UTILIZING PUBLIC PRIVATE PARTNERSHIPS TO IMPROVE NIGERIA'S HEALTHCARE SYSTEM*

Abstract
Nigeria's healthcare system is a very poor state. It suffers from a host of challenges including inadequate supply of personnel and equipment, poor infrastructure, and outbound medical tourism. The main reason for these challenges is the lack of funding in the sector. Government has simply been unable to make the required investments to drive the Nigerian health sector forward. This paper suggest that public-private partnerships can help solve some of the problems bedeviling the Nigerian healthcare sector provided that the necessary policy, legal and institutional reforms are effected.

Keywords: Healthcare, Public-Private Partnerships, Medical Tourism, Nigeria

1. Introduction

The Nigerian healthcare sector is in poor state. According to Nigerian Sovereign Investment Authority (NSIA)[1], Nigerians spend $1.6 billion annually on medical tourism.[2] According to a survey Carried out by PWC, 90% of the respondents associated advanced healthcare delivered in Nigeria with low quality.[3] The reason for this is not farfetched. Nigeria's public spending on healthcare amounts to just 3.75% of its GDP compared to that of its African neighbors, this is dismal. For instance, South Africa's spending is about 8.25% of GDP, whilst that of Kenya is 5.17% of GDP.[4] These figures are significantly lower than the 15% GDP that is the recommendation of the World Health Organization (WHO).[5] The result of the limited funding in the sector has resulted in high numbers of infant and maternal mortality rates, high death rates from manageable diseases such as malaria and spread of communicable diseases such as cholera. The advent of Covid-19 has also put increased strain on the Nigeria's healthcare sector. The problem with the Nigerian healthcare system manifests in different forms. This includes the inadequate supply of personnel, equipment, and infrastructure. The result is a decline in confidence in the system leading to high levels of outbound medical tourism by those that can afford it. Medical tourism not only depletes much needed foreign currency but also leads to brain drain. This is because it substantially reduces the amount of money that could have been spent within the country's health market contributing to the low salaries paid to doctors in the country and the resultant job dissatisfaction that contributes to a lot of doctors leaving the country to other countries where they are better remunerated.

One major reason for the worsening condition of the Nigerian health sector is the lack of investment. Government being the largest investors in the public health sector is simply unable to invest the kind of money that is required to grow the sector since there are other competing social services like education, housing, and security begging for government's attention. The lack of finance has led to the clamor to deploy the use of PPPs for healthcare delivery in Nigeria. This is not surprising as PPPs have been successfully used in Nigeria in financing utilities like the transportation and power sectors. Also, the healthcare sector in Nigeria is completely liberalized with mostly private sector players involved in the operation of healthcare facilities in the country. This makes it relatively easy to introduce private sector finance for the delivery of better healthcare services. However, despite the influx of private investors in the sector, they have still been unable to fund the type of hospitals or services to help meet the country's healthcare needs. This is despite the high cost of services provided by the private sector providers which has placed them beyond the reach of ordinary citizens. For this reason, there have been doubts on whether PPPs would be able to cater for the lower market segments since healthcare is a vital social service that should be available to majority of the population.
On the evidence of the foregoing, this paper examines the viability of PPPs for improving the Nigerian health sector given the unique social nature of healthcare services. This paper concludes that the use of PPPs in the healthcare sector will lead to the development of world-class infrastructure and therefore the provision of better

***By George NWANGWU, PhD,** Research Fellow, Department of Mercantile Law, Stellenbosch University. The author is also Honorary Senior Research Associate in the Bartlett School of Construction and Project Management, University College London. He attended the University of Lagos Nigeria (LLB), University College London (LLM), University of Hull, UK (PhD) and the University of Oxford (MBA).

[1] See website at https://nsia.com.ng/

[2] See 'Nigerians spend N664bn on Medical Tourism every year' available at https://dailytrust.com/nigerians-spend-n664bn-annually-on-medical-tourism-fg/? Last accessed 15 November, 2022.

[3] https://www.pwc.com/ng/en/assets/pdf/restoring-trust-to-nigeria-healthcare-system.pdf

[4] World Bank https://data.worldbank.org/indicator/SH.XPD.CHEX.GD.ZS

[5] Ke Xu et al, 'Exploring the thresholds of health expenditure for protection against financial risk' World Health Report (2010) Background Paper 19 available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://cdn.who.int/media/docs/default-source/health-financing/technical-briefs-background-papers/19the-thresv2.pdf?sfvrsn=fcb81f85_3&download=true> last accessed 15 November, 2022.

services. Under PPPs the private sector does not only provide resources but is also able to bring its innovation, and expertise in the provision of healthcare services. There are however legal and policy reforms that are required to ensure that the full benefits of PPPs are derived in the Nigerian healthcare sector.

2. The Nigerian Healthcare Sector

According to Kareem and Nwankpa, only about 10% of the population is covered by the National Health Insurance Scheme (NHIS) in Nigeria. Of this 10%, the majority are civil servants employed in the public service.[6] This means Nigeria is still a far cry from achieving her goal of universal health coverage. The prospects of overcoming this challenge within a short timeline are thinned out by fiscal constraints. In their own study, Alawode and Adewole examined the use of health insurance as a mechanism for financing health care accessibility in Nigeria. Their study reveals that since the launch of Nigeria's National Health Insurance Scheme (NHIS) in 2005, only 5% of Nigerians have health insurance and that 70% of Nigerians still finance their healthcare through Out-Of-Pocket expenditure. The study further found that some of the reasons for these include abject poverty, low level of awareness, low interest (in the scheme), superstitious beliefs, inefficient mode of payment, drug stock-out, weak administrative and supervisory capacity. According to them, the scheme has provided more coverage for the formal sector. Its voluntary nature and lack of legal framework at the subnational levels were seen as the overarching policy challenge. Therefore, only NHIS members of staff currently make required financial co-contribution into the scheme, as all other federal employees are being paid for by the government.[7]

