

The ILO's Nursing Personnel Convention, 1977: The Need for India to Ratify

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Too often we underestimate the power of a touch, a smile, a kind word, a listening ear, an honest accomplishment, or the smallest act of caring, all of which have the potential to turn a life around. - Leo Buscaglia

Summary

The role of nurses in the healthcare profession is of much prominence, and irreplaceable. Especially, the current pandemic worldwide has shown how the sincerity, hard work and determination of nurses as saviours of health have saved precious lives. However, their hard work is only being appreciated on a virtual sense in social and multi-media and not by ensuring their social security. Despite Supreme Court's order and concerned committee's recommendations, the working conditions of nurses in India do not secure their labour rights or address their immediate needs. While this being the case, India has not ratified the Nursing Personnel Convention that was passed by the International Labour Organisation (ILO) in 1977. The convention which is highly flexible, and contains provisions that cover on adequate nursing education and training, attractive employment and working conditions, proper remuneration, social security, and much more. India, on ratifying this convention and drafting legislation on the lines of the same can help prevent exploitation of nurses by the private sector and safeguard the labour rights of nurses to a great extent.

Nurses play an important role in the welfare of the society. In the current pandemic, nurses along with other medical professionals have acted as frontline warriors in protecting lives of people. Nurses became martyr in the battle against Covid-19 as India lost 107 nurses as reported by Ashwini Kumar Choubey, Minister of State for Health. World Health Organisation (WHO) has designated the year 2020 as International Year of the Nurse and the Midwife in honour of the 200th birth anniversary of Florence Nightingale. For nurses, every day is different with challenge, and they never know what to expect. Career Addict, a worldwide online career resource in the world has ranked medical service providers job as the second toughest job next to military (Zambas, 2020). Similar to how the military protects our lives from external powers, medical service providers protect our lives from diseases and infections. Medical professionals, in general, are viewed as the most ethical and honest of all professionals. In USA, especially nursing is rated as the most honest and ethical profession of all. Nurses are the powerhouse of the

health care sectors and they perform a wide range of independent, interdependent and collaborative functions. As a predominately female-dominated workforce, they constitute nearly half of all health professionals.

Nursing profession requires a range of working time arrangements, such as extended work shifts, night work, and on-call scheduling. A nurse may have to deal with a lot of functions such as medicating, diet planning, maintaining personal hygiene for the patients and more importantly caring for them. The role of a doctor ends at diagnosing and treating but a nurse has to be with the patient and provide him with sufficient care to lead him to recovery. Many a time, we see patients leaving the hospital with a special respect and admiration for the nurse who took care of them. Hence, their work place and employment conditions must be set up in such a way that the nursing personnel are encouraged in future.

However, the working hours of nurses and the time arrangements in India, especially in the private sector are very challenging to them, which in turn affect their personal well-being and quality of medical service provided. Moreover, the pay-scale is also very low in private organisations. Here arises a

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need to voice out the grievances in the employment conditions of nurses in India, especially those who work in private hospitals and clinics. This paper essentially deals with ILO Convention on Nursing Personnel and the need for India to ratify it.

The ILO Nursing Personnel Convention, 1977

The Nursing personnel Convention (C 149) was passed in the year 1977 by International Labour Organisation (ILO) and it has been ratified by 41 countries till date. This convention is legally binding for those countries who have ratified and India has not ratified it so far. This convention is not difficult to ratify because it is highly flexible. It provides national labour standards that lay down general employment and working conditions covering all workers. This Convention is accompanied by the Nursing Personnel Recommendation (R 157) of 1977, which is non-binding and it serves as guidance for the implementation of the Convention with more detailed and practical advice. The convention provides many measures that a country must undertake with regard to some identified issues with the object of safeguarding nurses' interest and thereby achieving medical welfare also. The convention seeks to achieve decent standards of work, boost the professional and political profile of nursing personnel, and provide incentive for nursing personnel to remain in their jobs.

Article 1 of the Convention mentions its applicability to all categories of persons providing nursing care and services wherever they work. The Articles provided in this convention are framed in such a manner as to encourage the occupation of nursing and bringing more people into practice. The Convention governs areas such as:

1. Adequate education and training to exercise nursing.
2. Attractive employment and working conditions.
3. Good career prospects.
4. Proper remuneration and social security.
5. Occupational safety and health regulations.
6. Participation of nursing personnel in the planning of nursing services.
7. Negotiation with nursing personnel regarding employment and working conditions.
8. Dispute settlement mechanisms (Convention C149, 1977).

