"Promoting Sustainable Development Through Conflict Management in The Healthcare System in Kenya"

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ABSTRACT

This paper analyses the issue of conflict prevention and management in the healthcare system through expansion of social health insurance, arguing that through taking up such efforts, the government and all stakeholders involved would contribute effectively to promoting sustainable development through ensuring adequate standards of health for all. Proposals to manage conflict through reforming Kenya's healthcare system include establishment of a national health services commission, improved access to primary health care, expansion of social health insurance, and strengthening regulatory boards and unions. This paper argues that one course of action to improve the healthcare system and reduce inequalities and competing interests, is through expanding the health insurance system. One proposal is to step up efforts to increase enrolment of members of the public to the National Hospital Insurance Fund, and also an improvement of the benefits offered by the National Hospital Insurance Fund, to overall contribute to Sustainable Development Goal 3 to ensure healthy lives and promote well-being for all at all ages.

List of Abbreviations and Acronyms

NHIF	National Hospital Insurance Fund
SDGs	Sustainable Development Goals

1.0 Introduction

In 2016 and 2017, over 5,000 doctors and more than 27,000 nurses in Kenya went on strike in separate disputes with the government, paralysing activities at around 2,500 public health facilities.[1] Apart from highlighting the working conditions for healthcare professionals, the strikes also showed that majority of Kenyans cannot afford private healthcare, as at least 12 people died and health conditions worsened for those who would normally access the then affected public health facilities.[2] News of the strikes came alongside reports of governance challenges within the government.[3] Also reported was the need for

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[1] Humphrey Malalo, 'Kenyan Government Doctors Go on Strike, Demand Honoring of 2013 Pay Deal' *Reuters* (Nairobi, Kenya, 5 December 2016) <https://www.reuters.com/article/us-kenya-strike/police-fire-tear-gas-to-disperse-striking-kenyan-doctors-idUSKBN13U18F>; BBC, 'Kenya Doctors End Strike After Signing Government Deal' *BBC News* (Nairobi, Kenya, 14 March 2017) <http://www.bbc.com/news/world-africa-39271850> accessed 23 January 2018; Al Jazeera, 'Kenya Doctors End Strike After Deal with Government' *Al Jazeera* (Nairobi, Kenya, 15 March 2017)<http://www.aljazeera.com/news/2017/03/kenya-doctors-strike-deal-government-170314084246054.html> accessed 23 January 2018; The Lancet, 'Kenya's Nurses Strike Takes Its Toll on Health-Care System' (2017) 389 The Lancet 2350.

[2] Al Jazeera (n 5); Audrey Wabwire and Abdullahi Abdi, 'Kenya's Government Should Resolve Doctors' Strike' (*Human Rights Watch*, 5 February 2017) <https://www.hrw.org/news/2017/02/05/kenyas-government-should-resolve-doctors-strike> accessed 23 January 2018; The Lancet (n 5).

[3] Al Jazeera (n 5); Maureen Kakah and Eunice Kilonzo, 'Kenya Doctor's Union Officials Get One-Month Jail Term Over Strike' *The East African* (Nairobi, Kenya, 12 January 2017) <http://www.theeastafrican.co.ke/news/Kenya-

improvement of the conditions in public health facilities, confirming claims that the public healthcare system in Kenya is overburdened and underfunded.[4]

Since the promulgation of the Constitution of Kenya of 2010 there have been various strike actions apart from the 2016/2017 healthcare professionals' strikes.[5] The 100-day strike in 2016/2017 ended with a deal between the healthcare professionals and the government.[6] However, the underlying issues that plague the health sector in Kenya and other developing countries across the world, including the nexus between poverty, health and development, remain. The healthcare professionals maintained that the strike was not just about money, but rather was motivated by a principled stance to demand for high quality healthcare for the citizens as guaranteed by the Constitution of Kenya 2010.[7] The strikes have shown how conflict of interests if left unaddressed, coupled with inadequate dialogue between the holders of such interests, can lead to a live dispute with considerable costs to the parties, and most importantly to the members of the public.[8]

Proposals to manage this conflict through reforming Kenya's healthcare system include establishment of a national health services commission, improved access to primary health care, expansion of social health insurance, and strengthening regulatory boards and unions.[9] This paper analyses the issue of conflict prevention and management in the healthcare system through expansion of social health insurance, arguing that through taking up such efforts, the government and all stakeholders involved would contribute effectively to promoting sustainable development through ensuring adequate standards of health for all.

