoted through bypassing, the practices and 'methods of doing things' goes through temporary alteration.

Other inter-related findings

The three major findings as discussed above were obtained through investigating the influencing forces. The internal and the external forces were investigated to understand its influence on actors, the establishment of social relations, the establishment of social relations and the 'methods of doing things'. Three internal forces were established in this study: the influence of organisations on actors; hierarchical organisation structures and the delegation of power in an organisation. Through this research another two internal forces have been identified which are not much covered by literatures which are the senior staff member as a mentor and the staff turnover. However, senior staff members as mentors has been identified as capacity building by Brinkerhoff & Morgan (2010, p. 6), while Rhodes et al (2008) asserts that public service actors construct their understandings through on-the-job learning and practitioner mentoring (p. 464). Due to the hierarchical system, bureaucracy and mentoring practices, the term *Yes Boss* and *The Boss is Always Right* has been found very popular among the lower-ranking actors involved in the formulation of PPP toll road projects irrespective of Period 1 or Period 2. The fact that the lower-ranking actors consider their immediate superior as always right shows how much the superior officer has influence in moulding the new actor's views and ideas. That allowed in the identification of a new internal force which is that which relates to the senior staff member as a mentor.

On the other hand, staff turnover has been identified as a potential problem in relation to loss of institutional memory by Imperial (2005), this is why in Period 1, actors involved in PPP toll road projects were not allowed to be transferred out and this research provided further evidence supporting Imperial. Staff turnover has so much impact in the social relation establishment that it has been identified as an internal force. All the internal forces have effects on the ‘methods of doing things’ which then are adopted by the actors in a social relation. The role of internal forces in influencing the social relation has been evidenced by the information obtained from the various data collected in the fieldwork which has been discussed in detail in Chapter 8 and 9. While influencing the social relations, the internal forces directly enhance the creation of influential personnel within the organisation who play an important role in establishing rules and norms which are routinised by the members of that social relation.

Meanwhile, three external forces were investigated in this research which has significant impact on social relations, the changes to social relations and the ‘methods of doing things’. They are: the policy framework which combines policy features and political conditions; legal and regulatory framework; and the organisational framework. The external forces influence changes in the social relations by modifying features of the internal forces. Changes in the policy framework saw changes in the internal organisational policy and the policy towards the private companies, while the introduction of the PPP Guideline in 2009 saw changes in the government’s priorities, and the changes in the organisational framework witnessed innovative ideas being introduced. Both internal and external forces have significant effects on actors’ perceptions, expectations, biases and preferences which have been detailed in Chapter 8 and 9. The external factors investigated in this research is in line with what been advocated by Sabatier (1988) known as the external events which are changes in socio-economic conditions and systemic governing coalition.

In establishing a social relation, actors tend to follow what has been routinely practiced and are directed by the influential person in the organisation. The routinised rules and norms together with the input from the influential person forms an actor’s social relations which will then are routinised and practiced by all the actors within it. The social relations will remain even when some actors are no longer in the social

relations, and the new actors will have to adapt and adopt the routinised practices. Actors involved in the formulation of PPP toll road projects in Period 1 did not positively participate in promoting changes in what has been practiced due to the complaisant attitude that what they have been doing is right and accepted and due to the influence of influential personnel where not every actor's views or ideas are listened. Some changes were introduced but mainly in terms of protecting the government's interests such as reducing government's financial risks and assistance. The way organisation was structured did not allow opportunities for new ideas because the dependency on specific influential personnel was high during Period 1. Bypassing levels in an organisation was rampant in Period 1 and still exists in Period 2 as discovered and discussed in Chapter 8 and 9. Even though, the term *Yes Boss* and *The Boss is Always Right* has been found very popular in Period 1 or Period 2, the difference is, in Period 1, the lower-ranking actor's views and ideas are not much listened to as compared to Period 2 where they are freer to voice their opinion and views. The changes made in the organisational framework in Period 2 by introducing new structures and staff into the system, promoted new ideas and innovations which also reduced the impact of influential personnel. This finding is in line with the conceptual understanding that actors are knowledgeable and capable of adopting changes, thus agreeing with Campbell (1998) that actors have the capability to strategise ways to evade or violate the norms or rules that they are supposed to follow. The changes that happens when levels are bypassed in specific cases is a typical example of actor's capability strategising ways that evade existing systems and procedures to get an approval for an issue.

This research found that privatisation and PPP formulation in Malaysia involves many organisations and actors from different levels in the organisation, however the formulation process is implemented without specific enacted PPP Law. Due to lack of a legal and regulatory framework or clear guidelines for PPP, the relationship between the actors from different public sector organisations during Period 1 was not co-operative. Overlapping areas of power and authority led to organisations blaming each other for many problems. In addition, forming coalitions to overthrow ideas or getting specific ideas approved was common during Period 1. This provides evidence to Giddens (1984) claim that, it is common for coalitions to be formed in a situation where

actors are continuously involved in relations and interactions. However, in Period 2, this situation changed and there is now one standard process of approval with one organisation being responsible. The introduction of the PPP Guideline 2009 has improved the relationships between the social relations of actors from different organisations with a clear path introduced for processing any projects related to PPP toll roads. Even though, there is no enacted law related to Privatisation or PPP in Malaysia at the moment, the formulation is still going ahead as though there is no need for one. However, as mentioned by Mukhopadhyay (2016), the transparency and accountability could be enhanced with a specific law in place.

The combination of supportive government policy and stable political conditions during Period 1 allowed public sector actors to continue what had been routinely practiced, taking matters for granted and only introducing changes to reduce risk and protect the government's interests. However, with toll issues becoming politicised, actors were forced into looking for avenues to change routine practices towards ensure their planning and negotiations of PPP toll road projects concentrate more on toll rates and its impact. The support of government for PPP was enhanced and significant changes were introduced aiming to protect the users. Alongside this, a major restructuring introduced by the PSD added new ranks and officers to the organisations, which contributed to the introduction of new and innovative ideas. The introduction of new layers and the increase of officers motivated active participation from actors where they are able to overcome organisational pressure to provide new innovative ideas. However, there are indications that the introduction of a new committee (the PPP Task Force) promotes an attitude of avoiding making decisions which is a sign of demotivation and a countervailing trend against innovative ideas.

In terms of changing the existing set of practices and rules, the openness concept introduced by the organisation's top management has motivated all ranks of actors to participate in organisational policy formulation which is then reflected in their respective 'methods of doing things'. The openness concept in Period 2 provides room to actors from any level to voice their opinion and idea during specific event such as the Strategic Management meeting while in Period 1, only specific actors provides opinion and ideas. There is no more discrimination based on ranking, seniority or levels in the

organisational hierarchy. The openness concept is also advocated by scholars Béland (2005) and Healey (1999), which enables new ideas to flow into institutions. The involvement of all actors through participation in the Strategic Management meeting introduces changes to their established social relations where they are produced and reproduced. The research has indicated that changes in social relations have meant easier acceptance of changes in the formulation of Period 2 PPP toll road projects, in part because of the reduced influence of influential personnel. The material changes that were introduced result from modifications of the existing social relations of actors and their 'methods of doing things', and are now being used for all new negotiations. Even though, the overall process of the formulation of PPP toll road projects has gone through many changes, the role of influential personnel is still evident, especially when there are situations where the approval of everyone is difficult obtain, or when time is short or there are urgent matters.

