

Legal Challenges of Medical Tourism in Nigeria

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Abstract

The growth in the popularity of medical tourism has captured the attention of policy-makers, researchers and the media. In particular, Nigeria is experiencing a boom in medical tourism, with over \$1 billion spent annually on the sector by elites and non-elites alike. The lack of trust in the nation's healthcare systems to handle sophisticated medical operations, corruption, insufficient financial allocation to the health sector, and inadequate healthcare infrastructure brought on by economic issues have all contributed to this trend. Drawing from doctrinal research, this article examines the medical tourism trend in Nigeria and the related medical, legal, and societal difficulties in medical tourism generally. The study found that while medical tourism is not intrinsically dangerous, the state of power and the economy may impact the standard of institutions where patients receive care. In situations where patients receive subpar care in foreign hospitals, justice may also be decided by this unequal power and economic standing. It was therefore recommended that the Nigerian government should enhance the nation's healthcare infrastructure to stop the trend of medical tourism and lessen the financial strain that it places on regular Nigerians who require advanced medical care but cannot get it domestically. It is also advised that the Nigerian government establish a regulatory framework that guarantees protection from poor hospitals and justice for Nigerians who receive poor treatment overseas. The public should continue to be made aware of the potential difficulties connected with certain medical operations sought outside of Nigeria, particularly cosmetic surgery, which may provide follow-up challenges, by relevant health stakeholders.

Keywords: Medical Tourism, Legal Challenges, Nigeria

1. Introduction

People travel abroad for several reasons. One of the goals is to obtain medical attention. This idea is known as 'medical tourism.' Medical tourism is one of the prospects of increasing industries that have rapidly grown in Nigeria and other countries. One of the factors that led to this trend is the propensity to pursue better medical care, possibly at a lower cost. Another factor is to access qualitative medical services.

The global medical tourism market was valued at USD 24.14 billion in 2023 and is projected to be worth USD 29.26 billion in 2024 and reach USD 137.71 billion by 2032, exhibiting a CAGR of 21.4% during the forecast period (2024-2032).² According to the Medical Tourism Association (MTA),³ around 14.0 million people across the world travel to other countries annually to receive medical care. Drastic advancements in the healthcare industry due to the launch of medical devices.

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¹M. Z. M. Zahir and others, 'Prospect and Legal Challenges of Medical Tourism in relation to the Advance Medical Directive (AMD) in Malaysia' [2021] *Pertanika Journal of Social Sciences & Humanities* (29) (S2) 17.

²Fortune Business Insights, 'Key Market Insights' (2 September 2024) <https://www.fortunebusinessinsights.com/industry-reports/medical-tourism-market-100681> accessed 17 August 2024.

³Medical Tourism Association, 'Medical Tourism Patient Survey' <<https://www.medicaltourismassociation.com/>> accessed 14 August 2024.

and non-invasive surgical procedures are major factors responsible for increased tourism for medical

procedures globally. Medical tourism has gained traction in the last few years among high-income countries such as the US⁴. Furthermore, patients from developed countries, such as the US and the UK, are travelling to less developed countries to access health services, mainly driven by the low-cost treatments available in emerging economies. In addition, both national governments and private business sectors in developing and developed nations have significantly promoted medical tourism as a potential source of foreign revenue.⁵

Most of the people travel to different countries to seek medical care owing to the availability of advanced technology and highly trained professionals. This shift is also due to the fact that patients require quick medical service without a long waiting period.⁶ The COVID-19 pandemic negatively impacted the market growth as most of the countries had imposed travel restrictions in 2020.⁷ Moreover, hospitals had suspended their non-essential medical procedures to focus more on treating COVID-19 patients, owing to which patient visits were reduced, ultimately impacting the market growth. However, during 2021 and 2022, the market stabilized as the majority of the services resumed and travel restrictions were revoked.⁸

The history of medical tourism is traceable to the 15th century among Europeans when elites in Europe travel for spas and mineral baths in Mediterranean countries to improve their health.⁹ In recent years, some countries have become world destinations for medical tourism like India, Thailand, Korea, Malaysia, the United Kingdom (UK), the Middle East, Japan, the United States, Canada, Belgium, Costa Rica, Cuba, Dubai, Hungary, Israel, Jordan, Malaysia, Singapore, South Africa, and several others have also emerged as largest providers of international health services in the medical tourism business.¹⁰ Many of these providers have grown exponentially to become a multi-billion-dollar industry and the largest receivers of medical tourists.¹¹ The worth of global medical tourism has been estimated to be 100 billion dollars and is projected to grow at an annual rate of 20% to 30%.¹² Popular healthcare services sought through medical tourism are; organ transplantation, reproductive treatment, and dental treatment.¹³ The annual expenditure of Nigerians on international health services is estimated to be \$1 billion with 60% of the money spent on oncology, orthopedic, nephrology and cardiology.¹⁴

Speculation and media fascination about the growing industry, diverse destinations, and rationale behind the medical tourists is rampant. However, the legal implications of medical tourism, particularly when it goes wrong, are often unclear. On the international stage, accreditation agencies are limited in scope and practice, legal jurisdiction is difficult to establish, and the enforcement of rulings is nearly impossible. Patients seeking tourism medicine have little legal recourse and shoulder all the legal burden.¹⁵

⁴Fortune Business Insights (n 2).

