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Strengthening Healthcare Delivery through Public Private Partnerships

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ABSTRACT

Public-Private Partnerships (PPPs) have become an essential tool for managing the limited resources of the public sector while meeting the expanding healthcare needs of the populace. PPPs' potential to close gaps in accessibility, cost, and quality is the main focus of this paper's analysis of their role in improving healthcare delivery. By examining successful case studies, including as programs like the Ayushman Bharat health insurance system and diagnostic service outsourcing, the study illustrates the various ways that public and private institutions can work together.

The subject matter explores the legislative frameworks that facilitate these collaborations, tackling obstacles like accountability concerns, regulatory hurdles, and fair service delivery. The study also assesses the efficiency improvements made possible by PPPs while contrasting them with issues of inclusivity and equity. It provides insights into best practices and the prerequisites for effective implementation by drawing on experiences from throughout the country.

Keywords: Public Sector, Healthcare, Accessibility, Equity, Efficiency.

I. INTRODUCTION

India's healthcare system has many obstacles, such as a significant reliance on the private sector, underfunded infrastructure, and a growing healthcare gap between rural and urban areas. A way to address these problems is through public-private partnerships (PPPs), which combine the advantages of both industries to improve care quality, equity, and accessibility. PPPs' efficacy is, however, constrained by operational, financial, and legal issues.

A number of issues, such as a high illness demand, inadequate healthcare infrastructure, and glaring disparities in access to high-quality care between urban and rural areas, are placing a great deal of strain on India's healthcare system. The Indian government has long offered healthcare services, but in light of growing demand and constrained funding, it is increasingly looking to work with the private sector to enhance service delivery.

By utilizing private sector investments, technology, and operational efficiencies while

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upholding public responsibility and control, Public-Private Partnerships (PPPs) have gained favour as a possible paradigm for closing the gaps in healthcare delivery. PPPs have the ability to significantly improve healthcare infrastructure, particularly in marginalized areas, and improve health outcomes nationwide.

(A) Statement of Problem:

India spends only 1.5% of its GDP on healthcare, which is much less than the 6% global average for developing nations.² Despite being extensive, the public healthcare system is underfunded and overworked, especially in underserved and rural areas.³ Nearly 70% of outpatient treatment and 60% of inpatient care are provided by private healthcare, which controls the majority of service delivery.⁴ However, because of the high out-of-pocket expenses (OOPE), low-income people frequently cannot attend private facilities.⁵

(B) Objectives:

This research aims to:

- Examine how PPPs can be used to address India's healthcare issues.
- Examine the legislative and policy structures that oversee PPPs in the healthcare industry.
- Analyse case studies to assess achievements and shortcomings.
- Determine the obstacles to a successful PPP deployment.

(C) Research Questions:

- What are the main functions and contributions of PPPs in the healthcare industry in India?
- To what extent are PPPs governed by legal and regulatory frameworks effective?
- What may be inferred from India's successful PPP healthcare initiatives?
- What obstacles exist for the use of PPP in the medical field?

(D) Scope and Limitations of the study

This study looks at healthcare PPPs in India and how they can increase equity, affordability, and access. Secondary materials like scholarly publications, case studies, and policy documents

² World Bank, *Public-Private Partnerships in Infrastructure* (2020)

³ Ministry of Health and Family Welfare, *National Health Profile 2021*

⁴ Sharma A, 'Evaluating the Effectiveness of PPPs in Health Systems in India' (2021) 25 IJPPP 110

⁵ Ibid

are included in the analysis. Among the limitations are:

- A dependence on publicly accessible data, which might not provide thorough insights.
- PPP models outside of the healthcare industry have not been thoroughly studied.
- the lack of primary field research methods like stakeholder consultations or interviews.

II. THE LEGAL AND REGULATORY FOUNDATIONS OF PPPS IN INDIA

A combination of laws, rules, and government policies that cater to the unique requirements of public-private cooperation have shaped India's approach to PPPs. PPPs in India are based on a number of important legislative and policy frameworks that are intended to give these kinds of partnerships the legal framework they require.

