Privatisation of Health and Education Services in Lesotho

Executive Summary

Privatization is the process of expanding the sphere of the market through a host of regulations that create an enabling environment for free enterprise to operate as a strategy for sustainable economic development in areas that have traditionally been government run. When properly conceived and implemented, privatization is assumed to be a mechanism that fosters efficiency and encourage investment in infrastructure and services. The privatisation of education and health services in, Lesotho as in the Southern Africa region has been on a rising trend. Private actors have been assuming the role of governments in providing these two essential services.[1] Non-state provision of education and health is delivered by several actors including NGOs, faith-based organisations, philanthropic organisations, community care-giving and private companies.

These are in the form of low-fee private schools, hospitals and clinics; for-profit private schools and health centres; education and health public-private partnerships. The impacts of privatisation in Lesotho have been both positive and negative. The negative impacts have been the unaffordability of user fees charged by private sector service providers triggering inequality on access to services; the reluctance of the Sotho government to adequately fund the sectors and effectively regulate private actor activities and the disenfranchisement of poor and unemployed citizens of their human right entitlements to enjoying access to education and health care. Privatisation has had a net negative impact on the fiscus as privatisation arrangements have costed the state more compared to public service provision through public procurement option. On a positive side, private players have been filling the gap that government facilities have been failing to adequately resource and administer. This has to some degree promoted and upheld rights of access to health care and education albeit higher user fees and limited positive health and education outcomes.

Introduction

State Obligations on Education and Health Services Provision

The state has a non-negotiable obligation to provide education and health services to its citizens These services are part of the socio-economic rights enshrined in international human rights instruments and frameworks that include the Universal Declaration of Human Rights (1948), The African Charter on Human and People's Rights of 1981, the African Charter on the Right and Welfare of the Child (ACWRC) of 1999 which African countries including those from the SADC region subscribe to. Particular mention is made in the ACRWC's Article 11 and Article 14 that every child has a right to education and health services respectively. The Sustainable Development Goals (SDGs) goals number 3 and 4 are dedicated to the provision of universal good health and well-being and the need for inclusive and equitable quality education correspondingly.

Irrespective of these instruments, privatisation continues to soar and concerns regarding accessibility, affordability and quality of services across the education and health sectors have become topical as it all narrows down to the financial position of the consumers. This widens the social stratification gap between citizens who can afford to obtain quality services and those who cannot. Additional emerging concerns resultant from privatisation include; the de-

[1] Privatization of Municipal Services in East Africa – A Governance Approach to Human Settlements Management

professionalisation of teachers and health workers and the erosion of confidence in public institutions of health and education. The ineffectiveness of regulatory instruments and regulatory institutions also come to the fore as these institutions within the region are either underfunded or just inefficient to deliver on their obligations.

Privatisation in Lesotho

Drivers and State of Privatisation of Education and Health in Lesotho

The genesis of the processes of privatisation in Lesotho are enshrined in various legislative instruments that include the Privatisation Act of 1995[2] which were supported by the World Bank under the Lesotho Privatisation and Private Sector Development Assistance Project appraised in June 1993.[3] The rationale for this process in Lesotho was justified by the stakeholders interested i.e. World Bank, International Monetary Fund (IMF), International Finance Corporation (IFC) and the government of the time as a way to turn the economic fortunes of Lesotho which was characterised by an increasing unemployment rate triggered by dwindling job opportunities in South Africa, inadequate diversity of economic activity, as-well as failing and poor management of parastals.[4]

The initial plan for the privatisation of parastals was targeted at sectors including banking, mining, energy, transport, tourism, water production and agriculture,[5] however the privatisation process has been extended to other sectors, including the health and pharmaceutical, as well as the education sectors, as a result of inadequate budget to finance the development agendas of the two sectors .The impacts as a result of this policy shift from public financing to a publicly supported private finance or privatisation has not only had a negative bearing on public sector service provision but also on the human rights-based access to public goods such as education and health. This has been triggered mainly by the implementation and policy gaps that has left ordinary Sotho citizens at the mercy of economic predators operating in the provision of public goods. These gaps are characterised by the non-alignment between the ideals of the provisions of the Lesotho Health and Education Act and the respective 2017 Public Private Partnership Policy, and supporting policies such as the Public Procurement Policy Amendments of 2007 and 2018 as well as the Loans and Guarantees Act of 1967 and its Amendments.

