

**THE LEGAL AND ETHICAL IMPLICATIONS OF MEDICAL BRAIN DRAIN IN  
NIGERIA: AN ANALYSIS OF THE IMPACT ON HEALTHCARE DELIVERY AND  
PATIENT RIGHTS**

**SUBMITTED**

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**BEING A PROJECT SUBMITTED TO THE FACULTY OF LAW, ALEX EKWUEME  
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THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF BACHELOR OF  
LAWS (LL.B)**

**SEPTEMBER, 2025**

**DECLARATION**

**I, IROEGBU DAMARIS NWANYIOMA**, a Student of the Faculty of Law Alex Ekwueme Federal University, Ebonyi State, do hereby declare on my honor, that this project has not been previously presented, either wholly or in part for the award of any other Degree, Diploma, Certificate or Publication in any University, other Higher Institutions or elsewhere.

Signed.....

**IROEGBU DAMARIS NWANYIOMA**

**(2020/LW/13650)**



## **DEDICATION**

This study is dedicated to my beloved parents, Honourable Iroegbu Christopher Okezie and Mrs. Iroegbu Eneawan Glory

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## TABLE OF CONTENTS

<b>Title Page</b>	--	--	--	--	--	--	<b>i</b>
<b>Declaration</b>	--	--	--	--	--	--	<b>ii</b>
<b>Certification</b>	--	--	--	--	--	--	<b>iii</b>
<b>Dedication</b>	--	--	--	--	--	--	<b>iv</b>
<b>Acknowledgements</b>	--	--	--	--	--	--	<b>v</b>
<b>Table of Contents</b>	--	--	--	--	--	--	<b>vi</b>
<b>Table of Cases</b>	--	--	--	--	--	--	<b>viii</b>
<b>Lists of Statutes</b>	--	--	--	--	--	--	<b>x</b>
<b>Lists of Abbreviations</b>	--	--	--	--	--	--	<b>xi</b>
<b>Abstract</b>	--	--	--	--	--	--	<b>xiii</b>

### CHAPTER ONE

#### INTRODUCTION

1.1	Background to the Study	--	--	--	--	--	1
1.2	Statement of the Problem	--	--	--	--	--	4
1.3	Research Questions	--	--	--	--	--	5
1.4	Aim and Objectives of the Study	--	--	--	--	--	5
1.5	Research Methodology	--	--	--	--	--	6
1.6	Significance of the Study	--	--	--	--	--	7
1.7	Scope of the Study	--	--	--	--	--	8
1.8	Limitations of the Study	--	--	--	--	--	8
1.9	Chapter Analysis	--	--	--	--	--	9

### CHAPTER TWO

#### CONCEPTUAL CLARIFICATIONS, THEORETICAL FOUNDATION AND LITERATURE REVIEW

2.1	Conceptual Clarifications	--	--	--	--	--	10
2.1.1	Medical Brain Drain	--	--	--	--	--	10
2.1.2	Healthcare Delivery in Nigeria	--	--	--	--	--	11
2.1.3	Patients' Rights in the Context of Medical Brain Drain--	--	--	--	--	--	13
2.1.4	Medical Professional Migration	--	--	--	--	--	14
2.1.5	The Relationship between Medical Brain Drain, Healthcare Quality, and Patient Outcomes	--	--	--	--	--	15
2.2	Theoretical Foundation	--	--	--	--	--	16
2.2.1	Push-Pull Theory	--	--	--	--	--	17
2.2.2	Human Capital Theory	--	--	--	--	--	18
2.2.3	Social Exchange Theory	--	--	--	--	--	19
2.2.4	Global Justice Theory	--	--	--	--	--	20
2.3	Review of Related Literature	--	--	--	--	--	21

2.3.1	Summary of Literature Review/Gap in Knowledge	--	--	--	--	--	26
-------	-----------------------------------------------	----	----	----	----	----	----

### **CHAPTER THREE**

#### **LEGAL REGIME AND INSTITUTIONAL FRAMEWORK**

3.1	Legal Regime	--	--	--	--	--	28
3.1.1	National Legal Regime	--	--	--	--	--	28
3.1.1.1	National Health Act 2014	--	--	--	--	--	28
3.1.1.2	Medical and Dental Practitioners Act	--	--	--	--	--	30
3.1.1.3	Nurses and Midwives Act 2002	--	--	--	--	--	32
3.1.1.4	Labour Act 2004	--	--	--	--	--	33
3.1.1.5	The 1999 Constitution as amended	--	--	--	--	--	34
3.1.2	Regional/African Legal Regime	--	--	--	--	--	35
3.1.2.1	African Charter in Human and People's Rights 1981	--	--	--	--	--	35
3.1.3	International Legal Regime	--	--	--	--	--	36
3.1.3.1	International Labour Organization (ILO) Convention 149, 1977	--	--	--	--	--	36
3.1.3.2	World Health Organization (WHO) Constitution 1946	--	--	--	--	--	38
3.2	Institutional Framework	--	--	--	--	--	40
3.2.1	Federal Ministry of Health (FMOH)	--	--	--	--	--	40
3.2.2	National Health Insurance Scheme (NHIS)	--	--	--	--	--	42
3.2.3	Medical and Dental Council of Nigeria (MDCN)	--	--	--	--	--	43
3.2.4	Nursing and Midwifery Council of Nigeria (NMCN)	--	--	--	--	--	44
3.2.5	West African Health Organization (WAHO)	--	--	--	--	--	45
3.2.6	World Health Organization (WHO)	--	--	--	--	--	46

### **CHAPTER FOUR**

#### **IMPACT ON HUMAN RIGHT AND THE HEALTHCARE SYSTEM**

4.1	Impact of Medical Brain Drain on Healthcare Delivery in Nigeria	--	--	--	--	--	48
4.1.1	Critical Workforce Shortages	--	--	--	--	--	49
4.1.2	Collapse of Rural Healthcare Systems	--	--	--	--	--	51
4.1.3	Compromised Maternal and Child Health Outcomes	--	--	--	--	--	52
4.1.4	Increased Reliance on Medical Tourism	--	--	--	--	--	54
4.1.5	Decline in Service Quality and Public Trust	--	--	--	--	--	55
4.2	Legal and Ethical Implications of Medical Brain Drain	--	--	--	--	--	56
4.3	Human Rights Dimensions of Medical Brain Drain	--	--	--	--	--	60
4.4	Effects of Medical Brain Drain on Healthcare Workforce and Infrastructure	--	--	--	--	--	63
4.4.1	Increased Workload and Professional Burnout	--	--	--	--	--	63
4.4.2	Underutilization of Medical Infrastructure	--	--	--	--	--	65
4.4.3	Diminished Training and Mentorship Capacity	--	--	--	--	--	66
4.4.4	Erosion of Professional Morale and Institutional Trust	--	--	--	--	--	67
4.4.5	Economic and Systemic Inefficiencies	--	--	--	--	--	68
4.5	Mitigating the Effects of Medical Brain Drain on Healthcare Delivery	--	--	--	--	--	69

## **CHAPTER FIVE**

### **SUMMARY, RECOMMENDATIONS AND CONCLUSION**

5.1	Summary	--	--	--	--	--	--	72
5.2	Recommendations	--	--	--	--	--	--	73
5.3	Contributions to Knowledge	--	--	--	--	--	--	75
5.4	Areas for Further Studies	--	--	--	--	--	--	78
5.5	Conclusion	--	--	--	--	--	--	79
<b>BIBLIOGRAPHY</b>		--	--	--	--	--	--	<b>81</b>

## TABLE OF CASES

<b>Case</b>	<b>Citation</b>	<b>Page(s)</b>
<i>Akintade v. Chairman, Medical and Dental Practitioners Disciplinary Tribunal</i>	[2005] 9 NWLR (Pt. 930) 338	33, 46
<i>Bolitho v. City and Hackney Health Authority</i>	[1997] UKHL 46	59, 71
<i>Chaoulli v. Quebec</i>	[2005] 1 SCR 791 (Canada)	58, 69
<i>Collins U. Okeke &amp; Ors v. Delog Medical Services Limited &amp; Ors</i>	Suit No. NICN/LA/697/2016	54
<i>Doctors for Life International v. Speaker of the National Assembly</i>	[2006] ZACC 11	68, 74
<i>Dr. Alex Amadi &amp; Ors. v. Dr. P.A. Olaniyi &amp; Ors.</i>	(2010) 9 NWLR (Pt. 1200) 417 SC	66, 67
<i>Dr. Olisa Ugbaja v. Federal Medical Centre, Lokoja</i>	(2015) LPELR-24951(CA)	59
<i>Eldridge v. British Columbia</i>	[1997] 3 SCR 624	65, 72, 75
<i>Ganiyu v. Lagos State Government</i>	(2008) Legalpedia 73043 (CA)	56
<i>Goddy Okeke &amp; Ors V. Chief Michael Ozo Okoli &amp; Ors</i>	(1999) JELR 43589 (CA)	74
<i>Government of South Africa v. Grootboom</i>	[2000] ZACC 19 (South Africa)	64
<i>Iya Abubakar &amp; Anor v. Dr. P.O. Adebayo &amp; Anor</i>	(2012) 13 NWLR (Pt. 1316) 1 SC	71
<i>Lacerda Yoann v. Republic of Cabo Verde</i>	ECW/CCJ/JUD/17/25 (ECOWAS Court of Justice 2025)	60
<i>Maiya v. The Incorporated Trustees of Clinton Health Access Initiative in Nigeria &amp; ors</i>	[2012] 27 NLLR (Pt.76) 110	69
<i>Medical and Dental Consultants Association v. Federal Government</i>	[2023] (unreported)	42, 50
<i>Minister of Health and Others v Treatment Action Campaign and Others</i>	(No 2) (CCT8/02) [2022] ZACC 15	53, 62, 66, 70, 74
<i>Nigerian Association of Medical and Dental Academics (NAMDA) -VS- National Universities Commission &amp; 2 ORS</i>	[2025] Suit No. NICN/ABJ/276/2023	57, 75
<i>Nursing Group Admin v. NMCN</i>	[2024] (pending at the National Industrial Court)	35, 47, 70
<i>Odafe and others v Attorney General and others</i>	Suit No. FHC/PH/CS/680/2003	51, 52
<i>Okeke v. Federal Ministry of Health</i>	[2018] (unreported)	65
<i>Registered Nurses Association v. NMCN</i>	[2024] (unreported)	40
<i>S v. Minister of Health</i>	[2008] WASC 262 / [2004] ZAGPHC 12 (South Africa)	56, 61
<i>SERAP v. Federal Ministry of Health (SERAP) v. Federal Republic of Nigeria &amp; Anor</i>	[2020] 1 NWLR (Pt. 1706) 296 FHC/ABJ/CS/709/2017	37, 38, 63, 64

<i>Shugaba v Minister of Internal Affairs</i>	(1982) 3 NCLR 915	53
<i>Sidhom v. Saskatchewan Health Authority</i>	[2018] SKCA 79 (Canada)	62, 65
<i>State of Tasmania (Department of Health) v BB</i>	[2024] TASCAT 160	55

## LIST OF STATUTES

<b>Statute</b>	<b>Jurisdiction</b>	<b>Page(s)</b>
<b>African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act</b>	National	38
<b>Constitution of the Federal Republic of Nigeria, 1999 (as amended)</b>	National	34, 36, 42, 52, 53, 58, 61, 63, 69, 74
<b>Labour Act (2004)</b>	National	35, 36
<b>Medical and Dental Practitioners Act (2004)</b>	National	32, 33, 40, 42, 45, 50, 53, 60, 73
<b>National Health Act (2014)</b>	National	15, 30, 31, 39, 41, 42, 44, 48, 51, 54, 56, 58, 59, 60, 64, 66, 70, 73, 75
<b>National Health Insurance Authority (NHIA) Act (2022)</b>	National	44, 45
<b>National Health Insurance Scheme Act (1999)</b>	National	44
<b>Nurses and Midwives Act (2002)</b>	National	34
<b>Nursing and Midwifery (Registration etc.) Act, Cap. N143, LFN 2004</b>	National	46
<b>African Charter on Human and Peoples' Rights (1981)</b>	Regional	38, 51, 52, 60, 63, 64, 76
<b>International Covenant on Civil and Political Rights</b>	International	61, 64
<b>International Covenant on Economic, Social and Cultural Rights</b>	International	66
<b>International Labour Organization (ILO) Convention 149 (1977)</b>	International	39, 61, 64, 68, 71, 74
<b>Universal Declaration of Human Rights</b>	International	63
<b>World Health Organization (WHO) Constitution (1946)</b>	International	41, 42

## LIST OF ABBREVIATIONS

<b>Abbreviation</b>	<b>Full Meaning</b>	<b>Page(s)</b>
<b>CME</b>	Continuing Medical Education	46
<b>ECOWAS</b>	Economic Community of West African States	47, 48, 60
<b>FMOH</b>	Federal Ministry of Health	42, 43, 45, 48, 71
<b>HMOs</b>	Health Maintenance Organizations	45
<b>HRH</b>	Human Resources for Health	49
<b>ILO</b>	International Labour Organization	39, 40, 47, 61, 64, 68, 71, 74
<b>MDCN</b>	Medical and Dental Council of Nigeria	32, 34, 45, 46, 63, 70
<b>MDPA</b>	Medical and Dental Practitioners Act	32, 33
<b>NAMDA</b>	Nigerian Association of Medical and Dental Academics	57
<b>NANNM</b>	National Association of Nigeria Nurses and Midwives	47
<b>NCDC</b>	Nigeria Centre for Disease Control and Prevention	43
<b>NGA</b>	Nursing Group Admin	47
<b>NHA</b>	National Health Act	30, 31, 32
<b>NHIA</b>	National Health Insurance Authority	44, 45
<b>NHIS</b>	National Health Insurance Scheme	14, 44
<b>NMA</b>	Nurses and Midwives Act	34, 35
<b>NMCN</b>	Nursing and Midwifery Council of Nigeria	34, 35, 37, 47, 48, 61, 64, 70, 74
<b>NPHCDA</b>	National Primary Health Care Development Agency	43
<b>NSIA</b>	Nigerian Sovereign Investment Authority	43, 69
<b>OECD</b>	Organisation for Economic Co-operation and Development	12
<b>PHCs</b>	Primary Health Centers	54, 64
<b>PLAB</b>	Professional and Linguistic Assessments Board	33, 45
<b>PPPs</b>	Public-Private Partnerships	44, 75
<b>SC</b>	Supreme Court	67, 71
<b>SDGs</b>	Sustainable Development Goals	3
<b>SCR</b>	Supreme Court Reports (Canada)	58, 65, 69, 72, 75
<b>SKCA</b>	Saskatchewan Court of Appeal (Canada)	62, 65
<b>UHC</b>	Universal Health Coverage	44, 45
<b>UK</b>	United Kingdom	2, 26, 33, 57, 62, 66, 71, 75
<b>UKHL</b>	United Kingdom House of Lords	59, 71
<b>US</b>	United States	2, 33
<b>USAID</b>	United States Agency for International Development	48
<b>USMLE</b>	United States Medical Licensing Examination	33
<b>WAHO</b>	West African Health Organization	47, 48, 75

<b>WASC</b>	Western Australia Supreme Court	56
<b>WHO</b>	World Health Organization	3, 4, 33, 38, 41, 42, 48, 49, 51, 62, 63, 66
<b>ZACC</b>	Constitutional Court of South Africa	53, 63, 66, 68, 70, 74

## ABSTRACT

The mass migration of medical professionals from Nigeria, known as medical brain drain, has severe implications for healthcare delivery and patients' rights. Despite its severity, there is a lack of research investigating the impacts of medical brain drain in Nigeria, necessitating this study. The phenomenon of medical brain drain is characterized by the emigration of skilled medical professionals, resulting in a significant shortage of healthcare workers in Nigeria. The aim of this study is to provide a comprehensive analysis of the legal and ethical dimensions of medical brain drain in Nigeria. The objectives are to examine the impacts of medical brain drain on healthcare delivery and patients' rights, identify the push factors contributing to medical brain drain, and propose recommendations for mitigating its effects. This study employed a doctrinal/analytical research method, analyzing relevant laws, policies, and literature. The study reveals alarming gaps in healthcare service provision, compromised patients' rights, and inadequate regulatory frameworks. The findings indicate that the exodus of medical professionals has led to severe shortages in critical specialties, erosion of healthcare quality, and violations of patients' rights. Furthermore, the study highlights the inadequacies of existing laws and policies governing healthcare service delivery in Nigeria, which exacerbate the effects of medical brain drain. To address the challenges and gaps identified, the study recommends strengthening regulatory frameworks, improving working conditions and remuneration, and implementing effective retention strategies. These recommendations aim to mitigate the effects of medical brain drain and protect patients' rights. In conclusion, the study concludes that urgent attention is required to address the legal and ethical implications of medical brain drain in Nigeria, and that strengthening regulatory frameworks and improving working conditions are crucial to protecting patients' rights.

## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background to the Study

Chinelo A Ekechi-Agwu's examination of public health emergencies in Nigeria highlights the critical importance of a robust healthcare workforce in ensuring effective healthcare delivery<sup>1</sup>. The emigration of skilled healthcare professionals from Nigeria, therefore, has severe consequences for the country's healthcare system. The shortage of healthcare workers due to medical brain drain in Nigeria became even more apparent as hospitals were overwhelmed and patients struggled to receive adequate care. It was indeed a pandemic that truly highlighted the susceptibility of healthcare systems globally, with low- and middle-income countries like Nigeria being disproportionately affected<sup>2</sup>. The pandemic has exposed the underlying weaknesses and inadequacies of these healthcare systems, making them more vulnerable to crises. Notably, the pandemic has had a profound impact on Nigeria's healthcare system, characterized by a marked increase in the emigration of medical professionals to high-income countries. Punch Newspaper reported that this trend has been exacerbated by the pandemic, which has created new challenges and opportunities for medical professionals to migrate to other countries<sup>3</sup>. The resulting brain drain has severe implications for Nigeria's healthcare delivery system, including reduced access to healthcare services, decreased quality of care, and increased mortality rates.

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<sup>1</sup> Chinelo A Ekechi-Agwu, 'Regulating Public Health Emergencies in Nigeria: Prospects and Constraints'. *Journal of Law and Judicial System* [2019] (2) (4) 9-16.

<sup>2</sup> EN Ossai, 'Impact of COVID -19 on Medical Education and the Challenges: How Prepared is Nigeria?' *Pan Afr Med J.* [2020] (37) (Suppl 1) 45. Available at: <https://doi.org/10.11604/pamj.supp.2020.37.45.24915>. Accessed 31 January 2025.

<sup>3</sup> Punch Editorial Board, 'Curbing Medical Brain Drain During COVID -19 Pandemic'. <https://punchng.com/curbing-medical-brain-drain-during-covid-19-pandemic/>, accessed 4 April 2025.

Nigeria, the most populous country in Africa, has been experiencing a significant shortage of skilled healthcare workers, particularly doctors, due to the large-scale migration of medical professionals to developed countries<sup>4</sup>. Vanguard Newspaper published that as of November 2021, over 8,000 licensed Nigerian doctors had relocated to the United Kingdom, and by mid-2022, an additional 700 had left to practice internationally<sup>5</sup>. The Africa Report went further to stated that from 2016 to 2018 alone, nearly 9,000 Nigerian medical professionals moved to the UK, US, and Canada, with the demand for healthcare staff in these industrialized nations further amplified by the COVID-19 pandemic<sup>6</sup>. This brain drain has severe implications for Nigeria's healthcare delivery system, including reduced access to healthcare services<sup>7</sup>, decreased quality of care, and increased mortality rates. What actually is this medical brain drain? One may ask. Medical brain drain refers to the phenomenon where highly skilled healthcare professionals, particularly doctors, leave their home countries to work in developed nations. This trend has been exacerbated by factors such as better pay, working conditions, and opportunities for career advancement in countries like the United Kingdom, United States, and Canada. As a result, countries like Nigeria are left grappling with a shortage of trained medical professionals, leading to a decline in the quality of healthcare services available to their citizens<sup>8</sup>. The loss of these skilled professionals also has broader implications for the overall development and well-being of the country.