There have been significant changes in the strategy organisations have used for promoting and formulating PPP toll road projects. During Period 1, the strategy was more rigid and formal with high dependency to influential personnel. However, in Period 2, the approach changed, with efforts to educate staff and improve the knowledge of actors being the priority to reduce the dependency to specific actors. The research has shown that mentoring by a senior staff member is crucial to new actors who come from various backgrounds. The variety in actors' educational backgrounds coupled with experience shared by senior staff members improved actors' understanding of PPP and allowed the flow of new ideas. With the openness introduced by top management, actors are more freely voicing their opinion as compared to Period 1, and actors' social relations are more open to changes compared to Period 1 where it was difficult due to the strong influence of influential personnel.

This research found that the future of PPP toll road projects in Malaysia is likely to be more challenging, both for the projects under negotiation and for those currently operating. Dependence on the Privatisation Policy and the PPP Guideline is not sufficient as it is vulnerable to manipulation. Despite implementing privatisation and PPP for the past 30 years or more, this does not seem to be given priority. One reason identified by this research is the complaisant attitude of public sector actors because

what they had been doing in Period 1 had become taken-for-granted. The initiative to strengthen the Highway Authority of Malaysia Act is something to applaud but it should not stop with that. The next section highlights the contributions this research has made to the body of knowledge and implications for practice.

10.2 Contributions

This section presents the contributions made by this research. Through this research, the situation surrounding the formulation of PPP toll road projects and new ideas for the conduct of this process were identified.

10.2.1 Contribution to Knowledge

The research has made contributions to different dimensions of knowledge. This research makes an original contribution to knowledge by investigating the social relations of actors involved in PPP toll road formulation in Malaysia. It explored in detail the micro dynamism of social relations which include the interactions and relations between actors from the same and different organisation. The research was able to dissect the interactions between different levels of actors and how they acquire required skills and knowledge which helps them during their participation in PPP toll road project formulation. The research strategy for this research can be used for similar research pertaining to other PPP sectors in Malaysia and to investigate similar problems in different countries related to social relations within the public sector. There are no studies or literatures that investigate privatisation or PPP in Malaysia in the manner this research has approached in the context of micro dynamics of social relations. It is important to study PPP in this way as PPP is not only about aspects of commercial viability but it also involves actor's relations and interactions within often complex institutional contexts. PPP is a product of prolonged social relations interactions and is not only surrounded by financial or technical aspect. It is important to understand PPP through this lens in order to appreciate how decisions are made and implemented which would promote changes to the negotiations processes to improve the final outcome.

Social relations as explained in Chapter 4 (see Section 4.4) were used to understand actors in the negotiation process. This understanding has proven to be suitable for this kind of research as it separates formal and informal aspects surrounding actors. A social relation consist actors and their chain of interactions, in addition to formal practices and rules that are known as the ‘methods of doing things’ for this research. It is a concept which was established through some understandings from the institution and structuration theory that also incorporates formal and informal actors’ relations. This concept was used to understand events that promoted to changes to practices.

Through this research, it was seen that social relations are constantly produced and reproduced in the process of formulation of PPP toll road projects. Changes in social relations are also an impact from improved policy, legal and regulatory and organisational framework. Harris (2004) has identified the policy, legal and regulatory and organisational framework as external forces. Through this research, it can be confirmed that the three elements influence highly the establishment of actor’s social relations and the ‘methods of doing things’.

One of the important contributions of this research is the significance of influential personnel. Influential personnel created within the social relation are important because they have access to the highest level officers in the organisation and are capable of convincing them to accept certain decisions. The influential personnel as highlighted by literatures (Tolbert and Zucker 1983) are more related to a person spearheading an organisation, however the influential personnel identified in this research could be in any layer but has the power to influence top management towards accepting certain ideas. The influential personnel identified in this research are known as ‘experts’ by the peers and are retained by the organisation as the organisation is concerned over loss of institutional memory related to previously approved PPP toll road project. Noble and Jones (2006) have highlighted that lack of actors with previous PPP experience inhibit public sector from embracing PPP and that gap was bridged by this research through the identification of influential person. Influential person’s role has been substantial in Period 1 and 2 of PPP toll road formulation and the Malaysian Government is still continuing PPP as a method of infrastructure development.

10.2.2 Implications for Practice

Besides contributions to knowledge, this research also contributes towards implications for practice. In the context of privatisation generally and PPP practices particularly, this research adds more knowledge to the existing through insights into how PPP is being implemented in Malaysia. Specifically, it adds valuable information to the limited studies carried on PPP implementation by the PPP Unit, the Ministry of Works and the Highway Authority of Malaysia. This includes examination of the current scenario of Malaysian PPP, providing a comprehensive understanding of Malaysian PPP through the PPP Unit, the Ministry of Works and the Highway Authority of Malaysia.

This research has also identified that having an enacted PPP law might provide proper guidance to actors involved in the formulation process. The potential law should amongst others have clear procedures of PPP project formulation, proper recording of all negotiations, clear and specific roles of each member being present in the committee and minimal quorum for any decision making purpose which needs to be documented. The introduction of specific enacted PPP Law would enhance transparency, and the rationale for certain decision could be easily tracked. It will also allow detailed investigations on any failure of PPP projects. The provisions of such a law would then be assimilated into actors' 'methods of doing things'.

It has been identified through this research that further research related to surrounding elements of actors and social relations such as the influence of power in decision-making, the impact of issues related to human resources such as training and appraisal system in each of the Agencies involved in the formulation of PPP toll road projects would be beneficial in improving practice. This research reflected on networks of information during PPP project negotiations, reporting chains and information flows in each of the organisations investigated to provide clearer picture of how information and changes to practices are adopted.

10.3 Reflections from the research process

This research identified issues surrounding PPP toll road project formulation. However, there were challenges encountered when carrying-out this research. Initially it was hoped that respondents for the interviews would include actors from the Ministry of Finance, the Attorney General of Chambers, the National Land Commissioner, the PPP Unit, the Ministry of Works, the Highway Authority of Malaysia and the respective local authorities. However, as the other agencies could not participate since they were busy with other sensitive issues at that time, analysis was carried out with the information from the PPP Unit, the Ministry of Works and the Highway Authority of Malaysia. This has not affected the validity of the research since analysis shows similarities in the responses which support an assumption that even if the other agencies had co-operated, it would not have made much differences to the findings. Besides that, I was not able to observe the latest PPP negotiations by the Main Committee chaired by the PPP Unit as these proceedings were still confidential. However, observation was allowed of two smaller meetings chaired by the Ministry of Works, and these provided rich information on what was being discussed and how the information travels between actors from various social relations.

Given more time, the research would have been able to include other actors involved in PPP toll road formulation. However, the analysis of the three organisations saw the same types of responses from which it could be concluded that the problem is general and not based on the organisation. Hence, the research findings were able to satisfy the aim and the objectives of this research and could answer the research questions which have been validated.