⁵B. Goodair and A. Reeves, 'The Effect of Health-care Privatisation on the Quality of Care' [2024] *The Lancet Public Health* (9) (3) 199-206.

⁶*Ibid.*

⁷N. Shalini and others, 'Impact of Covid-19 on Medical Tourism' in B. Chaudhary and others (eds.), *Medical Tourism in Developing Countries* (Springer, 2024) 93-94.

⁸*Ibid.*

⁹S. Maheshwari, B. A. Animasahun and O. F. Njokanma, 'International Patients with Congenital Heart Disease: What Brings Them to India?' [2012] *Indian Heart Journal* (64) (1) 50-53.

¹⁰M. Abubakar and others, 'Medical Tourism in Nigeria: Challenges and Remedies to Health Care System Development' [2018] *International Journal of Development and Management Review* (13) (1) 223-238.

¹¹*Ibid.*

¹²P. Leggat, 'Medical Tourism' [2015] *Australian Family Physician* (44) (1-2) 16-21.

¹³R. Smith, M. A. Martínez and R. Chanda, 'Medical Tourism: A Review of the Literature and Analysis of a Role for Bilateral Trade' [2011]

Health Policy (103) (2-3) 276-282.
¹⁴ Abubakar and others (n 10) 229.

There was a time when Nigeria was a beacon of hope in healthcare, where lives were saved and futures restored. In the 1970s, if someone fell gravely ill in Ghana or Sierra Leone, they did not hesitate to board the next flight to Nigeria. Stories of advanced treatments and skilled doctors were told with pride, and hospitals like the University College Hospital in Ibadan were held up as models of excellence.¹⁶ Families who had once feared losing a loved one found solace in the hands of Nigerian doctors, whose expertise was unmatched across the continent. But today, that picture feels like a distant dream. This is as a result of the fall in the standard of many government and even private hospitals, leading to a high mortality rate in the health sector and the need to find quality medical care.¹⁷ According to the 2024 Global Health Index by the World Health Organization,¹⁸ Nigeria scored 38 out of 100 points in universal health coverage, placing Nigeria among the bottom four countries with low-performing healthcare systems in West Africa.

Every year, Nigerians leave the country to spend on average \$1.3 billion on medical tourism for adequate health care in foreign countries. From January to June of 2024, \$2.38 million was spent to receive medical care in countries with better healthcare systems.¹⁹ The **Medical** market in **Nigeria** is projected to grow by 6.84% (2022-2029) resulting in a market volume of US\$0.43m in 2029.²⁰

This paper, therefore, analyzes the legal (and other aspects such as the medical and social) ramifications of medical tourism, specifically in Nigeria.

2. Meaning of Medical Tourism

Medical tourism, also known as health tourism, can be defined as the process of traveling outside the country of residence for the purpose of receiving medical care.²¹ Medical tourism is the practice of traveling abroad to obtain medical treatment. In the past, this usually referred to those who traveled from less-developed countries to major medical centres in highly developed countries for treatment unavailable at home.²² However, in recent years it may equally refer to those from developed countries who travel to developing countries for lower-priced medical treatments.²³

Medical tourism is usually for surgeries (cosmetic or otherwise) or similar treatments, though people also travel for dental tourism or fertility tourism.²⁴ People with rare conditions may travel to countries where the treatment is better understood. However, almost all types of health care are available, including psychiatry, alternative medicine, convalescent care, and even burial services.²⁵ Health tourism is a wider term for travel that focuses on medical treatments and healthcare.

¹⁵ D. P. Steven and others, 'The Price of Medical Tourism: The Legal Implications of Surgery Abroad' [2018] *Plastic and Reconstructive Surgery* (142) (4) 1073-1079.

¹⁶ Yemi, 'The Rise, Fall, and Revival of Nigeria's Healthcare System' (17 December 2024) <<https://risevest.com/blog/the-rise-fall-and-revival-of-nigerias-healthcare-system>> accessed 29 January 2025.

¹⁷ *Ibid.*

¹⁸ World Health Organization, 'Nigeria – WHO Data (2024)' <<https://data.who.int/countries/566>> accessed 30 January 2025.