Several studies have dealt with the challenges faced by the Nigerian healthcare sector. For instance, Oyibocha, *et al* in their study found that some of the major challenges of sustaining Nigeria healthcare system are: counterfeit and adulterated drugs, poor healthcare financing and sustainability, increased out-of-pocket expenditure, inadequate basic infrastructure/equipment/drugs and inequitable distribution, poor remuneration and other push factors, bribery and corruption and shortage of staff. [8] According to Ejughemre, some of the challenges faced by the health sector include the persistent under-funding of the health sector by the Nigerian government. However, the author argues that there is evidence that the private sector could be a key player in delivering health services and impacting health outcomes, including those related to healthcare financing. The author therefore advocated for the need to optimize the role of private sector in complementing the government's commitment to financing healthcare delivery and strengthening the health system in Nigeria.[9] Another study by Okafor using a qualitative research methodology reviewed health system performance in Nigeria in line with the achievement of United Nations health-related Millennium Development Goals (MDG's) and targets. The paper recommended for institutionalization of the Public-Private Partnership (PPP) model in the country's healthcare sector. Public - Private Interaction offers opportunity of leveraging private sector investment in the sector and further enhances improvements in service delivery as well as increases access to quality healthcare[10] Adinma and Adinma in their paper, champion Community-based healthcare financing. They claim that it has been recognized as being community-friendly and community-driven initiative that has a wider reach and coverage of the informal sector especially if well designed.[11]

According to the National Health Policy 2016, health financing challenges in Nigeria include inadequate public health funding, low external funding, with the little external funding not being in tandem with national priorities, incomplete and unreliable data on health financing, allocative and technical inefficiencies in health spending, very limited coverage with risk pooling mechanisms, and importantly, poor private sector investments in health. In the foreword to the Policy, the Minister for Health cited the projected downward trend in the fiscal space for health. However, the report also stated that there is an opportunity for domestic resource mobilization

[6] T. Kareem and E. Nwankpa, 'Garki Hospital's PPP Model as Booster for National Health Insurance' *The Sun* (Lagos: December 20, 2021) < https://www.sunnewsonline.com/garki-hospitals-ppp-model-as-booster-for-national-health-insurance/> accessed 03 August, 2022.

[7] G.O Alawode, D.A Adewole, 'Assessment of the design and implementation challenges of the National Health Insurance Scheme in Nigeria: a qualitative study among sub-national level actors, healthcare and insurance providers'. *BMC Public Health* 21, 124 (2021). https://doi.org/10.1186/s12889-020-10133-5.

[8] E.O Oyibocha et al 'Sustainable Healthcare System in Nigeria: Vision, Strategies and Challenges'. *OSR Journal of Economics and Finance* (IOSR-JEF) e-ISSN: 2321-5933, p-ISSN: 2321-5925.Volume 5, Issue 2. (Sep.-Oct. 2014), PP 28-39

[9] U. Ejughemre 'Accelerated reforms in healthcare financing: the need to scale up private sector participation in Nigeria,' (2014) 2(1) *International Journal of Health policy Management,* 13–19.

[10] O. Chukwuemeka 'Improving Outcomes in the Nigeria Healthcare Sector through Public-Private Partnerships' (2016) 10(4) *African Research Review*, 1-17.

[11] E, Adinma and B.Adinma 'Community based healthcare financing: An untapped option to a more effective healthcare funding in Nigeria' (2010) 51 *Nigerian Medical Journal,* 95-100.

with regards to increasing the number of private sector players in health,[12] and in the concluding part of the Foreword the Minister expressed the 'hope that all state and non-state actors, including the private sector, will closely collaborate with relevant health authorities at the Federal, State, and Local Government levels in the implementation of this Policy'. In addition to financial challenges, there are other issues such as poor planning. For example, the National Health Policy states that there are instances where poor location of health facilities has led to under-utilization. These challenges have combined to create a deficit in availability and access to health care in Nigeria. The interesting news however is that private sector participation can do a lot to bridge these gaps. It is therefore necessary to consider the legal and policy framework for private sector intervention in Nigeria.

3. Public-Private Partnerships

Public-Private Partnerships (PPPs) have become very popular across the world. It has indeed been one of the dominating organizational ideas of the 21st century.[13] The concept has been used to build roads, bridges, hospitals, airports, prisons and all manner of infrastructure. It has also been used as a tool for public sector reforms, thereby contributing to legal and institutional reforms,[14] public procurement restructuring[15] and even, public sector accounting development.[16] Given its importance to the economic wellbeing of countries, it is no surprise that concept has been at the center of numerous policy, political and economic debates.[17] PPP may be defined as a long term relationship between public sector agencies and private sector entities under which the responsibility for any or all of the combination of designing, financing, construction, management and operation of public infrastructure and utilities that were traditionally undertaken by the public sector are contractually shared and jointly undertaken by both the public and private sector, usually in proportion to the kind of risks each party can best carry.[18] PPP projects differ from traditional or publicly financed infrastructure projects in the sense that under PPPs the different activities required for the delivery of infrastructure are bundled together and managed by a single private sector entity.[19] Historically, the major motivation for the widespread use of the PPP model in the provision of infrastructure across the world appears to be the inadequacy of public funds to meet the increased demand for infrastructure.[20] Therefore PPPs are seen as providing appropriate structures to attract and catalyze private funds for the provision of much needed public infrastructure. In actual fact, a lot of the private funds comes in the form of debt from financiers, however most crucially, the private sector takes the financing risk.[21] Other reasons for adopting PPPs include claims that PPPs provide better value for money and reduces government's debt levels. Where the private sector assumes the financing risk, the government can finance the infrastructure outside of its balance sheet.[22] In theory, the government thereby saves money which it would then be able to invest in other social infrastructure, not suitable for private finance.

Even though in practice, governments utilising PPPs sometimes end up with fiscal liabilities, which can have adverse economic consequences, it was always considered that the advantages greatly outweighed whatever

[12] National Health Policy (2016) 16.

[13] R. Wettenhall, 'The Public-Private Interface: Surveying the History' in G. Hodge and C. Greve (eds), *The Challenge of Public-Private Partnerships: Learning from International Experience*. (Cheltenham, England: Edward Elgar 2005), 43.

[14] Numerous countries have reshaped their legal framework for investment to make them more receptive to private sector investment. Indeed, one of the critical success factor for PPPs is an enabling legal and institutional framework.

[15] For instance, the Netherlands has adopted PPP type structures primarily to promote an efficient procurement regime and reform its public sector. See: S. Harris, 'Public Private Partnerships: Delivering Better Infrastructure Services,' (Working Paper) Inter-American Development Bank, Washington DC 3.

