REPORT ON THE WORKSHOP
ON THE RATIFICATION OF NURSING PERSONNEL CONVENTION 149

NOVEMBER 29TH, 2002
(GALADHARI HOTEL, COLOMBO)

INTERNATIONAL LABOR ORGANIZATION
COLOMBO, SRI LANKA
INTRODUCTION

The workshop was held to initiate a tripartite discussion on the possibility of ratifying the International Labour Organization’s Nursing Personnel Convention (No. 149, hereinafter C149). Following a presentation of a feasibility report, the participants discussed the constraints and obstacles to initiating the ratification process. Several groups expressed their reservations and recommended that certain preliminary steps be taken prior to initiating the ratification process. A sub-committee consisting of all relevant stakeholders was formed to look into the potential for ratification in greater depth.

INTRODUCTORY SESSION

Ms. Claudia Coenjaerts inaugurated the workshop with a warm welcome to all the tripartite representatives of the Ministry of Health, Ministry of Employment and Labour, trade unions and private sector employers. She commended the Ministry of Employment and Labour for its numerous timely and appropriate initiatives proposed under the leadership of Minister Mahinda Samarasinghe and acknowledged its role in recommending that a workshop on the ILO’s Nursing Personnel Convention be held.

Ms. Coenjaerts stressed the importance of an open discussion on the feasibility of ratifying C149 and stated her hopes that this ILO workshop on Nursing Personnel would be the beginning of a longer term interaction which culminates in the ratification of C149. However, she noted that the ratification of a convention is a difficult decision and, to be successful, required a broad internal consultative process with a genuine desire to meet obligations. Thus, the present workshop represented the first exploratory meeting to discuss the feasibility of ratification and should be the start of an open discussion, with no strings attached, and no underlying expectation of ratification. Ms. Coenjaerts informed participants that a feasibility study had been commissioned to serve as the basis for the day’s deliberations, and offered a few quick thoughts to initiate the discussion.

First, she commented upon the very serious employment challenge faced by Sri Lanka, noting that it would only be further deepened by the potential settlement of the conflict. She drew attention to the recently unveiled “Regaining Sri Lanka” policy paper, which specifically mentioned the need to create 2 million jobs during the next 5 years, reflecting the Government’s commitment to taking up this challenge. Second, Ms. Coenjaerts noted the serious shortage of nursing staff in Sri Lanka, quoting an expected shortage of approximately 40,000 nurses in the coming decade. She pointed out that the prevailing high standard of health care services in Sri Lanka had been bolstered over the years by the high quality nursing staff that this country has produced. However, to maintain and sustain this high standard and reap the benefits that globalization has to offer, Sri Lanka would have to work hard to create the appropriate policy environment, introduce new management systems, consider privatization and innovative employment patterns. She then posed the rhetorical question as to why men and women in Sri Lanka are not interested in taking up this noble profession, responding that it appears that the existing training facilities and terms and conditions of employment fail to attract people. She concluded stating that in this context, a discussion of the Nursing Personnel Convention was very appropriate, since these are the very issues dealt with by the Convention, and wished the tripartite group success in their deliberations.

Rev Muruttetawegama Ananda Thero, President of the Public Services United Nurses Union (PSUNU) commenced his brief introductory comments noting that it was a historic day for the nursing profession to be finally discussing the ratification of this important convention, which the Government of Sri Lanka had yet to ratify, despite approximately 36 countries, including Bangladesh, having done so. He stated that numerous representations had been made to governments in the past with a view to recommending ratification of Convention 149, but to no avail, yet he was impressed with the urgency with which the current Minister had immediately seized upon the idea and understood its importance when it was
presented to him in August, 2002 at a meeting with the PSUNU. The Reverend commented upon several issues which he felt would be resolved by ratification of the Convention. Among them, the discrepancies that exist in the quality of training in Sri Lanka, the occupational safety, welfare and personal security of nursing personnel and the enforcement of existing regulations and laws. More specifically, he noted that, without ascribing any fault to members of private hospital administration, it was his understanding that training within the private sector was inadequate, limited in duration and far below the standard maintained by the public sector nurses training institutions at present. It was his view that that the Ministry of Health must unify the standard for registration of nurses as all patients, in public and private health care institutions, had an equal right to the same standard of professional nursing care. He noted that the goal should be to develop a high quality nursing profession in the country, regardless of whether it was in the private or public sector. The Reverend also pointed out that laws and regulations presently on the statutes are not enforced as required in the health care sector and quoted the case of a young nurse who had contracted a debilitating illness while on duty and expressed his concern that appropriate safeguards as well as mechanisms of compensation be put in place to ensure the occupational safety and personal welfare of nurses. The Reverend fully supported the ratification of the Convention and anticipated that it will have a positive impact on the nursing profession, their education and training standards and on the enforcement of legal standards related to the health sector.