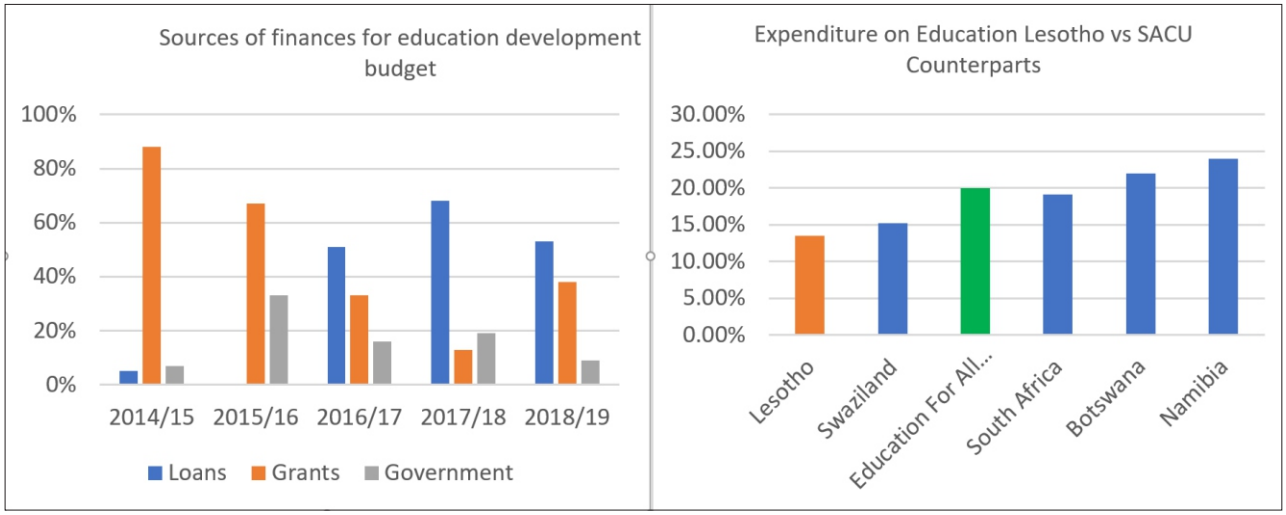
Public and Private Sector Ownership Trends: Education Sector

In Lesotho, academic institutions are owned and operated by different proprietors namely, the government of Lesotho, church organisations, the community and private sector companies. Church owned schools constitute 67% of all 341 secondary schools. Government schools, community schools and private for-profit schools constitute 27%, 4% and 2% respectively thus 27% are government/public schools whilst 77% are private for profit and not-for-profit combined as illustrated in Figure 1(a) below.[6] This illustration shows the depth at which primary and secondary education have fallen in the hands of non-government entities either with little to no subventions from the government.

[2] http://www.commonlii.org/ls/legis/num_act/pa1995181.pdf
[3] http://documents.worldbank.org/curated/en/425031468758700425/pdf/multi0page.pdf
[4] https://www.iol.co.za/news/africa/lesotho-in-massive-privatisation-drive-11607
[5] https://unctad.org/en/Docs/aconf191cp34les.en.pdf

[6] Kingdom of Lesotho Education Sector Plan 2016-2026

Figure 2: Sources of Education Financing(left), Lesotho education expenditure vs regional counterparts (right)