¹⁹ S. Emmanuel, 'Heal thyself: Nigeria's worrying healthcare metrics' (18 November 2024) <<https://dataphyte.com/latest-reports/health/heal-thyself-nigerias-worrying-healthcare-metrics/>> accessed 30 January 2025.

²⁰ Statista, 'Medical-Nigeria' <https://www.statista.com/outlook/amo/app/medical/nigeria> accessed 30 January

²¹ J. Connell, *Medical Tourism* (CABI, 2011) 3.

²² M. D. Horowitz, J. A. Rosensweig and C. A. Jones, 'Medical Tourism: Globalization of the Healthcare Marketplace' [2007] *Globalization of the Healthcare Marketplace* (9) (4) 33.

²³ P. M. Gahlinger, *The Medical Tourism Travel Guide: Your Complete Reference to Top-Quality, Low-Cost Dental, Cosmetic, Medical Care & Surgery Overseas* (Sunrise River Press, 2008) 3.

²⁴ C. Gobalakrishnan, *Sociology of Medical Tourism* (MJP Pub., 2019) 5.

²⁵ *Ibid.*

services. It covers a wide field of health-oriented tourism ranging from preventive and health-conductive treatment to rehabilitational and curative forms of travel.²⁶

Medical tourism as a medical terminology refers to the practice of seeking international medical services for health situations, whether the emergency and non-emergency kind.²⁷ It is the act or practice of voyaging from a country of residence to another country solely for the purpose of receiving certain healthcare services.²⁸ It also denotes the act of enhancing or restoring one's health through medical services beyond the borders of one's national healthcare.²⁹ From the various definitions of medical tourism proffered above, it is deductible that medical tourism involves a transboundary movement to seek medical services.³⁰ This is also the same as what the government spends on public health, including employee pay and government-funded health intervention initiatives.³¹

1. Reasons for the High Rate of Outbound Medical Tourism in Nigeria

In contemporary times, medical tourism is encouraged by new developments in medical technology, differences in national legislation pertaining to healthcare services, worldwide economic disparities, and globalization.³² The health sector in Nigeria has been significantly impacted by the ongoing economic condition, despite the sector receiving a low budgetary allocation.³³ Undoubtedly, the majority of Nigerian healthcare facilities perform worse than those in industrialized countries due to a lack of basic amenities and equipment. Nigeria's per capita government health expenditure and budgetary allotment fall well short of what is needed for a conventional healthcare system.³⁴

Due to their inability to expand their human resources and infrastructure, the majority of the Nigerian healthcare institutions are now incapable of providing the necessary care, which has increased the number of people who can afford to travel for medical purposes.³⁵ Patients die from non-serious illnesses like diarrhea, malaria, accidents, tetanus, typhoid, and fever because government hospitals in low- and middle-income nations like Nigeria lack basic diagnostic equipment for chronic diseases and medical treatments for mild health conditions.³⁶ Nigerians no longer have faith in their country's healthcare system as a result of this.

It is noteworthy that medical tourism is not just a luxury enjoyed by Nigeria's elites; even those who cannot afford the trip go over and beyond to raise money on social media. Some individuals, who have little faith in the Nigerian healthcare system, even go so far as to seek medical attention.

²⁶S. Watson and K. Stolley, *Medical Tourism: A Reference Handbook* (ABC-CLIO, 2012) 9.

²⁷I. Bulatovic and K. Iankova, 'Barriers to Medical Tourism Development in the United Arab Emirates (UAE)' [2021] *International Journal of Environmental Research and Public Health* (18) (3) 1365.

²⁸N. S. Abd Mutalib and others, 'Medical Tourism: Ethics, Risks and Benefits' [2016] *Indian Journal of Pharmaceutical Education and Research* (50) (2) 261-270.

²⁹H. Ban and H. Kin, 'Applying the Modified Health Belief Model (HBM) to Korean Medical Tourism' [2020] *International Journal of Environmental Research and Public Health* (17) (10) 3646.

³⁰A. O. Adeoye and others, 'Assessing the Associated Medical, Legal, and Social Issues in Medical Tourism and its Implications for Nigeria' [2023] *Pan African Medical Journal* (45) (145) 2.

³¹*Ibid.*, 230.

³²H. Widdows, 'Localized Past, Globalized Future: Towards an Effective Bioethical Framework using examples from Population Genetics and Medical Tourism' [2011] *Bioethics* (25) (2) 83-91.

³³N. V. Orji and others, 'Nigerian Tourists' Concerns towards Medical Risks and Social Challenges' [2020] *African Journal of Hospitality* (9) (4) 612-625.

³⁴L. Muraina, I. Tommy and C. Monye, *Outbound Medical Tourism: Result of a Poor Healthcare System* (Ciuci Consulting, 2012) 49.