[16] See for instance, E. Caperchione *et al.* 'Public Sector Reform and Public-Private Partnerships: Overview and Research Agenda' *Accounting Forum* 41(1) 2017, pg.1-7.

[17] See for example, G. Hodge *et al* 'The Public Private Partnership Debate: Taking Stock of the Issues and Reviewing the Research Agenda' Paper for the Workshop on 'The Shadow Line of Accountability – Performances and Controls Across Public and Private' Conference organizers: U. Mörth, F. Panozzo & K. Sahlin-Andersson Venice, Italy, VIU-campus, S. Servolo Island, April 17-18 2008.

[18] G. Nwangwu 'The Legal Framework for Public-Private Partnerships (PPPs) In Nigeria: Untangling the Complex Web', (2012) 7 *European Procurement and Public Private Partnership Law Review*, 268-277.

[19] Note that in most cases the private sector entity is made up of a combination of firms with different expertise coming together as a consortium.

[20] Indeed, the first PPPs projects were done basically to bring private investments for public services. See D. Grimseyand M.K. Lewis *Public Private Partnerships: The Worldwide Revolution in infrastructure Provision and Project Finance*, (Cheltenham UK: Edward Elgar Publishing, 2004) 136 ;E. Cheung, et al 'Reasons for implementing public Private Partnership Projects: Perspectives from Hong Kong, Australian and British practitioners,' (2009) 27 (1) *Journal of Property Investment and Finance*, 81-95.

[21] In most cases, the financing risk is shared between the public and private sector parties through the use of debt guarantee instruments and other risk mitigation mechanisms.

[22] PPPs are not free. They at best merely defer government's fiscal obligations.

risks.[23] Another reason for the promotion of PPPs is that it is believed that the private sector provides better efficiency in managing infrastructure services, than government. PPPs thereby effectively ensure that each party focuses on their areas of expertise. The private sector is empowered to provide efficiently run services, whilst the public sector focuses on policy, planning and regulation. PPPs are also positioned as more politically attractive to nationalization or privatization.[24] The fact that the partnership structure within PPPs supposes that the asset will revert to government ownership and control at the end of the partnership period makes PPPs less susceptible to public opposition than privatization. Risk is central to PPPs. A risk is defined as any factor, event or influence that could threaten the successful completion of a project in terms of time, cost or quality.[25] It is said to be characterised by a number of components: The risk event; what might happen to the detriment or in favour of the project, the probability of occurrence; the chance of the event occurring and the potential loss or gain; consequence of the event happening.[26] However, the best way to view risk is not just as a threat with negative consequences but also as having positive effects since it also provides opportunities for the parties to the project to innovate. For this reason, the definition by Al-Bahar, that risk is the exposure or chance of occurrence of events adversely or favorably affecting project objectives as a consequence of uncertainty, is preferred.[27]

PPP projects also differ from traditional or publicly financed infrastructure projects in the sense that under PPPs the different activities required for the delivery of the infrastructure are bundled together and managed by a single private sector entity.[28] For instance in a typical PPP scheme like a Design Build Finance Operate (DBFO) model, the entire process of designing, financing, constructing, and managing of the project is given to a single private sector entity. This bundle of responsibilities assumed by the private sector investor under PPPs comes with a lot of risks, which the private sector shares with the government.[29] This is why it is said that one of the most critical success factor for PPPs is the sharing of risks between the public and private sector parties.[30] Risk management is one of the most important components of project management as unmanaged risks are one of the primary reasons for project failures.[31] Generally, risk management involves making a thorough investigation of facts and risks that may have significant consequences on project objectives before making decisions.[32] Risk management also helps align incentives of the parties in a way that drives the success of the project. Risk management is a comprehensive and systematic way of identifying, analyzing and responding to risks to achieve project objectives.[33] Risk management involves:

a) risk identification: the process of identifying all the risks relevant to the project;
b) risk assessment: the determination of the degree of likelihood of the risk and the possible consequences if the risk occurs;
c) Risk allocation: assignment of the responsibility of the consequence of the risk to one or more of the contracting parties; and

[23] Economic downturns or financial crises can result in fiscal liabilities from many projects crystallizing together within a short period of time.

[24] For instance Savas is of the opinion that privatisation and contracting out are expressions, which generate opposition quickly. See Savas E.S., *Privatization and Public- Private Partnerships*, (New York: Chatham House, 2000). 2.

[25] R. Wideman 'Project and Program Risk Management PMI; Akintoye A.S. and Macleod M.J Risk Analysis and Management in Construction', International. (1997) *Journal of project Management*, 1.

[26] K.C Iyerand M.Sagheer,'Risk and Uncertainty Assessment in PPP infrastructure Projects: Need for Systems Dynamic Framework' (online) at http://www.indianjournals.com/glogift2k6/glogift2k6-1-1/theme_5/Article%2011.htm (last accessed on 15 November, 2022.)

[27] J.F Al-Bahar 'Risk Management in Construction Projects: A Systemic Analytical Approach for Contractors'. *PhD. Thesis* University of California Berkeley, 1989.

[28] Note that in most cases the private sector entity is made up of a combination of firms with different expertise coming together as a consortium.

[29] Risk is shared in the between the parties by taking into consideration the party that is best able to manage a particular risk.

[30] Grimsey and Lewis, note 20 above, 136.

[31] J.S Chou & D. Pramudawardhani, 'Cross-country Comparisons of Key drivers, Critical Success Factors and Risk Allocation for Public-Private Partnership Projects' (2015) 33 (5) International Journal of Project Management, 1136 – 1150; ; M. Loosemore & E. Cheung, 'Implementing Systems Thinking to Manage Risk in Public Private Partnership Projects', (2015) 33(6) International Journal of Project Management, 1325 – 1334; Olechowski et al, 'The Professionalization of Risk Management: What Role can the ISO 31000 Risk Management Principles Play?' (2016) 34 *International Journal of Project Management,* 1568 – 1578.

[32] H. Sarvari et al 'Approaches to Risk Identification in Public-Private Partnership Projects: Malaysian Private Partners' Overview' (2019) 9(1) *Administrative Sciences*, 17.

[33] Ibid.

d) Risk mitigation: the process of controlling the likelihood of occurrence of the risk and or the consequence of the risk.[34]

There has been wide use of PPPs to deliver healthcare across the world as it is believed that PPPs will help governments to achieve several of its objectives in the healthcare sector such as wider health coverage, higher quality, and cost-efficiencies.