- **The Indian Contract Act 1872**

The foundation of all contractual arrangements in India, including PPPs, is the Indian Contract Act of 1872. It gives public and private entities the legal foundation upon which to build contracts. The Act establishes the fundamental contract law concepts that apply to PPP agreements, including offer, acceptance, consideration, and performance. It also regulates non-performance remedies, dispute settlement, and contract violations. The Contract Act is the basic law that governs the formation and enforcement of PPP contracts, even if it is not PPP-specific.⁶

- **The Public Procurement Bill 2012**

This bill, which attempts to simplify and control the procurement process for both public and private companies involved in public sector projects, is one of the important pieces of legislation pertinent to PPPs in India. Despite its procurement focus, the Bill establishes standards for openness, competition, and equity in the awarding of public contracts, including PPP-related ones. By addressing important facets of procurement such contract award, evaluation, and tendering processes, the Bill makes sure that the government interacts with private organizations in an equitable and open way.

In order to give PPP agreements a legal framework, the Bill also mandates that they contain particular clauses pertaining to dispute resolution, contract termination, and penalties for non-performance.⁷

- **The National PPP Policy 2011**

⁶ Indian Contract Act, 1872 (India) <https://legislative.gov.in/actsofparliamentfromtheyear/indian-contract-act-1872> accessed 27 November 2024.

⁷ Ministry of Finance, *The Public Procurement Bill, 2012* (Government of India 2012) <https://finmin.nic.in/sites/default/files/PPP%20Bill%202012.pdf> accessed 27 November 2024.

One important government project that outlines the framework for adopting PPPs in various sectors of India is the National PPP Policy, which was adopted in 2011. This policy offers the general rules for government departments and agencies for entering into PPP agreements, even if it is not a legally obligatory regulation. It emphasizes how crucial openness, equity, and responsibility are when choosing private partners and carrying out PPP initiatives.

The strategy describes how to find projects that are a good fit for PPPs, provide an open procurement process, and give the public and private sectors ways to share risk. It also highlights how important it is for the public sector to get involved in order to guarantee that benefits are distributed fairly and that underprivileged groups receive services.⁸

- **The Model Concession Agreement**

The Indian government created a uniform contract template for use in PPP projects called the Model Concession Agreement (MCA). The MCA was created by the Ministry of Finance's Department of Economic Affairs (DEA) with the goal of acting as a template for planning and carrying out PPP projects. In order to assist guarantee that projects are executed consistently and in a way that complies with the law, it is intended to provide light on the roles, duties, and obligations of the public and private parties involved in a PPP.

The MCA covers a number of important PPP agreement topics, including payment plans, performance requirements, dispute resolution procedures, and project execution schedules. It also lays out the processes for contract modifications, termination, and defaults, as well as clauses pertaining to risk-sharing between public and private partners.⁹

III. LEGAL AND REGULATORY CHALLENGES IN PPPS IN HEALTHCARE

India has a strong legal foundation for PPPs, but there continue to be issues with how these regulations are applied and enforced, especially in the healthcare industry. These difficulties arise from practical and legal considerations that impact PPP implementation.

- **Complexity and Regulatory Oversight**

In India, healthcare PPPs sometimes entail intricate regulatory constraints, which may cause project implementation delays and issues. The Ministry of Health and Family Welfare, state health ministries, and regulatory organizations like the Medical Council of India are among the

⁸ Ministry of Finance, *National PPP Policy 2011* (Government of India 2011) <https://finmin.nic.in/sites/default/files/NationalPPPPolicy2011.pdf> accessed 27 November 2024.

⁹ Department of Economic Affairs, *Model Concession Agreement for PPP Projects* (Ministry of Finance, Government of India 2013) <https://dea.gov.in/sites/default/files/Model%20Concession%20Agreement.pdf> accessed 27 November 2024.

several tiers of government that oversee healthcare regulations. Ensuring the effective execution of PPPs can be challenging due to the potential for ambiguity resulting from this fragmented oversight regarding the roles and duties of many parties.

Furthermore, healthcare PPPs frequently call for adherence to both general PPP legislation and industry-specific rules, like those pertaining to patient safety, health standards, and medical licensing. The absence of a uniform framework for PPPs in the healthcare industry may make it difficult to guarantee accountability and compliance everywhere.

- **Issues of Equity and Accessibility**

Taking guarantees that these collaborations benefit all facets of society, particularly underprivileged and marginalized people, is another difficulty facing the healthcare PPP industry. While improving underprivileged groups' access to medical treatments is the aim of many healthcare PPPs, there are worries that increased commercialization from private sector engagement could make healthcare services less accessible for the less fortunate.