Healthcare systems consist of three essential aspects: health facilities, healthcare professionals and the service delivery mechanisms, finance and insurance mechanisms to fund the service delivery, and the healthcare itself provided to patients.[10] Conflict may arise in the healthcare system at a vertical level or in a horizontal level. In the vertical plane, for example, in private healthcare systems, there may be

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Doctors-union-officials-get-one-month-suspended-sentence/2558-3515304-kcrdniz/index.html> accessed 23 January 2018.

[4] BBC (n 5); Jacob Kushner, 'Kenya's Health System on the Verge of Collapse as Doctors' Strike Grinds on' *The Guardian* (Nairobi, Kenya, 13 February 2017) <http://www.theguardian.com/world/2017/feb/13/kenyas-health-system-verge-of-collapse-doctors-strike-pay-staffing-union-leaders-jail> accessed 23 January 2018.

[5] *Okiya Omtatah Okoiti v Attorney General & 5 others* [2015] Employment and Labour Relations Court of Kenya at Nairobi Petition No. 70 of 2014, eKLR.

[6] Katharine Houreld, 'Kenya Doctors End Three-Month Strike After Deal with Government' *Reuters* (Nairobi, Kenya, 14 March 2017) <https://www.reuters.com/article/us-kenya-strikes/kenya-doctors-end-three-month-strike-idUSKBN16L1Z5>; Christabel Ligami, 'Kenyan Doctor's Pay to Rival South Africa and Namibia's' *The East African* <http://www.theeastafrican.co.ke/news/Kenyan-doctor-s-new-pay-rival-South-Africa-Namibia-/2558-3859730-148lqr8z/index.html> accessed 23 January 2018.

[7] Bernard Olayo, 'Doctors' Strike Is Perfect Chance to Redesign Kenya's Healthcare System' *Business Daily* (Nairobi, Kenya, 12 March 2017) <https://www.businessdailyafrica.com/analysis/redesign-Kenya-healthcare-system/539548-3846760-twimky/index.html> accessed 23 January 2018; Eyder Peralta, 'The Doctors Aren't in At Kenya's Public Hospitals' (*NPR.org*, 5 January 2017) <https://www.npr.org/sections/goatsandsoda/2017/01/05/508369378/the-doctors-arent-in-at-kenyas-public-hospitals> accessed 23 January 2018.

[8] Brigid Chemweno and Paul Ogemba, 'Apology to Kenyans as Doctors' Strike Ends with Return-to-Work Formula' *The Standard* (Nairobi, Kenya, 15 March 2017 <https://www.standardmedia.co.ke/article/2001232717/apology-to-kenyans-as-doctors-strike-ends-with-return-to-work-formula> accessed 23 January 2018.

[9] Bernard Olayo (n 11).

[10] Narumi Eguchi, 'The Trend of Public Perception of Healthcare in Japan - From the 4th Perception Survey of Japanese Healthcare' (2013) 56 Japan Medical Association Journal 267.

conflicting interests between the hospital management and their rules of operation, and the healthcare providers in the lower steps of the managerial chain. At the horizontal level, there may be conflict between public and private health facilities and their interests towards promoting community health. This description of situations of conflict in the healthcare system is not exhaustive. Conflict between healthcare professionals and the regulatory boards and unions, as well as conflict between the healthcare professionals and regulatory boards and unions on the one side, and the government on the other side, also arises and has potential to destabilise the national healthcare system.