4. The Legal and Policy Framework for Private Sector Investment in Healthcare in Nigeria

This section of the paper looks at the different legal and policy framework for healthcare delivery in Nigeria especially how they affect the use of PPPs in the sector.

National Policy on Public-Private Partnerships for Health 2005

Nigeria developed a Public-Private-Partnership Policy for Health in 2005 within the ambit of the National Health Sector Reform Programme 2004 – 2007. It was designed to promote and sustain equity, efficiency, accessibility and quality in health care provision, through a collaborative relationship between the public and private sectors. The National Policy on PPP, because it was released in 2005 makes reference to the 2004 edition of the National Health Policy. However, even that older version of the National Health Policy made room in its Chapter 8 for profit-oriented and not-for-profit participation of private investors in the provision of health care. Equivalent provisions are found in Chapters 2 and 4 of the National Health Policy of 2016. The National Policy on PPPs for Health defines PPPs as 'a collaborative relationship between the public and private sectors aimed at harnessing (and optimizing the use of all available resources, knowledge, and facilities required to promote efficient, effective, affordable, accessible, equitable and sustainable health care for all people in Nigeria'.[35] By virtue of the Policy, all formal (contractual) partnerships shall be based on written agreements specifying the purpose, duration, and exit arrangements.[36] Partnership agreements shall clearly state the rights and obligations of all stakeholders. Such rights and obligations shall be enforceable.[37] While for-profit institutions have a right (or an obligation) to make a profit, this has to be balanced against the equally important considerations of ensuring safety quality, and equity. PPP shall be recognized as a long-time process which requires perseverance, regular attention, and maintenance.[38] The Policy mandates that there shall be ongoing communication/interaction on health issues by all stakeholders in the public and private sectors. As part of such interactions and consultation, private sector organizations shall have opportunities to contribute towards the planning and implementation of policy. There shall be decentralization of powers by government and acceptance of the expanded role of the private sector and the community. In keeping with these principles, all compendia of regulations, codes of ethics, guidelines and other documentation pertaining to PPP shall be freely available to those in the public and private sectors, and also to consumers of health care, through annual publication, websites, and other media.[39] The Policy identifies two broad categories of PPPs: public-driven partnerships and private-driven partnerships.[40]

In pursuance of the National Health Policy goal to strengthen the national health system in order to provide effective, efficient, quality, accessible and affordable health service, the goal for public, private partnerships in health care provisioning is to promote and maintain all forms of partnership and collaboration between the public establishments and the private sector with a view to attaining and sustaining the desired level of health development in Nigeria.[41] The goal of financing under the rubric of PPP policy shall be to facilitate levels and patterns of funding which will generate improved provision of health care and services in both the public and private sector, and promote greater value for money across all health expenditures.[42] Areas for partnership include non-clinical support services,[43] clinical services,[44] supportive clinical services,[45] health promotion and

[34] Department of economic Affairs (2006) *National Public Private Partnership Handbook*, Department of Economic Affairs, Ministry of Finance, Government of India ,1-246.
[35] National Policy on Public-Private Partnerships for Health, Chapter 2.1.
[36] Ibid.
[37] Ibid.
[38] Ibid.
[39] Ibid, Chapter 2.2.
[40] Ibid, Chapter 2.9.
[41] Ibid, Chapter 2.10.
[42] Ibid, Chapter 3.3.
[43] Ibid Chapter 3.4.
[44] Ibid, Chapter 3.5.
[45] Ibid, Chapter 3.6.

advocacy,[46] disease prevention programmes, training,[47] manufacturing, research and development.[48] The Policy also provides that PPPs shall be implemented in a manner which will continue, or accelerate, current efforts to improve equity (in health provision and outcomes). Measures will be in place to ensure that current inequities are not exacerbated.[49] State and local governments are required to develop PPP policies.[50] Chapter 8 of the Policy provides for monitoring and evaluation with indicators for services, facilities and equity. Even though the PPP Policy on Private Investment in Health has been in place since 2005, private sector engagement remains weak as there are very few incentives for private sector engagement in health service delivery.[51]

National Health Act 2014

Section 1 of the National Health Act of 2014 sets up the National Health System which includes both public and private healthcare providers[52] and thus indirectly contemplates public-private partnerships. Pursuant to section 18 of the Act, the Minister of Health shall prescribe mechanisms to ensure a co-ordinated relationship between private and public health establishments in the delivery of health care services. The Federal Ministry of Health, State Ministries of Health or Local Governments may enter into agreements with private practitioners, private health establishments, or non-government organisations in order to achieve the objects of the Act.[53]

National Health Policy 2016

Under the National Health Policy, part of the health financing orientation/initiatives is to develop and implement mechanisms for enhancing a more effective communication, collaboration and working relationships between Ministries of Health and Ministries of Finance for increased health funding.[54] Indeed the Ministry of Finance has a key role to play in facilitating private sector investment in health care. In this regard, private sector involvement, particularly Public-Private Partnerships (PPPs), fit squarely within the policy orientation which favours the development and implementation of performance-based financing schemes.[55] As a matter of fact, part of the policy orientation under the 'partnerships for health' goal is to 'establish partnerships with community, faith-based institutions, and traditional medicine practitioners for improved healthcare service delivery'.[56] The private sector is required to invest in the health sector as part of their roles and responsibilities under the National Health Policy.[57]

National Strategic Health Development Plan II (2018 – 2022)

NSHDP II is anchored on the 2016 National Health Policy which recognizes Nigeria's aspiration to attain Universal Health Coverage by operationalizing the policy to have one functional Primary Health Clinic per ward. The National Health Act serves as a major legislative framework for effective articulation and delivery of the strategies of the NSHDP II. NSHDP II is organized into five strategic pillars: enabled environment for attainment of sector outcomes, increased utilisation of the essential package of health care services, strengthened health system for delivery of the EPHS, protection from public health emergencies and risks, predictable financing and risk protection. Under Strategic Pillar One, the third priority area is partnerships for health. The strategic objective here is to Ensure that collaborative mechanisms are put in place for involving all partners in the development and sustenance of the health sector. Among the indicators for this objective are: the percentage of funding of health from partners (development partners and private sector) by 2022 should be at least 30%, the percentage of increase in the proportion of institutions administering health services through Public Private Partnerships (PPP) should be at least 50%. Strategic interventions under Priority Area 3 of Strategic Pillar One include:

i. Promote the adoption and utilization of national policies and guidelines on PPP;
ii. Strengthen legal and coordinating framework for PPP at all levels;
iii. Establish a single Development Partners Forum at federal and state levels, which comprises of only health development partners;