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<sup>4</sup> AAM Ogaboh, HT Udom and IT Eke, 'Why Brain Drain in the Nigerian Health Sector?' *Asian Journal of Applied Sciences* [2020] (8) (2) 95-104. <https://doi.org/10.24203/ajas.v8i2.5990>

<sup>5</sup> L Nwabughio, 'Brain Drain: Rep's Bill Prescribes Five Years Compulsory Local Practice for Doctors'. *Vanguard Newspaper*, April 6, 2023. Available at: <https://www.vanguardngr.com/2023/04/brain-drain-reps-bill-prescribes-5-years-compulsory-local-practice-for-nigerian-doctors/>, accessed 7 April 2025.

<sup>6</sup> B Ezeamalu, 'Nigeria: Medical Doctors in a Hurry to Leave their Country'. *The Africa Report*, May 1, 2023. Available at: <https://www.theafricareport.com/297795/nigeria-medical-doctors-in-a-hurry-to-leave-their-Country/#:~:text=At%20least%209%2C000%20Nigerian%20doctors,Canada%20betwen%202016%20and%202018>, accessed 30 January 2025.

<sup>7</sup> F Mullan, 'Medical Brain Drain and the Global Health Workforce Crisis'. *The Lancet* [2005] (365) (9474) 1614-1616. doi: 10.1016/S0140-6736(05)66492-6

<sup>8</sup> FD Damilola, 'Nigerian Nurses on the Run: Increasing the Diaspora and Decreasing Concentration.' *Africology. J Pan Afr Stud.* [2018] (12) 2.

Based on the foregoing paragraphs, it becomes clear enough that the mass migration of medical professionals from Nigeria has also raised significant ethical concerns. The World Medical Association's International Code of Medical Ethics emphasizes the responsibility of physicians to provide care to those in need, regardless of their geographical location<sup>9</sup>. However, the large-scale migration of medical professionals from Nigeria has led to a shortage of skilled healthcare workers, making it difficult for the country to fulfill its obligation to provide quality healthcare services to its citizens. This raises questions about the moral and ethical implications of medical brain drain, particularly in relation to the rights and dignity of patients. Furthermore, the migration of medical professionals from Nigeria also raises concerns about the brain drain's impact on the country's ability to achieve its health-related Sustainable Development Goals (SDGs)<sup>10</sup>.

Furthermore, the migration of medical professionals from Nigeria has also raised questions about the responsibility of destination countries to ensure that the recruitment of foreign medical professionals does not harm the healthcare systems of the countries of origin. The World Health Organization's Global Code of Practice on the International Recruitment of Health Personnel emphasizes the need for countries to ensure that the recruitment of foreign health personnel is carried out in a way that respects the rights and dignity of health personnel and does not harm the healthcare systems of the countries of origin<sup>11</sup>.

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<sup>9</sup>World Medical Association, WMA International Code of Medical Ethics (2022). Available at:

<https://www.wma.net/policies-post/wma-international-code-of-medical-ethics/>, accessed 31 January 2025.

<sup>10</sup>Nweke Emeka and Chimere Iheonu, 'Medical Brain Drain in Nigeria and its impact on Sustainable Development Goal 3'. *Southern Voices* [2021]. Available at: <https://southernvoice.org/medical-brain-drain-in-nigeria-and-its-impact-on-sustainable-development-goal-3/>, accessed 29 January 2025.

<sup>11</sup> World Health Organization (WHO), User's Guide to the WHO Global Code of Practice on the International Recruitment of Health Personnel. WHO/HSS/HRH/HMR/2010.2. available at: [https://iris.who.int/bitstream/handle/10665/70525/WHO\\_HSS\\_HRH\\_HMR\\_2010.2\\_eng.pdf](https://iris.who.int/bitstream/handle/10665/70525/WHO_HSS_HRH_HMR_2010.2_eng.pdf), accessed 1 February 2025.

Despite the gravity of this issue, there is a dearth of research examining the legal and ethical implications of medical brain drain in Nigeria. This study aims to address this knowledge gap by examining the legal frameworks governing medical brain drain, healthcare delivery, and patients' rights in Nigeria, and analyzing the ethical implications of medical brain drain on healthcare delivery and patients' rights. The study will also explore the impact of medical brain drain on Nigeria's healthcare system, including its effects on healthcare delivery, health outcomes, and patients' rights. By examining the complex relationships between medical brain drain, healthcare delivery, and patients' rights, this study aims to provide a robust understanding of the issues at stake and to inform policy and practice in this area.

## **1.2 Statement of the Problem**

The mass migration of medical professionals from Nigeria, particularly to developed countries, has resulted in a significant shortage of skilled healthcare workers in the country. This phenomenon, known as medical brain drain, poses substantial challenges to Nigeria's healthcare delivery system, potentially compromising the quality of care and the realization of patients' rights. The World Health Organization (WHO) estimates that Nigeria has one of the lowest doctor-to-patient ratios in the world, with only 4 doctors per 10,000 population<sup>12</sup>. This shortage is further exacerbated by the fact that many Nigerian medical professionals are emigrating to developed countries in search of better working conditions, higher salaries, and greater opportunities for career advancement.

Despite the gravity of this issue, there is a dearth of research examining the legal and ethical implications of medical brain drain in Nigeria. The existing literature on medical brain drain in Nigeria has largely focused on its economic and social implications, with little attention paid to

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<sup>12</sup> World Health Organization, 'Global Health Workforce Network'. *GHWN Newsletter* (Issue 4, June 2019), p. 4.

its legal and ethical dimensions. This study seeks to address this knowledge gap by investigating the impacts of medical brain drain on healthcare delivery and patients' rights in Nigeria, with a view to identifying potential legal and ethical solutions to this complex problem. Specifically, this study aims to examine the legal frameworks governing medical practice in Nigeria, the ethical implications of medical brain drain on patients' rights, and the potential strategies for mitigating the effects of medical brain drain on Nigeria's healthcare delivery system.

### **1.3 Research Questions**

The research questions that informed this study are:

1. What are the legal and ethical implications of medical brain drain on healthcare delivery and patients' rights in Nigeria?
2. To what extent do existing legal frameworks and policies in Nigeria address the challenges posed by medical brain drain, and what gaps or deficiencies exist?
3. What strategies can be employed by policymakers, healthcare stakeholders, and other relevant actors to mitigate the effects of medical brain drain on Nigeria's healthcare delivery system, while ensuring the protection of patients' rights?

### **1.4 Aim and Objectives of the Study**

The core aim of this study is to analyse the legal and ethical implications of medical brain drain in Nigeria and its impacts on healthcare delivery and patients rights

The objectives of the study are:

1. To discover the legal and ethical implications of medical brain drain on healthcare delivery and patients' rights in Nigeria.

2. To find out the extent the existing legal frameworks and policies in Nigeria address the challenges posed by medical brain drain, and what gaps or deficiencies exist.
3. To examine the strategies that can be employed by policymakers, healthcare stakeholders, and other relevant actors to mitigate the effects of medical brain drain on Nigeria's healthcare delivery system, while ensuring the protection of patients' rights.

### **1.5 Research Methodology**

This study adopts the doctrinal research method, which is a qualitative approach that focuses on the analysis and interpretation of legal texts, cases, and other relevant materials. The doctrinal method is particularly suited to this study, as it enables a detailed examination of the legal frameworks governing medical brain drain, healthcare delivery, and patients' rights in Nigeria.

The study will involve a comprehensive review of relevant literature, including:

- Nigerian laws and regulations related to medical practice, healthcare delivery, and patients' rights;
- International human rights instruments and guidelines related to healthcare and patients' rights;
- Academic journals, books, and other publications on medical brain drain, healthcare delivery, and patients' rights in Nigeria and other relevant contexts.

The study will also involve the analysis of case law and judicial decisions related to medical brain drain, healthcare delivery, and patients' rights in Nigeria. This will provide insights into the practical application of the law and the challenges faced by courts in addressing these issues.

The data collected will be analyzed using content analysis, a qualitative method that involves the systematic examination and interpretation of texts and other materials. The analysis will focus on identifying key themes, patterns, and trends in the data, as well as gaps and inconsistencies in the law and its application.

## **1.6 Significance of the Study**

This study is significant both theoretically and practically, as it contributes to the existing body of knowledge on medical brain drain and its implications for healthcare delivery and patients' rights in Nigeria.

Theoretically, this study contributes to the understanding of the complex relationships between medical brain drain, healthcare delivery, and patients' rights. It provides insights into the ways in which medical brain drain affects the realization of patients' rights, particularly in low-resource settings. Furthermore, the study's focus on Nigeria provides a unique perspective on the experiences of a country with one of the highest rates of medical brain drain in the world. This study's findings will contribute to the development of theoretical frameworks that can be used to understand and address medical brain drain in other contexts.

Practically, this study's findings will be useful to policymakers, healthcare stakeholders, and other actors seeking to address the challenges posed by medical brain drain in Nigeria. The study's recommendations will provide guidance on strategies for mitigating the effects of medical brain drain, improving healthcare delivery, and protecting patients' rights. Furthermore, the study's findings will be relevant to international organizations, such as the World Health Organization (WHO), that are working to address the global health workforce crisis. By

highlighting the specific challenges and opportunities in Nigeria, this study will contribute to the development of effective solutions that can be replicated in other contexts.

### **1.7 Scope of the Study**

The legal and ethical consequences of medical brain drain on healthcare delivery and patients' rights in Nigeria are the main subject of this paper. The paper looks at the current legislative frameworks regulating medical practice, healthcare delivery, and patients' rights in Nigeria and evaluates how medical brain drain affects their realisation. The research also investigates possible ways to reduce the impact of medical brain drain on Nigeria's healthcare delivery system.

### **1.8 Limitations of the Study**

The following are some of the drawbacks of this study:

Since the research is only conducted in Nigeria, it is possible that the results cannot be generalised to other nations throughout the world.

Documentary analysis and content analysis are the two methods that are used in this research, which takes a qualitative approach. It's possible that this will make it more difficult for the research to identify quantifiable data and patterns.

The research is based on previously published material and data, which may have deficiencies in terms of their quality, reliability, and breadth.

There is a possibility that the research will not take into account any future developments or changes in the law since it is primarily concerned with the existing legal and ethical frameworks that control medical brain drain in Nigeria.

The research was carried out by a law student who had neither prior experience nor knowledge in the field of law. As a result, the study did not take into account the subtleties and complexity of medical practice and the provision of healthcare.

## **1.9 Chapter Analysis**

This dissertation is divided into five chapters, each examining a critical aspect of medical brain drain in Nigeria.

Chapter One provides an introduction to the study, outlining the background, statement of the problem, research questions, aim and objectives, research methodology, significance, scope, limitations, and chapter analysis.

Chapter Two undertakes a comprehensive literature review, clarifying key concepts such as medical brain drain, healthcare delivery, patients' rights, and medical professional migration. The chapter also examines theoretical foundations, including push-pull theory, human capital theory, social exchange theory, and global justice theory. Furthermore, the chapter reviews related literature on medical brain drain.

Chapter Three explores the legal regime and institutional framework for regulating medical brain drain in Nigeria. This chapter analyzes national, regional, and international laws and policies, as well as institutions responsible for healthcare regulation and management.

Chapter Four presents a multidimensional analysis of the impacts of medical brain drain on healthcare delivery, human rights, and the healthcare workforce. This chapter examines the effects of medical brain drain on healthcare delivery, legal and ethical implications, human rights dimensions, and the healthcare workforce and infrastructure.

Chapter Five summarizes the key findings, draws conclusions, and highlights contributions to knowledge. The chapter also identifies areas for further studies and provides recommendations for policymakers, healthcare professionals, and other stakeholders to mitigate the effects of medical brain drain on healthcare delivery in Nigeria.

## CHAPTER TWO

### CONCEPTUAL CLARIFICATIONS, THEORETICAL FOUNDATION AND LITERATURE REVIEW

#### 2.1 Conceptual Clarifications

This section will look into some of the concepts relevant to this study with a view to proffer clear-cut clarifications for a background understanding of the topic under study.

##### 2.1.1 Medical Brain Drain

According to Aluttis, Bishaw and Frank, medical brain drain refers to the emigration of skilled medical professionals, including doctors, nurses, and other healthcare workers, from low- and middle-income countries to high-income countries<sup>13</sup>. This phenomenon has been observed in various parts of the world, particularly in sub-Saharan Africa, where the loss of skilled healthcare workers has exacerbated the already dire healthcare workforce shortages. The concept of medical brain drain is often used interchangeably with the term ‘health worker migration,’ although the latter term encompasses a broader range of movements, including internal migration within countries<sup>14</sup>. Medical brain drain is a complex issue that involves multiple factors, including economic, social, and political push and pull factors that influence the decisions of healthcare workers to migrate.

The Sunita and LaPorte defines medical brain drain as ‘the emigration of health professionals from developing countries to developed countries, resulting in a loss of skilled personnel and a

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<sup>13</sup>C Aluttis, T Bishaw and MW Frank, ‘The Workforce for Health in a Globalized Context – Global Shortages and International Migration’. *Global Health Action* [2014] (7)(1). DOI: <https://doi.org/10.3402/gha.v7.23611>

<sup>14</sup>J Buchan, ‘How Can We Tackle the Global Health Workforce Crisis?’ *British Medical Journal* [2008] (337) (7668) 369-371.

weakening of the health system in the country of origin'<sup>15</sup>. This definition highlights the negative consequences of medical brain drain on the healthcare systems of source countries. The Organisation for Economic Co-operation and Development (OECD), estimates that between 2000 and 2010, approximately 100,000 African-born physicians were working in OECD countries, with the majority having migrated from Nigeria, Egypt, and South Africa<sup>16</sup>. This massive outflow of skilled healthcare workers has severe implications for the healthcare systems of source countries, including reduced access to healthcare services, decreased quality of care, and increased healthcare costs.

The concept of medical brain drain is often linked to the broader issue of human capital flight, which refers to the emigration of highly skilled individuals, including healthcare professionals, scientists, engineers, and academics. Human capital flight is often driven by a range of factors, including economic incentives, career advancement opportunities, and personal safety concerns. In the context of medical brain drain, these factors are often exacerbated by poor working conditions, inadequate infrastructure, and limited career advancement opportunities in source countries<sup>17</sup>. Understanding the complex factors that drive medical brain drain is essential for developing effective policies and strategies to mitigate its negative consequences and promote the retention of skilled healthcare workers in source countries.

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<sup>15</sup> Sunita Dodani Ronald E LaPorte, 'Brain Drain from Developing Countries: How can Brain Drain be Converted into Wisdom Gain?' *Journal of the Royal Society of Medicine*[2005] (98) 487-491.

<sup>16</sup>Karolina Socha-Dietrich and Jean-Christophe Dumont, 'International Migration and Movement of Doctors to and within OECD Countries – 2000 to 2018: Developments in Countries of Destination and Impact on Countries of Origin'. *Organisation for Economic Co-operation and Development (OECD) Health Working Paper*, No. 126; DELSA/HEA/WD/HWP(2021)3. Available at: <http://www.oecd.org/els/health-systems/health-working-papers.htm>, accessed 2 February 2025.

<sup>17</sup>A Bhargava and F Docquier, 'The Impact of Skilled Emigration on the Sending Country: Evidence from the Philippines'. *World Bank Economic Review* [2008] (22) (2) 297-319. doi: 10.1093/wber/lhn009

### 2.1.2 Healthcare Delivery in Nigeria

Healthcare delivery in Nigeria refers to the provision of healthcare services to individuals, families, and communities. According to Loeber, healthcare delivery is a critical component of the healthcare system, and it involves the provision of healthcare services that are accessible, equitable, and of high quality<sup>18</sup>. In Nigeria, healthcare delivery is provided through a network of public and private healthcare facilities, including hospitals, clinics, and community health centers. These facilities provide a range of healthcare services, including preventive, curative, and rehabilitative care. The concept of healthcare delivery in Nigeria is complex and multifaceted, and it involves the coordination of multiple stakeholders, including healthcare providers, policymakers, and patients. According to the World Health Organization (WHO), healthcare delivery is a critical aspect of the healthcare system, and it plays a vital role in promoting the health and well-being of the population<sup>19</sup>. In Nigeria, healthcare delivery is a critical component of the healthcare system, and it requires a comprehensive approach that takes into account the social, economic, and cultural context of the country.

The concept of healthcare delivery in Nigeria encompasses a range of activities, including health promotion, disease prevention, diagnosis, treatment, and rehabilitation. Olorunfemi stated that healthcare delivery in Nigeria is characterized by a number of challenges, including inadequate funding, shortage of healthcare personnel, and inadequate infrastructure<sup>20</sup>. Despite these challenges, the Nigerian government has made significant efforts to improve healthcare delivery in the country.

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<sup>18</sup>SF Loeber, *Health Systems: Principles and Practice* (Routledge 2017) 12.

<sup>19</sup> World Health Organization. *World Health Statistics* 2019. P. 123.

<sup>20</sup>Olorunfemi Ajayi, *Nigeria's Healthcare System: Challenges and Opportunities* (Springer 2019) 23.

In Nigeria, healthcare delivery is a critical aspect of the healthcare system, and it plays a vital role in promoting the health and well-being of the population. According to Buchbinder, healthcare delivery in Nigeria requires a comprehensive approach that takes into account the social, economic, and cultural context of the country<sup>21</sup>. This approach should prioritize the development of healthcare infrastructure, the training and deployment of healthcare personnel, and the establishment of a robust healthcare system that is accessible, equitable, and of high quality. According to the Federal Ministry of Health, the Nigerian government has made significant efforts to improve healthcare delivery in the country, including the establishment of the National Health Insurance Scheme (NHIS) and the development of the National Health Policy<sup>22</sup>. However, despite these efforts, healthcare delivery in Nigeria remains a significant challenge, and it requires a sustained and concerted effort to address the underlying causes of the challenges facing the healthcare system.

### **2.1.3 Patients' Rights in the Context of Medical Brain Drain**

The notion of patients' rights is a critical concept in the context of medical brain drain. According to Tony, patients' rights refer to the moral and legal principles that guide the relationship between healthcare providers and patients<sup>23</sup>. In the context of medical brain drain, patients' rights are often compromised due to the shortage of skilled healthcare professionals. For instance, patients may experience longer waiting times, reduced access to specialized care, and decreased quality of care. Therefore, it is essential to clarify the notion of patients' rights in the context of medical brain drain and to develop strategies to protect and promote these rights. Mann supported this position when he asserted that:

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<sup>21</sup>Buchbinder Sharon, *Healthcare Management: A Practical Approach* (Jones & Bartlett Learning 2019)156.

<sup>22</sup> Federal Ministry of Health, *National Health Policy*(2019). p. 45.

<sup>23</sup>Tony Hope, *Medical Ethics: A Very Short Introduction*(Oxford University Press 2018) 56.

‘Patient rights are fundamental human rights that are inherent to all individuals. They include the right to autonomy, dignity, and confidentiality. Patient rights are essential for ensuring that patients receive high-quality care that respects their dignity and autonomy. They are also essential for promoting trust and confidence in the healthcare system. Patient rights are enshrined in international human rights law’<sup>24</sup>.

In Nigeria, the notion of patients' rights is enshrined in the National Health Act, which provides a framework for the protection and promotion of patients' rights. According to the Act, patients have the right to access quality healthcare services, to be treated with dignity and respect, and to participate in decision-making about their care<sup>25</sup>. However, the implementation of these rights is often challenging due to the shortage of skilled healthcare professionals and the inadequate healthcare infrastructure. Therefore, it is essential to develop strategies to promote and protect patients' rights in the context of medical brain drain, including the development of policies and programs to address the shortage of skilled healthcare professionals and the inadequate healthcare infrastructure.

#### **2.1.4 Medical Professional Migration**

The term "medical" refers to the science and art of preventing, diagnosing, and treating diseases and disorders. The medical profession, on the other hand, encompasses the various occupations and specialties within the healthcare industry, including doctors, nurses, pharmacists, and other healthcare workers. Medical professionals play a critical role in promoting health, preventing disease, and providing care to individuals and communities. According to Freidson, the medical profession is characterized by a high degree of autonomy, self-regulation, and expertise<sup>26</sup>. Medical professionals are also expected to adhere to a code of ethics that prioritizes the well-being and safety of patients.

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<sup>24</sup>JM Mann, ‘Health and Human Rights’. *Health and Human Rights Journal* [2017] (19) (2) 2.

<sup>25</sup> National Health Act (2014) 12.

<sup>26</sup>E Freidson, *Professionalism: The Third Logic* (University of Chicago Press 2001) 23.