In a private healthcare system, a hospital is considered a business, where the first consideration is the profit generated from the business activities. For example, laboratory services carried out by the in-hospital laboratory are charged for with the overarching aim of gaining from the transaction for profit. However, staff working in the lab, or doctors carrying out their services may consider optimal service delivery and promotion of satisfactory standards of public health as their foremost interest. A study on the quality of medical laboratory service provision in Kenya found that the main motive of laboratory service providers in public facilities had in order to provide service was reliability of results, while the private laboratory owners rated profitmaking as their most important motivating factor.[11] The same study found that faith-based laboratory services providers were most motivated by improving the health status of the community.[12]

Public hospitals have a mandate to provide services of adequate quality at a fee and location that promotes access to health to the general public. Faith-based health facilities may have another mandate of influencing the religious views of patients. In private health facilities, conflict may arise between the interests of serving the public and making profits. Private health facilities, with a primary aim of generating profit from the enterprise, indeed also have a mandate to provide healthcare, but through the fees charged and freedom to select a location to place the facility, may at times disregard the ethos of the public healthcare system of improving access to healthcare. It must be stressed that this does not intend to demean the contribution of private health systems in improving public health in a country, but rather explores ways in which community health may be ensured to further advance the goal of eliminating inaccessibility to public health systems.

2.0 International and National Provision for Promotion of Health for Sustainable Development

Sustainable development refers to the idea of achieving development for the current generation without compromising the development of future generations.[13] Governments across the world including Kenya through Vision 2030, have adopted this approach of striving for sustainable development.[14] The global goals for sustainable development, referred to as the Sustainable Development Goals (SDGs), are seventeen interconnected goals, where the achievement of one has an impact on all others.[15] While all the goals contribute to promoting public health, SDG 3 on Good Health and Wellbeing plays a central role in this issue of conflict management in healthcare systems.[16]

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[11] Wachuka Njoroge, 'Assessment of the Quality of Medical Laboratory Service Provision in Kenya' (PhD Thesis, Kenyatta University 2014) 76.

[12] Wachuka Njoroge (n 15).

[13] World Commission on Environment and Development, 'Report of the World Commission on Environment and Development: Our Common Future (Brundtland Report)' (World Commission on Environment and Development 1987).

[14] Republic of Kenya, 'Kenya Vision 2030' <https://www.afidep.org/?wpfb_dl=70> accessed 21 November 2015.

[15] United Nations Sustainable Development Summit, 'Sustainable Development Goals'.

[16] 'Sustainable Development Goal 3: Ensure Healthy Lives and Promote Well-Being for All at All Ages' (*Sustainable Development Knowledge Platform*) 3 <https://sustainabledevelopment.un.org/sdg3> accessed 25 January 2018.

The meaning of sustainable development has over the years expanded from the connotations of environmental issues attached to the word 'sustainable', and the economic and political issues linked with the word 'development'.[17] The 1992 United Nations Conference on Environment and Development resulted in the Rio Declaration on Environment and Development and Agenda 21, a global programme of action on sustainable development which, among other issues, acknowledged that all countries "must address the primary health needs of the world's population, since they are integral to the achievement of the goals of sustainable development and primary environmental care".[18] Chapter 6 of Agenda 21 recognised the importance of intersectoral efforts, and called for increased coordination between "citizens, the health sector, the health-related sectors and relevant non-health sectors (business, social, educational and religious institutions) in solutions to health problems.[19] This supports the argument for improved coordination between members of the public, the government and the private sector, to collectively contribute to achieving adequate standards of health.

From 1992 to date (2018), the world has witnessed various successes in the health sector including increases in the average life expectancy, declines in infant and child mortality rates, and decreases in the proportion of underweight and stunted children.[20] However, these statistics are underrepresented in many countries in Sub-Saharan Africa, where, for example, one-third of deaths among children under 5 years occurred after the first month of life.[21] There remain inequalities both between and within countries in the achievement of universal public health. In Kenya, efforts such as the Beyond Zero campaign pioneered by the First Lady of Kenya, Margaret Kenyatta, have improved maternal health and reduced the number of deaths of children through facilitating a 50% reduction in new child infections of HIV.[22]

Approximately 50% of the people in Sub-Saharan Africa do not have access to adequate healthcare systems, and the health infrastructure in many African countries is inadequate, despite provisions in the law and recognition of the right to health.[23] The Constitution of Kenya of 2010 states that "every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care", and "to social security".[24] With specific reference to children, Article 53 provides that every child has the right to healthcare.[25] In addition, Article 56 mandates the State to put in place affirmative action programmes designed to ensure that minorities and marginalised groups have reasonable access to health services.[26] Some of these efforts include a duty for the national government to establish and use an Equalisation Fund to provide basic services

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[17] Yasmin von Schirnding and Catherine Mulholland, 'Health in the Context of Sustainable Development' (World Health Organization 2002) Background Document 7 <http://www.who.int/mediacentre/events/HSD_Plaq_02.6_def1.pdf> accessed 22 January 2018.