[46] Ibid Chapter 3.7.
[47] Ibid Chapter 3.8.
[48] Ibid, Chapter 3.9.
[49] Ibid, Chapter 3.10.
[50] Ibid, Chapters 7.5 and 7.6.
[51] National Health Policy (2016) 25.
[52] National Health Act, s 1(1)(a).
[53] Ibid, s 18(2).
[54] National Health Policy, 47.
[55] Ibid, 48.
[56] Ibid, 57.
[57] Ibid, 68.

iv. Strengthen mechanisms for the implementation of PPP (e.g. contracting or out-sourcing, leases, concessions, social marketing, franchising mechanism);
v. Scale-up PPP in planning and implementation of health programmes;
vi. Promote joint (public and private sector) monitoring and evaluation of health programmes;
vii. Scale up resource mobilization interventions targeting the private sector;
viii. Establish mechanisms for resource coordination through common basket funding models such as Joint Funding Agreement, Sector Wide Approaches, and sectoral multi-donor budget support;
ix. Promote the establishment of an inter-sectoral ministerial forum at all levels to facilitate inter-sectoral collaboration, involving all relevant MDAs directly engaged in the implementation of specific health programmes;
x. Promote effective partnership with professional groups and other relevant stakeholders through jointly setting standards of training by health institutions, subsequent practice and professional competency assessments;
xi. Strengthen collaboration between government and professional groups including Nigerian health professionals in diaspora to advocate for increased coverage of the essential package of health services (EPHS), particularly increased funding;
xii. Leverage human resources for health from partners, health professionals, other levels of government to optimize resource use and improve service delivery;
xiii. Promote linkages with academic institutions to undertake research, education and monitoring through existing networks;
xiv. Promote partnerships with communities to address felt needs of the communities.

5. Healthcare PPP Models

Accommodation Only

Accommodation only models are typically DBFO schemes. In this model, the private sector party's participation is restricted to the provision of physical infrastructure. The design, construction and finance for the infrastructure is integrated as well as maintenance for the life of the building. This is akin to the lease of the building where the contractor is reimbursed through availability payments.[58]

Accommodation Plus Medical Services

This is an extension of the accommodation only model. Under this model, two companies within an SPV may jointly form a consortium where one of them 'infraco' provides the accommodation and the other 'Clinco' provides the medical services. It may well be that there are separate agreements between the public sector entity (usually the Ministry of Health) and the private sector service providers. In this case, the contract between the Ministry of Health and the Infraco is a long-term contract whilst that with the Clinico is of a shorter term.[59]

Hospital Franchise

Under this model, the hospital is given to a private sector operator as a franchise or concession. The private sector renders services which are regulated by the public sector. For this model, economic regulation is important to ensure that prices charged by the operator are not over the roof.

Full Privatisation

Under this model, the private sector company builds, operates and owns the healthcare asset but is contracted by the public sector agency to render services to a certain group of people or within a geographical area under terms and conditions agreed by the parties.

Infrastructure-based Model

This PPP model involves financing, construction or renovation of infrastructure and provision of non-clinical services. In its more advanced form, it may include provision of clinical support services. Under this model, the private partner designs, builds or renovates infrastructure, and provides non clinical services such as laundry, ICT. As mentioned above, an advanced variant may include clinical services like laboratory and other diagnostic services.[60] This model is suitable for projects that do not require innovative solutions as private

[58]J.K Roehrich, J. Barlow, and S. Wright, 'Delivering European healthcare infrastructure through public-private partnerships: The theory and practice of contracting and bundling' inT.K Das (ed); *Managing Public- Private Strategic Alliances*'(1st ed., Information Age Publishing, 2013) 1.
[59] Ibid.
[60] N Abuzaineh, E Brashers, S Foong, R Feachem, and P Da Rita, 'PPPs in Healthcare: Models, Lessons and Trends for the Future' Healthcare Public-Private Partnership Series No 4 (The Global Health Group, Institute for Global Health Sciences, University of San Francisco, California and Price Waterhouse Coopers, 2018) <

partners are generally unwilling to build innovative infrastructure or systems whose success has not been tested.[61] It is easy to gather stakeholder support for this model since success can be visibly measure through the delivery of physical infrastructure.

Operation and Management Model
This model entails the exclusive provision of clinical and clinical support services. The private partner neither builds nor maintains physical infrastructure. The model enables government to tap into private sector expertise in providing certain services. For example, a particular surgical procedure or diagnostic service may be concessioned to a private partner.

Integrated Public-Private Partnership Model
The integrated PPP model transfers responsibility for the whole spectrum of facilities and services needed for healthcare delivery to the private partner. It involves financing, constructing physical infrastructure and also provision of non-clinical, clinical and clinical support services.[62]

6. Case Studies on Public-Private Partnerships in the Health Sector
The principal methodology used in carrying out this research is the case study methodology. A case study is an empirical methodology that investigates a contemporary phenomenon within its real life context using multiple sources of evidence.[63] It is suitable for answering the questions about 'how' and 'why' things happen, when you can't manipulate the behaviour of those involved in the study, when the boundaries are not clear between the phenomena and the context and allows investigations into contextual realities.[64] Case studies also allow investigations into the differences between what was planned and what actually occurred.[65] It is said to be appropriate, just like in the present study, where one needs to understand some particular problems or situations in greater depth and where one can identify cases rich in information.[66] It is also useful for testing hypothesis.[67] The approach adopted in this paper is based on a literature analysis, aimed at identifying key risks and related best practice mitigation strategies. The data that was used for the case study was obtained from several sources. Firstly, documentary evidence was the most used source of information. Some of the documents used were transaction documents like the Request for Proposals (RFPs) and project contracts. Others were parliamentary reports and proceedings. The second source of data was media reports including newspapers, magazines and other commentaries from other researchers, while stakeholder interviews formed the third source of data. The use of these multiple sources of data for triangulation helped validate and enhance the reliability of the findings. This is in consonance with the suggestion by Yin, who advocates for this method based on the ethical need to confirm the validity of the data and process.[68]

The findings from this research should be of practical use to project stakeholders which include policy makers, project developers and PPP professionals in Nigeria and across the developing world. In the following sections, cases studies of health sector PPPs are taken from different jurisdictions and examined against some of the common PPP objectives.