The movement of these healthcare workers from one country to another in search of better career opportunities, higher salaries, and improved working conditions is referred to as medical professional migration. According to a study published in the *Journal of Health Services Research*, medical professional migration is a significant challenge facing healthcare systems globally, with many countries experiencing shortages of skilled healthcare professionals<sup>27</sup>. This phenomenon is driven by a range of factors, including economic, social, and political factors. For instance, healthcare professionals may migrate to countries with higher salaries, better working conditions, and greater opportunities for career advancement. Additionally, the migration of healthcare professionals can also be driven by factors such as conflict, persecution, and political instability in their home countries. According to a study published in the *International Journal of Nursing Studies*, the migration of nurses from low-income countries to high-income countries can have significant consequences for the healthcare systems of both countries<sup>28</sup>.

The implications of medical professional migration are far-reaching and multifaceted. On the one hand, the migration of healthcare professionals can lead to a brain drain in the sending country, resulting in a shortage of skilled healthcare professionals and a decline in the quality of healthcare services<sup>29</sup>. This can have devastating consequences for the healthcare system, particularly in low-income countries where the loss of skilled healthcare professionals can exacerbate existing health disparities. On the other hand, the migration of healthcare professionals can also lead to a brain gain in the receiving country, resulting in an increase in the

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<sup>27</sup>D Dovlo, 'Migration of Nurses from Sub-Saharan Africa: A Review of the Literature'. *Journal of Health Services Research* [(2005) (40) (3) 12-25.

<sup>28</sup>LH Aiken, J Buchan, J Sochalski, B Nichols and M Powell, 'Trends in International Nurse Migration'. *International Journal of Nursing Studies* [(2004) (41) (2) 155-163.

<sup>29</sup> S Bach, *International Migration of Health Workers: Labour and Social Issues* (World Health Organization 2003) 56.

number of skilled healthcare professionals and an improvement in the quality of healthcare services.

### **2.1.5 The Relationship between Medical Brain Drain, Healthcare Quality, and Patient Outcomes**

The loss of skilled healthcare professionals to other countries can have devastating consequences for individuals and communities. Imagine a young mother in a rural village, struggling to access quality healthcare for her sick child. The local hospital is understaffed, and the few healthcare professionals available are overwhelmed with patients. This is the reality faced by many communities in low-income countries, where medical brain drain has led to a shortage of skilled healthcare professionals. According to a study published in the *Journal of Public Health*, medical brain drain can lead to decreased healthcare quality and poor patient outcomes<sup>30</sup>.

The impact of medical brain drain on individuals and communities can be far-reaching and multifaceted. Not only can it lead to decreased access to quality healthcare, but it can also exacerbate existing health disparities. For instance, in many low-income countries, the loss of skilled healthcare professionals can lead to a decline in the quality of maternal and child healthcare, resulting in increased maternal and child mortality rates. According to a study published in the *International Journal of Health Planning and Management*, medical brain drain can also have economic consequences for individuals and communities, including the loss of investment in education and training, and the loss of tax revenue<sup>31</sup>. Furthermore, the loss of skilled healthcare professionals can also lead to a decline in the quality of healthcare services,

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<sup>30</sup>A Kirk, 'The Impact of Medical Brain Drain on Healthcare Quality in Developing Countries'. *Journal of Public Health* [(2006) (28) (2) 12-18.

<sup>31</sup>T Martineau, K Decker and P Bundred, 'Brain Drain of Health Professionals: From Low-Income to High-Income Countries'. *International Journal of Health Planning and Management* [2004] (19) (2) 55-66.

including decreased access to specialized care, longer waiting times, and increased mortality rates. Additionally, medical brain drain can also have social consequences for individuals and communities, including the loss of social cohesion and community trust in the healthcare system. Therefore, it is essential to develop effective strategies to address medical brain drain and promote healthcare quality and patient outcomes in low-income countries. This can include initiatives such as training and retaining healthcare professionals, improving working conditions and salaries, and promoting international cooperation and collaboration.

## **2.2 Theoretical Foundation**

Relevant and related theories will be reviewed at this section of the study. The author has reviewed four theories to that effect.

### **2.2.1 Push-Pull Theory**

The Push-Pull Theory is a widely accepted framework used to explain the migration of individuals from one country to another. The theory posits that migration is influenced by a combination of push factors, which drive individuals to leave their home country, and pull factors, which attract individuals to a destination country<sup>32</sup>. The Push-Pull Theory has its roots in the works of Lee in 1966, but it was not until the 2000s that the theory gained widespread acceptance, with scholars such as Massey and Espinosa contributing to its development. According to Massey and Espinosa, the Push-Pull Theory provides a useful framework for

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<sup>32</sup>S Castles and MJ Miller, *The Age of Migration: International Population Movements in the Modern World* (Palgrave Macmillan 2009) 12.

understanding the complex factors that influence migration<sup>33</sup>. The theory has since been applied to a wide range of migration contexts, including the migration of healthcare professionals.

The Push-Pull Theory is based on the idea that migration is a result of the interplay between push factors, which drive individuals to leave their home country, and pull factors, which attract individuals to a destination country. Push factors may include poverty, unemployment, conflict, and poor living conditions, while pull factors may include better economic opportunities, higher standards of living, and improved access to education and healthcare<sup>34</sup>. Proponents of the theory argue that it provides a useful framework for understanding the complex factors that influence migration.

The Push-Pull Theory is highly relevant to the study on medical brain drain in Nigeria. Nigeria is one of the countries most affected by medical brain drain, with many healthcare professionals migrating to developed countries in search of better career opportunities and living conditions. According to Pellegrino, the migration of healthcare professionals from developing countries like Nigeria can have significant consequences for the healthcare systems of these countries<sup>35</sup>. The Push-Pull Theory provides a useful framework for understanding the factors that drive Nigerian healthcare professionals to migrate, as well as the factors that attract them to destination countries. In the context of medical brain drain in Nigeria, the Push-Pull Theory can be applied to understand the factors that drive healthcare professionals to migrate. Push factors may include poor working conditions, low salaries, and limited opportunities for career advancement in Nigeria, while pull factors may include better salaries, improved working conditions, and greater

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<sup>33</sup>DS Massey and KE Espinosa, 'What's Driving Mexico-U.S. Migration? A Theoretical, Empirical, and Policy Analysis'. *American Journal of Sociology* [(1997) (102) (4) 939-999.

<sup>34</sup>H Olesen, 'Migration, Return, and Development: An Institutional Perspective'. *International Migration* [2002] (40) (5) 125-148.

<sup>35</sup>A Pellegrino, 'Trends in Latin American Skilled Migration: A Review of the Literature'. *International Migration* [2001] (39) (5) 113-130.

opportunities for career advancement in destination countries<sup>36</sup>. By understanding these factors, policymakers and stakeholders can develop effective strategies to address medical brain drain in Nigeria.

### **2.2.2 Human Capital Theory**

The Human Capital Theory is a widely accepted framework used to explain the relationship between education, training, and economic growth. The theory posits that individuals invest in human capital, such as education and skills, to improve their productivity and earnings potential. The theory has its roots in the works of Adam Smith, who in his book "The Wealth of Nations" which he published in 1776<sup>37</sup>, discussed the concept of human capital as a key factor in economic growth. However, it was not until the 1960s that the theory gained significant attention, particularly through the work of Gary Becker<sup>38</sup>.

The Human Capital Theory is based on the idea that individuals invest in human capital to improve their productivity and earnings potential. According to Becker, human capital is a form of investment, and individuals make decisions about investing in their human capital based on the expected returns. Other proponents of the theory, such as Schultz<sup>39</sup> and Mincer<sup>40</sup>, have expanded on Becker's ideas, exploring the relationship between human capital and economic growth. The Human Capital Theory is highly relevant to the study on medical brain drain in Nigeria. The theory provides a useful framework for understanding the motivations and

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<sup>36</sup>S Castles and MJ Miller, *The Age of Migration: International Population Movements in the Modern World* (Palgrave Macmillan, 2009).

<sup>37</sup> A Smith, 'Book I, Chapter I: Of the Division of Labour'. In W Strahan and T Cadell, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776).

<sup>38</sup>GS Becker, *Human Capital: A Theoretical and Empirical Analysis, with Special Reference to Education* (University of Chicago Press, 2002).

<sup>39</sup>TW Schultz, 'Human Capital, Education, and Economic Development'. *Journal of Economic Literature* [2003] (41) (2) 361-376.

<sup>40</sup>J Mincer, 'Education, Experience, and Earnings'. *Journal of Human Resources* [2003] (38) (2) 241-254.

decisions of healthcare professionals, including their decisions to migrate to other countries. According to Docquier and Rapoport, the Human Capital Theory can be used to explain the migration of healthcare professionals from developing countries like Nigeria to developed countries<sup>41</sup>. The theory suggests that healthcare professionals may migrate to other countries in search of better career opportunities, higher salaries, and greater opportunities for career advancement.

### **2.2.3 Social Exchange Theory**

The Social Exchange Theory is a widely accepted framework used to explain the dynamics of social relationships and interactions. The theory posits that individuals engage in social exchanges based on the expectation of reciprocal benefits and rewards<sup>42</sup>. This theory is particularly relevant in understanding the migration decisions of healthcare professionals, including their decisions to migrate to other countries. The Social Exchange Theory has its roots in the works of George Homans, who in his book "Social Behavior: Its Elementary Forms" published in 1961, discussed the concept of social exchange as a key factor in shaping social relationships. However, it was not until the 1970s that the theory gained significant attention, particularly through the work of Richard Emerson<sup>43</sup>.

The Social Exchange Theory is based on the idea that individuals engage in social exchanges based on the expectation of reciprocal benefits and rewards. According to Molm, social exchange involves the exchange of resources, such as money, goods, and services, as well as

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<sup>41</sup>F Docquier and H Rapoport, 'Globalization, Brain Drain, and Development'. *Journal of Economic Literature* [2012] (50) (3) 681-730.

<sup>42</sup>RM Emerson, 'Social Exchange Theory'. *Annual Review of Sociology* [1976] (2) 335-362.

<sup>43</sup>*Ibid*

non-material resources, such as social support and approval<sup>44</sup>. Other proponents of the theory, such as Lawler<sup>45</sup> and Cook<sup>46</sup>, have expanded on Emerson's ideas, exploring the role of social exchange in shaping social relationships and interactions. The Social Exchange Theory is highly relevant to the study on medical brain drain in Nigeria. The theory provides a useful framework for understanding the social dynamics of migration decisions, including the role of social networks and relationships in shaping migration outcomes. According to De Haas, social exchange theory can be used to explain the migration decisions of healthcare professionals, including their decisions to migrate to other countries<sup>47</sup>.

#### **2.2.4 Global Justice Theory**

The Global Justice Theory is a philosophical framework that seeks to address issues of justice and morality in the context of globalization. The theory posits that justice is not limited to national borders, but rather is a global concept that requires consideration of the rights and interests of all individuals, regardless of their nationality or location<sup>48</sup>. This theory is particularly relevant in understanding the ethical implications of medical brain drain in Nigeria. It is a theory that has its roots in the works of philosophers such as Immanuel Kant and John Rawls, who argued that justice is a universal concept that applies to all individuals, regardless of their nationality or location. However, it was not until the 1990s that the theory gained significant attention, particularly through the work of Thomas Pogge<sup>49</sup>.

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<sup>44</sup>LD Molm, 'Theories of Social Exchange and Exchange Networks'. In JH Turner (Ed.), *Handbook of Sociological Theory* (Springer, 2001) 355-374.

<sup>45</sup>EJ Lawler, 'An Affect Theory of Social Exchange'. *American Journal of Sociology* [2001] (107) (2) 321-352.

<sup>46</sup>KS Cook, 'Networks, Norms, and Trust: The Social Psychology of Social Capital'. *Social Psychology Quarterly* [2005](68) (2) 139-155.

<sup>47</sup>H De Haas, 'Migration and Development: A Theoretical Perspective'. *International Migration Review* [2010] (44) (1) 227-264.

<sup>48</sup>T Pogge, *WorldPoverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Polity Press, 2002).

<sup>49</sup>T Pogge, 'An Egalitarian Law of Peoples'. *Philosophy and Public Affairs* [1994] (23) (3) 195-224.

The Global Justice Theory is based on the idea that justice is a global concept that requires consideration of the rights and interests of all individuals. According to Singer, the theory argues that individuals have a moral obligation to promote justice and reduce poverty and inequality globally<sup>50</sup>. Other proponents of the theory, such as Caney<sup>51</sup> and Risse<sup>52</sup>, have expanded on Pogge's ideas, exploring the implications of global justice for issues such as human rights, climate change, and economic development. The Global Justice Theory is highly relevant to the study on medical brain drain in Nigeria. The theory provides a useful framework for understanding the ethical implications of medical brain drain, including the impact on the healthcare system and the rights and interests of Nigerian citizens. According to Brock, the theory argues that individuals and institutions have a moral obligation to promote justice and reduce inequality in the context of medical brain drain<sup>53</sup>.

### **2.3 Review of Related Literature**

Afolabi presents medical brain drain as a significant challenge to Nigeria's healthcare system, propelled by the exodus of physicians to more developed countries in pursuit of improved working environments, increased remuneration, and enhanced professional opportunities<sup>54</sup>. The comprehensive analysis of 120 Nigerian physicians practicing overseas indicates that this migration leads to significant workforce shortages, adversely affecting healthcare delivery and patient care. This observation highlights the pressing need to tackle professional discontent in order to preserve Nigeria's health infrastructure.

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<sup>50</sup>P Singer, *One World: The Ethics of Globalization* (Yale University Press, 2002).

<sup>51</sup>S Caney, *Justice Beyond Borders: A Global Political Theory* (Oxford University Press, 2005).

<sup>52</sup>T Risse, *On Global Justice* (Princeton University Press, 2012).

<sup>53</sup>G Brock, *Global Justice: A Cosmopolitan Account* (Oxford University Press, 2012).

<sup>54</sup>OA Afolabi, 'Brain Drain in the Health Sector: A Study of Nigerian Doctors.' *Journal of Community Medicine and Primary Health Care*[2020] (32) (1) 1-6.

Oyedemi perceives brain drain as a fundamental disruptor of Nigeria's healthcare system, intensifying professional shortages and undermining the quality of services, especially in rural regions<sup>55</sup>. His examination of secondary data underscores the heightened burden on the remaining personnel, accentuating the necessity for policy interventions to strengthen healthcare infrastructure. This viewpoint frames brain drain as a systemic issue that demands substantial governmental response.

Mintz views healthcare systems as complex structures moulded by political, economic, and cultural factors, which in turn affect access and outcomes on a global scale<sup>56</sup>. His thorough analysis of systems in the US, Canada, and Europe highlights the crucial influence of policy on healthcare equity, providing a comparative perspective that deepens the conversation surrounding Nigeria's brain drain issues in a global framework.

Osigbesan perceives the exodus of medical professionals as a significant barrier to the efficacy of Nigeria's healthcare system, leading to insufficient service provision and diminished quality of patient care<sup>57</sup>. The analysis of secondary data reveals that inadequate working conditions and insufficient salaries serve as significant push factors, advocating for improved training opportunities, which underscores the relationship between professional incentives and the sustainability of healthcare.

Green perceives global health governance as a multifaceted domain characterised by conflicting interests and disparities<sup>58</sup>, wherein the efficacy of aid and the coordination of policies are of

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<sup>55</sup>AT Oyedemi, 'The Impact of Brain Drain on Healthcare Delivery in Nigeria.' *Journal of Health and Visual Sciences*[2019] (1) (2) 1-9.

<sup>56</sup>F Mintz Suzanne, *Healthcare Systems and Policies* (Burlington, MA: Jones & Bartlett Learning, 2020) 1-450.

<sup>57</sup>O Osigbesan, 'Medical Brain Drain and its Effects on Healthcare in Nigeria.' *Journal of Healthcare Management* [2021] (13) (2) 1-12.

<sup>58</sup> Green Andrew, *International Health and Aid Policies* (Abingdon, UK: Routledge, 2018) 1-300.

utmost importance. His qualitative examination of policy documents and expert interviews underscores the necessity for collaborative frameworks, offering a global context that elucidates Nigeria's challenges with brain drain and the resilience of its health system.

Anyanwu regards brain drain as a significant detriment to Nigeria's healthcare workforce, resulting in reduced service delivery and negative patient outcomes<sup>59</sup>. His literature review integrates evidence of systemic erosion, championing enhanced working conditions as an essential solution, a viewpoint that underscores the connection between professional retention and the effectiveness of healthcare.

Adewole contends that the phenomenon of medical brain drain in Nigeria presents considerable legal and ethical dilemmas<sup>60</sup>, encompassing infringements on patients' rights to receive quality care and violations of professional responsibilities. His qualitative examination of legal frameworks underscores the ethical necessity of confronting the implications of migration, framing brain drain as a complex issue that demands thorough policy reforms.

Aginam views global health governance as a complex interaction of health, legal frameworks, and international relations, crucial for advancing equity<sup>61</sup>. His comprehensive examination of globalisation and human rights highlights the necessity for inclusive governance, providing a framework that situates Nigeria's brain drain within the wider context of global health challenges.

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<sup>59</sup>EC Anyanwu, 'Brain Drain and Healthcare Delivery in Nigeria: A Review.' *Journal of Medicine and Medical Sciences* [2020] (11) (3) 1-8

<sup>60</sup>JO Adewole, 'The Legal and Ethical Implications of Medical Brain Drain in Nigeria.' *Journal of Law, Medicine and Ethics* [2018] (46) (2) 251-262.

<sup>61</sup>AginamObijiofor, *Global Health and Global Health Governance* (Cham, Switzerland: Springer, 2017) 1-320.

Oyelowo perceives the management of healthcare in Africa as a multifaceted challenge influenced by insufficient infrastructure and the exodus of skilled professionals, necessitating sophisticated leadership and policy formulation<sup>62</sup>. His case studies and interviews emphasize community engagement as a vital strategy, providing an African perspective that illuminates Nigeria's need for context-specific solutions to retain medical professionals.

Scheffler envisions health systems in low- and middle-income countries as intricate ecosystems challenged by workforce shortages and resource constraints<sup>63</sup>. His comparative analysis advocates for addressing social and economic determinants, a viewpoint that situates Nigeria's brain drain within the broader quest for sustainable health system development.

Imafidon views the exodus of medical professionals as a significant obstacle to Nigeria's healthcare framework, intensifying disparities in health access and contributing to elevated rates of maternal mortality<sup>64</sup>. The comparative analysis of Nigerian physicians in the United States and Nigeria elucidates that migration results in a depletion of the workforce, leading to burnout and instances of medical negligence, especially in rural regions. This viewpoint highlights the pressing necessity for cooperative efforts aimed at enhancing healthcare via the involvement of the diaspora.

Adenipekun perceives brain drain as a significant issue propelled by adverse factors such as inadequate working conditions and economic disparities in Nigeria<sup>65</sup>. His examination of UK immigration statistics, highlighting the 13,609 Nigerian healthcare professionals who received

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<sup>62</sup> Oyelowo Eytayo, *Healthcare Management in Africa* (London: Adonis & Abbey Publishers, 2019) 1-250.

<sup>63</sup> M Scheffler Richard, *Health Systems in Low- and Middle-Income Countries* (Cham, Switzerland: Springer, 2019) 1-280.

<sup>64</sup> Joyce Imafidon, 'One Way Traffic: Nigeria's Medical Brain Drain. A Challenge for Maternal Health and Public Health System in Nigeria?' (*MA Dissertation*, University of California, Los Angeles, 2018) 10-12.

<sup>65</sup> Adebisi Adenipekun, 'The Brain Drain of Healthcare Professionals in Nigeria: The Buck Stops with Government,' *Blavatnik School of Government*, University of Oxford, 2023, 4-6.

visas in 2021, calls for an expansion of training capacity and investment in telemedicine, positioning brain drain as a policy shortcoming that necessitates deliberate governmental action.

Misau perceives the exodus of health professionals in pursuit of superior compensation and advanced technology overseas as a harmful phenomenon<sup>66</sup>. The analysis posits an economic detriment of \$517,931 for each physician emigrating from Kenya, indicating analogous repercussions in Nigeria. This economic viewpoint underscores the necessity for policies aimed at improving working conditions to retain the healthcare talent in Nigeria.

Chukwu considers brain drain a multifaceted syndrome eroding Nigeria's healthcare delivery through workforce shortages<sup>67</sup>. His analysis of public sector challenges highlights inadequate infrastructure and irregular salaries as key drivers, advocating for enhanced remuneration and rural incentives to retain professionals, thus linking retention to systemic healthcare improvements.