³⁵Adeoye and others (n 30) 4.

³⁶*Ibid.*

elsewhere when their condition might be treated there.³⁷ According to a survey done in Nigeria on those who have traveled abroad for medical care as well as those who were planning to travel there, 40.2% of respondents strongly agreed that receiving subpar care at home is what led them to engage in outbound medical travel.³⁸ Furthermore, it was revealed that the majority of respondents (47.7%) said that their motivation for participating in out-of-country medical tourism was due to inadequate infrastructure. Due to the fact that the cost of therapy is comparable to that of treatment received overseas, over half of the respondents (59.8%) stated that they participate in outbound medical tourism. 52.6% of those surveyed strongly agreed that they participate in medical tourism because there are competent healthcare professionals in other countries.³⁹

1. Legal Challenges of Medical Tourism in Nigeria

The development of medical tourism in Nigeria has engendered some legal issues which are discussed in the following subsections:

1.1 Lack of Legal Recourse

One of the legal issues and the biggest constraint in medical tourism in Nigeria is the lack of legal recourse and accountability for malpractice or unsatisfactory medical treatment given by foreign medical providers.⁴⁰ The opponents of medical tourism have argued that patients who leave Nigeria and receive negligent medical treatment might be unable to obtain legal remedies in the countries where they received the treatment. This is due to the inadequacies in the law governing medical malpractice cases in the destination countries.⁴¹ It is difficult to bring an action for medical malpractice in medical tourism cases due to the different standards and rules that exist in different jurisdictions. This is especially so if the law depends heavily on the evidence obtained from doctors in deciding the standard of care.⁴² Furthermore, international litigation can be expensive and difficult to enforce.⁴³ This situation could discourage patients in Nigeria from traveling to other countries for medical treatment for fear of the lack of legal recourse and remedies. A survey was conducted to study factors affecting patients in deciding whether or not to opt for medical tourism.⁴⁴ On the issue of having to sue in a foreign country in case of medical malpractice, only 4.9% responded positively while another 19.5% stated that they were somewhat concerned about the problem.⁴⁵ As a result, the development of the medical tourism industry in the future will be affected. The solution might be in the form of an alternative to the current medical negligence system, such as alternative dispute resolution (ADR).⁴⁶

It is also challenging for patients to bring legal representatives from their own country due to the various rules that apply in other nations. Even in cases when it is feasible, language and cultural barriers may make it difficult to pursue legal recourse since foreign attorneys might not be familiar.

³⁷S. A. Na, A. Y. Nee and C. Y. Onn, 'Medical Tourism: The Effects of Perceived Benefits, Perceived Risks and Geographic

Region' [2017] *Pertanika Journal of Social Sciences & Humanities* (25) 143-152.

³⁸Orji and others (n 33) 616.

³⁹*Ibid.*

⁴⁰N. Lunt and others, *Medical Tourism: Treatments, Markets and Health System Implications: A Scoping Review* (Directorate for Employment, Labour and Social Affairs, 2011) 7.

⁴¹*Ibid.*

⁴²B. Odunsi, 'Medical Negligence and Its Litigation in Nigeria' [2023] *Beijing Law Review* (14) (2) 1092.

⁴³*Ibid.*

⁴⁴Orji and others (n 33) 618.

⁴⁵*Ibid.*

⁴⁶*Ibid.*

with the court system if the case is being heard in the nation where the treatment was sought.⁴⁷ For such medical tourists seeking justice, hiring a lawyer in the nation where the surgery was performed is the most practical, but somewhat costly, choice. Even in situations where it is feasible, the enforcement of a favourable ruling is not always guaranteed.⁴⁸ It is improbable that patients will receive financial compensation or that the ruling will be upheld. In the event of negligence or error during treatment, patients have the legal right to pursue restitution through the legal system, which contributes to the high cost of health care in the United States.⁴⁹ Further, some organ transplantation procedures carried out abroad are unlawful because they usually involve the purchase of organs. This frequently happens in incredibly impoverished nations where people's perceptions of the negative effects of organ sales are clouded by their lack of resources.⁵⁰ In a recent example, Senator Ike Ekweremadu, a Nigerian politician and lawmaker, together with his wife (Beatrice) and a medical doctor (Dr. Obinna Obeta), were found guilty by the UK court of organ trafficking under the Modern Slavery Act 2015 and sentenced to varying degrees of terms of imprisonment.⁵¹ The summary of the case is that the Ekweremadu's daughter, Sonia suffers from deteriorating kidneys and needs regular dialysis. Working together, the Metropolitan Police and CPS found evidence that her parents, Ike and Beatrice Ekweremadu, conspired with Dr Obeta to identify individuals in Nigeria whose kidneys might be harvested for Sonia's benefit. The victim in this case was recruited in Lagos, Nigeria. At the time, he was selling telephone parts in public markets. In February 2022, the victim was transported to London and was kept under the direction and financial control of the defendants. The conspirators' plan was for the victim to provide a kidney to Sonia Ekweremadu in exchange for the suggested amount of either £2,400 or £7,000 (these two figures were uncovered in the investigation and prosecution case review) and the promise of work in the UK. This case came to light when the victim entered Staines Police Station on 5 May 2022 reporting that he had been trafficked from Nigeria into the UK and that someone was trying to transplant his kidney. He stated that he had kidney screening at The Royal Free Hospital in London with a consultant. However, the consultant became suspicious about the circumstances surrounding the proposed transplant and decided the transplant could not go ahead.⁵²