10.4 Future Research

The research managed to fulfil its aim and the objectives. However, it is only a first step for future research. The impact of organisational restructuring and increasing of layers of rankings could be further investigated in terms of increasing the level of bureaucracy. In building the theoretical framework for this research, it was identified that there are few studies relating to organisational social relations and cultures

concentrating on PPP projects and these could be explored further. Both, the institution and structuration theory advocates organisational social relations and that cultural norms have influence in institutions. Further research based on organisational social relations and cultural norms related to the PPP projects would enhance understandings surrounding the social areas of the project where it will understand the actors and their relations in a different angle rather than previously concentrating on commercial aspects. This is important as a PPP project which is governed by an agreement is actually an outcome of a negotiation between two parties which is the government and the public sector. Hence, the terms and details of the agreement has direct impact of the actor's relations.

Besides that, further research that specifically focus on the wider external forces such as the influence of social media on the way the things are done. The influence of social media was not explicitly mentioned by anyone, however, it was found that the actors used information from social media, such as acquisitions made by law-makers (for example: too many toll increases for certain highway) to strengthen their organisation's view in promoting specific changes (for example: reduction of automatic toll increase and subject to toll review mechanism).

In terms of implications for practice, a different more fluid role for influential personnel might be explored through evaluating the benefits and drawbacks of the influence of long-standing (influential) personnel. The benefits of having such character would be faster decision-making, while the downside may be to the possibility of unlawful and corrupt practices. It is important for every member of the Committee to contribute during the negotiation that will reduce the impact of certain influential person. In order to do so, the PSD should place officers based on their qualification and experience especially on sensitive positions like the ones whom are involved in the PPP toll road project formulation. This could be another area of future investigation on the impact of officer positioning and the creation of influential personnel.

Urgent matters have not been clearly identified in this research, where the role of an influential person begins to surface. It could involve some high-ranking Minister's interests, or issues being pushed by high ranking individuals in their own interests.

Sometimes urgent matters could be issues related to social benefits rather than economic benefits. This could be a possible future investigation.

This research concentrated on the social relations amongst public sector actors assuming that each organisation in the public sector has different goals and the private sector has only profit-related goals. However, some private sector organisations are involved with the public sector with other goals, such as to provide facilities for the public under their corporate social responsibility obligations. This kind of relationship could be investigated further.

The concluding section of the thesis now provides suggestions for improving the existing system of PPP project formulation in Malaysia.

10.5 Recommendations

This research has investigated the overall process of the formulation of PPP toll road projects. There are three final recommendations from this research which could be helpful in improving existing processes and reducing existing accusations of being biased towards the private sector.

- (i) The main recommendation arising from this research is that privatisation and PPP projects in Malaysia should be governed by a specifically formulated and enacted law. This would provide the check and balance elements in negotiations.
- (ii) The second recommendation is to increase transparency by allowing greater public access to PPP toll road Concession Agreements and relaxing current restrictions on their circulation.
- (iii) The final recommendation is to include road users in the planning of PPP toll road projects which would enable their feedback to be considered before deciding on important parameters such as the toll rates.

The three recommendations are supported by Mukhopadhyay (2016) where PPP models are considered as transparent and accountable to public. In the case of Malaysia, there is lack of transparency when formulating PPP toll road projects since it does not involve any other than the public and private sector. However, the nature of the information where it consist confidential information creates the fear among the public service to disclose. Financial information, projected toll rates and assumptions could stir a negative impact to the government resulting in the process of formulating to be highly confidential.

This research managed to investigate the formulation process of PPP toll road projects in Malaysia from the social relation perspective drawing understandings and assumptions from the institution and structuration theory. The research achieved the underlined objectives and answered the research questions set-out in order to investigate the issue surrounding the formulation of PPP toll road projects in Malaysia. This research is significant in identifying the issues and understanding the actual inside of the formulation process of a PPP toll road project in Malaysia in terms of actors and issues surrounding them. This research has identified that the changes in the formulation of PPP toll road projects in Malaysia is highly influenced by the political situation and the leadership of the organisation. Besides that, the research has also identified that there is an option to get decisions fast by getting the assistance from the influential person.

This research has provided significant contribution to knowledge especially with the usage of social relation to identify formal practices by actors during formal negotiations and the importance of formal correspondence especially in structuring the micro dynamics of actor's social relations. Other than that, this research has also proved the importance of including internal forces for this type of research and has identified two new internal forces; (i) senior staff member as a mentor and (ii) staff turnover. Finally, this research could be used to investigate other PPP sectors in Malaysia and in other countries with similar problems. The time spent and efforts put for this research has proved to be worth where it provided a wider understanding to the issues currently faced in Malaysia and provided the recommendation for the improvement of the current process.

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Appendices

Observation 1

Meeting: Toll Increase 2016

Date: 12th October 2015

Venue: Meeting Room 1, Development & Privatisation Division

Time: 0900 – 1100

Location: Ministry of Works, Kuala Lumpur

Chairperson: (C1)

Attendees	Designation	Organisation
(G1)	Principal Assistant Secretary	D&P, MOW
(G2)	Principal Assistant Secretary	D&P, MOW
(G3)	Assistant Secretary	D&P, MOW
(G4)	Assistant Secretary	D&P, MOW
(G5)	Director	Toll Division, MHA
(G6)	Assistant Director	Toll Division, MHA
(G7)	Principal Assistant Director	PPP Unit
(G8)	Principal Assistant Secretary	Treasury
(G9)	Legal Advisor	Legal Division, MOW
(P1)	Managing Director	SPRINT & LITRAK
(P2)	Chief Operating Officer	SPRINT & LITRAK
(P3)	Chief Executive Officer	PROLINTAS
(P4)	Chief Financial Officer	SPRINT

Observation 2

Meeting: Senawang – Paroi Highway Proposal

Date: 18th October 2015

Venue: Meeting Room 1, Development & Privatisation Division

Time: 1430 – 1600

Location: Ministry of Works, Kuala Lumpur

Chairperson: C1

Attendees	Designation	Organisation
(G1)	Principal Assistant Secretary	D&P, MOW
(G3)	Assistant Secretary	D&P, MOW
(G9)	Legal Advisor	Legal Division, MOW
(G10)	Principal Assistant Director	HPU, MOW
(G11)	Assistant Director	HPU, MOW
(G7)	Principal Assistant Director	PPP Unit
(G12)	Assistant Director	PPP Unit
(G8)	Principal Assistant Secretary	MoF
(G13)	Principal Assistant Director	EPU
(P5)	Managing Director	PLUS
(P6)	Project Consultant	OPUS
(P7)	Chief Operating Officer	PLUS
(P8)	Chief Financial Officer	PLUS
(P9)	Project Engineer	PLUS
(G5)	Director	Toll division, MHA
(G14)	Senior Assistant Director	Planning division, MHA

Note: C1 = Chairperson

G = Government representative

P = Private company representative

D & P = Development and Privatisation Division

MOW = Ministry of Works

HPU = Highway Planning Unit

MoF = Ministry of Finance

EPU = Economic Planning Unit

MHA = Highway Authority of Malaysia

Numerals (1,2,3....etc) = refers to specific individual and has been assigned to same individual in the other meeting