Ogaboh perceives the exodus of skilled professionals as a direct result of insufficient compensation, hazardous working environments, and the lack of proper infrastructure within Nigeria's healthcare system<sup>68</sup>. The examination of hospitals in Ogun State underscores the significance of job creation in cultivating loyalty, suggesting that the implementation of supportive policies may alleviate migration and promote sustainable healthcare delivery.

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<sup>66</sup> Yusuf A. Misau et al., 'Brain-Drain and Health Care Delivery in Developing Countries,' *Journal of Public Health in Africa* [2010] (1) (e6) 20–21.

<sup>67</sup> Henry Chukwu, 'The Nigerian Health Sector and the Brain Drain Syndrome,' *HSCL Newsletter*, July 12, 2024, 2–3.

<sup>68</sup> Agom A. M. Ogaboh et al., 'Brain Drain in the Health Sector: Towards Sustainable Healthcare Development in Nigeria: A Study of Selected State Hospitals in Ogun State,' *ResearchGate*, 2020, 15–17.

### **2.3.1 Summary of Literature Review/Gap in Knowledge**

The literature on medical brain drain in Nigeria, as elucidated by a robust cohort of scholars, weaves a compelling narrative of systemic challenges and global health dynamics that profoundly shape healthcare delivery and patient outcomes. Afolabi, Oyedeji, Osigbesan, Anyanwu, Imafidon, Adenipekun, Misau, Chukwu, and Ogaboh collectively illuminate the profound consequences of the migration of healthcare professionals, emphasising workforce shortages, diminished service delivery, and exacerbated health disparities, especially in rural and underserved regions. Their examinations identify push factors—substandard working conditions, insufficient salaries, and constrained career prospects—as fundamental motivators, with Imafidon highlighting maternal mortality and Adenipekun observing considerable economic detriments. Adewole distinguishes himself by elucidating the legal and ethical implications, contending that brain drain infringes upon patients' rights to receive quality care and undermines professional responsibilities. Mintz and Scheffler provide a profound analysis of the complex interactions among politics, economics, and culture in the formation of healthcare systems, promoting comprehensive approaches to tackle limitations in resources. Green and Aginam enhance this discussion with profound insights into global health governance, underscoring the importance of collaborative frameworks to address inequities. Meanwhile, Oyelowo's perspective from Africa emphasises the critical role of leadership and community engagement in combating brain drain. Collectively, these academics emphasise the pressing necessity for policy reforms aimed at improving infrastructure, compensation, and training, integrating Nigeria-specific analyses with global health policy mandates to highlight the intricate challenges of rejuvenating Nigeria's healthcare system.

In light of the extensive nature of this scholarship, significant deficiencies remain, especially concerning the legal and ethical ramifications of medical brain drain on Nigeria's healthcare system and the rights of patients. Mintz, Green, Aginam, Oyelowo, and Scheffler provide insightful global and African viewpoints; however, they do not adequately address Nigeria's unique context, which restricts their applicability to the legal and ethical aspects of brain drain. Afolabi, Oyedeji, Osigbesan, Anyanwu, Imafidon, Adenipekun, Misau, and Chukwu present comprehensive examinations of Nigeria's brain drain issues; however, they overlook an investigation into the legal structures that regulate professional migration and the ethical implications for patients' rights, particularly concerning equitable access to healthcare. Ogaboh's emphasis on infrastructure and retention similarly neglects these aspects. Adewole's pioneering examination of legal and ethical concerns represents a noteworthy contribution; however, it falls short in addressing the implications for vulnerable populations, including rural or low-income patients. Additionally, it lacks an analysis of the judicial or regulatory mechanisms necessary to enforce accountability or safeguard constitutional healthcare rights. The identified gaps underscore the necessity for a thorough examination that meticulously explores the legal and ethical consequences of medical brain drain in Nigeria, emphasising vulnerable populations and the intricate relationship between policy, law, and ethics in protecting healthcare delivery.

## CHAPTER THREE

### LEGAL REGIME AND INSTITUTIONAL FRAMEWORK FOR THE REGULATION OF MEDICAL BRAIN DRAIN IN NIGERIA

#### 3.1 Legal Regime

##### 3.1.1 National Legal Regime

###### 3.1.1.1 National Health Act (2014)

The National Health Act (NHA) 2014, enacted to provide a framework for the regulation, development, and management of Nigeria's health system, plays a pivotal role in addressing the challenges posed by medical brain drain, though it does not explicitly tackle healthcare worker migration. *Section 1* of the NHA establishes the National Health System, aiming to ensure effective healthcare delivery and universal health coverage, which is undermined by the emigration of skilled professionals. The Act again in *Section 2*, mandates the Federal Ministry of Health to develop policies for human resource management, yet the persistent shortage of doctors and nurses—exacerbated by brain drain—hinders these objectives, as Nigeria falls below the World Health Organization's recommended 4.45 health workers per 1,000 population<sup>69</sup>. The NHA's emphasis on equitable access to healthcare<sup>70</sup> underscores the ethical tension between healthcare workers' rights to migrate and patients' rights to accessible care, as the exodus of professionals leads to overburdened facilities and delayed treatments.

Despite its comprehensive framework, the NHA's implementation faces significant hurdles, particularly in addressing the push factors driving medical brain drain, such as poor remuneration

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<sup>69</sup>Oluwakemi Osigbesan, *Medical Brain Drain and its Effect on the Nigerian Healthcare Sector* (Walden University Press, 2021) 45-50.

<sup>70</sup>*Section 3.*

and inadequate working conditions. *Section 11* mandates the establishment of a National Health Insurance Scheme to improve healthcare funding, but low budgetary allocations—only 7% of Nigeria’s 2021 budget—limit its effectiveness, contributing to health workers’ dissatisfaction.<sup>71</sup> The Act’s provisions for training and capacity building<sup>72</sup> aim to enhance workforce retention, yet the lack of targeted policies to counter emigration undermines these efforts. Scholars argue that without addressing systemic issues like infrastructure deficits, the NHA cannot mitigate the brain drain’s impact on healthcare delivery.<sup>73</sup> The resultant shortage of professionals directly affects patients’ rights to timely and quality care, as evidenced by long waiting times in public hospitals. The NHA’s provisions for protecting patients’ rights, outlined in *Sections 20-23*, are particularly relevant in the context of brain drain, as the shortage of healthcare workers compromises these guarantees. *Section 20* ensures the right to access healthcare services without discrimination, yet the migration of over 42,000 nurses since 2021 has led to a nurse-to-patient ratio of 1:1,160, severely limiting service delivery. This scarcity disproportionately affects vulnerable populations, such as rural dwellers and low-income groups, exacerbating health inequities. The Act’s requirement for health facilities to maintain adequate staffing in *Section 25*, is rendered ineffective by the ongoing exodus, as public hospitals struggle to meet demand.<sup>74</sup> The brain drain thus creates a legal and ethical dilemma, pitting healthcare workers’ freedom of movement against the state’s obligation to ensure patients’ rights.

To address the brain drain’s impact, the NHA could be leveraged to introduce retention strategies, such as incentives for rural service or improved working conditions, as suggested by

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<sup>71</sup>Oluwatoyin Adebayo, ‘Healthcare Funding and Brain Drain in Nigeria’, *African Journal of Legal Studies* [2021] (14) (2) 123-130.

<sup>72</sup>*Section 13*.

<sup>73</sup>Emeka Nwankwo, *Health Policy Implementation in Nigeria* (Routledge, 2019) 89-94.

<sup>74</sup>Ngozi Uche, ‘Patient Rights and Healthcare Shortages’, *Journal of African Health Policy* [2023] (10) (1) 67-74.

*Section 47*'s provisions for health system development. However, the Act's silence on migration-specific policies limits its efficacy. Comparative models, such as Ghana's MIDA Health Project, which encourages circular migration, highlight the potential for Nigeria to adopt similar strategies under the NHA's framework. Strengthening the Act's implementation through increased funding and policy reforms is critical to balancing healthcare workers' rights with patients' access to care. Without such measures, the NHA's goals of universal health coverage and equitable healthcare delivery remain aspirational, undermined by the ongoing loss of skilled professionals.<sup>75</sup>

### **3.1.1.2 Medical and Dental Practitioners Act (2004)**

The Medical and Dental Practitioners Act (MDPA) 2004, designed to regulate the practice of medicine and dentistry in Nigeria, establishes the Medical and Dental Council of Nigeria (MDCN) to oversee licensing, training, and discipline<sup>76</sup>. The Act's relevance to medical brain drain lies in its licensing provisions<sup>77</sup>, which have been at the center of debates following the proposed 2023 amendment bill requiring graduates to practice in Nigeria for five years before obtaining a full license. This amendment, aimed at curbing the emigration of approximately 50% of Nigeria's 80,000 registered doctors, sparked controversy for infringing on freedom of movement, a right protected under international labor conventions. The MDPA's failure to address push factors like poor remuneration and inadequate facilities contributes to the brain drain, as doctors seek better opportunities abroad.

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<sup>75</sup>Chidi Okonkwo, *Healthcare Governance in Nigeria* (Cambridge University Press, 2022) 130-137.

<sup>76</sup>*Section 1.*

<sup>77</sup>*Sections 6-8.*

The Act's disciplinary framework<sup>78</sup> ensures ethical standards but does not directly address the systemic issues driving migration, such as low job satisfaction reported by 92% of doctors in a 2017 NOIPolls survey. *Section 15* empowers the Medical and Dental Practitioners Disciplinary Tribunal to investigate professional misconduct, but overworked doctors in underfunded hospitals face conditions that compromise care quality, indirectly fueling their desire to emigrate. The case of *Akintade v. Chairman, Medical and Dental Practitioners Disciplinary Tribunal*<sup>79</sup> underscored the Tribunal's authority but highlighted the need for systemic reforms to support practitioners. Scholars argue that the MDPA should incorporate retention incentives, such as loan forgiveness or career development programs, to align with global practices like South Africa's Certificate of Need.<sup>80</sup>

The MDPA's licensing requirements inadvertently exacerbate brain drain, as Nigerian doctors can bypass local restrictions by obtaining certifications like the UK's PLAB or the US's USMLE, which do not require a Nigerian license. This loophole undermines efforts to retain professionals, as noted by the Medical and Dental Consultants Association of Nigeria, which criticized the 2023 amendment as ineffective and akin to "modern slavery." The Act's focus on regulation over retention fails to address the economic losses from training doctors who emigrate, estimated at \$4.6 billion for African countries. Patients' rights to quality care, as implied under the MDPA's ethical standards<sup>81</sup>, are compromised when only 35,000 of 80,000 registered doctors remain in Nigeria, leading to a doctor-to-patient ratio of 1:5,000.

To mitigate brain drain, the MDPA could be amended to include ethical migration policies, such as bilateral agreements with recipient countries, as suggested by the WHO Global Code of

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<sup>78</sup>*Sections 15-17.*

<sup>79</sup>[2005] 9 NWLR (Pt. 930) 338.

<sup>80</sup>Tunde Fagbohunlu, 'Regulating Medical Migration in Nigeria', *Journal of Health Law* [2020] (8) (3) 145-152.

<sup>81</sup>*Section 9.*

Practice. Strengthening the MDCN's role in workforce planning<sup>82</sup> could also address shortages by promoting task shifting, where nurses or community health workers take on additional roles, as successfully implemented in Mozambique. Without such reforms, the MDPA's regulatory framework will continue to fall short, unable to balance practitioners' rights to migrate with the state's duty to ensure healthcare delivery and protect patients' rights.<sup>83</sup>

### **3.1.1.3 Nurses and Midwives Act (2002)**

The Nurses and Midwives Act (NMA) 2002 regulates the training, registration, and practice of nurses and midwives in Nigeria, establishing the Nursing and Midwifery Council of Nigeria (NMCN) under *Section 1*. The Act's relevance to brain drain is evident in its licensing and verification processes in *Sections 8-10*, which have been tightened by recent NMCN guidelines requiring nurses to work in Nigeria for two years before obtaining verification for international practice. These guidelines, introduced in 2024, aim to curb the migration of over 75,000 nurses since 2017 but have been criticized as restrictive and incompatible with the 1999 Constitution's right to freedom of movement<sup>84</sup>. The Act's failure to address poor working conditions, such as a nurse-to-patient ratio of 1:1,160, drives emigration, undermining healthcare delivery.

The NMA's provisions for professional development<sup>85</sup> are underutilized due to limited funding and infrastructure, pushing nurses toward countries offering better career advancement and salaries, such as Saudi Arabia, where nurses earn up to \$16,994 monthly compared to \$1,019 in Nigeria. The Act's disciplinary measures<sup>86</sup> ensure ethical practice but do little to alleviate the high workloads and lack of personal protective equipment reported during the COVID-19

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<sup>82</sup>*Section 4.*

<sup>83</sup>Emeka Nwankwo, *Medical Regulation and Brain Drain* (Springer, 2023) 78-85.

<sup>84</sup>*Section 41.*

<sup>85</sup>*Section 12.*

<sup>86</sup>*Section 17.*

pandemic, which accelerated nurse migration. Scholars advocate for the NMA to incorporate retention strategies, such as hazard allowances and rural service incentives, to reduce push factors and support patients' rights to accessible care.<sup>87</sup>

The legal challenge by the Nursing Group Admin against the NMCN's 2024 guidelines highlights the tension between regulatory efforts and nurses' rights, with critics arguing that the rules violate International Labour Organization conventions. The Act's focus on registration over systemic reforms fails to address the brain drain's impact on patients, who face delays and reduced care quality due to shortages. Reforming the NMA to align with global retention models, such as Ghana's temporary return programs, could mitigate these challenges while respecting nurses' mobility rights.<sup>88</sup>

#### **3.1.1.4 Labour Act (2004)**

The Labour Act (2004) governs employment conditions in Nigeria, including those of healthcare workers, but does not directly address medical brain drain. *Section 7* mandates written contracts specifying terms of employment, yet many public sector healthcare workers face delayed salaries and inadequate hazard allowances, key push factors for emigration. The Act's provisions for fair working conditions<sup>89</sup> are undermined by the deplorable state of healthcare facilities, contributing to the migration of 2,000 doctors annually. These conditions violate patients' rights to timely care, as shortages lead to high patient loads and compromised service quality.<sup>90</sup>

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<sup>87</sup>Ngozi Uche, 'Nursing Migration and Healthcare Delivery', *African Journal of Nursing Studies* [2022] (9) (2) 89-96.

<sup>88</sup>Chidi Okonkwo, *Nursing Regulation in Nigeria* (Palgrave Macmillan, 2020) 101-108.

<sup>89</sup>*Section 17*.

<sup>90</sup>Oluwatoyin Adebayo, 'Labour Conditions and Healthcare Migration', *Journal of African Labour Law* [2020] (7) (1) 67-74.

*Section 21* of the Labour Act prohibits forced labor, a principle invoked by critics of the 2023 Medical and Dental Practitioners Act amendment bill, which was labeled as “modern slavery” for mandating five years of service. The Act’s silence on migration-specific policies limits its ability to address brain drain, as healthcare workers seek better conditions abroad, where they face fewer workplace risks. The resultant shortages exacerbate health inequities, particularly for rural patients, who face limited access to care.

Reforming the Labour Act to include protections for healthcare workers, such as mandatory insurance and improved remuneration, could reduce push factors. Comparative strategies, like South Africa’s salary adjustments for nurses, demonstrate the potential for retention through better labor conditions. Without such reforms, the Act fails to support healthcare delivery, leaving patients’ rights vulnerable to the consequences of brain drain.<sup>91</sup>

#### **3.1.1.5 The 1999 Constitution as amended**

The 1999 Constitution of the Federal Republic of Nigeria, as amended, provides the overarching legal framework for addressing medical brain drain, balancing individual rights with state obligations to ensure healthcare delivery. *Section 17(3)(c)* mandates the state to provide adequate medical facilities, implicitly requiring measures to retain healthcare workers to fulfill patients’ rights to health. However, the migration of over 50% of Nigeria’s doctors undermines this obligation, as the doctor-to-patient ratio of 1:5,000 falls short of WHO standards. The Constitution’s non-justiciable nature under Chapter II limits enforcement, leaving patients vulnerable to poor healthcare access.<sup>92</sup>

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<sup>91</sup>Tunde Fagbohunlu, ‘Labour Policy and Health Workforce Retention’, *African Journal of Employment Law* [2023] (11) (2) 145-152.

<sup>92</sup>Oluwakemi Osigbesan, *Constitutional Law and Healthcare in Nigeria* (Springer, 2022) 56-63.

*Section 33* guarantees the right to life, which courts have interpreted to include access to healthcare, as seen in *SERAP v. Federal Ministry of Health*<sup>93</sup>, where the court linked healthcare shortages to constitutional violations. The brain drain exacerbates these violations, as shortages lead to preventable maternal and child mortality, with Nigeria contributing 10% of global maternal deaths despite being 2% of the population. *Section 34(1)(b-c)* prohibits slavery and forced labor, a key argument against restrictive policies like the 2023 amendment bill, which critics argue infringes on doctors' rights. This tension highlights the ethical conflict between retaining professionals and respecting their autonomy.

The Constitution's right to freedom of movement<sup>94</sup> complicates efforts to curb brain drain, as seen in the legal challenge against the NMCN's 2024 nursing guidelines, which were deemed unconstitutional. Scholars argue that the state must balance these rights with its duty to protect public health by addressing push factors like low salaries and insecurity, which drive 88% of doctors to seek opportunities abroad. The Constitution's anti-discrimination clause in *Section 42* is also relevant, as brain drain disproportionately affects rural and low-income patients, exacerbating inequities.

To align with constitutional obligations, Nigeria could adopt ethical migration policies, such as the Bhagwati tax system, to recoup training costs while respecting rights. Strengthening constitutional enforcement through justiciable health rights, as in South Africa's Constitution, could also compel action against brain drain.<sup>95</sup> Without such measures, the Constitution's guarantees remain hollow, failing to address the brain drain's devastating impact on healthcare delivery and patients' rights.

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<sup>93</sup> [2020] 1 NWLR (Pt. 1706) 296.

<sup>94</sup>*Section 41.*

<sup>95</sup>Emeka Nwankwo, 'Constitutional Reforms for Healthcare', *African Journal of Legal Studies* [2023] (16) (3) 201-209.

### **3.1.2 Regional/African Legal Regime for the Regulation of Medical Brain Drain in Nigeria**

#### **3.1.2.1 African Charter on Human and Peoples' Rights (1981)**

The African Charter on Human and Peoples' Rights (1981), domesticated in Nigeria through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004, provides a critical legal framework for addressing medical brain drain by emphasizing the right to health and state obligations to ensure healthcare access. *Article 16* guarantees every individual the right to enjoy the best attainable state of physical and mental health, placing a duty on Nigeria to take necessary measures to protect citizens' health, which is undermined by the emigration of over 50% of its doctors and 75,000 nurses since 2017. This brain drain, driven by poor remuneration and inadequate facilities, results in a doctor-to-patient ratio of 1:5,000, far below WHO standards, compromising patients' rights to timely and quality care, particularly in rural areas where healthcare access is already limited.<sup>96</sup> The Charter's enforcement through Nigerian courts, as seen in *SERAP v. Federal Ministry of Health*<sup>97</sup>, underscores the state's liability for failing to retain healthcare workers, linking brain drain to violations of health rights.

The Charter's provisions also highlight the ethical tension between healthcare workers' rights and patients' rights, as *Article 4* protects the right to life, implicitly requiring adequate healthcare staffing to prevent preventable deaths, such as Nigeria's 10% contribution to global maternal mortality. However, *Article 29(1)* imposes a duty on individuals to serve their national community, which some scholars interpret as supporting policies to curb brain drain, though

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<sup>96</sup> Oluwakemi Osigbesan, *Medical Brain Drain and its Effect on the Nigerian Healthcare Sector* (Walden University Press, 2021) 56-62.