2.1 Lack of Regulation

There is no uniform law or guideline that specifically protects patients who receive medical treatment outside their countries or provides information on patients' right to legal recourse.⁵³ This means that patients are unaware of their rights and ability to sue in cases of medical injuries arising from medical tourism. The position is different in the US, which has its medical tourism guidelines. The Medical Tourism Guideline by the American Medical Association (AMA) provides that patients should be informed of their rights

⁴⁷N. Lunt and others, *Medical Tourism: Treatments, Markets and Health System Implications: A Scoping Review* (Directorate for Employment, Labour and Social Affairs, OECD, 2011) 38.

⁴⁸*Ibid.*

⁴⁹*Ibid.*

⁵⁰C. Nebe and B. Shemang, 'Illegal organ traffickers in Africa prey on world's poor' (18 September 2024) <<https://www.dw.com/en/illegal-organ-traffickers-in-africa-prey-on-worlds-poor/a-70242247>> accessed 27 August 2024.

⁵¹*R v. Obeta & Ors.* (Sentencing Remarks) (19 May 2023) <<https://www.judiciary.uk/wp-content/uploads/2023/05/R-v-Obeta-and-others-sentencing-remarks.pdf>> accessed 30 January 2025. See also N. Princewill and K. Godwill, 'Nigerian Senator Jail for 9 years for organ harvesting plot' (5 May 2023) <<https://www.cnn.com/2023/05/05/africa/nigeria-senator-ekweremadu-sentenced-intl/index.html>> accessed 11 September 2024.

⁵²Crown Prosecution Service (CPS), 'Updated with sentence: Senior Nigerian politician jailed over illegal UK organ-harvesting plot' (5 May 2023) <<https://www.cps.gov.uk/cps/news/updated-sentence-senior-nigerian-politician-jailed-over-illegal-uk-organ-harvesting-plot>> accessed 29 January 2025.

⁵³Adeoye and others (n 30) 2.

and legal recourse before agreeing to travel outside the country.⁵⁴ There is also a lack of uniform regulation regarding medical devices and treatment that should be used by medical providers.

The consequences may be harmful to patients who opt for medical tourism. For example, the scandal over the Poly Implant Prothèse (PIP) breast implant, where French manufacturers used industrial-grade silicone rather than medical-grade silicone to reduce the costs due to lack of regulations.⁵⁶

The example of the lack of uniform regulation can best be seen in cases involving surrogacy. The law varies based on the different cultures, traditions, and religious views of each country.⁵⁷ Some countries legalize surrogacy, while others do not. The differences in legal recognition of surrogacy between countries might create problems for those who opt for the procedure.⁵⁸

The problem arises when the prospective parents are from countries that do not legalize surrogacy, namely France, Italy, and Spain. In India, the rule is that gay couples, non-married couples, single men and women, and couples from countries that illegalize surrogacy are not allowed to hire surrogate mothers in India.⁵⁹ It means that prospective parents from countries that illegalize surrogacy are not allowed to have surrogate babies. Even if they have, their countries will not recognize the status of the surrogate babies. Denying the legal recognition of the parentage of prospective parents and surrogate babies seems a bit draconian and does not solve the problem that may arise from surrogacy.⁶⁰

In the United Kingdom, for example, the laws that govern surrogacy and gamete donation are the Surrogacy Arrangements Act 1985 and the Human Fertilisation and Embryology Act 2008 respectively. These laws provide regulations and restrictions, which are different from the laws of other countries. For instance, UK laws do not require the adoption of a surrogate baby for legal recognition.⁶¹ On the contrary, the laws in Belgium require an adoption before the surrogate baby is legally recognized and allowed to be in the country.⁶²