List of Public Sector Respondents

Interview No.	Job Title	Code	Date of Interview
1	Chief Secretary	CS	21 st Sept 2015
2	Director General (Chairman)	HOA1	2 nd Nov 2015
3	Deputy Director General	SP1	4 th Feb 2015
4	Senior Principal Assistant Director	SO1	15 th Oct 2015
5	Principal Assistant Director	SO2	4 th Feb 2015
6	Assistant Director	SO3	5 th Feb 2015
7	Assistant Director	SO4	5 th Feb 2015
8	Secretary General	HOA2	20 th Nov 2015
9	Under Secretary	SP2	29 th Jan 2015
10	Deputy Under Secretary	SP3	18 th Nov 2015
11	Principal Assistant Secretary	SO5	29 th Jan 2015
12	Principal Assistant Secretary	SO6	6 th Feb 2015
13	Assistant Secretary	SO7	30 th Jan 2015
14	Assistant Secretary	SO8	29 th Jan 2015
15	Assistant Secretary	SO9	29 th Jan 2015
16	Director General	HOA3	30 th Oct 2015
17	Deputy Director General	SP4	10 th Feb 2015
18	Director	SP5	16 th Feb 2015
19	Director	SP6	10 th Feb 2015
20	Senior Assistant Director	SO10	10 th Feb 2015
21	Assistant Director	SO11	10 th Feb 2015
22	Principal Assistant Secretary	SO12	18 th Nov 2015

List of Private Sector Respondents

Interview No.	Job Title	Code	Date of Interview
1	Managing Director	Private 1	5 th Feb 2015
2	Chief Financial Officer	Private 2	5 th Feb 2015
3	Chief Executive Officer	Private 3	4 th Nov 2015

Interview Questions

Elements	Interview Questions	Role in Study
Introduction	<p>Could you please tell me how long have you worked with xxx?</p> <p>Could you elaborate your role and influence in the agency xxx?</p> <p>Your role and duties seems to be very challenging and interesting, do you consider what you are doing now is relevant to what your studied?</p> <p>I am sure the nature of your job requires you to have much related skills. How often do you attend training related to PPP or related to highway planning?</p>	<p>Background of the respondent</p> <p>Outlining their skill, educational background and experience</p>
Organisational objectives and goals	<p>From initial investigation on your policy document I could not distinguish on the actual statement related to the objectives and goals related to PPP. How do you relate your ideas/views/opinion regarding a specific PPP project to your department or organisation objectives and goals PPP?</p> <p>Do you think that the Privatisation Policy introduced in early 1990s still relevant? If yes, how it is being used to deliver PPP projects?</p> <p>If no, how do you perceive it now? Could you please explain to me any other statute, current guidelines, principles and regulations used for PPP projects and why you think it is more relevant now?</p>	<p>Understanding grounded views instilled.</p>
	<p>I find that your organisation have strategic committee meetings every year to revisit your organisation policies including its objectives and goals. Could you please explain to me how the sessions are carried out? What sort of levels are there in the meetings and your role must be an important role too.</p> <p>Your job sure requires you to continuously consider and rethink the relevance of certain policies and look into methods to improve. Could you elaborate how policy changes happen and how it is implemented?</p> <p>How was your response or idea related to the formulation of the objectives or goals in the policy were discussed? What are the challenges you face when giving your response? How was your superior's reaction towards your views and ideas?</p>	<p>Participation in policy formulation.</p>

	<p>Although there is a standard PPP contract which is used as a guideline, there seems to have some differences in views/ideas/opinion related to a PPP project. Why there is a difference although you are using the same guideline? Were you asked to deliver views or ideas related to PPP project based on your organisation policy and goals on PPP projects?</p> <p>(Extension)</p> <p>Since you were involved in some parts of the policy changes and implementation, do you think your views/ideas/opinions is different from others because of your knowledge and experience?</p> <p>Or, are there some other elements which create a situation for you to accept such views/ideas/opinions?</p> <p>How do you approach to ensure that you are giving your opinion based on your knowledge or experience?</p>	Influence by the organisation.
Impact of Structure	<p>Do you typically attend any level of meetings? I find that there are a few of you at your level attend different meetings related to PPP toll road projects, sometimes together, how is this decided?</p> <p>From the documents, I find that there are meetings where your superior attends together with you, how is the way you and your superior work together?</p> <p>When attending meetings with your superior, are you free to give your views/ideas or opinions or do you need to discuss/whisper first with your superior?</p> <p>I notice that there are some minutes or instructions on the letter calling for meeting for specific PPP projects which are expected to be delivered by the person attending the meeting. What do you feel about that? How do you work in that situation?</p> <p>After attending meetings alone, what are you required to do? How is your reporting lineage? Does it vary with projects? Because I have seen some memos direct to the Minister while some goes through your superior and other bosses. How do you manage this?</p>	How do the structure of organisation affect.
Participation and other interest	<p>Do you contact your colleague before attending a meeting to find out their views on certain PPP projects? Any pre-meetings? Do you discuss with your superior about their views?</p> <p>In a higher level meeting, where the Head of that Agency is chairing, do you find it difficult to go against their views/ideas or opinions? Do you enquire with others about their views on</p>	Participation and forming of coalition.

	<p>that project to get support for your ideas/views or opinions for instance the Government Support element in the West Coast Contract?</p> <p>From the minutes, I find that there are events where you and another member of a different agency go against other's views/ideas and opinion, how do you work in such situation?</p> <p>There are events when you go against the views/ideas and opinion of the rest in the meeting but during the follow-up meeting you agreed to accept their views/ideas or opinion. Were there any pressure or elements of convincing by other members outside the meeting?</p>	
	<p>How do you classify the relationship between you, your department and the private companies? Especially since some of them were formally from the Public sector.</p> <p>When your department or organisation holds an event, do these companies provide some sort of contributions? How do your department manage such situation?</p> <p>There are events where your superior seems to support the private company despite objections from other agencies. This must be a difficult decision. How does it relate to your organisational objectives and goals, knowledge or others?</p> <p>Why are there some cases where certain aspects of the contract are different from other contract for different projects? This can be seen on certain clauses in the contract such as Toll Review Mechanism and Compensation as for delay in tolling.</p>	Other interest
Formulation of new ideas	<p>How it is decided that there is a problem with their objective or goal and what are the steps taken to improve?</p> <p>I find that the changes in certain terms are accepted without further discussion or debate in your organisation. At what level was this decided and do you think there is enough discussion or debate before acceptance? Do you think that the changes need to be discussed or debated?</p> <p>Once a new change has been accepted, how do you implement that? What do you usually do when you do not agree to those changes?</p> <p>How and what are the stages involved in accepting changes in the current practise?</p>	Accepting changes

Participant Information Sheet

1. Research Project Title: A Critical Examination of Planning Issues Surrounding the Formulation of Public- Private Partnership Toll Road Projects in Malaysia
2. You are being invited to take part in a research project. Before you decide it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it with others if you wish. Ask us if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part. Thank you for reading this.
3. PPP toll road projects started in Malaysia in the 1980s and today the government could not implement all clauses in the contract. This research is to investigate the character of the public-private partnership through which toll roads are implemented in Malaysia particularly through understanding the process of negotiation.