Provisions that guarantee private partners are motivated to uphold service affordability and equity must be incorporated into the legal framework for healthcare PPPs. In order to avoid any negative effects on healthcare access, PPP contracts should also contain provisions that outline the degree to which the private sector is expected to assist low-income and rural people.

- **Dispute Resolutions Mechanism**

In India, dispute resolution is still a major concern for PPP project governance. Disagreements over the interpretation of contract terms, performance requirements, and payment structures may arise due to the complexity of healthcare PPPs, which sometimes entail long-term agreements and significant financial commitments. Although arbitration is covered by the Model Concession Agreement, the efficiency of these procedures' hinges on how quickly and fairly they are carried out. Both patients and healthcare professionals may have more difficulties as a result of delays in conflict resolution.

IV. CHALLENGES IN IMPLEMENTING PUBLIC PRIVATE PARTNERSHIPS IN HEALTHCARE

Public-Private Partnerships, have become a crucial tactic for tackling India's healthcare issues. But there are many challenges in putting them into practice, from governance problems to operational inefficiencies. With the help of pertinent legal and regulatory sources as well as real-world examples, this section examines the main obstacles to healthcare PPP implementation.

- **Regulatory and Policy Complexity**

In India, where several agencies and laws regulate various facets of healthcare delivery, healthcare PPPs function within a fragmented regulatory environment. These consist of state health departments, the Ministry of Health and Family Welfare, and other regulating organizations like the National Medical Commission. The absence of a uniform framework and overlapping jurisdictions frequently cause approval delays and impede the effective execution of projects.

For example, PPP operations become even more complex when sector-specific legislation like the Clinical Establishments (Registration and Regulation) Act, 2010 must be followed. Although this Act requires all clinical institutions to be registered and regulated, different states apply it differently, which leads to inconsistent healthcare PPPs.¹⁰

- **Financial Constraints and Sustainability**

The financial sustainability of projects is one of the biggest obstacles in healthcare PPPs. PPPs in the healthcare industry sometimes call for large upfront private sector investments, with returns being dependent on reaching predetermined public health goals that could take years to achieve. Private companies are deterred from taking part in PPP projects by this lengthy gestation period, especially in underserved and rural areas where demand may be unpredictable. Furthermore, business partners have been stretched by government agencies' payment delays. For instance, some private hospitals have expressed worries over delayed reimbursements for beneficiaries' treatment under Ayushman Bharat's Pradhan Mantri Jan Arogya Yojana (PM-JAY), which has an impact on their financial flows and economic sustainability.¹¹

- **Equity and Access Issues**

Despite their goal of closing access gaps to high-quality treatment, healthcare PPPs have occasionally come under fire for putting profit ahead of equity. Because more earnings are assured in urban or semi-urban areas, private partners might prioritize these places over rural and isolated areas, which are in dire need of healthcare infrastructure. For example, the PPP diagnostic centres experience in Bihar showed that rural areas were still neglected while district headquarters and metropolitan areas received the majority of treatments. This unequal allocation of resources runs counter to PPPs' main goal in healthcare, which is to

¹⁰ Clinical Establishments (Registration and Regulation) Act 2010 (India) <https://legislative.gov.in/sites/default/files/A2010-23.pdf> accessed 27 November 2024.

¹¹ National Health Authority, *Annual Report 2021-22: Ayushman Bharat - Pradhan Mantri Jan Arogya Yojana* (Government of India 2022) <https://pmjay.gov.in> accessed 27 November 2024.

increase access for marginalized groups.¹²

- **Accountability and Transparency Deficits**

Transparency and accountability in the design and implementation of PPP contracts have been persistent issues. The efficacy of healthcare PPPs has been weakened by unclear contract terms, insufficient monitoring systems, and a failure to enforce performance criteria. In its examination of PPP projects in the healthcare industry, for example, the Comptroller and Auditor General (CAG) of India discovered that many contracts lacked well-defined performance metrics, which resulted in less-than-ideal service delivery.