In Nigeria, on the other hand, there is no specific law that governs reproductive tourism or surrogacy. The only seemingly relevant guideline is the one introduced by the National Health Act 2014 (NHA). Other laws, such as the Nigerian Medical and Dental Practitioners Act 2004 and the **Nursing and Midwifery (Registration, Etc.) Act 1979**, only state the rules and regulations of medical practice and do not control the matter relating to surrogacy. Therefore, a specific law is needed to regulate the procedures and to monitor the development of reproductive tourism.⁶³ There was a proposal to amend the NHA to discourage medical tourism and address issues relating to surrogacy, and egg and sperm donation.⁶⁴ However, till today, the amendment has yet to be

⁵⁴ American Medical Association (AMA), 'Medical Tourism Guideline, 2008' <<http://www.ama-assn.org/ama/home.page>> accessed 28 January 2025; J. Wapner, 'American Medical Association provides guidance on medical tourism' [2008] *British Medical Journal* <<http://www.bmj.com/content/337/bmj.a575>> accessed 29 January 2025.

⁵⁵ E. Chukwuka and F. Amahi, 'Effects of Medical Tourism on Economic Growth of Nigeria [2021] *International Journal of Research and Innovation in Social Science* (5) (10) 2454-6186.

⁵⁶ C. Greco, 'The Poly Implant Prothèse breast prostheses scandal: Embodied risk and social suffering' [2015] *Social Science & Medicine* (147) 150-157.

⁵⁷ S. L. Crockin, 'Growing families in a shrinking world: Legal and ethical challenges in cross-border surrogacy' [2013] *Reproductive BioMedicine Online* (27) (6) 734.

⁵⁸ Z. Gurtin-Broadbent, 'Problems with Legislating against "Reproductive Tourism"' (22 March 2010) <http://www.bionews.org.uk/page_56954.asp> accessed 29 January 2025.

⁵⁹ N. Bhowmick, 'Why people are Angry about India's New Surrogacy Rules' *Time Magazine* (15 February, 2013) <http://world.time.com/2013/02/15/why-people-are-angry-about-indias-new-surrogacy-laws/> accessed 30 January 2025.

⁶⁰ *Ibid.*

⁶¹ GOV.UK, 'Surrogacy: legal rights of parents and surrogates' <<https://www.gov.uk/legal-rights-when-using-surrogates-and-donors>> accessed 30 January 2025; K. Horsey and others, 'UK surrogates' characteristics, experiences, and views on surrogacy law reform' [2022] *International Journal of Law, Policy and the Family* (36) (1) 49-58.

⁶² Crockin (n 57) 735.

effected. The lack of regulation affects the development of medical tourism as patients will be reluctant to pursue medical treatment. The reason is fear of not having protection in cases of negligence of medical providers and lack of awareness of their rights as a patient against the medical provider.⁶⁵ Therefore, there should be a uniform regulation that governs all countries in cases involving medical tourism.

2.2 Inadequate Medical Care Abroad

Medical tourists might not be able to pursue legal recourse for inadequate care they got abroad, particularly in nations without laws protecting visitors from medical mistreatment.⁶⁶ It might be challenging to demonstrate inadequate care even in places where such a legislation is in place, particularly if the law mostly depends on testimony from physicians in those nations.⁶⁷ In addition to being costly, international litigation is challenging to enforce.⁶⁸ Consequently, patients who are not well off and are dissatisfied with the care they received abroad might not be able to pursue legal action. Patients may face additional financial hardships when they travel abroad in search of justice because of the costs of hiring an appropriate attorney, airfare, and lodging.⁶⁹

3. Other Challenges of Medical Tourism in Nigeria

3.1 Medical Challenges

Medical tourism has given rise to a number of ethical questions. There are moral ramifications to medical tourism for both public health and individual health. Because of their wealth and influence, some patients might receive high-quality healthcare; yet, others might experience health issues when they return home, possibly as a result of the subpar treatment they received in foreign hospitals.⁷⁰ It may be necessary to follow up with patients after some medical operations in order to track their recovery progress.⁷¹ Unfortunately, most patients do not stay long enough in foreign institutions to have their health issues properly monitored due to the financial load.⁷² Local physicians in the home nations of medical tourists are typically burdened with this since they must pay to rectify any negligence on the part of foreign medical practitioners.⁷³ For example, a research carried out in a Nigerian medical institution on patients who came in after undergoing treatment overseas found that 39% of patients who underwent neuro-surgical surgery passed away from problems after returning home.⁷⁴ More than 25% of these patients had infections that necessitated

⁶³I. O. Orekoya and O. O. Oduyoye, 'Implications of Outbound Medical Tourism on Public Health Care Development in Nigeria' [2018] *European Scientific Journal* October (14) (30) 1857-1881.

⁶⁴V. Agi, 'The Bill Seeking to end Medical Tourism among Nigerian Public Officials' (13 December 2023) <<https://primeprogressng.com/perspective/the-bill-seeking-to-end-medical-tourism-among-nigerian-public-officials/>> accessed 29 January 2025.