The aim of this research is to identify and understand the changes within and among the social relations of individuals in the public sector involved in the formulation of Public Private-Partnership (PPP) toll road projects in Malaysia and how the changes have produced and reproduced institutions having regard to the interaction between the various parties, i.e. the government and the private companies. The research objectives are:

- v. To identify and understand the hierarchical setup in terms of the arrangements of actors' social relations involved in the formulation of PPP toll road projects;
- vi. To understand how actors from various organisations construct and advocate changes to existing established practices and how this influences the formulation of PPP toll road projects; and

- vii. To appreciate and learn how the changes introduced are being incorporated in the current PPP toll road negotiations; what are the crucial aspects that are still neglected; and how this could be improved.
4. As a member or previous member in the PPP committee, representing an organisation it would be helpful for me to interview you to determine your organisation influence to your views. Besides that, your reporting back to your organisation may also result in your organisation change some of their views.
5. It is up to you to decide whether or not to take part. If you do decide to take part you will be given this information sheet to keep (and be asked to sign a consent form) and you can still withdraw at any time without have to give a reason.
6. If you decide to take part in this research, your views will be used for further analysis. The proposed method of data collection for this research is observation, document analysis and interviews. You have the option to say whether or not you are happy for your respective organisation to be identified in the research. If you do not wish your name or position to be specified then an alias will be assigned to your details. In certain circumstances, you may be contacted again to verify the interview transcript as a validation process. You will have the opportunity to see your interview transcript and/or their comments in the context of the thesis, if you wish so.
7. Since this research will be later to available to anyone, there are chances the current process or negotiations being blamed for the current problem which is the public outcry on toll increase.
8. Whilst there are no immediate benefits for those people participating in the project, it is hoped that the findings of this research would enlighten some characteristics of a PPP negotiations not only in Malaysia but elsewhere too. It will also provide evidence that structuration actually happens in organisations.
9. If you are unhappy with any proceedings by the researcher or would like to complaint, you may address to the following person:

Mr. Peter R. Bibby at p.r.bibby@sheffield.ac.uk

Should you feel that your complaint has not been addressed accordingly then you may raise your complaint to the University's 'Registrar and Secretary'.

10. All the information that we collect about you during the course of the research will be kept strictly confidential. You will not be able to be identified in any reports or publications. All participation is confidential. You will be given a choice of anonymity, which are: 1) full anonymity of name, job title and company; 2) anonymity of name but not of job title and company; 3) anonymity of name and job title but not of company; 4) anonymity of name and company but not of job title.
11. The audio and/or video recordings of your activities made during this research will be used only for analysis and for illustration in conference presentations and lectures. No other use will be made of them without your written permission, and no one outside the project will be allowed access to the original recordings. Your data information and data collected throughout the interview shall be kept securely locked and password encrypted (electronic forms materials). You will be always be anonymous in publications.
12. The information sought would be your past experiences and practices and how it has changed over the years. This information may assist to identify the changes in an organisation.
13. The results are likely to be published in 2016 and aimed to be published in journals. Your feedback would be useful in investigating the theory and you will not be identified any report or publication.
14. This study is fully sponsored by the Public Services Department of Malaysia.
15. This project has been ethically approved via town and regional planning department's ethics review procedure (every academic department either administers the University's Ethics Review Procedure itself, internally within the department, or accesses the University's Ethics Review Procedure via a cognate, partner department). The University's Research Ethics Committee

monitors the application and delivery of the University's Ethics Review Procedure across the University.

16. You may contact the principal or secondary supervisor of this research as follows:

Mr. Peter R. Bibby
Dept. of Urban Studies & Planning
University of Sheffield
S10 2TN Sheffield
United Kingdom
Tel: +44 (0)1142 226181
Email: p.r.bibby@sheffield.ac.uk

Professor Dr. Malcolm A. Tait
Dept. of Urban Studies & Planning
University of Sheffield
S10 2TN Sheffield
United Kingdom
Tel: +44 114 222 6919
Email: m.tait@sheffield.ac.uk

This information sheet is for your consumption and attached is the consent form for your approval. You must retain a copy of the signed consent form.

Thank you very much for participating in this research.

University of Sheffield
Participant Consent Form

Appendix 5

Title of Research Project: A Critical Examination of Planning Issues Surrounding the Formulation of Public-Private Partnership Toll Road Projects in Malaysia

Name of Researcher: Paramanathan Sandran

Participant Identification Number for this project:

Please initial box

1. I confirm that I have read and understand the information sheet/letter (delete as applicable) dated [*insert date*] explaining the above research project and I have had the opportunity to ask questions about the project.

2. I understand that my participation is voluntary and that I am free to withdraw at any time. In addition, should I not wish to answer any particular question or questions, I am free to decline without giving any reason and without there being any negative consequences. *Insert contact number here of lead researcher/member of research team (the researcher and his two supervisors) (as appropriate).*

3. I understand that my responses will be kept strictly confidential (only if true). I give permission for members of the research team (the researcher and his two supervisors) to have access to my anonymised responses. I understand that my name will not be linked with the research materials, and I will not be identified or identifiable in the report or reports that result from the research.

4. I agree for the data collected from me to be used in future research.

5. I agree to take part in the above research project.

Name of Participant
(or legal representative)

Date

Signature

Name of person taking consent
(if different from lead researcher)

To be signed and dated in presence of the participant

Date

Signature

Lead Researcher

To be signed and dated in presence of the participant

Date

Signature

Copies:

Once this has been signed by all parties the participant should receive a copy of the signed and dated participant consent form, the letter/pre-written script/information sheet and any other written information provided to the participants. A copy of the signed and dated consent form should be placed in the project's main record (e.g. a site file), which must be kept in a secure location.