Source: UNICEF Lesotho education Brief 2018/19

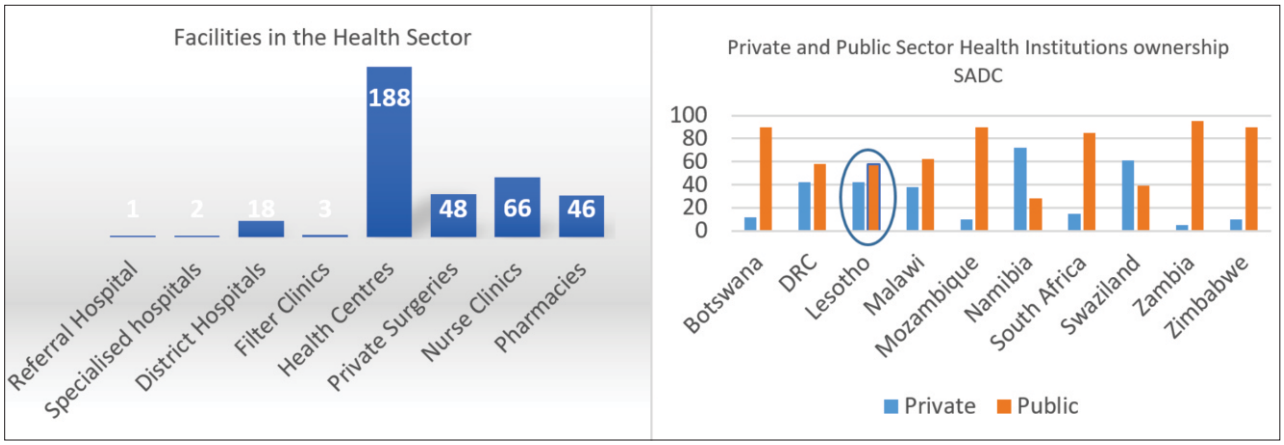
Whilst seeking additional financing may be prudent if done transparently and with accountability, it is worth noting that Lesotho's case for privatisation came with limited policy procedures as the PPP Policy was only adopted in 2017. The resultant implication is mainly found in the health sector were contingent liabilities as a result of unbudgeted expenses have become a burden on the state's coffers.

Public and Private Sector Ownership Trends: Health Sector

The delivery of health services in Lesotho is organised at three levels namely primary, secondary and tertiary levels. This composition includes 372 health facilities, consisting of 1 referral hospital, 2 specialised hospitals, 18 district hospitals, 3 filter clinics, 188 health centres, 48 private surgeries, 66 nurse clinics and 46 pharmacies.[7]

[7] Lesotho National Health Strategic Plan 2017-2022

Figure 4: Distribution of Health Facilities in Lesotho (left), and Ownership of the facilities (right) in Southern Africa



Source: Lesotho National Health Strategic Plan 2017-2022

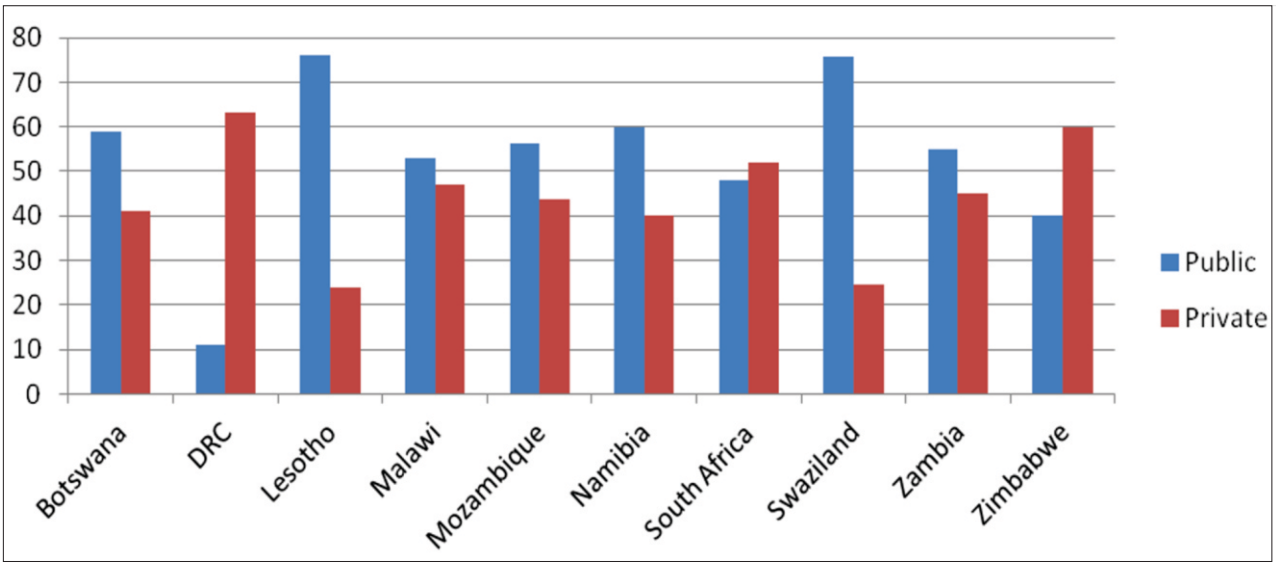
Health centres are the first point of care and this is aimed at making the patient load at district and referral hospitals lighter. Figure 4 above notes that Forty-two percent (42%) of the health centres and 58% of the hospitals are owned by the Ministry of Health (MoH). Thirty-eight percent (38%) of the health centres and the same proportion (38%) of the hospitals are owned by CHAL. The remaining facilities are privately owned.[8] Overall, health facilities owned and controlled solely by the government constitute 58% as compared to 42% for the private players in the country.