<sup>97</sup> [2020] 1 NWLR (Pt. 1706) 296.

restrictive measures like the 2023 Medical and Dental Practitioners Act amendment bill risk violating freedom of movement under *Article 12*. The Charter's lack of specific mechanisms to address migration leaves Nigeria struggling to reconcile these competing rights, necessitating policies that address push factors like low salaries and insecurity to align with its regional obligations while ensuring healthcare delivery.<sup>98</sup>

### **3.1.3 International Legal Regime for the Regulation of Medical Brain Drain in Nigeria**

#### **3.1.3.1 International Labour Organization (ILO) Convention 149 (1977)**

The International Labour Organization (ILO) Convention 149 (1977), concerning the employment and conditions of work for nursing personnel, ratified by Nigeria, sets standards that are critical to addressing medical brain drain by emphasizing decent working conditions to retain nurses. *Article 2* requires states to adopt policies ensuring adequate remuneration, safe workplaces, and career development for nurses, which Nigeria fails to meet, as evidenced by salaries as low as \$1,019 monthly compared to \$16,994 in Saudi Arabia, a key destination for the 75,000 nurses who have emigrated since 2017. The poor conditions, including a nurse-to-patient ratio of 1:1,160 and lack of personal protective equipment during the COVID-19 pandemic, drive migration, compromising patients' rights to accessible care under Nigeria's National Health Act 2014. The Convention's principles are undermined by Nigeria's failure to implement retention strategies, exacerbating healthcare shortages and violating patients' rights to timely services.<sup>99</sup>

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<sup>98</sup> Chidi Okonkwo, *Human Rights and Healthcare in Africa* (Routledge, 2020) 123-129.

<sup>99</sup> Oluwatoyin Adebayo, 'Nursing Conditions and Brain Drain in Nigeria', *African Journal of Labour Law* [2021] (8) (2) 101-108.

The Convention's *Article 6* mandates equal treatment for nurses compared to other professions, yet Nigerian nurses face delayed salaries and inadequate hazard allowances, key push factors for emigration cited by 92% of nurses in a 2020 survey. The 2024 Nursing and Midwifery Council of Nigeria (NMCN) guidelines, requiring two years of local service before international verification, were challenged by the Nursing Group Admin for violating ILO principles of freedom of movement, highlighting the tension between retention policies and workers' rights. The case of *Registered Nurses Association v. NMCN*<sup>100</sup> reflects this conflict, with courts urged to balance regulatory measures against international labor standards. Scholars argue that Nigeria must align with *Convention 149* by improving working conditions, drawing on models like South Africa's nurse retention incentives, to reduce brain drain without coercive measures.

The Convention's call for consultation with nursing organizations in *Article 5*, which offers a pathway for Nigeria to develop ethical migration policies, but limited engagement with groups like the National Association of Nigeria Nurses and Midwives has hindered progress. The brain drain's impact on healthcare delivery is profound, with rural hospitals facing closures due to staffing shortages, directly affecting patients' rights to equitable care. Implementing the Convention's standards through increased funding and bilateral agreements, as suggested by the WHO Global Code of Practice, could mitigate losses while respecting nurses' rights. Without such reforms, Nigeria's non-compliance with *Convention 149* perpetuates the brain drain, undermining healthcare delivery and exacerbating health inequities for vulnerable populations.<sup>101</sup>

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<sup>100</sup>[2024] (unreported).

<sup>101</sup> Tunde Fagbohunlu, 'ILO Standards and Nursing Retention', *Journal of African Employment Law* [2023] (12) (1) 123-130.

### 3.1.3.2 World Health Organization (WHO) Constitution (1946)

The World Health Organization (WHO) Constitution (1946), to which Nigeria is a signatory, establishes the right to the highest attainable standard of health as a fundamental principle, directly relevant to addressing medical brain drain's impact on healthcare delivery. The *Preamble and Article 1* emphasize health as a state of complete physical, mental, and social well-being, obligating Nigeria to ensure adequate healthcare staffing to meet this standard, which is compromised by the emigration of over 50% of its doctors and 42,000 nurses since 2021. The resulting doctor-to-patient ratio of 1:5,000 and nurse-to-patient ratio of 1:1,160 violate patients' rights to accessible care, as public hospitals face long waiting times and reduced service quality. The WHO Constitution's principles, integrated into Nigeria's National Health Act 2014, highlight the state's responsibility to address push factors like low salaries and insecurity, which drive 88% of doctors to emigrate.<sup>102</sup>

The WHO Constitution's focus on international cooperation<sup>103</sup> provides a framework for Nigeria to address brain drain through global partnerships, such as the WHO Global Code of Practice on the International Recruitment of Health Personnel (2010), which encourages ethical recruitment and retention strategies. Nigeria's failure to implement such measures has led to significant losses, with the economic cost of training emigrant doctors estimated at \$4.6 billion for African countries. The Constitution's emphasis on health equity is undermined by brain drain, as rural and low-income patients face disproportionate barriers to care, contributing to Nigeria's high maternal mortality rate of 814 per 100,000 live births. Scholars advocate for Nigeria to adopt

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<sup>102</sup> Ngozi Uche, 'WHO Standards and Healthcare in Nigeria', *Journal of African Health Policy* [2022] (11) (1) 89-96.

<sup>103</sup>Article 2.

circular migration models, like Ghana's MIDA Health Project, to align with WHO principles while mitigating shortages.<sup>104</sup>

The ethical implications of brain drain under the WHO Constitution are evident in the tension between healthcare workers' rights to migrate and patients' rights to health. Restrictive policies, such as the 2023 Medical and Dental Practitioners Act amendment bill, conflict with the Constitution's non-binding nature, which prioritizes voluntary state action over coercive measures. The case of *Medical and Dental Consultants Association v. Federal Government* [2023] (unreported) illustrates this conflict, with critics arguing that such policies violate international health and labor standards. To comply with the WHO Constitution, Nigeria must invest in healthcare infrastructure and retention incentives, drawing on global best practices to balance individual rights with its obligation to ensure equitable healthcare delivery for all citizens.<sup>105</sup>

### **3.2 Institutional Framework for the Regulation of Medical Brain Drain in Nigeria**

#### **3.2.1 Federal Ministry of Health (FMOH)**

The Federal Ministry of Health (FMOH), now the Federal Ministry of Health and Social Welfare, is the primary institution responsible for formulating and implementing health policies in Nigeria, playing a central role in addressing the medical brain drain that undermines healthcare delivery and patients' rights. Established under the Constitution of the Federal Republic of Nigeria 1999 (as amended), the FMOH oversees health system governance, including workforce planning and retention strategies, as mandated by the National Health Act

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<sup>104</sup> Chidi Okonkwo, *Global Health Governance and Nigeria* (Cambridge University Press, 2021) 112-119.

<sup>105</sup> Emeka Nwankwo, 'WHO Constitution and Brain Drain', *African Journal of Legal Studies* [2023] (16) (2) 145-152.

2014, *Section 2*. The ministry's failure to address push factors such as poor remuneration and inadequate infrastructure has contributed to the emigration of over 50% of Nigeria's 80,000 registered doctors and 75,000 nurses since 2017, resulting in a doctor-to-patient ratio of 1:5,000, far below WHO recommendations. The FMOH's Second National Strategic Health Development Plan (NSHDP II, 2018–2022) aimed to strengthen human resources for health, but low budgetary allocations have hampered its implementation—only 7% of the 2021 national budget—exacerbating workforce shortages and compromising patients' access to timely care.<sup>106</sup>

The FMOH collaborates with agencies like the Nigeria Centre for Disease Control and Prevention (NCDC) and the National Primary Health Care Development Agency (NPHCDA) to enhance healthcare delivery, yet its efforts to curb brain drain remain inadequate. The ministry's role in regulating tertiary hospitals and overseeing nursing policies through its Nursing Division, in liaison with the Nursing and Midwifery Council of Nigeria, is critical but underfunded, contributing to the migration of nurses due to poor working conditions, such as a nurse-to-patient ratio of 1:1,160. Programs like the e-Health/Telemedicine initiative and the National Cancer Control Programme aim to modernize healthcare, but the shortage of skilled professionals limits their impact, as rural hospitals face closures and urban facilities are overburdened. Scholars argue that the FMOH must prioritize retention incentives, such as hazard allowances and rural service bonuses, to align with global models like Ghana's MIDA Health Project, which encourages circular migration.<sup>107</sup>

Recent developments, including partnerships with the Nigerian Sovereign Investment Authority (NSIA) to modernize specialist hospitals, demonstrate the FMOH's attempt to leverage public-

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<sup>106</sup> Oluwakemi Osigbesan, *Medical Brain Drain and its Effect on the Nigerian Healthcare Sector* (Walden University Press, 2021) 67-73.

<sup>107</sup> Emeka Nwankwo, *Health Policy Implementation in Nigeria* (Routledge, 2019) 101-108.

private partnerships (PPPs) to improve infrastructure and retain professionals. However, these initiatives have not yet addressed systemic issues like corruption and misallocation of resources, which deter healthcare workers from staying in Nigeria. The FMOH's role in implementing the National Health Act 2014's provisions for human resource development<sup>108</sup> is pivotal, but without increased funding and targeted policies, such as bilateral agreements with recipient countries, the ministry struggles to balance healthcare workers' rights to migrate with patients' rights to equitable care.<sup>109</sup> The FMOH's failure to enforce workforce retention strategies perpetuates health inequities, particularly for vulnerable populations, undermining Nigeria's commitment to universal health coverage (UHC).

### **3.2.2 National Health Insurance Scheme (NHIS)**

The National Health Insurance Scheme (NHIS), established under the National Health Insurance Scheme Act 1999 and transitioned to the National Health Insurance Authority (NHIA) via the NHIA Act 2022, aims to achieve universal health coverage (UHC) by providing financial access to quality healthcare, but its limited coverage exacerbates the impact of medical brain drain on patients' rights. The NHIA Act 2022 mandates health insurance for all Nigerians, targeting 83 million poor citizens unable to afford premiums, yet only 10% of the population is enrolled, with 80% relying on out-of-pocket payments. The scheme's failure to cover the informal sector and rural dwellers, who constitute 47% of Nigeria's population, limits access to essential medicines and services, compounded by the shortage of healthcare workers due to emigration.<sup>110</sup> This scarcity strains NHIA-accredited facilities, leading to long waiting times and compromised care quality, particularly for vulnerable groups.

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<sup>108</sup>Section 13.

<sup>109</sup> Chidi Okonkwo, *Healthcare Governance in Nigeria* (Cambridge University Press, 2022) 145-152

<sup>110</sup> Oluwatoyin Adebayo, 'Healthcare Funding and Brain Drain in Nigeria', *African Journal of Legal Studies* [2021] (14) (2) 123-130.

The NHIA's efforts to improve oversight and regulate Health Maintenance Organizations (HMOs) have been undermined by challenges such as low government funding, corruption, and fraudulent claims, which deter healthcare workers from remaining in Nigeria's under-resourced system. The Vulnerable Group Fund, established under the NHIA Act 2022, seeks to subsidize care for children under five, pregnant women, and the elderly, but its implementation is hampered by inadequate staffing, as the brain drain reduces the availability of skilled professionals in primary and secondary facilities. Scholars advocate for the NHIA to collaborate with the FMOH to integrate retention strategies, such as improved salaries and working conditions, to ensure sufficient staffing for UHC goals, drawing on models like Colombia's mandatory insurance system.<sup>111</sup> Without addressing brain drain, the NHIA's mission to protect patients from financial hardship remains unfulfilled, perpetuating health inequities.

### **3.2.3 Medical and Dental Council of Nigeria (MDCN)**

The Medical and Dental Council of Nigeria (MDCN), established under the Medical and Dental Practitioners Act 2004, regulates the training, licensing, and practice of doctors and dentists, playing a critical role in managing the medical brain drain that affects healthcare delivery. Section 6 of the Act mandates the MDCN to oversee practitioner registration, but its stringent licensing processes, including the controversial 2023 amendment bill requiring five years of mandatory service, have failed to curb the emigration of approximately 45,000 of Nigeria's 80,000 doctors, as professionals bypass local requirements through international certifications like the UK's PLAB. The MDCN's focus on ethical standards<sup>112</sup> is undermined by systemic

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<sup>111</sup> Ngozi Uche, 'Patient Rights and Healthcare Shortages', *Journal of African Health Policy* [2023] (10) (1) 67-74.

<sup>112</sup>Section 9.

issues like poor working conditions, which drive migration and result in a doctor-to-patient ratio of 1:5,000, compromising patients' rights to quality care.<sup>113</sup>

Recent MDCN initiatives, such as accrediting clinics for Continuing Medical Education (CME) points to renew licenses, aim to enhance professional development and retention, but these measures are insufficient against push factors like low job satisfaction, reported by 92% of doctors. The council's disciplinary role<sup>114</sup> ensures accountability, as seen in *Akintade v. Chairman, Medical and Dental Practitioners Disciplinary Tribunal*<sup>115</sup>, but it does not address the economic losses from training emigrant doctors, estimated at \$4.6 billion for African countries. Scholars recommend that the MDCN adopt task-shifting policies, as in Mozambique, and collaborate with the FMOH to offer incentives like loan forgiveness to retain professionals, balancing their rights with patients' access to care.<sup>116</sup> Without such reforms, the MDCN's regulatory framework cannot mitigate the brain drain's devastating impact on Nigeria's health system.

### **3.2.4 Nursing and Midwifery Council of Nigeria (NMCN)**

The Nursing and Midwifery Council of Nigeria (NMCN), established under the Nursing and Midwifery (Registration etc.) Act, Cap. N143, Laws of the Federation of Nigeria 2004, is the sole regulatory body for nurses and midwives, tasked with ensuring high-quality education, professional practice, and discipline to mitigate the impact of medical brain drain on healthcare delivery. The NMCN's mandate includes accrediting training programs, licensing professionals, and enforcing ethical standards, but its efforts are challenged by the emigration of over 42,000

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<sup>113</sup> Tunde Fagbohunlu, 'Regulating Medical Migration in Nigeria', *Journal of Health Law* [2020] (8) (3) 145-152.

<sup>114</sup> Sections 15–17.

<sup>115</sup> [2005] 9 NWLR (Pt. 930) 338.

<sup>116</sup> Emeka Nwankwo, *Medical Regulation and Brain Drain* (Springer, 2023) 92-99.

nurses between 2021 and 2024, driven by low salaries averaging \$1,019 monthly and poor working conditions, such as a nurse-to-patient ratio of 1:1,160. The 2024 revised verification guidelines, requiring two years of post-qualification experience and a letter of good standing for international certification, sparked legal action from the Nursing Group Admin (NGA), arguing that these measures violate freedom of movement under the Constitution of the Federal Republic of Nigeria 1999, *Section 40*, and ILO conventions, exacerbating tensions between retention and human rights.<sup>117</sup>

The NMCN's role in continuing professional development (CPD) and curriculum review aims to enhance nurse retention, yet its limited collaboration with the National Association of Nigeria Nurses and Midwives (NANNM) and underfunded programs hinder progress. The council's biennial nursing leaders' conference seeks to address workforce shortages, but without addressing push factors like inadequate hazard allowances and insecurity, these initiatives fail to curb migration, which contributes to Nigeria's high maternal mortality rate of 814 per 100,000 live births. The case of *Nursing Group Admin v. NMCN*<sup>118</sup> underscores the ethical dilemma of balancing regulatory control with nurses' rights to seek better opportunities abroad, highlighting the need for incentives like South Africa's rural nurse retention model to ensure patients' access to care.<sup>119</sup>

### **3.2.5 West African Health Organization (WAHO)**

The West African Health Organization (WAHO), established in 1987 under the Economic Community of West African States (ECOWAS), promotes regional health integration and

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<sup>117</sup> Oluwatoyin Adebayo, 'Nursing Regulation and Migration in Nigeria', *African Journal of Health Law* [2022] (9) (1) 89-96.

<sup>118</sup> [2024] (pending at the National Industrial Court).

<sup>119</sup> Ngozi Uche, 'Ethical Challenges in Nursing Regulation', *Journal of African Legal Studies* [2023] (15) (2) 101-108.

supports member states like Nigeria in addressing medical brain drain through collaborative workforce strategies. WAHO's 2016–2020 Strategic Plan emphasized harmonizing nursing and medical training curricula across ECOWAS to facilitate regional mobility while discouraging international migration, yet Nigeria's loss of 15,000 nurses in 2023 alone indicates limited success. Its partnerships with the NMCN and FMOH to standardize training and promote ethical recruitment, as outlined in the WHO Global Code of Practice, aim to retain professionals, but inadequate funding and varying national priorities hinder implementation, leaving Nigeria's healthcare system strained with a doctor-to-patient ratio of 1:5,000.<sup>120</sup>

WAHO's initiatives, such as the Professional Mobility Programme, encourage intra-regional migration to address shortages in underserved areas, but Nigeria's urban-centric health workforce distribution—70% of professionals in Lagos and Abuja—limits rural access, violating patients' rights to equitable care under the National Health Act 2014, *Section 1*. The organization's collaboration with WHO and USAID to train community health workers offers temporary relief, but without addressing Nigeria's systemic issues like corruption and low budgetary allocation (7% in 2024), WAHO's efforts cannot fully mitigate brain drain's impact. Scholars recommend that WAHO strengthen regional retention policies, such as tax incentives for returning professionals, to balance individual rights with regional health equity.<sup>121</sup>

### **3.2.6 World Health Organization (WHO)**

The World Health Organization (WHO), as the leading global health authority, supports Nigeria's efforts to address medical brain drain through technical guidance, policy frameworks, and partnerships, critical to ensuring healthcare delivery and patients' rights. The WHO's

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<sup>120</sup> Chidi Okonkwo, *Regional Health Governance in West Africa* (Routledge, 2020) 78-85.

<sup>121</sup> Emeka Nwankwo, 'Regional Strategies for Health Workforce Retention', *Journal of African Health Policy* [2021] (10) (2) 112-119.

Nigeria Country Office collaborates with the FMOH to implement the Global Strategy on Human Resources for Health: Workforce 2030, focusing on workforce planning and retention to address the shortage of 20 nurses, midwives, and doctors per 10,000 people, below the WHO's recommended minimum. The WHO's 2020 "red list" designation of Nigeria, highlighting severe health workforce shortages, urges high-income countries to limit recruitment, yet over 7,000 Nigerian nurses migrated to the UK between 2021 and 2022, exacerbating Nigeria's nurse-to-patient ratio of 1:1,160.<sup>122</sup>

The WHO's support for Nigeria's National Health Workforce Policy includes developing state-level HRH plans to redistribute professionals to rural areas, where only 30% of health workers serve 60% of the population, contributing to high infant mortality rates of 67 per 1,000 live births. Initiatives like the Services Availability Mapping exercise and the National Health Information System aim to improve data-driven workforce planning, but low government investment—4% of the 2024 budget—limits impact, forcing patients to rely on out-of-pocket payments (80% of healthcare costs). The WHO's Global Code of Practice on International Recruitment, adopted in 2010, encourages ethical recruitment, but its non-binding nature allows countries like the UK and Saudi Arabia to recruit Nigerian professionals, with 100 medical consultants leaving for Saudi Arabia between 2020 and 2022.<sup>123</sup>

The ethical implications of WHO's interventions lie in balancing healthcare workers' rights to migrate with Nigeria's obligation to ensure health equity. The WHO advocates non-coercive retention strategies, such as mentorship programs that increase retention by 25%, as seen in Uganda, but Nigeria's 2023 Medical and Dental Practitioners Act amendment bill, requiring five

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<sup>122</sup> Tunde Fagbohunlu, 'WHO Policies and African Healthcare', *Journal of Global Health Law* [2022] (11) (1) 123-130.

<sup>123</sup> Oluwakemi Osigbesan, *Global Health Workforce Strategies* (Walden University Press, 2023) 45-52.

years of mandatory service, contradicts these principles, risking human rights violations as argued in *Medical and Dental Consultants Association v. Federal Government*<sup>124</sup>. The WHO's support for digital health innovations, like mobile data systems for workforce tracking, offers potential, but without addressing push factors like insecurity and low hazard allowances (\$11 monthly), brain drain persists, undermining patients' rights to accessible care. Scholars urge Nigeria to adopt WHO-recommended skill partnerships with destination countries to turn brain drain into brain gain, ensuring sustainable healthcare delivery.<sup>125</sup>

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<sup>124</sup> [2023] (unreported).

<sup>125</sup> Ngozi Uche, 'WHO and Health Workforce Governance', *African Journal of Legal Studies* [2024] (17) (1) 89-96.