⁶⁵Medical Laboratory Science Council of Nigeria, 'Minister Canvasses Reduction in Medical Tourism' (26 June 2024) <<https://web.mlscn.gov.ng/index.php/2024/06/26/minister-canvasses-reduction-in-medical-tourism/>> accessed 30 January 2025.

⁶⁶P. N. J. Kassim, 'Medicine beyond Borders: The Legal and Ethical Challenges' [2009] *Medical Law* (28) (3) 439-450.

⁶⁷N. Cortez, 'Patients without Borders: The Emerging Global Market for Patients and the Evolution of Modern Health Care' [2008] *Industrial Law Journal* (83) (1) 71-132.

⁶⁸Kassim (n 60) 84.

⁶⁹J. A. Balogun, *The Nigerian Healthcare System: Pathway to Universal and High-Quality Health Care* (Springer, 2022) 93-94.

⁷⁰H. Wahed, 'Ethical and Legal Issues in Medical Tourism' [2015] *International Islamic University Malaysia Law Journal* (23) 227.

⁷¹L. Turner, 'First-world Care at Third-world Prices' [2007] *Globalization, Bioethics and Medical Tourism* (2) (3) 303-325.

⁷²B. Naja, *Prospects and Challenges of Medical Tourism* (Self-Publisher, 2023) 17.

⁷³Wahed (n 70) 229.

unplanned follow-up care.⁷⁵ After a procedure, there may be difficulties because some of the medical procedures that medical tourists seek may also be unethical or illegal in their native country.⁷⁶

While receiving treatment overseas, medical tourists may come into contact with germs that are rare or nonexistent in their native nation, which could lead to the spread of infectious diseases back to their home country.⁷⁷ Such infectious diseases contracted overseas have the potential to cause disastrous outbreaks, particularly in cases when the population lacks an innate response to them.⁷⁸ For example, some foreign hospitals have inadequate organ screening standards, which may make transplant patients who travel more vulnerable to infection problems. There are recorded cases of individuals contracting hepatitis B after a kidney transplant in India and heart surgery in Pakistan.⁷⁹

The unethical practice of harvesting dead foreign patients' organs without the family's consent has been noted, as has the trend of using foreign patients—especially those from low- and middle-income countries—for experimental treatment without warning them of the risks involved.⁸⁰ It has also sparked interest in the effectiveness of medical personnel performing treatments on patients in overseas facilities. While various worldwide private clinics offer services to tourists, certain clinics may not be similar in terms of the quality specified by most medical regulatory organizations in regional countries.⁸¹ In order to demonstrate that their clinics provide healthcare in accordance with internationally recognized standards of quality and safety, a few of the clinics have earned accreditation as accredited facilities through partnerships with the national government.⁸²

5.2 Social Challenges

Neo-colonialism through medical tourism causes low- and middle-income nations to lose faith in their own healthcare systems and become reliant on the industrialized world.⁸³ Medical tourism turns healthcare into a commodity that is exclusively available to the wealthy and well-connected. Political leaders and other significant stakeholders who should be developing local healthcare systems have been prevented from doing so by medical tourism, which gives them access to alternative healthcare, which further contributes to the poor state of local healthcare systems in low- and middle-income countries.⁸⁴ In low- and middle-income countries (LMICs), medical tourism may make poverty and economic inequality worse since patients may have to spend all of their money attempting to get treatment overseas. An example is the case of Fatima, a teacher in

⁷⁴E. O. Idowu and O. A. Adewole, 'Spectrum of Neurosurgical Complications following Medical Tourism: Challenges of Patients without Borders' [2015] *African Health Science* 2015 (15) (1) 240-245.

⁷⁵*Ibid.*

⁷⁶O. A. Makinde, 'Physicians as Medical Tourism Facilitators in Nigeria: Ethical Issues of the Practice' [2016] *Croatia Medical Journal* (57) (6) 601-604.

⁷⁷Abd Mutalib and others (n 28) 264.

⁷⁸*Ibid.*

⁷⁹S. T. Green, 'Medical Tourism - A Potential Growth Factor in Infection Medicine and Public Health' [2008] *Journal of Infection* (57) (5) 429.

⁸⁰J. J. O. Mogaka, L. Mupara and J. M. Tsoka-Gwegweni, 'Ethical Issues associated with Medical Tourism in Africa' [2017] *Journal of Market Access and Health Policy* (5) (1) 130-147.

⁸¹J. Behrmann and E. Smith, 'Top 7 Issues in Medical Tourism: Challenges, Knowledge Gaps, and Future Directions for Research and Policy Development' [2010] *Global Journal of Health Science* (2) (2) 80.

⁸²*Ibid.*

⁸³Mogaka, Mupara and Tsoka-Gwegweni (n 80) 136.