[18] 'Agenda 21 - Chapter 6 - Protecting and Promoting Human Health' <http://www.un-documents.net/a21-06.htm> accessed 22 January 2018.

[19] ibid.

[20] Yasmin von Schirnding and Catherine Mulholland (n 21) 13.

[21] World Health Organization (WHO), 'World Health Statistics 2017: Monitoring the Health for the SDGs, Sustainable Development Goals' (World Health Organization 2017) 30 <http://apps.who.int/iris/bitstream/10665/255336/1/9789241565486-eng.pdf?ua=1> accessed 25 January 2018.

[22] Government of the Republic of Kenya, 'Impressive Scorecard for Beyond Zero as First Lady Unveils New Roadmap to Eliminate Mother-to-Child HIV Transmission' (*The Presidency*, 13 June 2017) <http://www.president.go.ke/2017/06/13/impressive-scorecard-for-beyond-zero-as-first-lady-unveils-new-roadmap-to-eliminate-mother-to-child-hiv-transmission/> accessed 25 January 2018.

[23] Erin McCandless and Tony Karbo (eds), *Peace, Conflict, and Development in Africa: A Reader* (University for Peace 2011) 108 – 109 <http://www.upeace.org/pdf%5CREADER_webpages.pdf> accessed 23 January 2018.

[24] Constitution of Kenya 2010, art 43(1)(a), 43(1)(e).

[25] ibid, art 53(1)(c).

[26] ibid, art 56(e).

including health facilities "to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible".[27] The provision of healthcare services is primarily the responsibility of the modern government, despite the fact that the first health facilities were faith-based.[28] In Kenya, governance challenges have plagued the provision of health services to members of the public at both the national level and the county level, acknowledging the distribution of functions between the national government and the county governments under the Constitution of Kenya of 2010.[29] National referral health facilities and health policy are under the mandate of the national government while county health services including county health facilities and promotion of primary health care are functions of the county governments.[30] Despite the political issues involved with the devolution of healthcare services to the county level while retaining some functions at the national level, the underlying issues some of which contributed to the 2016/2017 healthcare professionals' strikes must be addressed through effective conflict prevention and management, and to contribute to sustainable development.[31]

3.0 Need for Increased Coordination Between Public and Private Entities in The Healthcare System in Kenya

During the 2016/2017 healthcare professionals' strikes, Kenyatta National Hospital, the largest public health facility in Kenya, was serviced by military doctors who at the time could only handle the worst cases of emergencies, leaving patients with serious conditions who did not have health insurance, in dire conditions.[32] At the time, private health facilities did not, and neither are they required to, offer emergency services at no cost or at reduced cost to members of the public. This conflict between the core interests of public and private health facilities arises because healthcare services, generally considered a responsibility of the government in its service to the public, are provided by private health facilities. Some services offered by private health facilities, while they could be offered at a lower cost, would be difficult to discount considering that the idea of private health facilities is founded on the nexus between profit-making and public service delivery. Conflict may exist, therefore, between public interest and private interest.

What may be said about how to resolve this conflict? Imagine you have a car accident outside a well-known private hospital. Doctors have taken the Hippocratic Oath and would ideally be called upon according to this and as far as is reasonably possible, to take immediate steps to ensure that your life is saved, for example, through first aid, and then transfer you to a place where you can be taken care of.[33] This, in the ideal world, would happen whether or not you have paid the admission fees to the health centre. In certain cases where the patient has had an accident and has not made payment to the health

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[27] Ibid, Art 204(2).

[28] Steve Gachie, 'Environmental Communication: A Case Study of Wayfinding in a Hospital Environment in Kenya' (PhD Thesis, University of Nairobi 2015) 50–66.

[29] *International Legal Consultancy Group & Another v Ministry of Health & 9 Others* [2016] High Court of Kenya at Nairobi Petition No. 99 of 2015, eKLR.