Garki General Hospital
The Garki Hospital is situated in Abuja, the capital city of Nigeria. It is owned by the Federal Capital Territory Administration (FCTA). Due to challenges such as poor facilities, strike actions, and poor funding, it was shut down in 2001 for renovation.[69] Meanwhile, as part of the National Heath Sector Reform, the Federal Ministry of Health had introduced a PPP initiative in 2005. As a result, the hospital was put up for concession. In May 2007, after a bidding process, NISA Premier Hospital was awarded a concession to operate and maintain the hospital for 15 years. The range of services provided by the private sector party includes: clinical, clinical support and non-clinical services. The concession of the Garki Hospital led to an increase in health coverage as seen through

https://globalhealthsciences.ucsf.edu/sites/globalhealthsciences.ucsf.edu/files/pub/ppp-report-series-business-model.pdf> accessed 04 August 2022.
[61] ibid.
[62] ibid.
[63] R.K Yin *Case Study Research: Design and Methods*,, (rev. edn.)(Sage Publications, Newbury Park, CA, 1989) 22.
[64] Ibid.
[65] G. Anderson Fundamentals of Educational research, (Falmer Press London, 1993)152-160.
[66] M. Patton *How to Use Qualitative Methods in Evaluation*, (Sage Publications California, 1987), 18-20; J. Feagin, *et al.* (Eds.).*A case for case study*, (Chapel Hill, NC: University of North Carolina Press, 1991).
[67] R.E Stake 'The Case Study Method in Social in Social Inquiry', (1978) 7(2) Educational Researcher 5-8.
[68]. Yin, note 63 above.
[69] NISA, 'Welcome to Garki Hospital Abuja' < https://garkihospital.com/about-us/> accessed 03 August, 2022.

the number of client encounters. In 2007, client encounter was ten thousand three hundred and one (10,301). After the concession, this number grew to one hundred and fifty-five thousand, one hundred and seventy-two (155,172) as at the 31st of December, 2016.[70] The improvement in coverage is not only numerical but also in the specialties offered. Garki Hospital now performs procedures such as in vitro fertilization (IVF), kidney transplant, open heart surgery, hip and knee bone replacement surgery.[71] Compared to other privately run hospitals, the Garki Hospital remains quite affordable as it appears that the fact that it was a brownfield project meant that the concessionaire was not required to make significant upfront investments. Also, the hospital has seen tremendous increase in the quality of health care services provided as well as in management. All out patient and in patient departments as well as theatres, the laboratory, radiology, and pharmacy units are fully serviced by the Hospital's electronic medical records and enterprise resource planning software. Health insurance billing and claims are also processed electronically.[72] The Garki Hospital PPP has demonstrated that operation and maintenance PPPs can be used to get existing facilities working optimally. Where existing facilities function optimally, the demand for construction of new facilities is reduced, ultimately having a positive effect on the public treasury. Operation and maintenance PPP contracts may be awarded with respect to particular services, such as laboratory services. This would help ensure that certain services are kept running efficiently without placing the entire hospital under a PPP agreement. A limited arrangement such as this could help governments take advantage of the efficiencies of PPPs without trading off too much. An example is the Polymerase Chain Reactor laboratory at Karu General Hospital in Nigeria.[73]

Queen Mamohato Memorial Hospital

The Queen Mamohato Memerial Hospital (QMMH) is a tertiary healthcare facility designed to replace more than the century-old Queen Elizabeth II Hospital in Lesotho. The Government of Lesotho decided to procure the facility through a PPP and in 2009 a concession was awarded to the Tsepong Consortium after a bidding process that involved two bidders. The concession was awarded in 2009 for an 18-year period. QMMH is as a matter of fact a complex made of the referral hospital itself and three filter primary healthcare clinics. The filter clinics began operation in May 2010 while the referral hospital became operative in late 2011.[74] QMMH referral hospital consists of a 425-bed public facility and a 35-bed private facility.[75] QMMH was based on an integrated PPP model. It involved designing and building the physical infrastructure, financing same and providing full-spectrum services (non-clinical, clinical support and clinical services). The project cost was approximately one hundred million dollars ($1,000,000.00). Tsepong Consortium provided part of the financing while the remaining part was taken by equity holders, the Lesotho Government, and the Development Bank of Southern Africa. The governments of Sweden, the Netherlands and the Global Partnership for Output Based Aid (GPOBAD) also provided funds for technical assistance.[76] Tsepong Consortium owned 67% of QMMH while the Government of Lesotho owned 33%. Tsepong Consortium is made of Netcare Limited,[77] Excel Health Limited, Afrinnai Limited,[78] Women Investments Limited[79] and D10 Investments Limited. According to figures released by the Tsepong Consortium, there were improvements in health coverage in the period after the concession as compared to health coverage under the old Queen Elizabeth II Hospital. The International Finance Corporation (IFC) reports that death rates have dropped by 41%, children's deaths from pneumonia by 65% and stillbirths by 22%.[80] However, there have been issues surrounding the effect of the Government's financial commitment to the Tsepong Consortium on availability of funds for rural. As at 2014, the Government was spending sixty-seven million dollars ($67,000,000.00) annually on QMMH mounting to about 51% of the annual health budget. This was clearly too much burden for the Government.[81] As a result of the foregoing and

[70] Ibrahim Wada, 'Report on Garki Hospital Concession: ICRC Visit December 2017' < https://ppp.icrc.gov.ng/media/830> accessed 03 August 2022.
[71] ibid.
[72] Ibid.
[73] A.Adegbite, 'Abuja: FCTA Calls for Increase in PPP Arrangement' Nigerian Tribune (Ibadan, February 26, 2020) <https://tribuneonlineng.com/abuja-fcta-calls-for-increase-in-ppp-arrangement/> accessed
[74] South African Institute of International Affairs, 'Lesotho New Referral Hospital' < https://saiia.org.za/saiia-toolkit/lesotho-new-referral-hospital/> accessed 08 August 2022.
[75] ibid.
[76] Ibid.
[77] Netcare is the foremost private healthcare provider in South Africa and the United Kingdom.
[78] Afrinnai is a South African company.
[79] Women Investments Limited is a Basotho women group initiative.
[80] S. Boseley, 'Half of Lesotho Health Budget Goes to Private Consortium for One Hospital' The Guardian (London, April 7 204) <https://www.theguardian.com/world/2014/apr/07/lesotho-health-budget-private-consortium-hospital> accessed 08 August 2022.
[81] Ibid.