Furthermore, several PPP initiatives have been attacked for their opaque bidding and tendering procedures, which deter potential private partners and damage the initiative's credibility.¹³

- **Human Resource Challenges**

The hiring, retaining, and training of qualified healthcare personnel are frequently issues for healthcare PPPs. Private partners find it difficult to recruit skilled medical professionals, nurses, and technicians for many PPP projects, especially in remote areas. Inadequate infrastructure and a lack of incentives exacerbate medical professionals' unwillingness to work in rural areas. For instance, private operators' unwillingness to operate in distant areas with inadequate infrastructure and facilities caused major staffing issues for the Rajasthan PPP effort, which operated primary healthcare centres.¹⁴

- **Risk Allocation and Management**

The distribution and control of risks between public and private partners is a crucial concern in healthcare PPPs. Contracts frequently don't specify who is responsible for risks like cost overruns, poor service delivery, or patient safety problems. Conflicts and project delays result from this.

The Department of Economic Affairs created the Model Concession Agreement (MCA) for PPPs, which aims to solve risk-sharing procedures. However, its application in healthcare projects has been uneven. Without explicit risk-sharing mechanisms, private firms are typically hesitant to commit to large-scale healthcare PPPs.¹⁵

¹² Ministry of Health and Family Welfare, *National Health Policy 2017* (Government of India 2017) https://www.nhp.gov.in/national-health-policy-2017_p accessed 27 November 2024.

¹³ Comptroller and Auditor General of India, *Performance Audit Report on PPP Projects in Healthcare* (CAG 2019) <https://cag.gov.in> accessed 27 November 2024.

¹⁴ Indian Council of Medical Research, *Strengthening Healthcare Through Innovation: Policy Guidelines for PPPs* (ICMR 2022).

¹⁵ Department of Economic Affairs, *Model Concession Agreement for PPP Projects* (Government of India 2013)

- **Dispute Resolution Mechanisms**

PPP project disputes sometimes result from unclear contract language, failure to meet predetermined performance goals, or postponements of government payments. Even though arbitration is the best way to settle disagreements in PPPs, the procedure is frequently expensive and time-consuming. In addition to impairing healthcare delivery, delays in dispute resolution can put private partners under more financial strain.

For example, protracted arbitration actions over payment disputes have delayed the construction and operation of several PPP projects in the healthcare sector.¹⁶

V. CASE STUDIES

India has witnessed several PPP initiatives in healthcare, some of which have been successful while other have faced challenges. Below are few case studies:

- **National Rural Health Mission (NRHM):**

With a focus on mother and child health, the NRHM was established in 2005 with the goal of enhancing the healthcare system in rural India. To improve service delivery, particularly in rural areas with little government infrastructure, the initiative depended on PPPs. To conduct health camps, distribute necessary medications, and offer mobile healthcare services, for example, private providers were hired. Although the program's service outreach efforts had some success, sustainability and monitoring issues plagued it.¹⁷

- **Dialysis Services in Tamil Nadu**

Dialysis services in Tamil Nadu are frequently mentioned as an effective illustration of PPPs in the medical field. The state signed a contract with private companies to supply government hospitals with subsidized dialysis services. While the government made sure that services were accessible and inexpensive for low-income groups, the private sector handled the operational issues. This program extended coverage to neglected areas and drastically shortened dialysis waiting times.¹⁸

- **PPPs in Healthcare Facility Management: The Delhi-Based Indraprastha Medical**

<https://dea.gov.in/sites/default/files/Model%20Concession%20Agreement.pdf> accessed 27 November 2024.

¹⁶ Arbitration and Conciliation Act 1996 (India) <https://legislative.gov.in/actsofparliamentfromtheyear/arbitration-and-conciliation-act-1996> accessed 27 November 2024.

¹⁷ National Rural Health Mission, *Annual Report 2020-2021* (Ministry of Health and Family Welfare, Government of India 2021) <https://www.mohfw.gov.in/sites/default/files/Annual%20Report%202020-21.pdf> accessed 26 November 2024.

¹⁸ Tamil Nadu Health Systems Project, *Dialysis Services in Tamil Nadu: A Case Study* (Government of Tamil Nadu 2015) <https://www.tnhsp.org/dialysis-services> accessed 26 November 2024.

Corporation (IMC) Case

To handle healthcare facilities in Delhi, including the construction of new hospitals and the renovation of old ones, the Indraprastha Medical Corporation (IMC) teamed up with private sector organizations. With the help of private management experience, this PPP model sought to increase the operational effectiveness of public hospitals.