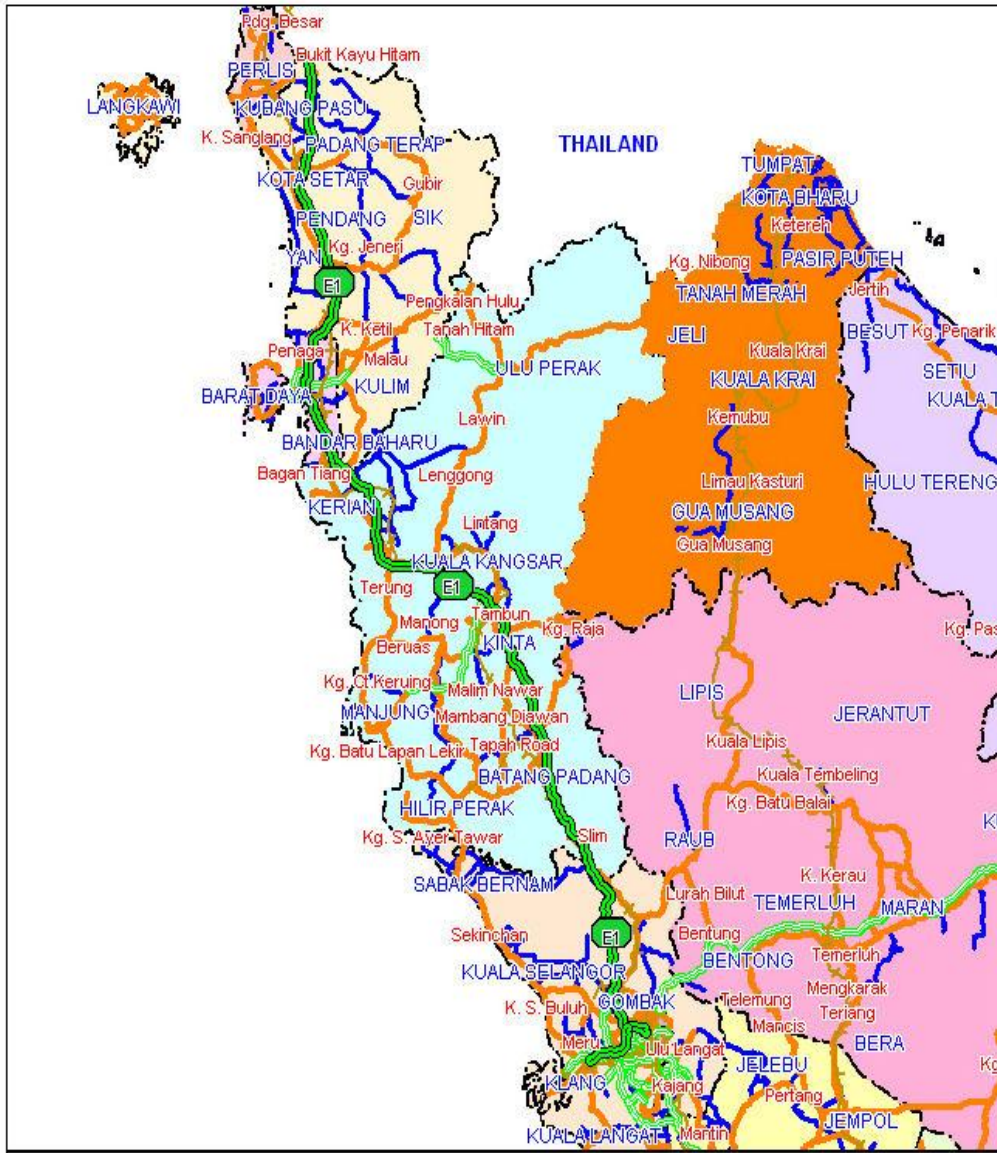
Details of the North South Expressway

1. Total length : 823 km (400 km constructed by the Government, 423 km constructed by the private company)
2. Total cost : Malaysian Ringgit 7.236 billion
3. Original Concession Period : 30 years
Current Concession Period : 50 years and 7 months
4. Details of Concession Agreement

Agreement	Date Signed	Purpose
Concession Agreement	13 th May 1988	The first privatisation agreement between the Government and a private company.
Supplemental Agreement	8 th July 1999	Restructuring of toll rates
Second Supplemental Agreement	11 th May 2002	Restructuring of toll rates
Third Supplemental Agreement	24 th April 2005	Third lane widening on selected stretches, abolition of Senai toll & handing over of Seremban-Port Dickson Highway
Fourth Supplemental Agreement	11 th November 2011	Fourth Lane Widening on selected section and restructuring of toll rates

5. Completed Alignment of the North South Expressway

North Bound Alignment (North South Expressway)



*Note: E1 = represents the North Bound of North South Expressway

Source: Author's compilation during fieldwork document analysis (Penswastan Lebuhraya di Malaysia 2009), 2015

The South Bound Alignment (North South Expressway)



*Note: E2 = represents the South Bound of North South Expressway

Source: Author's compilation during fieldwork document analysis (Penswastan Lebuhraya di Malaysia 2009), 2015

Details of the Damansara – Puchong Highway

1. Total length : 40 km

2. Total cost : Malaysian Ringgit 1.690 billion

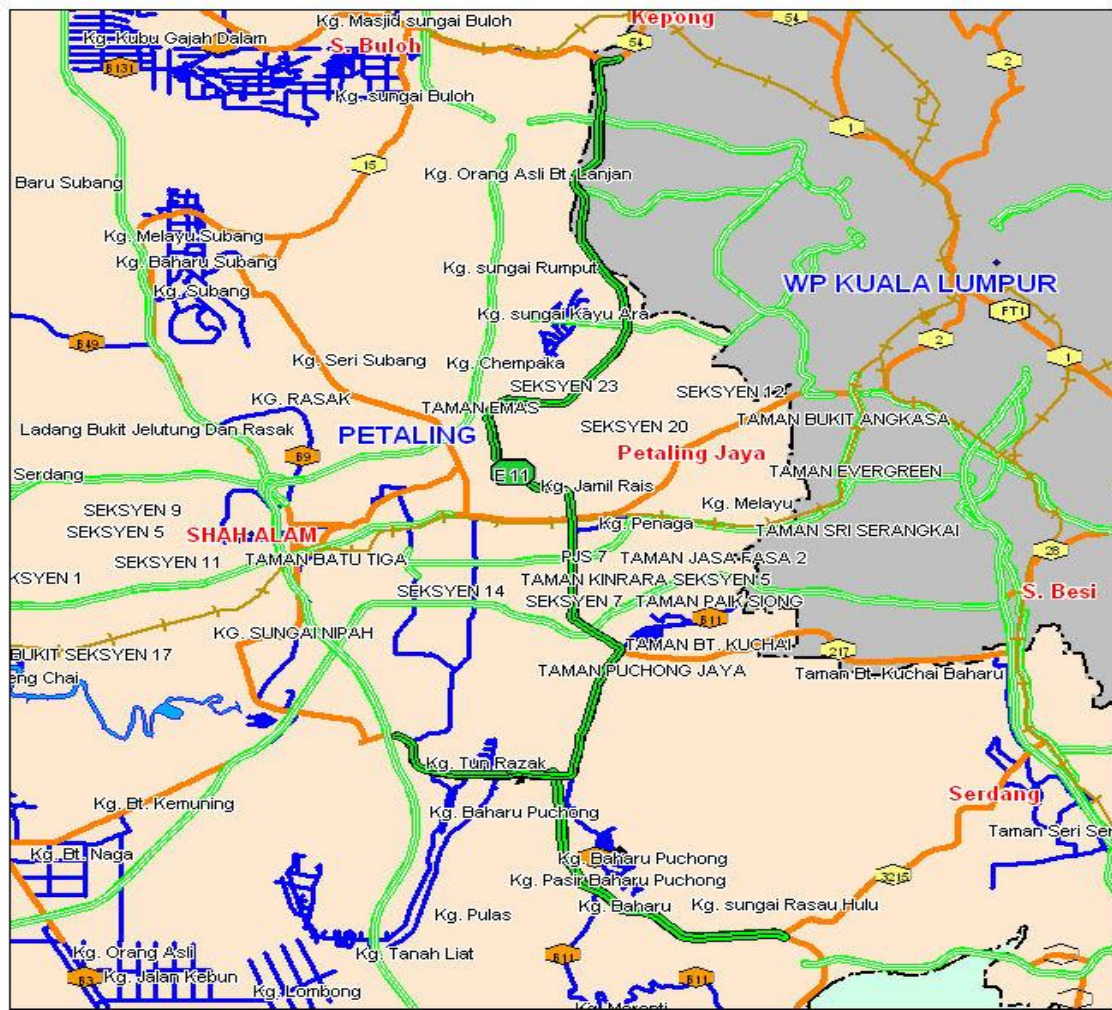
3. Original Concession Period : 33 years
 Current Concession Period : 34 years