Also, in the year 2002, the ILO classified the Nursing Personnel Convention as an up-to-date instrument thereby reaffirming its relevance in today's socio-economic realities. This shows that the same conditions which existed in 1970's for the formulation of this convention are present in the current

scenario. There has been inadequate progress in many countries including India towards the improvement of working conditions for nursing personnel.

Nurses' Working Conditions in India: Legal Perspective

Working conditions and remuneration paid is the primary issue nurses are concerned about. The Indian Nursing Council, established by the Indian Nursing Council Act in 1947, as an autonomous body under the Ministry of Health & Family Welfare has set the norms and standards for nursing education, training, research and practice. However, when working within the ambit of its legislative framework, the Council could only guide in creation of nursing graduates and not on terms of nurses employment. Besides staffing norms are given by the Staff Inspection Unit, Indian Nursing Council.

The Trained Nurses Association of India (TNAI), a national organisation for nursing professionals in India functions with the objective to uphold the dignity and honour of nursing profession and to advance professional, educational, economic and general welfare of nurses in India. In the years 2012 and 2013, there was a chain of strike by nurses in the private sector demanding increase in salary. TNAI filed a Writ Petition (C) 527/2011 that resulted in the case of TNAI vs Union of India where the grievances of the working conditions of nurses in private hospitals and nursing homes were put forth. The counsel on behalf of TNAI in that case pleaded the Hon'ble Court to lay down guidelines on Nurses salary and working conditions in private hospitals. However, the Supreme Court ordered the Central Government to form a committee with regards to this issue.

After examining all the information collected from States the committee gave out the following recommendations:

1. In case of more than 200 bedded hospitals, salary given should be at par with the salary of State Government nurses in the concerned State/UT for the corresponding grade.
2. In case of more than 100 bedded hospitals, salary given should not be lower than 10 percent of the salary of State Government nurses in the concerned State/UT for the corresponding grade.
3. In case of 50-100 bedded hospitals, salary should not be lower than 25 percent of the salary of State Government nurses given in the concerned State/UT for the corresponding grade.
4. In any case, salary given to private nurses should not be less than Rs. 20,000/- pm even for less than 50 bedded hospitals (Announce-

ment, 2021).

With regard to working conditions the committee recommended that working hours, leaves, transportation, accommodation, medical facilities etc. must be given to private nurses at par with the benefits granted to State government nurses. The committee finally reported that all States and UTs must take steps to implement these recommendations by formulating legislations or guidelines. However, these recommendations were not taken seriously for implementation by any state government except the Government of Kerala.

Looking at the average pay scale, staff nurses working under Central Government and State Government receive an average salary of Rs. 55,000 – 70,000 including all allowances, whereas staff nurses working in private hospitals including the well-established ones earn an average salary of Rs. 15,000 - 20,000 only (Nursegyan, 2019).

A fresh graduate may get upto Rs. 30,000 working in government sector as compared to Rs. 10,000 to Rs. 15,000 in private sector. Also, the private sector nurses are deprived of many benefits and allowances that are available to nurses belonging to government sector.

Further, there must be public awareness as to the professional qualification of nurses. Nurses undergo a curriculum that is more or less as challenging as the MBBS curriculum. But they are treated extremely different in society. Further, the meagre pay the nurses get do not suffice even to settle the educational loans which they borrowed for nursing education. On another note, a new course was introduced in the last decade called as “physician assistant” which has a curriculum similar to that of nursing curriculum. But physician assistants receive a better remuneration and status than what the nurses receive. Two different designations formulated out of the same curriculum having different pay scale and privilege is disheartening and highly unacceptable. This is highly disrespectful to nursing graduates and the government must implement some measures so that nurses are given due opportunities and benefits.

The seventh Central Pay Commission on behalf of the Nurses of India in 2014 pointed out the flaws with the work of sixth Central Pay Commission and also presented the current working scenario of nurses. It stated that many States in India face a shortage of nurses and midwives and there is a low ratio of nurses to doctors. Research shows that high nursing workload has significant adverse implications on patient safety and medical performance. Due to the demand for increase in the minimum salary for nurses along with increase in allowances. However, any demands under the pay commission were executed only for nurses in the government

sector.

Need to ratify the Nursing Personnel Convention

India has only 2.09 nurses per 1000 population, as against the WHO norm of 3 per 1000 population. The Covid pandemic has created a huge demand for nurses in both private and government sectors. All stakeholders have realised the importance of nursing manpower.