The government supplied the physical infrastructure under this PPP agreement, and the private partner was in charge of overseeing daily operations, such as hiring workers, providing services, and upholding quality standards. The government-maintained control over the facilities and made sure that the general population could continue to afford the services.

Although the effort achieved great progress in enhancing hospital administration, there were issues with coordinating public health objectives with private sector interests, especially when it came to cost-cutting strategies that can compromise service quality or result in unequal access.¹⁹

- **PPPs in Medical Education: Role of Private Medical Colleges**

In India, PPPs have also become more popular in the sphere of medical education. To address the nation's increasing need for doctors, the government has teamed up with private medical schools to open medical schools and offer medical education.

In these collaborations, the government finances faculty development, curriculum, and regulatory supervision, while the private sector constructs and maintains the infrastructure. The collaboration between the Uttar Pradesh government and private medical schools to build medical schools in underprivileged areas is a noteworthy illustration of this.²⁰

- **The National Health Protection Scheme's (Ayushman Bharat) PPP Model**

The largest health insurance program in the world, the Ayushman Bharat Scheme was introduced in 2018 with the goal of providing healthcare to more than 500 million Indians. Ayushman Bharat is largely a public health insurance program, although it also has a sizable PPP component. Beneficiaries of the Pradhan Mantri Jan Arogya Yojana (PMJAY) receive care from private hospitals in collaboration with the government.

The program has been successful in drawing a sizable number of private actors into the public

¹⁹ Ministry of Health and Family Welfare, *Public-Private Partnerships in Healthcare: Lessons from India's Experience* (Government of India 2017) <https://www.mohfw.gov.in/sites/default/files/PPP%20Healthcare%20Report%202017.pdf> accessed 26 November 2024.

²⁰ Government of Uttar Pradesh, *Public-Private Partnerships in Medical Education* (State Government of Uttar Pradesh 2019) <https://www.upgovt.in/PPPmedicaleducation> accessed 26 November 2024.

health system, and private healthcare professionals get compensated for the medical services they render to Ayushman Bharat participants.²¹

VI. CONCLUSION

Public-Private Partnerships, have become an important tool for tackling India's healthcare issues since they provide a way to combine the advantages of the public and private sectors. PPPs, which offer to increase access, improve quality, and optimize the delivery of health services, have been extremely beneficial to India's healthcare system, which is marked by severe resource restrictions and inefficiency. PPPs in the healthcare industry, however, encounter several challenges that call for careful mitigation and deliberate reform, just like any other ambitious endeavour.

Through a number of initiatives, frameworks, and regulations, the Indian government has made significant progress in institutionalizing PPPs. The potential of such partnerships is demonstrated by programs like the Pradhan Mantri Jan Arogya Yojana (PM-JAY) under Ayushman Bharat, diagnostic facilities under PPP models, and telemedicine services in rural areas.

These collaborations have shown how private organizations can contribute creativity, effectiveness, and capital to the public healthcare system. Notwithstanding these achievements, the difficulties in putting them into practice—which originate from complicated regulations, budgetary limitations, concerns about equity, accountability, and a lack of human resources—threaten to prevent PPP's full potential from being realized.

A multifaceted strategy is required for healthcare PPPs in India to reach their full potential. The structural issues that prevent these collaborations from being implemented effectively must be the main focus of policymakers. Reforming legal and regulatory frameworks, guaranteeing fair access, improving financial sustainability, and developing human resource capability are all part of this. While striking a balance between social duty and profitability, the private sector must accept its position as a partner in nation-building.

The willingness of all parties involved—governments, businesses, civil society, and the general public—to cooperate in pursuit of a common goal of universal access to high-quality, reasonably priced healthcare is ultimately what will determine the success of healthcare PPPs. PPPs in the healthcare industry have the potential to significantly alter India's healthcare system

²¹ National Health Authority, *Annual Report 2021-2022: Ayushman Bharat - Pradhan Mantri Jan Arogya Yojana* (Government of India 2022) https://www.pmjay.gov.in/sites/default/files/2022-09/Annual_Report_2021_22.pdf accessed 26 November 2024.

and enhance the lives of millions of people by tackling current issues and promoting an environment of trust, openness, and creativity.