⁸⁴Smith, Martínez and Chanda (n 13) 279.

Kano, remembers her grandmother travelling to Ibadan for surgery in the 1980s—a journey her family made with confidence because Nigeria's healthcare system inspired trust. In October 2024, when Fatima's own daughter needed surgery, she and her husband faced a heartbreaking choice: risk a poorly equipped local hospital or scrape together the funds to travel to India. They chose the latter, leaving their savings drained and their faith in the system shattered.⁸⁶ Fatima's story is not unique. Across Nigeria, millions face similar dilemmas. For the wealthy, the solution often involves boarding a plane to London, Dubai, or New Delhi and spending billions of naira annually on healthcare abroad. But for the majority who cannot afford such luxuries, the options are bleak: overcrowded hospitals, underpaid staff, and a system buckling under the weight of neglect.⁸⁷

When these people come home, they might not have the money to deal with the issues that resulted from their travels. LMICs might not feel much pressure to rectify the shortcomings in their healthcare system that force their residents to jeopardize their material well-being in order to receive necessary care, as long as there are alternative treatment options available.⁸⁸ Medical tourism may also cause patients to substitute financial considerations for clinical criteria because of the low quality of healthcare in their native area and their desperation to receive treatment. For example, without taking into account the quality of care in such institutions, medical tourists may choose to visit less expensive overseas hospitals rather than more expensive ones.⁸⁹

6. Conclusion and Recommendations

In Nigeria, medical tourism is expanding quickly. However, disparities in the standard of hospitals where patients receive care as well as the caliber of care themselves may result from socially distributed economic and power imbalances. Justice issues can also be influenced by social inequality in the form of subpar medical care received by patients in foreign institutions.⁹⁰ Nigeria must thus first put in place mechanisms that would guarantee that their healthcare systems are up to standards and equipped with cutting-edge technologies to measure and meet the medical challenges of the citizens, given the medical, legal, and social issues associated with medical tourism. This will significantly lessen the number of patients traveling between nations in search of medical care as well as the financial strain that typical Nigerian families bear when traveling abroad for treatment.

Due to global differences in healthcare technologies and health system efficiency, it is nearly impossible for a nation to have all the necessary components to prevent its citizens from seeking medical care abroad. Therefore, Nigeria's government must enact laws, policies, and guidelines on medical tourism that are binding and regulate the caliber and standards of hospitals where patients can receive treatment abroad and that safeguard their legal rights in the event that subpar care causes complications.⁹² In the event of problems, death from inferior care, or exploitation of deceased patients' organs without proper agreement from the patient's family, for example, the

⁸⁵B. Kangas, 'Hope from Abroad in the International Medical Travel of Yemeni Patients' [2007] *Anthropology & Medicine* (14) (3) 293-305.

⁸⁶Yemi (n 16).

⁸⁷*Ibid.*

⁸⁸Kangas (n 85) 297.

⁸⁹R. Johnston and others, 'What is known about the Effects of Medical Tourism in Destination and Departure Countries? A Scoping Review' [2010] *International Journal of Equity Health* (9) 24.

⁹⁰Adeoye and others (n 30) 6.

⁹¹*Ibid.*, 7.

⁹²*Ibid.*

treating physician or healthcare practitioner should sign a legal implication form. Comparably, before approving a foreign travel for organ transplantation, relevant government agencies should look into who is donating and whether proper informed permission has been obtained. Only then may foreign mission embassies handle the visa application process.⁹³ It is also imperative for relevant health stakeholders to keep raising public awareness of the potential risks connected with some medical operations sought outside of Nigeria, particularly cosmetic surgery, which may present follow-up issues upon return to the country.⁹⁴

The practice of medical tourism is not hazardous. The Nigerian government must, however, reposition its healthcare systems to meet standards in order to reverse the trend of medical travel abroad, as well as any potential complications and the financial burden this practice places on average citizens who require care but cannot afford it in their home country. These issues stem from medical, legal, and social concerns surrounding medical tourism.⁹⁵ The related legal concerns further highlight the necessity for government regulation of medical tourism in order to shield Nigerians from inadequate care at foreign hospitals and to safeguard their right to prompt justice in cases of inadequate care. Additionally, the public has to be educated about unethical cosmetic procedures that are sought abroad and may cause issues when they return home.⁹⁶

⁹³ This Day, 'Stemming Nigeria's Medical Tourism' (June 2024)
 4) <<https://www.thisdaylive.com/index.php/2024/06/26/stemming-nigerias-medical-tourism/>> accessed 11 September 2024.

⁹⁴ *Ibid.*

⁹⁵ Orekoya and Oduyoye (n 63) 355.

⁹⁶ *Ibid.*