Being a female-dominated profession, nurses' voices remain unheard; they are underpaid and undervalued. Hospitals now hire nurses on adhoc basis or on temporary contracts which leads to insecure employment. There is no alternative to providing a decent salary and good working atmosphere to receive quality health care services. No one can perform nurses' job, nurses need to be adequately staffed to promote health outcome and prevent over working, burnout, and other hazards.

Nurses can provide cost effective preventive and promotive care in all areas where the reach of doctors is questionable. The cost of training is also far less than the training of a medical graduate. Their capacity can be augmented by training and employing them at primary health care areas with greater responsibilities than they traditionally assume.

Any investment on health by the individual or at national level has direct impact on the country's progress. Ensuring numerical adequacy of staff nurses with better pay and working atmosphere will have long lasting impact on the country's productivity and economy.

During pandemic, the government regulates and monitors the charges of the private hospital and bills of patients' admission. As such it can regularise the nurses' salary; the truth being, they don't. Without much option left, nurses find job abroad which further worsens the availability of nursing workforce.

In view of the above, it is evident that both the Central Government and State Governments have not implemented any policies to improve the existing conditions. Moreover, even other Acts regarding minimum wages and maternity benefit do not seem to provide a solution to this non-ending struggle. Therefore it is essential that India ratifies this convention and thereby is legally obligated to incorporate those principles into legislations. Some specific Articles in the conventions are helpful to solve the existing conditions.

Article 5 of Nursing Personnel Convention

It states that the countries shall take measures to promote the participation of nursing personnel in the planning of nursing services and consultation with such personnel on decisions concerning them, in a manner appropriate to national conditions.

Further it states that the determination of conditions of employment and work shall preferably be made by negotiation between employers and workers' organisations concerned.

Article 6 of Nursing Personnel Convention

This Article mandates that Nursing personnel shall enjoy conditions such as hours of work, compensation of overtime, shift works, weekly rest, educational leave, maternity leave, paid annual holidays, sick leave and social security at least equivalent to those of other workers in the country.

Even though these Articles do not provide a strict mandate on working conditions, the convention, if ratified, can make the Indian government obliged to regulate the working conditions provided to nursing personnel equal to that of other professionals. Also, mandating negotiation under Article 5 between employers' and workers' organisation for determining conditions of work can encourage nursing personnel to stand for their rights. Apart from this, para 25 to 61 of the Nursing Personnel Recommendation (R 157) of 1977, provide all necessary recommendations which if implemented in India, would solve the struggles faced by nurses, and will also encourage participation in nursing profession by the young minds of India (Convention C 149, 2017).

Even though, the recommendations are not binding, when India ratifies the convention, pressure can be made on behalf of nursing associations to follow the recommendations provided in legislating laws. Moreover, the contents of the convention itself is more than enough to make India legally responsible for the upliftment of nursing personnel in both government and private sector.

Recommendations

India needs to ratify the Nursing Personnel Convention. Nursing Associations need to ensure that the Indian Government acts accordingly by pressuring them through constant lobbying and representations.

India needs to draft a legislation that is in line with the convention as well as the Nursing Personnel Recommendation. The legislation be so drafted that all aspects of social security like proper pay, working conditions are covered.

A special committee may be set up to research on the prevailing working conditions of nurses, and the committee may give recommendations and suggestions on key areas where labour rights are violated on a large scale. Execution of a legislation plays a major part here. Therefore, the Government must ensure that any legislation drafted is being implemented effectively and any institution violating labour rights of nurses is penalised.

The dispute resolution mechanism and griev-

ance redressal mechanism must act in such a way that both the employees and employers are placed on equal footing so that nurses do not hesitate to avail their social security rights without any fear of losing the job and occupation.

Conclusion

Nurses have always been at the forefront of change in public health and health care. They help people and their families in their struggle against illness, diseases, sickness and help them to deal with it and if necessary to live with it. Nursing service stands apart from all other health care professionals because of the healing relationships they cultivate with their patients. It is unfortunate that personnel of noble profession like nursing are not paid fairly for the work nor do they have proper working conditions to work with full satisfaction. It is saddening that the vital role they play in promotion of health and welfare of the population. The policy makers at least may ratify the Nursing Personnel Convention. One should always remember that no profession is less than the other and should make sure that each individual employee is paid according to his or her work.

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