Whilst the current trend of health expenditure is promising when compared to countries in the region as shown in Figure 5 below, it is worth noting and worrisome that in as much as the government owns and controls more health facilities in the country, expenditure on health services has been steadily increasing in private institutions from 12% as at 2011 to around 23% as at end of 2017. Research evidence shows that this trend is linked to quality of services as well as the adequate availability of equipment and resources in the private facilities albeit their higher user fees. Another challenge causing this increasing expenditure also emanates from double-dipping by health practitioners who double up as both public doctors or nurses whilst also operating private health facilities to which they refer patients from public hospitals.

Moreso, the increased uptake of public private partnerships has also had a ripple effect on the increase of private health expenditure in Lesotho. Undoubtedly, Lesotho requires additional financing for health. However, the first wave of PPPs to finance the sector have been implemented amidst limited transparency in cooperation agreements in the form of MOU's.

[8] http://www.nationalplanningcycles.org/sites/default/files/planning_cycle_repository/lesotho/lesotho_revised_nhsp_2017-22_final_draft1.pdf

Figure 5: Health Expenditure in Southern Africa



Source: AFRODAD Compilations from UNICEF and World Bank 2018

Public Private Partnerships in Lesotho's Health Sector

As of 2015, the Government of Lesotho (GoL) through the Ministry of Health (MoH) has atleast 23 memoranda of understanding and PPP contracts signed with different organisations. These include amongst others

i. The Ministry of Health – Christian Health Association of Lesotho and the Ministry of Health - Lesotho Red Cross Society (LRCS) for the provision of a defined Essential Health Service Package (EHP) to the population through their network of health centres and hospitals.

ii. The Health Care Waste Management PPP supported by the International Financial Corporation (IFC). It encompasses waste management from 15 health centres and 2 district hospitals and was meant to pilot the collection, transportation and disposal of health care waste from the selected health facilities.

iii. The Millennium Challenge Account (MCA) funded PPP to refurbish 154 health facilities.

iv. IFC, supported PPP project on facility management, Information, Technology and Communication (ICT) including connectivity in 165 health centres.

v. The Queen Memorial Hospital (QMH) PPP arrangement under the design, build and operate model for 15 years.