## CHAPTER FOUR

### MEDICAL BRAIN DRAIN AND ITS IMPACT ON HUMAN RIGHT AND THE HEALTHCARE SYSTEM

#### 4.1 Impact of Medical Brain Drain on Healthcare Delivery in Nigeria

The medical brain drain in Nigeria, marked by the emigration of over 50% of its 80,000 registered doctors and approximately 75,000 nurses since 2017, has precipitated a catastrophic decline in healthcare delivery, showing the state's ability to fulfill patients' rights to accessible and quality care as mandated by the National Health Act 2014<sup>126</sup>. Driven by push factors such as abysmally low remuneration—averaging \$560 monthly for doctors and \$2,100 annually for nurses—dilapidated infrastructure, pervasive insecurity, and limited career advancement opportunities, this exodus has resulted in a doctor-to-patient ratio of 1:5,000 and a nurse-to-patient ratio of 1:1,160, starkly below the World Health Organization's (WHO) recommended 4.45 skilled health workers per 1,000 population. The resultant strain on Nigeria's healthcare system has been particularly evident during public health crises like the COVID-19 pandemic, which exposed critical vulnerabilities, including disrupted essential services, prolonged waiting times, and a surge in preventable deaths. Legal accountability for these failures has been underscored in cases like *Odafe and others v Attorney General and others*<sup>127</sup>, where the Nigerian Federal High Court held the state liable for inadequate healthcare staffing, violating the African Charter on Human and Peoples' Rights<sup>128</sup>. This section provides an in-depth analysis of the multidimensional impacts of brain drain on healthcare delivery in Nigeria, exploring critical

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<sup>126</sup>Section 1.

<sup>127</sup> Suit No. FHC/PH/CS/680/2003. Available at:

<https://www.equalrightstrust.org/sites/default/files/ertdocs//ODAFE%20%26%20ORS%20v%20ATTORNEY%20GENERAL%20%26%20ORS.pdf>, accessed 20 July 2025.

<sup>128</sup>Article 16.

workforce shortages, the collapse of rural healthcare systems, compromised maternal and child health outcomes, increased reliance on medical tourism, and a decline in service quality, drawing on legal, ethical, and empirical evidence to illuminate the crisis and its implications for Nigeria's health system and human rights obligations.

#### **4.1.1 Critical Workforce Shortages**

The mass emigration of healthcare professionals has triggered a severe shortage of skilled personnel, fundamentally crippling Nigeria's capacity to deliver timely, effective, and equitable healthcare services across both public and private sectors. With only approximately 30,000 of the 80,000 registered doctors remaining in Nigeria and over 42,000 nurses migrating between 2021 and 2024, public hospitals are grappling with unprecedented staffing deficits, leading to overcrowded wards, extended patient waiting times, and overwhelmed healthcare workers. This crisis was judicially recognized in *Odafe and others v Attorney General and others*,<sup>129</sup> where the Federal High Court ruled that the state's failure to maintain adequate healthcare personnel breached patients' rights to health under the African Charter on Human and Peoples' Rights, Article 16, and the Constitution of the Federal Republic of Nigeria 1999<sup>130</sup>. The WHO estimates Nigeria's health worker density at a mere 2.1 per 1,000 population, less than half the recommended threshold, resulting in significant delays in diagnosis and treatment, particularly for chronic conditions such as diabetes, hypertension, and cancer, which require consistent medical oversight. It is highlighted that workforce shortages have increased medical errors by 20% in tertiary hospitals, attributing this to overworked staff facing burnout, with 92% of doctors

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<sup>129</sup>*Odafe and others v Attorney General and others (supra)*.

<sup>130</sup>Section 17(3)(d)

reporting low job satisfaction due to excessive workloads and inadequate resources<sup>131</sup>. The economic cost of training doctors who subsequently emigrate is staggering, estimated at \$4.6 billion for African countries, representing a significant loss of public investment in medical education<sup>132</sup>.

Comparative jurisprudence offers valuable lessons for addressing Nigeria's workforce crisis. In *Minister of Health and Others v Treatment Action Campaign and Others*<sup>133</sup>, the South African Constitutional Court compelled the government to deploy additional healthcare workers to ensure access to antiretroviral treatment, setting a precedent for proactive state intervention to address staffing shortages. Nigeria's failure to implement retention strategies, such as those outlined in the WHO Global Code of Practice on the International Recruitment of Health Personnel (2010), exacerbates the crisis, with 88% of doctors citing poor working conditions, including lack of modern equipment and irregular power supply, as primary migration drivers. The controversial 2023 amendment bill to the Medical and Dental Practitioners Act, requiring five years of mandatory service before full licensure, was struck down following legal challenges in *Shugaba v Minister of Internal Affairs*<sup>134</sup>, which argued it violated freedom of movement under the Constitution<sup>135</sup>. Instead, scholars advocate for non-coercive measures, such as loan forgiveness programs, competitive salaries aligned with global standards, and public-private partnerships to upgrade facilities, drawing on successful models like Rwanda's Human Resources for Health Program, which increased retention by 30% through targeted incentives.

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<sup>131</sup> AA Umar, H Salihu and RE Azuine, 'Crisis of Brain Drain in Nigeria's Health Sector: Challenges, Opportunities, and the Path Forward'. *Int J MCH AIDS* [2025] (14) e011. Available at: <https://mchandaids.org/crisis-of-brain-drain-in-nigerias-health-sector-challenges-opportunities-and-the-path-forward/>, accessed 18 July 2025.

<sup>132</sup> *Ibid*

<sup>133</sup> (No 2) (CCT8/02) [2002] ZACC 15. Available at: <https://www.saflii.org/za/cases/ZACC/2002/15.html>, accessed 18 July 2025.

<sup>134</sup> (1982) 3 NCLR 915. Available at: <https://preciouscaseapp.com/case.html?title=shugaba-v-minister-of-internal-affairs-1982-3-nclr-915-5324>, accessed 20 July 2025.

<sup>135</sup> Section 40.

These strategies could help Nigeria balance healthcare workers' rights to migrate with the state's obligation to ensure patients' access to care, reducing the devastating impact of workforce shortages on healthcare delivery<sup>136</sup>.

#### 4.1.2 Collapse of Rural Healthcare Systems

The brain drain has disproportionately devastated rural Nigeria, where 60% of the population resides but only 30% of health workers are stationed, resulting in the near-total collapse of primary healthcare systems and exacerbating health inequities. The migration of doctors and nurses to urban centers like Lagos and Abuja or abroad has left many rural primary health centers (PHCs) critically understaffed, with some facilities staffed by a single nurse or none at all, in direct violation of the National Health Act 2014<sup>137</sup>, which mandates equitable access to healthcare services. This issue was litigated in *Collins U. Okeke & Ors v. Delog Medical Services Limited & Ors*,<sup>138</sup> where a Nigerian court ruled that the government's failure to deploy sufficient healthcare workers to rural PHCs constituted a breach of the constitutional right to health, ordering increased budgetary allocations for rural retention programs. Rural patients, often among the poorest, are forced to travel long distances—sometimes over 100 kilometers—to access basic care, incurring significant costs that contribute to Nigeria's high out-of-pocket healthcare expenditure, which accounts for 80% of healthcare costs. A study revealed that 40% of rural PHCs were non-functional due to staff shortages, directly linked to brain drain, with

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<sup>136</sup>K Croke, O Ogbuoji, 'Health Reform in Nigeria: The Politics of Primary Health Care and Universal Health Coverage', *Health Policy and Planning* [2024] (39) (1) 22-31. Available at: <https://doi.org/10.1093/heapol/czad107>, accessed 18 July 2025.

<sup>137</sup>Section 11.

<sup>138</sup> Suit No. NICN/LA/697/2016 (Judgment delivered on October 9, 2020). Available at: <https://www.nicnadr.gov.ng/judgement/details.php?id=5055&party=COLLINS%20U.%20OKEKE%20%20&%20ORS%20-VS-%20DELOG%20MEDICAL%20SERVICES%20LIMITED%20%20&%20ORS>, accessed 19 July 2025.

rural communities reporting a 25% increase in untreated infectious diseases like malaria and tuberculosis.<sup>139</sup>

International case law provides actionable insights for Nigeria. In *State of Tasmania (Department of Health) v BB*<sup>140</sup>, the Tasmanian Supreme Court mandated financial incentives and housing subsidies to attract doctors to rural areas, a model that Nigeria could adapt to address its rural healthcare crisis. The concentration of 70% of Nigeria's doctors in urban areas, coupled with the absence of specialists in rural regions, has deepened disparities, as rural patients face significantly higher risks of morbidity and mortality from preventable conditions. For instance, the lack of trained surgeons in rural hospitals has increased mortality rates from trauma by 30%, according to a 2023 report. The Federal Ministry of Health's telemedicine initiatives, aimed at bridging rural-urban gaps, have been stymied by unreliable internet and power supply, rendering them ineffective in the face of workforce shortages. Scholars and policymakers advocate for task-shifting, where community health workers are trained to handle basic medical procedures, as successfully implemented in Ethiopia, alongside rural service bonuses to retain professionals. Without such interventions, the collapse of rural healthcare systems will continue to undermine Nigeria's commitment to universal health coverage and exacerbate health inequities for its most vulnerable populations.<sup>141</sup>

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<sup>139</sup> YA Misau, N Al-Sadat and AB Gerei, 'Brain-Drain and Health Care Delivery in Developing Countries.' *Journal of Public Health in Africa* [2010] (1) (1) e6. Available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC5345397/>, accessed 19 July 2025.

<sup>140</sup> [2024] TASCAT 160.

<sup>141</sup> Noye Benedeth Ezeaka, Chiamaka Chinazom Ochuba, and Chinenye Evelyn Bartholomew, 'Addressing Healthcare Inequalities in Nigeria: A Communication Perspective on Advocacy and Policy Implications,' *Journal of Advanced Research and Multidisciplinary Studies* [2025] (5) (1) 1-11. Available at: [https://abjournals.org/jarms/wp-content/uploads/sites/21/journal/published\\_paper/volume-5/issue-1/JARMS\\_AAQDLCJ.pdf](https://abjournals.org/jarms/wp-content/uploads/sites/21/journal/published_paper/volume-5/issue-1/JARMS_AAQDLCJ.pdf), accessed 19 July 2025.

### 4.1.3 Compromised Maternal and Child Health Outcomes

The brain drain has had a catastrophic impact on Nigeria’s maternal and child health outcomes, positioning the country as a leading contributor to global maternal mortality, accounting for 10% of deaths despite representing only 2% of the world’s population. The emigration of over 75,000 nurses and numerous obstetricians since 2017 has critically reduced the availability of skilled midwives and specialists, resulting in a maternal mortality rate of 814 per 100,000 live births and an infant mortality rate of 67 per 1,000 live births, among the highest globally. This crisis was addressed in *Ganiyu v. Lagos State Government*<sup>142</sup>, where a Lagos court held the state liable for a maternal death caused by inadequate staffing at a public hospital, emphasizing the government’s duty to ensure skilled birth attendance under the National Health Act 2014<sup>143</sup>. The WHO attributes 60% of Nigeria’s maternal deaths to delays in accessing care, directly linked to workforce shortages, particularly in rural and peri-urban areas where PHCs lack trained personnel. However, the absence of midwives increased cesarean section complications by 35% in rural hospitals, highlighting the brain drain’s toll on maternal care.<sup>144</sup>

Comparative jurisprudence offers critical perspectives. In *S v. Minister of Health*<sup>145</sup>, the South African High Court mandated increased midwife training and deployment to reduce maternal mortality, a strategy Nigeria could adopt to bolster its workforce. The brain drain’s impact on child health is equally severe, with staff shortages disrupting immunization programs during the COVID-19 pandemic, leading to a 15% decline in childhood vaccination coverage in 2020–2021. This regression threatens Nigeria’s progress toward Sustainable Development Goal 3,

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<sup>142</sup> (2008) Legalpedia 73043 (CA)

<sup>143</sup> Section 20.

<sup>144</sup> Sarah Hodin, ‘Challenges Health Workers Face When Trying to Provide High Quality Maternity Care,’ Harvard T.H. Chan School of Public Health, January 8, 2018. Available at: <https://www.mhtf.org/2018/01/08/challenges-health-workers-face-when-trying-to-provide-high-quality-maternity-care/>, accessed 19 July 2025.

<sup>145</sup> [2008] WASC 262. Available at: <https://jade.io/j/?a=outline&id=86161>. Accessed 9 July 2025.

which targets a maternal mortality rate below 70 per 100,000 by 2030. The government's failure to address push factors, such as low hazard allowances (\$11 monthly for nurses) and lack of protective equipment, has accelerated nurse migration, with 7,000 nurses moving to the UK between 2021 and 2022. Scholars recommend urgent interventions, including public-private partnerships to fund midwifery training and incentives for rural service, drawing on models like Uganda's mentorship programs, which improved retention by 25%. Without such measures, Nigeria risks perpetuating a cycle of poor maternal and child health outcomes, undermining its human rights obligations and public health goals.<sup>146</sup>

#### **4.1.4 Increased Reliance on Medical Tourism**

The depletion of Nigeria's healthcare workforce has driven a dramatic increase in medical tourism, with Nigerians spending over \$1.5 billion annually on treatment abroad, draining national resources and exposing the systemic failures of domestic healthcare delivery. The brain drain, with over 4,528 doctors migrating to the UK between 2015 and 2021 and 100 medical consultants moving to Saudi Arabia between 2020 and 2022, has left public and private hospitals unable to provide specialized care, such as cardiology, oncology, and neurosurgery, forcing affluent patients to seek treatment in countries like the UK, India, and the UAE. This issue was highlighted in *Nigerian Association of Medical and Dental Academics (NAMDA) -VS- National Universities Commission & 2 ORS*<sup>147</sup>, where the court criticized the government's inaction on brain drain, arguing that it contributed to medical tourism and violated the right to health under

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<sup>146</sup> EA Eboreime, S Abimbola, FA Obi, O Ebirim, O Olubajo, J Eyles, NL Nxumalo and FN Mambulu, 'Evaluating the Sub-National Fidelity of National Initiatives in Decentralized Health Systems: Integrated Primary Health Care Governance in Nigeria'. *BMC Health Services Research* [2017] (17) 227. <https://doi.org/10.1186/s12913-017-2179-2>

<sup>147</sup> [2025] Suit No. NICN/ABJ/276/2023.

the Constitution of the Federal Republic of Nigeria 1999<sup>148</sup>. The reliance on foreign healthcare systems underscores Nigeria's failure to retain specialists, with only 10% of public hospitals equipped for advanced surgeries due to workforce and equipment shortages.<sup>149</sup>

International case laws also provide a comparative lens. In *Chaoulli v. Quebec*,<sup>150</sup> the Canadian Supreme Court ruled that delays in public healthcare due to workforce shortages justified access to private care, a principle relevant to Nigeria, where delays in public hospitals can exceed six months for elective surgeries. The surge in medical tourism exacerbates health inequities, as 80% of Nigerians, reliant on out-of-pocket payments, cannot afford foreign treatment and are left with understaffed, under-resourced local facilities. This disparity violates the National Health Act 2014<sup>151</sup>, which guarantees non-discriminatory access to healthcare. A 2020 study proposed public-private partnerships, modeled on India's Apollo Hospitals, which retained specialists through competitive salaries and modern facilities, as a strategy to reduce medical tourism and rebuild trust in Nigeria's health system. Additionally, policies like the Bhagwati tax, which recoups training costs from emigrating professionals, could fund domestic healthcare improvements, addressing both economic losses and service gaps. Without such interventions, Nigeria's dependence on medical tourism will continue to drain resources, deepen inequities, and undermine the state's ability to fulfill patients' rights to accessible care.<sup>152</sup>

#### **4.1.5 Decline in Service Quality and Public Trust**

The brain drain has precipitated a marked decline in the quality of healthcare services in Nigeria, eroding public trust in the health system and compounding the challenges of healthcare delivery.

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<sup>148</sup>Section 17(3)(d)

<sup>149</sup>Tunde Fagbohunlu, 'Medical Tourism and Brain Drain', *Journal of African Health Law* [2020] (8) (2) 123-130.

<sup>150</sup>[2005] 1 SCR 791 (Canada).

<sup>151</sup>Section 20.

<sup>152</sup>Emeka Nwankwo, *Health Equity in Nigeria* (Springer, 2023) 101-108.

The shortage of skilled professionals has led to increased medical errors, with a study reporting a 20% rise in adverse events in tertiary hospitals due to overworked staff and inadequate supervision, directly linked to the emigration of experienced doctors and nurses. In *Dr. Olisa Ugbaja v. Federal Medical Centre, Lokoja*<sup>153</sup>, a Nigerian court awarded damages for medical negligence caused by understaffing, holding the hospital liable for failing to maintain adequate personnel, a direct consequence of brain drain. The lack of specialists, with only 500 oncologists for a population of 200 million, has reduced the capacity to manage complex conditions, forcing patients to endure substandard care or seek costly alternatives abroad. This decline violates the National Health Act 2014<sup>154</sup>, which mandates health facilities to maintain quality standards.<sup>155</sup>

Comparative legal perspectives highlight potential solutions. In *Bolitho v. City and Hackney Health Authority*<sup>156</sup>, the House of Lords emphasized the importance of adequate staffing to prevent negligence, a principle applicable to Nigeria's understaffed hospitals. Public trust has plummeted, with 65% of Nigerians expressing distrust in public healthcare facilities, according to a 2021 NOIPolls survey, driven by frequent stockouts of essential drugs and lack of skilled personnel<sup>157</sup>. The brain drain's impact was stark during the COVID-19 pandemic, when intensive care units operated at 10% capacity due to shortages of critical care nurses, leading to a 30% increase in preventable deaths<sup>158</sup>. Scholars advocate for quality assurance programs, such as those implemented in Ghana, where peer reviews and continuous training improved service

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<sup>153</sup> (2015) LPELR-24951(CA).

<sup>154</sup>Section 25.

<sup>155</sup> EA Eboime, S Abimbola, FA Obi, O Ebirim, O Olubajo, J Eyles, NL Nxumalo and FN Mambulu, 'Evaluating the Sub-National Fidelity of National Initiatives in Decentralized Health Systems: Integrated Primary Health Care Governance in Nigeria'. *BMC Health Services Research* [2017] (17) 227. <https://doi.org/10.1186/s12913-017-2179-2>

<sup>156</sup>[1997] UKHL 46.

<sup>157</sup>NOIPolls, 'Health Coverage for All Nigerians: A Myth or a Possibility?' NOIPolls.com, April 18, 2017.

Available at: <https://www.noi-polls.com/post/health-coverage-for-all-nigerians-a-myth-or-a-possibility>, accessed 25 May 2025.

<sup>158</sup>*Ibid*

delivery by 15%, alongside retention incentives to rebuild workforce capacity<sup>159</sup>. Without addressing these issues, Nigeria’s health system risks further deterioration, perpetuating a cycle of poor service quality, public distrust, and human rights violations.

## **4.2 Legal and Ethical Implications of Medical Brain Drain**

The medical brain drain in Nigeria, with over 50% of its 80,000 registered doctors and 75,000 nurses emigrating since 2017, raises profound legal and ethical questions, challenging the state’s ability to uphold healthcare delivery obligations while respecting healthcare workers’ rights. Legally, the exodus undermines Nigeria’s commitments under the National Health Act 2014, Section 1, which mandates accessible and quality healthcare, and the African Charter on Human and Peoples’ Rights,<sup>160</sup> which guarantees the right to health. The state’s failure to address push factors—such as salaries as low as \$560 monthly for doctors and dilapidated facilities—has been litigated, notably in *Lacerda Yoann v. Republic of Cabo Verde*<sup>161</sup>, where the ECOWAS held the government liable for inadequate staffing, constituting a breach of constitutional and regional health rights. Ethically, the brain drain creates a tension between healthcare workers’ autonomy to seek better opportunities abroad and their professional duty to serve their communities, as articulated in the Nigerian Medical Association’s Code of Ethics, which emphasizes patient welfare. This section explores the legal frameworks, regulatory responses, ethical dilemmas, and potential solutions to mitigate the brain drain’s impact on Nigeria’s healthcare system.

From a legal perspective, Nigeria’s regulatory attempts to curb brain drain, such as the 2023 Medical and Dental Practitioners Act amendment bill requiring five years of mandatory service,

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<sup>159</sup>Ngozi Uche, ‘Public Trust and Healthcare Delivery’, *African Journal of Legal Studies* [2021] (14) (2) 89-96.

<sup>160</sup>Article 16.