4. Details of Concession Agreement

Agreement	Date Signed	Purpose
Concession Agreement	23 rd April 1996	The first privatisation agreement between the Government and a private company to official start the project.
Supplemental Agreement	20 th August 1999	Reduction in toll rate by Government
First Supplemental Agreement	4 th September 2007	Restructuring of toll rates

5. Completed Alignment of the Damansara – Puchong Highway

Damansara –Puchong Highway Map



* Note: E11 refers to the Damansara-Puchong Highway

Source: Author's compilation during fieldwork document analysis (Penswastan Lebuhraya di Malaysia 2009), 2015

Job Description
Assistant Secretary (DP) 1
Privatization Unit
Development and Privatization Division

Name :
Post : AS (DP) 1
ADS Grade M41
Responsible to : US (DP)
DUS (DP)
PAS (DP) 1

Responsibilities

To assist DUS (DP) and PAS (DP) 1 in carrying out his duties of monitoring, implementation and coordination of privatization projects the following highways:

- 1) E18: Kajang Traffic Dispersal Scheme (SILK)
- 2) E15: Butterworth – Kulim Highway (BKE)
- 3) E38: SMART Tunnel
- 4) E20: Kuala Lumpur – Putrajaya Highway (MEX)
- 5) E8 : East Coast Expressway (Phase 1)
- 6) E35: Guthrie Corridor Expressway (GCE)
- 7) E5 : Shah Alam Expressway (KESAS)
- 8) E4 : Kemuning – Shah Alam Highway (LKSA)
- 9) E21: Kajang – Seremban Highway (LEKAS)
- 10) Eastern Dispersal Scheme (EDL)

List of Duties

1. To update the "database" and monitor the privatisation of highways above.
2. To provide information on the proposed project implementation in order to provide an estimate of the annual development budget and five-year Malaysia Plan.
3. To gather information for projects under their respective responsibility.
4. To monitor physical development and finance for projects under the responsibility and provide periodic reports.
5. To ensure provision, ceiling and expenditure for all highway privatization projects under the responsibility of continuously updated.

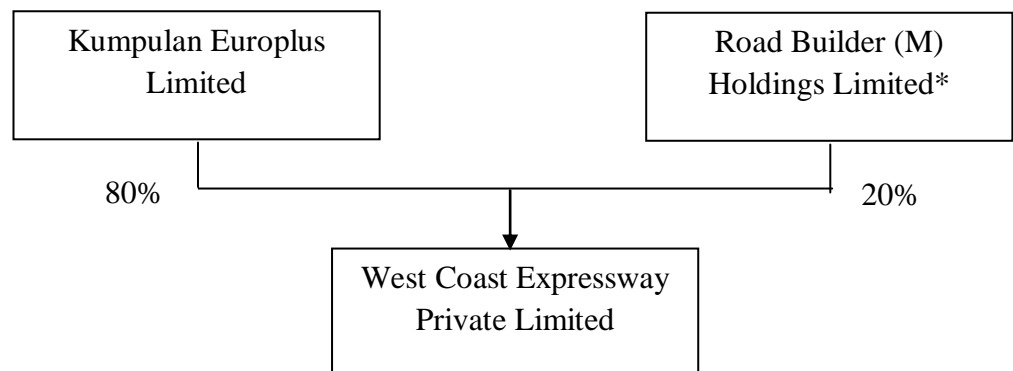
6. To process Land Acquisition (LA) and issues relating to the local authority for the above projects.
7. To attend meetings related to the above project either in central agencies or ministries.
8. To be Secretariat for meetings related to the projects under their responsibility.
9. To assist DUS (DP) and PAS (DP) 1 in drafting Cabinet papers.
10. To prepare draft answers to Parliamentary questions associated with the projects under his responsibility.
11. To have site inspection from time to time.
12. Other tasks directed from time to time.

- **Translated from Malay.**

- * **Note: DUS – Deputy Under Secretary
PAS – Principal Assistant Secretary
AS – Assistant Secretary
ADS – Administrative & Diplomatic Scheme
DP – Development & Privatization**

Details of the West Coast Expressway

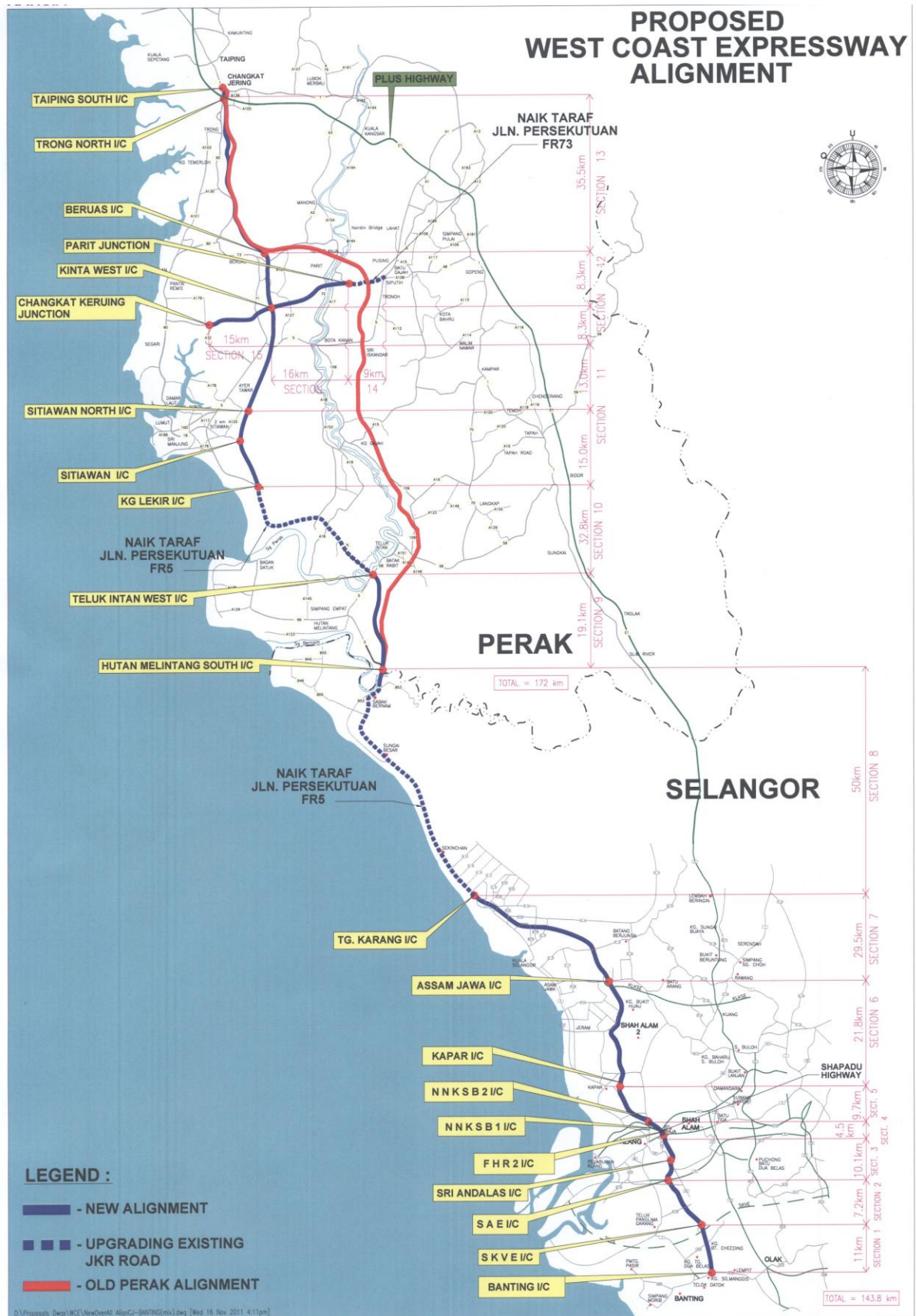
1. Total length : 316 km (122.8 km of upgrading of existing alignment and 193.2 km of new road construction)
2. Total cost : Malaysian Ringgit 7.354 billion
3. Concession Period : 60 years
4. Concession Agreement Date: 2nd January 2013
5. Shareholders