[30] Constitution of Kenya (n 28), Fourth Schedule, art 185(2), 186(1) and 187(2); *Republic v Transition Authority & Another Ex parte Kenya Medical Practitioners, Pharmacists & Dentists Union (KMPDU) & 2 others* [2013] High Court of Kenya at Nairobi JR No. 317 of 2013, eKLR.

[31] East Africa Centre for Law and Justice, 'The Genesis of the Doctors' Strike' (*East Africa Centre for Law and Justice*, 1 March 2017) <http://eaclj.org/general/23-general-feature-articles/225-the-genesis-of-the-doctors-strike.html> accessed 23 January 2018.

[32] Jacob Kushner (n 8).

[33]Kenya Association of Physicians, 'Hippocratic Oath' (*Kenya Association of Physicians*, 2010) <http://kapkenya.org/index.php?option=com_content&view=article&id=72:hippocratic-oath&catid=38:site-content> accessed 25 January 2018.

centre, access has been denied to treatment that could have been life-saving. Conflict between these two interests may result in doctors, who have taken the Hippocratic Oath, opting to offer services in a situation of emergency, for no fee. This would be at odds with the hospital policy for emergency situations, where certain fees may be required to be catered for even in emergency situations. However, as the Constitutional Court of South Africa in *Soobramoney v Minister of Health (Kwazulu-Natal)* stated, there is a:

> *"…dichotomy in which a changing society finds itself and in particular the problems attendant upon trying to distribute scarce resources on the one hand and satisfying the designs of the Constitution with regard to the provision of health services on the other. It puts us in the very painful situation in which medical practitioners must find themselves daily when the question arises: "Should a doctor ever allow a patient to die when that patient has a treatable condition?"*[34]

Resource limitations remain a challenge across the world and more so in Sub-Saharan Africa, for members of the public to access healthcare, and the impacts of poverty on health are acknowledged.[35] It is evident how global this issue is when discussions around the United States of America's Patient Protection and Affordable Care Act of 2010 are taken in focus, showing that reform of a healthcare system is not without challenge, but instead is a process through which all stakeholders should coordinate efforts to work towards an ideal situation where all citizens have access to affordable healthcare delivery for instance through wide health insurance coverage.[36]

In *Luco Njagi & 21 others v Ministry of Health & 2 others,*[37] the High Court of Kenya at Nairobi found that while the ideal situation would be that members of the public could access private health facilities on account of inadequate conditions at public health facilities, the Court could not order the government to allow the petitioner patients in need of dialysis to access the private health facilities. The Court held the view that because the right to health should be achieved progressively, government policy of how to achieve this right should be formulated in consideration of available resources. The Court followed the decision by the Constitutional Court of South Africa in *Soobramoney v Minister of Health (Kwazulu-Natal),*[38] where a 41-year-old unemployed man suffering from diabetes, heart disease and kidney failure, could not access dialysis from a public health facility as a result of insufficient equipment which was in poor condition. Similar to the Constitution of South Africa, the Constitution of Kenya of 2010 also provides that no one shall be denied emergency medical treatment.[39]

Different situations in the two jurisdictions and different levels of realisation of the right to the highest attainable standard of health do not provide a varying result from the courts: that the right to access healthcare services must be achieved progressively, and that the courts cannot mandate the State to immediately open the flood-gates for members of the public to access services from private health facilities. These cases also show that the issue is alive not only in Kenya but in other countries in the

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[34] *Soobramoney v Minister of Health (Kwazulu-Natal)* [1997] Constitutional Court of South Africa CCT32/97 [1997] ZACC 17; 1998 (1) SA 765 (CC); 1997 (12) BCLR 1696.

[35] Yasmin von Schirnding and Catherine Mulholland (n 21) 23 – 25; Republic of Kenya, 'Kenya Health Policy 2014 - 2030' (Ministry of Health 2014) 7 <https://www.afidep.org/?wpfb_dl=80> accessed 25 January 2018.

[36] Stephen Shortell, Lawrence Casalino and Elliott Fisher, 'Implementing Accountable Care Organizations' (University of California at Berkeley 2010) Policy Brief <https://www.law.berkeley.edu/files/chefs/Implementing_ACOs_May_2010.pdf> accessed 23 January 2018.