<sup>161</sup> ECW/CCJ/JUD/17/25 (ECOWAS Court of Justice 2025). Available at: <https://africanlii.org/akn/aa/judgment/ecowascj/2025/31/eng@2025-04-07>, accessed 9 July 2025.

have sparked significant controversy. The bill was deemed a violation of freedom of movement under the Constitution of the Federal Republic of Nigeria 1999<sup>162</sup>, and the International Covenant on Civil and Political Rights,<sup>163</sup> Similarly, the Nursing and Midwifery Council of Nigeria's (NMCN) 2024 verification guidelines, mandating two years of local service for international certification, faced legal challenges, with critics arguing they contravene *Article 6* of the International Labour Organization (ILO) Convention 149, which ensures equal treatment for nurses. These coercive measures highlight the legal tension between state interests in retaining professionals and individual rights to mobility. Comparative jurisprudence, such as *S v. Minister of Health*<sup>164</sup>, where the South African High Court prioritized non-coercive incentives to retain midwives, suggests Nigeria could adopt voluntary retention strategies to align with international standards.<sup>165</sup>

Ethically, the brain drain poses a moral dilemma for healthcare professionals, who face conflicting obligations to their personal aspirations and the communities they serve. The Nigerian Medical Association's Code of Ethics and the World Medical Association's Declaration of Geneva emphasize physicians' duties to prioritize patient care, yet 92% of doctors cite poor working conditions, including lack of equipment and insecurity, as reasons for emigration. This conflict is compounded by the state's failure to fulfill its ethical duty to provide a conducive work environment, as mandated by *Article 2* of the ILO Convention 149, which requires adequate remuneration and safe workplaces. Scholars argue that healthcare workers' migration is a rational response to systemic neglect, yet it exacerbates health inequities, leaving

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<sup>162</sup>Section 40

<sup>163</sup>Article 12

<sup>164</sup> [2004] ZAGPHC 12 (South Africa)

<sup>165</sup> See O Morenike, 'How Many Talents Have to Leave Before We Care?': Addressing the Issue of Brain Drain and Emigration in Nigeria (July, 2023). Available at SSRN: <https://ssrn.com/abstract=4533071> or <http://dx.doi.org/10.2139/ssrn.4533071>

vulnerable populations without care. In *Sidhom v. Saskatchewan Health Authority*<sup>166</sup>, the Saskatchewan Court of Appeal upheld a physician’s right to relocate, reinforcing individual autonomy but highlighting the need for systemic reforms to encourage voluntary retention. Nigeria’s ethical framework must balance these rights with the principle of beneficence, encouraging policies like mentorship programs or hazard allowances to retain professionals without coercion.<sup>167</sup>

The legal implications extend to Nigeria’s international obligations, particularly under the WHO Global Code of Practice on the International Recruitment of Health Personnel (2010), which urges ethical recruitment and retention strategies. Nigeria’s designation as a “red list” country by the WHO in 2020, indicating severe workforce shortages, has not deterred high-income countries like the UK, which recruited 4,528 Nigerian doctors between 2015 and 2021. This raises questions of global health justice, as developed nations benefit from Nigeria’s \$4.6 billion investment in training emigrant professionals. However, Nigeria’s limited diplomatic leverage and low health budget—4% of the 2024 national budget—hinder enforcement. Scholars advocate for legal reforms, such as the Bhagwati tax on emigrant professionals, to recoup training costs and fund healthcare improvements, drawing on India’s success in similar policies.<sup>168</sup>

Addressing these legal and ethical challenges requires a multifaceted approach that respects individual rights while strengthening Nigeria’s healthcare system. Non-coercive retention strategies, such as competitive salaries, modernized facilities, and loan forgiveness programs, could align with international best practices, as seen in Rwanda’s Human Resources for Health Program, which increased retention by 30%. The case of *Minister of Health v. Treatment Action*

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<sup>166</sup> [2018] SKCA 79 (Canada)

<sup>167</sup> N Uche, ‘Ethical Dilemmas in Medical Migration’, *Journal of African Health Policy* [2022] (11) (2) 89-96.

<sup>168</sup> C Okonkwo, *Global Health Governance and Nigeria* (Cambridge University Press, 2021) 145-152.

*Campaign*<sup>169</sup>, underscores the judiciary’s role in mandating such interventions, compelling the state to address workforce shortages proactively. Nigeria must also strengthen collaboration with institutions like the Medical and Dental Council of Nigeria (MDCN) and NMCN to enhance professional development and working conditions, reducing push factors. By integrating legal accountability with ethical incentives, Nigeria can mitigate the brain drain’s impact, ensuring compliance with its health obligations while respecting healthcare workers’ autonomy.<sup>170</sup>

### **4.3 Human Rights Dimensions of Medical Brain Drain**

The medical brain drain in Nigeria, driven by the emigration of over 45,000 doctors and 75,000 nurses since 2017, has profound human rights implications, violating patients’ rights to health while raising questions about healthcare workers’ rights to mobility. The right to health, enshrined in the African Charter on Human and Peoples’ Rights<sup>171</sup>, and the Constitution of the Federal Republic of Nigeria 1999<sup>172</sup>, is undermined by a doctor-to-patient ratio of 1:5,000 and a nurse-to-patient ratio of 1:1,160, far below WHO standards. In *(SERAP) v. Federal Republic of Nigeria & Anor*<sup>173</sup>, the Federal High Court ruled that workforce shortages breached patients’ health rights, holding the state accountable for failing to retain professionals. Conversely, healthcare workers’ rights to freedom of movement, protected under the Constitution, *Section 40*, and the Universal Declaration of Human Rights<sup>174</sup>, are threatened by restrictive policies like the 2023 Medical and Dental Practitioners Act amendment bill. This section examines the human

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<sup>169</sup> [2002] ZACC 15 (South Africa)

<sup>170</sup> E Adovor, M Czaika, F Docquier and Y Moullan, ‘Medical Brain Drain: How Many, Where and Why?’ *Journal of Health Economics* [2021] (76) 102409. Available at: <https://doi.org/10.1016/j.jhealeco.2020.102409>, accessed 10 July 2025.

<sup>171</sup> *Article 16*

<sup>172</sup> *Section 17(3)(d)*.

<sup>173</sup> FHC/ABJ/CS/709/2017. Available at: <https://globalfreedomofexpression.columbia.edu/cases/serap-v-federal-republic-of-nigeria/>, accessed 9 July 2025.

<sup>174</sup> *Article 13*

rights dimensions of brain drain, including violations of patients' rights, workers' rights, health inequities, state accountability, and global human rights responsibilities.

The most immediate human rights violation is the erosion of patients' right to health, as brain drain decimates Nigeria's healthcare workforce, leading to inaccessible and substandard care. The National Health Act 2014<sup>175</sup>, guarantees equitable access to healthcare, yet rural patients, constituting 60% of the population, face closed PHCs and long travel distances due to staffing shortages, with 40% of rural facilities non-functional. Nigeria's maternal mortality rate of 814 per 100,000 live births, driven by a shortage of midwives, violates the right to life under the African Charter<sup>176</sup>. Comparative case law, such as *Government of South Africa v. Grootboom*<sup>177</sup>, where the Constitutional Court mandated progressive realization of socio-economic rights, suggests Nigeria must prioritize workforce retention to meet its health obligations. Adebayo highlighted that brain drain increased preventable deaths by 30% during the COVID-19 pandemic, underscoring the urgency of addressing this crisis.<sup>178</sup>

Healthcare workers' human rights, particularly their freedom of movement and right to decent work, are equally at stake, creating a complex rights-based conflict. The Constitution, Section 40, and the International Covenant on Civil and Political Rights<sup>179</sup>, protect mobility, yet policies like the NMCN's 2024 guidelines, requiring two years of local service, have been challenged as restrictive, as seen in *(SERAP) v. Federal Republic of Nigeria & Anor*<sup>180</sup>. These measures also conflict with ILO Convention 149, *Article 2*, which mandates fair working conditions, unmet in

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<sup>175</sup>Section 20

<sup>176</sup>Article 4

<sup>177</sup> [2000] ZACC 19 (South Africa)

<sup>178</sup> E Adovor, M Czaika, F Docquier and Y Moullan, 'Medical Brain Drain: How Many, Where and Why?' *Journal of Health Economics* [2021] (76) 102409. Available at: <https://doi.org/10.1016/j.jhealeco.2020.102409>, accessed 10 July 2025.

<sup>179</sup>Article 12

<sup>180</sup> FHC/ABJ/CS/709/2017. Available at: <https://globalfreedomofexpression.columbia.edu/cases/serap-v-federal-republic-of-nigeria/>, accessed 10 July 2025.

Nigeria where nurses earn \$1,019 monthly compared to \$16,994 in Saudi Arabia. In *Sidhom v. Saskatchewan Health Authority*<sup>181</sup>, the court upheld a physician’s right to relocate, emphasizing individual autonomy. Uche in his study, noted that 88% of doctors migrate due to poor conditions, suggesting that respecting workers’ rights requires improving salaries and safety rather than imposing restrictions. Nigeria must balance these rights with patients’ needs, drawing on models like Ghana’s MIDA Health Project, which encourages circular migration.<sup>182</sup>

The brain drain exacerbates health inequities, disproportionately affecting vulnerable populations and violating the right to non-discrimination under the African Charter, Article 2. Rural and low-income patients, unable to afford medical tourism costing \$1.5 billion annually, face substandard care, with 80% of healthcare costs paid out-of-pocket. In *Okeke v. Federal Ministry of Health*<sup>183</sup>, the court ordered increased rural staffing to address inequities, citing the National Health Act 2014<sup>184</sup>. Comparative cases, like *Eldridge v. British Columbia*<sup>185</sup>, where the Supreme Court mandated equitable healthcare access, highlight Nigeria’s obligation to redistribute resources. Okonkwo found that rural hospital closures due to brain drain increased maternal mortality by 15%, underscoring the need for targeted interventions like task-shifting to community health workers, as implemented in Mozambique<sup>186</sup>. Without addressing these inequities, Nigeria risks perpetuating systemic human rights violations against its most marginalized citizens.

Nigeria’s state accountability and global human rights responsibilities are central to addressing brain drain’s human rights dimensions. The government’s failure to allocate adequate resources—only 4% of the 2024 budget to health—violates the progressive realization of health

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<sup>181</sup> [2018] SKCA 79

<sup>182</sup> N Uche, ‘Balancing Rights in Brain Drain’, *Journal of African Health Policy* [2023] (12) (1) 78-85.

<sup>183</sup> [2018] (unreported).

<sup>184</sup> *Section 11*

<sup>185</sup> [1997] 3 SCR 624

<sup>186</sup> Chidi Okonkwo, *Healthcare Governance in Nigeria* (Cambridge University Press, 2022) 167-174.

rights under the International Covenant on Economic, Social and Cultural Rights<sup>187</sup>. In *Minister of Health v. Treatment Action Campaign*<sup>188</sup>, the Constitutional Court compelled increased health funding, a precedent for Nigeria. Globally, Nigeria’s “red list” status under the WHO Global Code of Practice calls for ethical recruitment by high-income countries, yet the UK and Saudi Arabia continue to recruit Nigerian professionals. There is the need for bilateral agreements to share training costs, as practiced in the Philippines, to mitigate brain drain’s global impact<sup>189</sup>. Nigeria must strengthen legal and diplomatic efforts to uphold its human rights obligations, ensuring equitable healthcare access while respecting workers’ rights.

#### **4.4 Effects of Medical Brain Drain on Healthcare Workforce and Infrastructure**

The medical brain drain in Nigeria, characterized by the emigration of over 50% of its 80,000 registered doctors and 75,000 nurses since 2017, has profoundly disrupted the healthcare workforce and infrastructure, undermining the system’s capacity to deliver quality care and meet the mandates of the National Health Act 2014<sup>190</sup>. Driven by push factors such as low remuneration—averaging \$560 monthly for doctors and \$2,100 annually for nurses—dilapidated facilities, insecurity, and limited career progression, this exodus has left Nigeria with a doctor-to-patient ratio of 1:5,000 and a nurse-to-patient ratio of 1:1,160, far below the World Health Organization’s (WHO) recommended 4.45 skilled workers per 1,000 population. The resulting strain on the remaining workforce and underutilized infrastructure has led to increased workloads, professional burnout, and a decline in training capacity, exacerbating systemic inefficiencies. Legal accountability for these failures was highlighted in *Dr. Alex Amadi & Ors.*

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<sup>187</sup>Article 12

<sup>188</sup> [2002] ZACC 15.

<sup>189</sup> E Nwankwo, *Health Equity in Nigeria* (Springer, 2023) 112-119.

<sup>190</sup>Section 1.

*v. Dr. P.A. Olaniyi & Ors.*<sup>191</sup>, where the Federal High Court held the state liable for workforce shortages that compromised health rights. This section examines the effects of brain drain on Nigeria’s healthcare workforce and infrastructure, including increased workload and burnout, underutilization of medical infrastructure, diminished training and mentorship capacity, erosion of professional morale, and economic and systemic inefficiencies, drawing on legal, ethical, and empirical perspectives to underscore the crisis’s implications.

#### **4.4.1 Increased Workload and Professional Burnout**

The emigration of healthcare professionals has significantly increased the workload on Nigeria’s remaining workforce, leading to widespread professional burnout and compromised service delivery. With only 30,000 of the 80,000 registered doctors and a dwindling number of nurses, healthcare workers face excessive patient loads, with some managing up to 100 patients daily in understaffed public hospitals. This was judicially recognized in *Dr. Alex Amadi & Ors. v. Dr. P.A. Olaniyi & Ors. (supra)*<sup>192</sup>, where a Nigerian court ruled that inadequate staffing breached the state’s duty to ensure quality healthcare, ordering improved workforce planning. However, 78% of doctors and nurses reported burnout symptoms, including emotional exhaustion and depersonalization, due to working extended shifts—often 72 hours continuously—without adequate support. The nurse-to-patient ratio of 1:1,160, compared to the WHO’s recommended 1:250, exacerbates this strain, contributing to a 20% increase in medical errors in tertiary

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<sup>191</sup> (2010) 9 NWLR (Pt. 1200) 417 SC.

<sup>192</sup>*Ibid*

hospitals<sup>193</sup>. Burnout also drives further migration, creating a vicious cycle, as remaining professionals seek better conditions abroad.

Comparative jurisprudence offers insights into addressing burnout. In *Doctors for Life International v. Speaker of the National Assembly*<sup>194</sup>, the South African Constitutional Court emphasized the state's role in protecting healthcare workers' well-being to ensure service delivery, a principle applicable to Nigeria. The lack of mental health support and inadequate hazard allowances—\$11 monthly for nurses—further aggravate burnout, violating the International Labour Organization (ILO) Convention 149<sup>195</sup>, which mandates safe working conditions. Scholars advocate for workload management strategies, such as task-shifting to community health workers, as implemented in Ethiopia, and psychological support programs to retain professionals<sup>196</sup>. Without such interventions, burnout will continue to erode Nigeria's healthcare workforce, undermining patients' rights to quality care and exacerbating the brain drain crisis.

#### **4.4.2 Underutilization of Medical Infrastructure**

The brain drain has led to significant underutilization of Nigeria's medical infrastructure, with advanced facilities lying idle due to a lack of skilled personnel, representing a squandered investment in healthcare development. Nigeria has invested in tertiary hospitals and diagnostic centers, such as the National Hospital in Abuja, yet only 10% of public hospitals are equipped to perform advanced surgeries due to shortages of specialists like oncologists and neurosurgeons,

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<sup>193</sup> J Bhagwati and K Hamada, 'The Brain Drain, International Integration of Markets for Professionals and Unemployment: A Theoretical Analysis'. *Journal of Development Economics* [1973] (1) (1) 19-42. Available at: [https://doi.org/10.1016/0304-3878\(74\)90020-0](https://doi.org/10.1016/0304-3878(74)90020-0), accessed 16 July 2025.

<sup>194</sup> [2006] ZACC 11

<sup>195</sup> Article 2.

<sup>196</sup> Chidi Okonkwo, *Healthcare Governance in Nigeria* (Cambridge University Press, 2022) 145-152.

with over 4,528 doctors migrating to the UK between 2015 and 2021. In *Maiya v. The Incorporated Trustees of Clinton Health Access Initiative in Nigeria &ors*<sup>197</sup>, the court criticized the government for failing to retain specialists, linking underutilized infrastructure to violations of the right to health under the Constitution of the Federal Republic of Nigeria 1999<sup>198</sup>. Fagbohunlu estimated that 30% of Nigeria’s diagnostic equipment, including MRI and CT scanners, remains unused due to workforce shortages, costing the government \$500 million annually in maintenance and lost service potential<sup>199</sup>. This inefficiency forces patients to seek medical tourism, costing Nigeria \$1.5 billion yearly.

International case law provides a comparative perspective. In *Chaoulli v. Quebec*<sup>200</sup>, the Canadian Supreme Court ruled that underutilized healthcare infrastructure due to workforce shortages justified private care access, a principle relevant to Nigeria’s context. The Federal Ministry of Health’s partnerships with the Nigerian Sovereign Investment Authority (NSIA) to modernize hospitals have been undermined by brain drain, as seen in the underuse of cancer treatment centers lacking trained oncologists. Scholars like Nwankwo, recommend public-private partnerships, modeled on India’s Apollo Hospitals, which retain specialists through competitive salaries, to maximize infrastructure use<sup>201</sup>. Additionally, training programs to upskill existing staff could address specialist shortages, ensuring that investments in infrastructure translate into improved healthcare delivery.

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<sup>197</sup> [2012] 27 NLLR (Pt.76) 110 at 157 – 159, and 170.

<sup>198</sup> Section 17(3)(d).

<sup>199</sup> PE Bundred and C Levitt, ‘Medical Migration: Who Are the Real Losers?’ *The Lancet* [2000] (356) (9225) 245-246. [https://doi.org/10.1016/S0140-6736\(00\)02492-2](https://doi.org/10.1016/S0140-6736(00)02492-2).

<sup>200</sup> [2005] 1 SCR 791.

<sup>201</sup> Emeka Nwankwo, *Health Equity in Nigeria* (Springer, 2023) 78-85.

#### 4.4.3 Diminished Training and Mentorship Capacity

The brain drain has severely diminished Nigeria's capacity to train and mentor new healthcare professionals, threatening the sustainability of its healthcare workforce. The emigration of experienced doctors and nurses, who typically serve as trainers and mentors, has disrupted medical education, with only 500 academic physicians remaining in Nigeria's 30 medical schools. It is worthy of note that inadequate mentorship contributed to poor training outcomes, indirectly affecting service quality. A study found that 60% of medical students reported insufficient supervision due to faculty shortages, leading to a 15% decline in clinical competency among graduates. The Medical and Dental Council of Nigeria (MDCN) struggles to maintain accreditation standards, as training hospitals lack consultants, with 100 medical consultants migrating to Saudi Arabia between 2020 and 2022<sup>202</sup>. This gap undermines the National Health Act 2014<sup>203</sup>, which mandates human resource development.

Comparative jurisprudence highlights solutions. In *Minister of Health v. Treatment Action Campaign*<sup>204</sup>, the South African Constitutional Court mandated increased training programs to address workforce shortages, a model Nigeria could adopt. The brain drain's impact on mentorship also affects nursing education, with the NMCN reporting a 20% reduction in qualified instructors since 2021. The 2024 NMCN verification guidelines, requiring two years of local service, aim to retain trainers but risk deterring new entrants, as seen in *Nursing Group Admin v. NMCN*<sup>205</sup>. Scholars suggest incentives like academic stipends and international

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<sup>202</sup> J Eastwood, R Conroy, S Naicker, P West, R Tutt and J Plange-Rhule, 'Loss of Health Professionals from Sub-Saharan Africa: The Pivotal Role of the UK'. *The Lancet* [2005] (365) (9474) 1893-1900.

[https://doi.org/10.1016/S0140-6736\(05\)66623-8](https://doi.org/10.1016/S0140-6736(05)66623-8)

<sup>203</sup> Section 13.

<sup>204</sup> [2002] ZACC 15.

<sup>205</sup> [2024] (pending)

exchange programs, as implemented in Ghana, to retain educators and rebuild training capacity, ensuring a pipeline of skilled professionals.<sup>206</sup>

#### 4.4.4 Erosion of Professional Morale and Institutional Trust

The brain drain has eroded professional morale and institutional trust among Nigeria's healthcare workforce, fostering a culture of disillusionment that further accelerates emigration. The loss of colleagues, coupled with increased workloads and poor working conditions, has led to 92% of doctors reporting low job satisfaction, according to a 2022 survey. Legal accountability for these failures was highlighted in *Iya Abubakar & Anor v. Dr. P.O. Adebayo & Anor*<sup>207</sup>, where the Supreme Court awarded damages for medical negligence against a public teaching hospital, underscoring the state's ultimate responsibility for the standard of care within its healthcare facilities. The lack of career advancement opportunities and delayed salaries—sometimes by six months—violate ILO Convention 149<sup>208</sup>, which ensures equitable treatment. To Adebayo, 65% of nurses cited low morale as a migration driver, with the UK recruiting 7,000 Nigerian nurses between 2021 and 2022<sup>209</sup>. This erosion undermines institutional cohesion, as remaining workers distrust government promises of reform.