Opportunities

When properly conceived and implemented, privatization can foster efficiency and encourage investment in infrastructure and services.[9] Using the case of the Queen Mamohato Hospital, the construction of the hospital was finished ahead of time and on budget. This element of the PPP can be considered a success. There was evidence early in the hospital's operations that it was delivering services of higher quality with improved health outcomes than the previous hospital.[10] According to an IFC-commissioned study, the new hospital has reported a 41 per cent overall reduction in the hospital death rate, a 65

[9] Privatization of Municipal Services in East Africa – A Governance Approach to Human Settlements Management

[10] https://eurodad.org/HistoryRePPPeated

per cent reduction in deaths from paediatric pneumonia, and a 22 per cent decline in the rate of stillbirths compared with the old public hospital. However, risks that arise as a result of PPPs are mainly hinged on cost escalations summed in the OXFAM, LCPA and IFC reports that the annual cost of running the QMH was as much as 51 per cent of the total health budget for 2013/14 and approximately 3 to 4.6 times what the old public hospital would have cost that year.[11] The IFC commissioned report pointed out that the PPP was costing the government 41 per cent of its health budget and 2 to 3 times the cost of the old hospital.[12]

Challenges

Research evidence from the Privatisation of Education and Health Services in Southern Africa, What Lies Underneath[13] and History RePPPeated: How PPPs are failing sum up that:

I. PPPs are in most cases, the most expensive method of financing, significantly increasing the cost to the public purse; the case of the QMH testifies to the need for comprehensive planning for PPPs should they be the best option.

ii PPPs are typically very complex to negotiate and implement and all too often entail higher construction and transaction costs than public works. Lesotho currently suffers the challenge of low capacities in negotiating PPPs and as such the GoL ought to invest in the technical capacities of government employees to handle PPPs

iii. PPPs are all too often a risky way of financing for public institutions – the Government of Lesotho's strategy in the National Health Strategic Plan Objective 5.7 on Encouraging private funding through cost recovery and user fees at the tertiary level and through private health insurance should be handled with caution and Standard Operating Procedure (SOP) for management of Public-Private Partnerships should be developed

Conclusions

PPPs and privatisations are increasingly being promoted as a way to finance development projects and as a new way to entice the private sector to finance public service provision. As such, there has been an increased urgency by many African governments to use PPPs as means to deliver on the SDGs and their national agenda's which has seen countries such as Lesotho putting in place changes in national regulatory frameworks to allow for PPPs as seen in the Education Sector and Health Strategic Plans of Lesotho. It is in this context that the government of Lesotho and its respective ministries find alternative financing mechanisms for public service delivery as well reforming policies before engagement in PPPs. Given this background, the following recommendations are worth considering.

Recommendations

1. Analyse the true costs of PPPs

I. Base PPPs on sound comparative analysis of best procurement options;

ii. As PPPs are an expensive form of debt, sensible accounting practices should be adopted, for instance:

iii. Include PPPs in national accounts, i.e. they get registered as a government debt, and therefore are part of debt sustainability analysis, rather than being off balance sheet; and

iv. Explicitly recognise the risk of hidden contingent liabilities should the project fail, through adequate risk assessment;

v. Select the best financing mechanisms, including examining the public borrowing option, on the

[11] Ibid

[12] T. Vian, N. McIntosh, A. Grabowski, B. Brooks, B. Jack and E. Limakatso, 'Endline study for Queen Mamohato Hospital Public Private Partnership (PPP)', Final Report, September 2013, http://devpolicy. org/pdf/Endline-Study-PPPLesotho-Final-Report-2013.pdf

[13] https://eurodad.org/whatliesbeneath

basis of an analysis of the true costs and benefits of PPPs over the lifetime of the project, taking into account the full fiscal implications over the long-term and the risk comparison of each option;

vi. Ensure that the necessary administrative capabilities and clear PPP policies and strategies to implement successful PPPs are in place.

2. Be transparent and accountable

I. Member States should proactively disclose documents and information related to public contracting in a manner that enables meaningful understanding, effective monitoring, efficient performance, and accountability of outcomes in order to mitigate the financial impact of delays and re negotiation on the cost of PPPs borne by the public sector.

3. Put development outcomes at the forefront

I. Projects should be designed and selected to benefit everyone in society through the delivery of sustainable development outcomes, in agreement with national and democratically driven development strategies. This means ensuring affordability of the services for the public sector and the users, as well as addressing equity concerns in terms of equitable access to infrastructure services, and avoiding negative impacts on the environment.

ii. Member States should develop clear outcome indicators and effective monitoring to measure the impacts of PPPs on the poor, from the project selection phase to the operational phase of the project.

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