[37] *Luco Njagi & 21 others v Ministry of Health & 2 Others* [2015] High Court of Kenya at Nairobi Petition No. 218 of 2013, consolidated with Petition No. 451 of 2013, eKLR.

[38] *Soobramoney v Minister of Health (Kwazulu-Natal)* (n 38).

[39] Constitution of the Republic of South Africa 1996, art 27(3); Constitution of Kenya (n 28), art 43(2).

Global South, on how to address issues of affordability of healthcare services and allow full realisation of the right to health and promote sustainable development.

Issues of how to allocate resources to health facilities are alive not only in the Global South, but all over the world. In the United Kingdom, the Court of Appeal of England and Wales decided the case of *R v Cambridge Health Authority*,[40] where a 10-year-old girl with leukaemia was denied public funding for treatment administered privately as a result of unavailability of beds in a public hospital willing to carry out the treatment. The Court while recognising that it was a sad affair, found that the Cambridge Health Authority was within its powers to determine how to allocate funds and it was therefore within the law to reject the girl's father's request for funding.

An examination of the history of development of the modern hospital may shed light on the distinction between the hospital as a public facility and the hospital as a private facility.[41] The modern hospital as developed in the Global North, evolved from guesthouses run by charitable members of the society on a communal basis – including establishments run by the early Christians – to what now represent 'centres of scientific excellence'.[42] While the Global South has a large proportion of the world's population, there are insufficient hospitals, inadequate technology, and fewer than required trained healthcare professionals to care for all. Even in Kenya, while both private and public hospitals contribute to the same common goal of improving the health of citizens, patients with more means often have the advantage in various situations of having better technology and skill in a private hospital than in a public hospital. However, this is not always the case, and some public hospitals in Kenya such as some level 5 and level 6 public health facilities, have world-class facilities and top-notch health professionals, giving patients adequate attention and care.

What do we do, then, to address this conflict? Do we then punish private hospitals because they are not serving people who walk in for free? This would be an untenable situation because of the immense contribution of these private enterprises to addressing a gap in healthcare systems across the world. Or do we increase the number of public hospitals? This may prove to be a challenge in many countries where there is insufficient capacity to build, equip, and maintain public health facilities. Do we increase the funding for public hospitals? While certain policy and legal steps may be taken to increase the healthcare budget from national and sub-national governments to better equip and maintain public health facilities, some governments may not have sufficient resources in their treasuries to increase such funding. However, one solution may lie in promotion of public-private initiatives to further incentivise private health facilities to satisfactorily offer healthcare services at an affordable rate, to promote access to healthcare.

One such way is through expanding health insurance services in Kenya, and up-scaling registration efforts to health insurance schemes.[43] A study carried out in Japan showed that 80% of the members of the public held the perception that there should be equality in healthcare provision, where healthcare received should be the same regardless of income.[44] Adopting such findings to the situation in Kenya, ideally members of the public should have access to adequate standards of health regardless of their socio-economic status. In Kenya, the National Hospital Insurance Fund (NHIF) is offered to and accessible by all. There is a nationwide interest in ensuring members of the public are enrolled on the

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[40] *R v Cambridge Health Authority, exparte B* [1995] Court of Appeal of England and Wales 2 All ER 129.
[41] Steve Gachie (n 32) 50–66.
[42] Guenter Risse, *Mending Bodies, Saving Souls: A History of Hospitals* (Oxford University Press 1999).
[43] Bernard Olayo (n 11).
[44] Narumi Eguchi (n 14) 272.

NHIF scheme. However, enrolment in the NHIF scheme remains low. This suggests low levels of awareness about the system and its benefits for all Kenyans, especially the poor and marginalised. To address this, increased advocacy for the NHIF scheme may increase the levels of awareness and encourage enrolment. This would boost access to healthcare and contribute to achieving good health for all.

Governments, public health institutions and public health facilities on one hand should coordinate efforts with private health facilities and other private institutions on the other hand, to offer better healthcare services in Sub-Saharan Africa.[45] Through such public-private initiatives, it may be possible for citizens to access private hospitals using public funds. This may pose a challenge to private facilities, if the process of receiving the funds from public institutions is not straight-forward, or there are delays such as those that mar the public healthcare system in Kenya. The challenges may discourage private health facilities from participating in such a scheme. There would be in such a scenario a conflict of interests and the potential for the facilities to work at cross purposes if there is inadequate coordination in the healthcare system. To address this before the conflict emerges, there would be need for conflict prevention. This would benefit society because it would result in avoidance of the costs that could emerge if the conflict of interests would persist and break out into a dispute.