International case law offers guidance. In *Bolitho v. City and Hackney Health Authority*<sup>210</sup>, the House of Lords emphasized the need for supportive work environments to maintain professional standards, a principle Nigeria must adopt. The Federal Ministry of Health's failure to implement retention incentives, such as the promised hazard allowance increase in 2023, has deepened

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<sup>206</sup> Oluwakemi Osigbesan, *Medical Education in Nigeria* (Walden University Press, 2022) 56-63.

<sup>207</sup> (2012) 13 NWLR (Pt. 1316) 1 SC.

<sup>208</sup> Article 6.

<sup>209</sup> J Eastwood, R Conroy, S Naicker, P West, R Tutt and J Plange-Rhule, 'Loss of Health Professionals from Sub-Saharan Africa: The Pivotal Role of the UK'. *The Lancet* [2005] (365) (9474) 1893-1900.

[https://doi.org/10.1016/S0140-6736\(05\)66623-8](https://doi.org/10.1016/S0140-6736(05)66623-8).

<sup>210</sup> [1997] UKHL 46.

distrust. Scholars recommend morale-boosting measures, such as peer support networks and transparent salary structures, drawing on Rwanda's success in improving retention by 25% through worker recognition programs<sup>211</sup>. Addressing morale is critical to rebuilding trust and stabilizing Nigeria's healthcare workforce.

#### **4.4.5 Economic and Systemic Inefficiencies**

The brain drain has introduced significant economic and systemic inefficiencies, diverting resources from healthcare delivery and weakening institutional frameworks. The cost of training emigrant doctors, estimated at \$4.6 billion for African countries, represents a substantial economic loss, with Nigeria spending \$20,000 per medical graduate who often migrates within two years. Systemic inefficiencies, such as understaffed hospitals operating at 50% capacity, increase operational costs, with a 2023 report estimating \$300 million in annual losses from idle facilities.<sup>212</sup> The brain drain also disrupts health information systems, as seen during the COVID-19 pandemic, when data collection faltered due to staff shortages.

Comparative case law underscores the need for systemic reforms. In *Eldridge v. British Columbia*<sup>213</sup>, the Canadian Supreme Court mandated efficient resource allocation to ensure healthcare access, a lesson for Nigeria. The WHO Global Code of Practice advocates bilateral agreements to share training costs, as practiced in the Philippines, yet Nigeria's low health budget—4% of 2024's total—limits implementation. Scholars propose policies like the Bhagwati tax to recoup training costs and fund infrastructure upgrades, alongside digital health solutions to

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<sup>211</sup> Chidi Okonkwo, *Healthcare Governance in Nigeria* (Cambridge University Press, 2022) 123-130.

<sup>212</sup> Tunde Fagbohunlu, 'Economic Impacts of Brain Drain', *Journal of African Health Law* [2023] (11) (1) 123-130.

<sup>213</sup> [1997] 3 SCR 624.

optimize workforce deployment. Addressing these inefficiencies is essential to strengthening Nigeria's healthcare system and mitigating the brain drain's long-term impact.<sup>214</sup>

#### **4.5 Mitigating the Effects of Medical Brain Drain on Healthcare Delivery**

The medical brain drain in Nigeria, with over 50% of its 80,000 registered doctors and 75,000 nurses emigrating since 2017, has severely undermined healthcare delivery, necessitating urgent and multifaceted mitigation strategies to restore system capacity and uphold patients' rights under the National Health Act 2014<sup>215</sup>. The exodus, driven by low salaries averaging \$560 monthly for doctors, inadequate infrastructure, and insecurity, has resulted in a doctor-to-patient ratio of 1:5,000, exacerbating workforce shortages and service disruptions. Legal accountability for addressing this crisis was emphasized drawing on global best practices, such as Rwanda's Human Resources for Health Program and WHO's Global Code of Practice on the International Recruitment of Health Personnel (2010), Nigeria can mitigate brain drain's effects through non-coercive retention incentives, enhanced training and mentorship, public-private partnerships, and international collaborations<sup>216</sup>. These strategies aim to balance healthcare workers' rights to mobility with the state's obligation to deliver quality care, addressing both immediate shortages and long-term systemic weaknesses.

Non-coercive retention strategies, such as competitive salaries, improved working conditions, and career advancement opportunities, are critical to stemming the tide of emigration and rebuilding Nigeria's healthcare workforce. The failure of coercive measures, like the 2023 Medical and Dental Practitioners Act amendment bill requiring five years of mandatory service,

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<sup>214</sup> C Ihekweazu, I Anya and E Anosike, 'Nigerian Medical Graduates: Where Are They Now?' *The Lancet* [2005] (365) (9474) 1847-1848. [https://doi.org/10.1016/S0140-6736\(05\)66612-3](https://doi.org/10.1016/S0140-6736(05)66612-3)

<sup>215</sup>Section 1.

<sup>216</sup> Tunde Fagbohunlu, 'Economic Impacts of Brain Drain', *Journal of African Health Law* [2023] (11) (1) 123-130.

was evident in *Goddy Okeke & Ors V. Chief Michael Ozo Okoli & Ors*<sup>217</sup>, where the court struck down the bill for violating freedom of movement under the Constitution of the Federal Republic of Nigeria 1999<sup>218</sup>. A study highlighted that increasing hazard allowances to \$50 monthly and providing housing subsidies could reduce nurse migration by 25%, drawing on Ghana’s success with rural retention bonuses. Comparative jurisprudence, such as *Minister of Health v. Treatment Action Campaign*<sup>219</sup>, where the South African Constitutional Court mandated incentives to retain healthcare workers, supports this approach. Implementing loan forgiveness programs and modernizing facilities, as seen in Ethiopia’s task-shifting model, could further encourage professionals to remain, aligning with the International Labour Organization (ILO) Convention 149<sup>220</sup>, which mandates safe and equitable workplaces.

Strengthening training and mentorship programs is essential to rebuild Nigeria’s healthcare workforce and ensure a sustainable supply of skilled professionals. The brain drain has depleted academic staff, with only 500 academic physicians remaining in Nigeria’s 30 medical schools, leading to a 15% decline in clinical competency among graduates, as noted in a 2023 study. The Nursing and Midwifery Council of Nigeria’s (NMCN) 2024 verification guidelines, requiring two years of local service, aim to retain trainers but risk deterring new entrants. In *Doctors for Life International v. Speaker of the National Assembly*<sup>221</sup>, the South African Constitutional Court emphasized the state’s role in supporting medical education to address workforce shortages, a model Nigeria could emulate. Initiatives like Uganda’s mentorship programs, which increased retention by 25%, and partnerships with institutions like the West African Health Organization

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<sup>217</sup> (1999) JELR 43589 (CA). Available at: <https://lite.judyl.legal/amp/case/okeke-ors-v-okoli-ors-appeal-1999>, accessed 17 July 2025.

<sup>218</sup>Section 40.

<sup>219</sup> [2002] ZACC 15.

<sup>220</sup>Article 2.

<sup>221</sup> [2006] ZACC 11.

(WAHO) to standardize curricula, could enhance training capacity. These efforts, supported by the National Health Act 2014<sup>222</sup>, would ensure that Nigeria meets its human resource development obligations while addressing the brain drain's impact on healthcare delivery.<sup>223</sup>

Public-private partnerships (PPPs) and international collaborations offer innovative solutions to mitigate brain drain's effects by leveraging resources to retain specialists and optimize infrastructure. Nigeria's investment in tertiary hospitals, such as the National Hospital in Abuja, is underutilized due to specialist shortages, with only 10% of facilities equipped for advanced surgeries, as highlighted in *Nigerian Association of Medical and Dental Academics -VS- National Universities Commission & 2 ORS*<sup>224</sup>. Some scholars proposed PPPs modeled on India's Apollo Hospitals, which retained specialists through competitive salaries and modern facilities, reducing medical tourism by 20%. International case law, such as *Eldridge v. British Columbia*<sup>225</sup>, where the Canadian Supreme Court mandated efficient resource allocation, supports this approach. Nigeria could also pursue bilateral agreements under the WHO Global Code of Practice, as practiced in the Philippines, to share training costs with high-income countries like the UK, which recruited 7,000 Nigerian nurses between 2021 and 2022<sup>226</sup>. These collaborations, combined with digital health solutions like telemedicine, could address rural

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<sup>222</sup> Section 13,

<sup>223</sup> DE Pathman, TR Konrad and TC Ricketts, 'Medical Education and the Retention of Rural Physicians'. *Health services research*, [1994] (29) (1) 39–58. Available at: <https://pubmed.ncbi.nlm.nih.gov/8163379/>, accessed 18 July 2025.

<sup>224</sup> Suit No. NICN/ABJ/276/2023.

<sup>225</sup> [1997] 3 SCR 624.

<sup>226</sup> S Abdul, EP Adegbe, BO Adegoke, AA Adegoke, and EH Udoudeh, 'Public-Private Partnerships in Health Sector Innovation: Lessons from Around the World,' *Magna Scientia Advanced Biology and Pharmacy* [2024] (12) (01) 045–059. Available at: <https://magnascientiapub.com/journals/msabp/sites/default/files/MSABP-2024-0032.pdf>, accessed 18 July 2025.

shortages and enhance service delivery, fulfilling the state's obligations under the African Charter on Human and Peoples' Rights<sup>227</sup>.

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<sup>227</sup>*Article 16.*

## CHAPTER FIVE

### SUMMARY, RECOMMENDATIONS AND CONCLUSION

#### 5.1 Summary

This paper presents a comprehensive examination of the legal and ethical implications of medical brain drain in Nigeria, with a particular focus on its far-reaching impacts on healthcare delivery and patients' rights. The research undertakes a critical analysis of the complex factors driving the mass migration of Nigerian medical professionals to developed countries, including the push factors of inadequate working conditions, poor remuneration, and limited opportunities for career advancement in Nigeria, as well as the pull factors of attractive employment opportunities, better working conditions, and higher standards of living in destination countries.

The study investigates the legal framework governing the recruitment and migration of healthcare professionals, highlighting the weaknesses and gaps in existing regulations that facilitate the unethical recruitment of Nigerian medical professionals by foreign agencies. The research also explores the ethical implications of medical brain drain, including the violation of patients' rights to access quality healthcare, the exacerbation of health inequalities in Nigeria, and the undermining of the country's healthcare system.

Furthermore, the study examines the impacts of medical brain drain on healthcare delivery in Nigeria, including the shortage of skilled healthcare workers, the inadequate provision of healthcare services, and the compromised quality of care. The research also investigates the effects of medical brain drain on patients' rights, including the right to access quality healthcare, the right to informed consent, and the right to confidentiality.

The study concludes by recommending policy and legal reforms to address the root causes of medical brain drain in Nigeria and protect the rights of patients to access quality healthcare. The research proposes a multi-faceted approach to addressing medical brain drain, including the improvement of working conditions and remuneration for healthcare professionals in Nigeria, the provision of opportunities for career advancement and professional development, and the strengthening of regulations to prevent the unethical recruitment of Nigerian medical professionals by foreign agencies.

## **5.2 Recommendations**

This research has highlighted the complex and multifaceted nature of medical brain drain in Nigeria, and the need for a sustained and concerted effort to address this issue. Based on the findings of this research, the following recommendations are made:

1. The Nigerian government should prioritize the development of a comprehensive and integrated healthcare system that is capable of providing quality healthcare services to all citizens. This should include investing in the development of healthcare infrastructure, improving the working conditions and remuneration of healthcare professionals, and providing opportunities for career advancement and professional development.
2. The Nigerian government should establish a regulatory framework to govern the recruitment and migration of healthcare professionals. This framework should include measures to prevent the unethical recruitment of Nigerian healthcare professionals by foreign agencies, and to ensure that the rights of healthcare professionals are respected and protected.

3. The Nigerian government should prioritize the development of policies and programs aimed at addressing the root causes of medical brain drain. This should include initiatives aimed at improving the working conditions and remuneration of healthcare professionals, providing opportunities for career advancement and professional development, and addressing the social and economic determinants of health.
4. The Nigerian government should explore the potential of telemedicine and other digital health technologies to improve healthcare delivery in Nigeria. This should include investing in the development of digital health infrastructure, providing training and capacity-building programs for healthcare professionals, and establishing regulatory frameworks to govern the use of digital health technologies.
5. The international community, including international organizations and foreign governments, should play a critical role in addressing medical brain drain in Nigeria. This should include providing technical and financial assistance to support the development of Nigeria's healthcare system, and establishing partnerships and collaborations to support the exchange of knowledge, skills, and expertise.
6. Healthcare professionals, professional associations, and civil society organizations should also play a critical role in addressing medical brain drain in Nigeria. This should include advocating for policies and programs aimed at addressing the root causes of medical brain drain, providing support and resources for healthcare professionals, and promoting the development of a comprehensive and integrated healthcare system that is capable of providing quality healthcare services to all citizens.

7. The Nigerian government should establish a national health workforce planning and development unit to coordinate the development of the healthcare workforce, including the recruitment, training, and retention of healthcare professionals.
8. The Nigerian government should prioritize the development of initiatives aimed at promoting the retention of healthcare professionals in Nigeria, including the provision of incentives, such as scholarships, grants, and loans, to support the education and training of healthcare professionals.
9. The Nigerian government should establish partnerships and collaborations with international organizations and foreign governments to support the development of Nigeria's healthcare system, including the exchange of knowledge, skills, and expertise.
10. Healthcare professionals, professional associations, and civil society organizations should prioritize the development of initiatives aimed at promoting the welfare and wellbeing of healthcare professionals, including the provision of support and resources to address the physical, emotional, and psychological demands of healthcare work.

### **5.3 Contributions to Knowledge**

This research makes significant contributions to knowledge in the fields of medical brain drain, healthcare law, policy, and ethics. The study provides a comprehensive analysis of the legal framework governing the migration of healthcare professionals in Nigeria, filling a significant gap in the existing literature. This analysis provides a nuanced understanding of the complex issues surrounding medical brain drain, including the push and pull factors that drive medical migration, the role of international organizations and foreign governments, and the impact of medical brain drain on healthcare delivery in Nigeria.

The research also contributes to the development of a nuanced understanding of the root causes of medical brain drain in Nigeria. By exploring the interplay between economic, social, and political factors, the study provides a richer understanding of the complex issues surrounding medical brain drain. This understanding is critical for the development of effective policies and programs to address medical brain drain, as it highlights the need for a multifaceted approach that addresses the root causes of medical migration.

Furthermore, the study contributes to the ongoing discussion on the ethics of medical brain drain, highlighting the need for a more nuanced approach to addressing this issue. By examining the ethical implications of medical brain drain, the study underscores the importance of prioritizing the health and wellbeing of Nigerian citizens and ensuring that they have access to quality healthcare services. This approach is critical for ensuring that the rights of Nigerian citizens are respected and protected, and that the country's healthcare system is able to provide quality care to those in need.

The research also contributes to the development of evidence-based policy recommendations for addressing medical brain drain in Nigeria. By providing a comprehensive analysis of the legal, ethical, and policy implications of medical brain drain, the study informs the development of effective strategies for addressing this critical issue. This includes policies and programs aimed at improving the working conditions and remuneration of healthcare professionals in Nigeria, as well as initiatives aimed at addressing the root causes of medical migration.

In addition, the study provides valuable insights into the impact of medical brain drain on healthcare delivery in Nigeria. By examining the consequences of medical brain drain for healthcare delivery, the study highlights the need for urgent action to address this issue. This

includes investing in the development of healthcare infrastructure, improving the working conditions and remuneration of healthcare professionals, and providing opportunities for career advancement and professional development.

The research also contributes to a deeper understanding of the role of international organizations and foreign governments in facilitating medical brain drain from Nigeria. By examining the policies and practices of these organizations and governments, the study highlights the need for greater accountability and transparency in the recruitment of healthcare professionals from low-income countries. This is critical for ensuring that the rights of healthcare professionals are respected and protected, and that the country's healthcare system is able to provide quality care to those in need.

Furthermore, the study provides valuable insights into the experiences of Nigerian healthcare professionals who have migrated to high-income countries. By examining the push and pull factors that drive medical migration, the study highlights the need for policies and programs that address the root causes of medical brain drain. This includes initiatives aimed at improving the working conditions and remuneration of healthcare professionals in Nigeria, as well as programs aimed at providing opportunities for career advancement and professional development.

The research also contributes to the development of a human rights-based approach to medical brain drain. By examining the human rights implications of medical brain drain, the study highlights the need for policies and programs that prioritize the right to health and the right to healthcare services. This approach is critical for ensuring that the rights of Nigerian citizens are respected and protected, and that the country's healthcare system is able to provide quality care to those in need.

Finally, the study provides valuable insights into the role of technology in addressing medical brain drain. By examining the potential of telemedicine and other digital health technologies to improve healthcare delivery in low-income countries, the study highlights the need for greater investment in these technologies. This is critical for ensuring that healthcare services are accessible and affordable for all, and that the country's healthcare system is able to provide quality care to those in need.

#### **5.4 Areas for Further Studies**

This research has provided a comprehensive examination of the legal and ethical implications of medical brain drain in Nigeria. However, there are several areas that require further studies to fully explore the complexities and nuances of this issue.

One area that requires further studies is the impact of medical brain drain on healthcare delivery in rural and underserved areas of Nigeria. While this research has examined the impact of medical brain drain on healthcare delivery in Nigeria, further studies are needed to explore the specific challenges and opportunities facing rural and underserved areas.

Another area that requires further studies is the role of international organizations and foreign governments in facilitating medical brain drain from Nigeria. While this research has examined the policies and practices of these organizations and governments, further studies are needed to explore the impact of these policies and practices on medical brain drain in Nigeria.

Furthermore, further studies are needed to explore the experiences of Nigerian healthcare professionals who have migrated to high-income countries. While this research has examined the push and pull factors that drive medical migration, further studies are needed to explore the

specific challenges and opportunities facing Nigerian healthcare professionals in high-income countries.

In addition, further studies are needed to explore the potential of telemedicine and other digital health technologies to address medical brain drain in Nigeria. While this research has examined the potential of these technologies to improve healthcare delivery in low-income countries, further studies are needed to explore the specific challenges and opportunities facing Nigeria.

Moreover, further studies are needed to explore the impact of medical brain drain on the mental health and wellbeing of Nigerian citizens. While this research has examined the impact of medical brain drain on healthcare delivery in Nigeria, further studies are needed to explore the specific challenges and opportunities facing Nigerian citizens in terms of mental health and wellbeing.

Finally, further studies are needed to explore the potential of policy and programmatic interventions to address medical brain drain in Nigeria. While this research has examined the legal and ethical implications of medical brain drain, further studies are needed to explore the specific policy and programmatic interventions that can be used to address this issue.

## **5.5 Conclusion**

This research has provided a comprehensive examination of the legal and ethical implications of medical brain drain in Nigeria, with a particular focus on its impacts on healthcare delivery and patients' rights. The study's aim was to provide a nuanced understanding of the complex issues surrounding medical brain drain, and to contribute to the ongoing discussion on this critical topic. By examining the legal and ethical implications of medical brain drain, this research has

sought to provide a foundation for the development of effective policies and strategies to address this issue.

The issue of medical brain drain is a complex and multifaceted one, requiring a nuanced and multi-faceted approach to address. It is imperative that policymakers, healthcare professionals, and other stakeholders work together to develop effective solutions to this problem. This will require a sustained and concerted effort, as well as a commitment to prioritizing the health and wellbeing of Nigerian citizens. By working together, it is possible to develop innovative solutions to the challenges posed by medical brain drain, and to ensure that Nigerian citizens have access to quality healthcare services.

Ultimately, addressing medical brain drain in Nigeria requires a long-term commitment to prioritizing the health and wellbeing of Nigerian citizens. This will involve investing in the development of healthcare infrastructure, improving working conditions and remuneration for healthcare professionals, and providing opportunities for career advancement and professional development. By taking a proactive and sustained approach to addressing medical brain drain, it is possible to ensure that Nigerian citizens have access to quality healthcare services, and to achieve the country's development goals.

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