triggered by Tsepong's firing of three hundred and forty-five (345) nursing staffers, the Government of Lesotho decided to terminate the QMMH PPP in 2021, its thirteenth year.[82]

There are two aspects to affordability: affordability for end users and affordability for the government. As regards affordability for end users, there were no reports that said the costs of medical care increased under the QMMH PPP. However, costs for the Government increased. The Government of Lesotho ended up paying more than it expected for two major reasons. First, the agreement provided that Tsepong Consortium could levy extra charges where patient numbers exceed anticipated levels. Secondly, the concession agreement provided that a 7% inflation rate is allowable on repayments to be made by the Government to Tsepong Consortium.[83] It is on the ground of non-affordability that the Government of Lesotho eventually decided to terminate the QMMH PPP.There was clearly an improvement in the quality of facility and care delivered at QMMH compared to the old Queen Elizabeth II Hospital.[84] It was customary for the elite in Lesotho to seek medical care in South Africa. Having a high-end, 35-bed, private facility within QMMH has helped resort for top notch medical services. There is a brain drain problem in Lesotho, particularly in the health sector. Thirty-three percent (33%) of physicians born in Lesotho work outside the country.[85] Two major reasons for emigration of health professionals are low wages and poor infrastructure. QMMH addresses the problem of poor infrastructure. As a matter of fact, QMMH was the centre piece of a programme by the International Organisation for Migration to attract Basotho health professionals in the diaspora to Lesotho.[86] However, as regards wages, QMMH has fared worse than even the public health institutions in Lesotho, as already mentioned above. Thus, the QMMH was not fully well-positioned to address the issue of brain drain. QMMH provides the right environment for the training of health professionals including practitioners and interns. Data indicates that health professionals found QMMH more suitable for their professional development than the old Queen Elizabeth II.[87]

One of the lessons learnt from the QMMH PPP is that there ought to have been a more competitive process for the contract. Only two entities bid for the contract out of which the Tsepong Consortium was one of them. The PP agreement was also skewed in favour of the private sector partner in the sense that it allowed it to charge extra cost if patient numbers exceeded the expected cap. The consortium was to be paid a $32·6 million index-linked annual unitary charge for up to a maximum of 20 000 in-patient admissions and 310 000 outpatient attendances (or about a third of Lesotho's total hospital demand). Beyond this cap, the consortium can bill extra for each additional patient.[88] Again, there was little or no proficiency in PPP matters in the Lesotho Government. As a result, even though the Lesotho Government was advised by the International Finance Corporation, the private sector eventually had the advantage in the transaction. It is therefore necessary to develop PPP competence in government departments. Another key lesson from QMMH is to avoid creating 'islands of excellence' in tertiary healthcare while leaving primary and secondary health facilities and systems underfunded and ineffective.[89] Such a situation creates so much pressure on tertiary health facilities like QMMH, increase the operating costs and ultimately reduce levels of efficiency.

Brampton Civic Hospital

Brampton Civic Hospital is situated in the city of Brampton, a suburb of Toronto and the 11th largest city in Canada. It is part of the William Osler Health System.[90] The need for a new hospital in the Brampton area

[82] Lesotho Times, 'Tsepong Agrees to Termination of QMMH Contract' Lesotho Times (Maseru, May 11 2021) < https://lestimes.com/tsepong-agrees-to-termination-of-qmmh-contract/> accessed 08 August 2022.

[83] S. Boseley, 'Half of Lesotho Health Budget Goes to Private Consortium for One Hospital' The Guardian (London, April 7 204) <https://www.theguardian.com/world/2014/apr/07/lesotho-health-budget-private-consortium-hospital> accessed 08 August 2022.

[84] T. Vian, et al, 'Endline Study for Queen Mamohato Hospital Public-Private Partnership (PPP)' (Centre for Global Health and Development, Boston University, Department of Family Medicine, Boston University, Lesotho Boston Health Alliance, 2013) <https://devpolicy.org/pdf/Endline-Study-PPP-Lesotho-Final-Report-2013.pdf> accessed 08 August 2022.

[85] International Organisation for Migration, 'IOM Addresses Labour Shortages in Lesotho's Health Sector' < https://reliefweb.int/report/lesotho/iom-addresses-labour-shortages-lesotho-s-health-sector> accessed 09 August 2022.

[86] Ibid.

[87] T. Vian, et al, 'Endline Study for Queen Mamohato Hospital Public-Private Partnership (PPP)' (Centre for Global Health and Development, Boston University, Department of Family Medicine, Boston University, Lesotho Boston Health Alliance, 2013) <https://devpolicy.org/pdf/Endline-Study-PPP-Lesotho-Final-Report-2013.pdf> accessed 08 August 2022.

[88] P. C Webster, 'Lesotho's Controversial Public-Private Partnership Project' (2015) 386(10007) *The Lancet* 1929 – 31 <https://doi.org/10.1016/S0140-6736(15)00959-9> accessed 16 August 2022.

[89] ibid.

[90] William Osler Health System comprises Brampton Civic Hospital, Etobichoke General Hospital, and Pearl Memorial Centre for Integrated Health and Wellness. See William Osler Health System, 'About William Osler Health System' <https://www.williamoslerhs.ca/en/who-we-are/who-we-are.aspx?_mid_=79818> accessed 10 August 2022.

became apparent in the early 90s due to population growth. In response, the government of Ontario decided towards the end of the decade that a new hospital will be built. In 2001, the provincial Minister of Finance made the announcement that the new hospital will be procured through a PPP.[91] Brampton Civic Hospital opened in 2007 as a full-service community hospital. Bramvic Civic Hospital also trains emerging health practitioners including physicians, nurses and allied practitioners.[92] The Brampton Civic Hospital PPP is an infrastructure-based PPP of the design, build, finance, and maintain (DBFM) configuration. It involved designing and financing the construction of the physical infrastructure as well as the provision of non-clinical services. A concession was awarded to the Health Infrastructure Consortium of Canada (HICC) for to design, build, finance and maintain the Brampton Civic Hospital for a period of twenty-eight (28) years. Using a public sector comparator (PSC), the cost of the project was put at 525,000,000.00 CAD. This included 67,000,000.00 CAD cost overrun which was compensation for design and construction risks transferred to HICC. This means that the actual cost of the project based on the public sector comparator was 467,000,000.00 CAD.[93] Finance for the project was provided by HICC. Brampton Civic Hospital was to be built and maintained by HICC for twenty-eight (28) years, with ownership essentially remaining with the government.