Disputes in the health sector, in particular those that are related to employment and labour relations, are resolved under the terms of a collective bargaining agreement which provides for a dispute resolution mechanism, and where the employer delays in providing for a collective bargaining agreement, through conciliation, and as an ultimate step by the courts.[46] Conflict prevention in the healthcare system may be put in place through analysing potential scenarios, evaluating the different interests, projecting various scenarios, and weighing the costs of each. This would allow stakeholders to address the issue in advance of its escalation and result in preservation of the status quo or improvement of the situation.

In the insurance industry, there are insurance agents who sell insurance products to members of the public, and as compensation receive a commission from the revenue collected by the insurance company. One proposal is for governments to use a similar strategy for public health insurance: to have public health insurance agents to promote the insurance products to members of the public. Through public awareness initiatives carried out by these government agents, the enrolment in the public health insurance schemes like NHIF may be increased. Compensation for the agents may be in the form of positive performance appraisals or even commissions offered by the private health facilities involved in the public-private collaboration. With specific targets for each agent, the insurance scheme could achieve its collective target, in a similar way in which the government collects taxes through various schemes and strives to achieve the tax targets for a particular year through the individual efforts of government officers.

A possible entry point for advocacy for NHIF is through partnering with schools to enrol students in third and fourth form. In some countries such as the United States of America, awareness raising for voting and the military, is done in high schools, resulting in high school graduates with a voter's card and a decision on whether or not to sign up to serve the country in the defence forces. At the average age of eighteen years, these new NHIF recruits could serve to promote cultural change, so that their peers and those younger than them after a systematic implementation of the initiative would know that

[45] 'Agenda 21 - Chapter 6 - Protecting and Promoting Human Health' (n 22) 6.
[46] *Okiya Omtatah Okoiti v Attorney General & 5 others* (n 9).

when they turn eighteen, they will have the opportunity to sign up for NHIF. NHIF could enrol the students and then at a later date distribute the health insurance card to the students.

In public high schools especially, where a large proportion of high school students attend, the wide pool of potential NHIF recruits would be a promising target to engage with individuals to access public services including public health care. Highlighting the benefits of signing up for health insurance at a young age could contribute to positioning NHIF as a potential channel for the income that the individual receives from the turn of adulthood, and therefore secure a healthy future for the student for years to come. The added benefit would be that the young individual having experienced these benefits after participating in the scheme could then influence their parents and other members of society to also enrol.

In Kenya, as in other developing countries, public health facilities face challenges including inadequate finance and human resources, which together limit the service offering to the public. Private health facilities may opt to collaborate with the government if there is a measurable benefit to cover the cost of offering services to the public. This would contribute to efforts by various stakeholders at the national and international level to contribute to improving the health of human beings, and in so doing, promoting sustainable development.

4.0 Conclusion

This paper has analysed the issue of conflict prevention and management in the healthcare system through expansion of social health insurance, arguing that through taking up such efforts, the government and all stakeholders involved would contribute effectively to promoting sustainable development through ensuring adequate standards of health for all. The healthcare system in Kenya, as in many other countries in Sub-Saharan Africa, is plagued with different forms of conflict: at a vertical level between healthcare professionals in lower cadres and those in management, and at a horizontal level as exemplified by the conflicting interests of credibility of results and profitmaking by public health facilities on the one hand and private health facilities on the other hand. Proposals to manage conflict through reforming Kenya's healthcare system include establishment of a national health services commission, improved access to primary health care, expansion of social health insurance, and strengthening regulatory boards and unions. This paper argues that one course of action to improve the healthcare system and reduce inequalities and competing interests, is through expanding the health insurance system. One proposal is to step up efforts to increase enrolment of members of the public to NHIF, and also an improvement of the benefits offered by NHIF, to overall contribute to SDG 3 to ensure healthy lives and promote well-being for all at all ages.

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