*Note: Road Builder (M) Holdings Limited is 100% owned by IJM Corporation Limited (a listed public company)

6. Proposed completion date: October 2019
7. Proposed Alignment

The West Coast Expressway Proposed Alignment



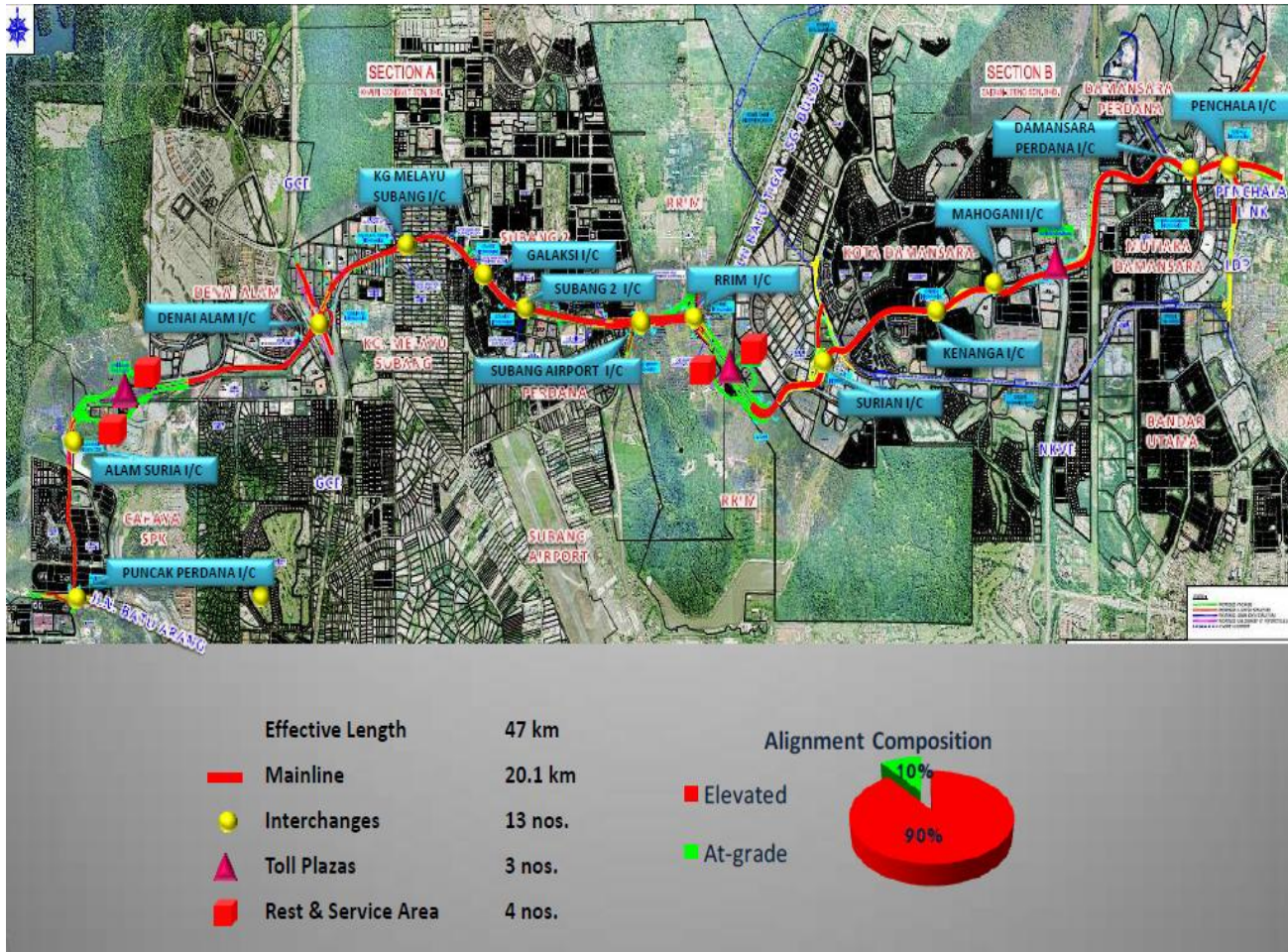
Source: Author's compilation during fieldwork document analysis, 2015

Details of the Damansara – Shah Alam Highway

1. Total length : 47 km
2. Total cost : Malaysian Ringgit 5.570 billion
3. Concession Period : 65 years
4. Concession Agreement Date: 25th September 2013
5. Shareholders : The Damansara – Shah Alam Highway is a fully privately owned project. The concession company is Projek Lintasan Kota Holdings Private Limited. However, the concession company is fully owned (100%) by the *Permodalan Nasional Berhad* (PNB). It was incorporated on 17th March 1978 and was conceived as a pivotal instrument of the Government's New Economic Policy to promote share ownership in the corporate sector among the 'Bumiputera', and to develop opportunities for deserving 'Bumiputera' professionals to participate in the creation and management of wealth. Hence, PNB can be considered to be closely related to the government. The Board of Trustees consists the Prime Minister, the Deputy Prime Minister, the Second Finance Minister and the Minister of International Trade and Industry.
6. Porposed completion date: October 2020

7. Proposed Alignment

The Damansara – Shah Alam Highway Proposed Alignment



Source: Author's compilation during fieldwork document analysis, 2015