Generally, there are no serious deficiencies in universal health coverage in developed countries. Having said this, the ratio of health facilities to the number of end users determines the ease with which users access healthcare and also the quality of healthcare. Accordingly, the construction of Brampton Civic Hospital helped improve access to health care in Brampton, Toronto and the entire Ontario. By extension, it also improved access to healthcare in the whole of Canada. However, the temporary closure of the Peel Memorial Hospital by the William Osler Health Centre due to the opening of Brampton Civic reduced the positive impact of Brampton Civic on health coverage. Nevertheless, Brampton Civic Hospital had an overall positive impact on health coverage because it provided more beds than Peel Memorial Hospital. Brampton Civic Hospital opened with a total of four hundred and seventy-nine (479) beds with plans to open new beds as demand increases.[94]Concerning affordability of the PPP option for the Government as opposed to the cost of traditional procurement, Brampton Civic Hospital cost more in terms of the amount paid for delivery of the physical infrastructure and equipment. This is because the private sector partner charged a premium as security against the risks transferred to it. However, when cost savings from more efficient and effective management are taken into consideration, the project might turn out to be more cost-effective than traditional procurement. As regards affordability for end users, Brampton Civic Hospital operates within the general public healthcare framework even though its construction was privately financed through a PPP. This means that the cost for end users is not substantially different for Canadian citizens and persons entitled to public healthcare benefits.

Due to its recent construction history, Brampton Civic Hospital is positioned to offer more up-to-date healthcare. This certainly would have had a positive impact on the quality of healthcare in Brampton and the Ontario area. Ordinarily, the opening of the Brampton Civic Hospital would have had a significant impact on the rate at which people seek medical care outside Brampton. However, the potential gains were whittled down by the temporary closure of the Peel Memorial Hospital, another hospital run by the William Osler Health Centre. Currently, Brampton Civic Hospital is the only full-service hospital in Brampton. As a result, Brampton residents still seek medical care in other parts of Ontario.[95] It is necessary that before a PPP arrangement is entered into, all alternative means of procurement should be considered including a comparative analysis of financing costs, risk sharing, construction cost, and all other determinants of total project cost. The analysis should make use of relevant and clear criteria and should be conducted at the earliest stage of the procurement process. This means that a competitive bidding process must also be carried out whatever the procurement route that is chosen.[96] This again calls for improving the competency of procuring and regulatory bodies. In the Brampton Civic PPP, there was no prior experience with PPPs in the health sector. Infrastructure Ontario was

[91] D. Barrows, H Ian MacDonald, A Bhanich Supapol, O. Dalton-Jez, and S.e Harvey-Rioux, 'Public-Private Partnerships in Canadian Healthcare: A Case Study of the Brampton Civic Hospital' (2012) (1) *OECD Journal on Budgeting* <https://doi.org/10.1787/budget-12-5k9czxkbck9w> accessed 10 August 2022.

[92] William Osler Health System, 'Brampton Civic Hospital' <https://www.williamoslerhs.ca/en/visiting-us/brampton-civic-hospital.aspx> accessed 10 August 2022.

[93] D. Barrows et al, note 91 above.

[94] Ibid.

[95] A. Thakur, 'Brampton Civic Seeing Fewer Severe COVID Cases Compared to Previous Waves, but Staffing Crisis Threatens to Overwhelm Hospital' *The Pointer* (Brampton, January 07 2022) < https://thepointer.com/article/2022-01-07/brampton-civic-seeing-fewer-severe-covid-cases-compared-to-previous-waves-but-staffing-crisis-threatens-to-overwhelm-hospital> accessed 15 August 2022.

[96]Office of the Auditor General of Ontario, '2008 Annual Report: Chapter 3' < https://www.auditor.on.ca/en/content/annualreports/arreports/en08/303en08.pdf> accessed 16 August 2022.

set up after the procurement had been concluded.[97] Also, it is ideal that concerns raised during diligence should be promptly addressed. One failure in the Brampton Civic procurement is in the area of responding adequately to red flags raised during due diligence.

In the Brampton Civic procurement, advisers were single-sourced, and contracts had no ceiling process. This ought not to be so. Contracting advisers should be through a competitive bidding process and there be price caps applicable to their remuneration. Assignments should be defined, complete with specific deliverables. It was also very clear that information management during the whole procurement process was poor. This is why there was a public backlash against the project, especially when Peel Memorial Hospital was shut down, and after there some deaths at the emergency section of Brampton Civic Hospital.[98]

7. Conclusion

It is evident that Nigeria requires investment in healthcare and the government lacks finance to achieve this. Therefore, there is a pressing need to crowd in private sector finance, using PPPs. PPPs in the health sector ensures that the government does not require upfront expenditure. However, governments must manage the risk of fiscal liabilities quickly building up and making the project unaffordable. PPPs in whatever sector is not free, but allows government amortize expenditure over the life of the project. In structuring PPPs in the health sector, it is important to make sure that healthcare services being provided by the private sector is affordable and accessible to large segments of the population. This is not an easy task and may entail the government offering some form of subsidy. Better regulations of the sector will also play a key role in ensuring affordable and therefore it is important that key regulations and policies take this fact into consideration. As is evident from the case studies above, proper risk allocation and mitigation are crucial to the success of healthcare PPPs and parties entering into healthcare PPPs should take this into consideration.

[97] Province of Ontario, 'Backgrounder: Infrastructure Ontario' <https://news.ontario.ca/en/backgrounder/18606/backgrounder-infrastructure-ontario> accessed 16 August 2022.
[98] D. Barrows et al, note 91 above.