Minister Mahinda Samarasinghe, in his guest speech, reiterated the Reverend’s comments, speaking of the paramount importance of training nursing personnel to maintain high standards in the health care sector to both comprehensively meet the health care needs within Sri Lanka and to bring them up to international standards to benefit from the increasing global demand for qualified health care workers. The Minister highlighted the very positive experience that the Philippines has experienced in this regard, citing it as an example of local and international benefits of ratifying Convention 149 this context, and noting the massive international demand for Philippine health care workers around the world. He informed the participants that the UK has recently signed a bilateral agreement with the Philippines to supply nursing personnel to the British health care sector. He stated that he would like to see Sri Lanka achieve such a competitive position. Today, foreign remittances to Sri Lanka from expatriate workers has reached Rs. 1.2 billion making it the highest foreign exchange earner and demonstrating that expatriate workers, particularly skilled workers who meet international standards, can be a source of considerable growth potential. Thus, in the process of looking at C149 and Recommendation 157, the Minister felt that it was important for Sri Lanka to be committed to maintaining high standards and put the legislative framework in place to give effect to the obligations of the Convention on Nursing Personnel.

In this context, the Minister went on to discuss the importance of continuing education and re-training. He emphasized the fact that Sri Lankans must understand that the training process does not stop after you receive basic training in a field and that new discoveries, technique, standards and services continually emerge making it necessary that workers keep abreast of new developments. The concept of “lifelong learning” is one that the Ministry of Employment and Labour has been championing in all its programs and one which has particular relevance to the health sector as the dissemination of new developments in the field of health care to nursing personnel in this country will have a direct impact on the well being of the population at large. He stressed that while this is an area where the Ministry of Labour has a general interest, in terms of its practical implementation in the form of research, supervisory mechanisms, monitoring systems and other follow up, it is clearly the Ministry of Health that must take the lead. The Minister also indicated that his Ministry is interested in issues of safety and health in the workplace as it has a direct correlation to productivity which is needed to increase Sri Lanka’s competitiveness in the global environment. He mentioned that steps are being taken to establish a Safety and Health Institute to undertake research, training and monitoring with a view to minimizing the man hours lost by not meeting basic health and safety standards.

The Minister cautioned that there is no decision on the part of the Government to ratify C149 as yet, the day’s deliberations are simply a first step in a long process of debate. He mentioned that a similar consultative process had been followed on the ratification of the Convention on Forced Labour with a workshop to introduce issues followed by a more in depth social dialogue that resulted in broad inter-sectoral and inter-ministerial participation. Subsequently a cabinet paper was presented which, due to the open process that had been followed, received bi-partisan support and is likely to be ratified soon. As
such, the Minister looked forward to receiving the recommendations emerging from the day’s deliberations and pledged the support of the Ministry of Employment and Labour’s in facilitating a similar inclusive process in this case. He stressed the important role that the Ministry of Health will have to play in this regard, stating that he anticipated the full cooperation and technical engagement of the Ministry of Health and its open and progressive Minister of Health, Mr. P. Dayaratne. He concluded reiterating that respecting and maintaining international standards in the health care sector and putting the legislation in place to give effect to the spirit and principles embodied in the Convention on Nursing Personnel would not only increase Sri Lanka’s competitiveness in the international market for expatriate health care workers but would also be fundamental to sustaining a healthy population which is a fundamental prerequisite for increasing productivity and achieving growth.

Ms. Kusum Vithana, President of the Sri Lanka Nurses Association, stressed the important role that nurses have played in the health care sector in Sri Lanka, stating that it is one which requires significant commitment and professionalism and is second to none. She expressed her union’s support for ratification of the Convention on Nursing Personnel and commended the broad scope of the Convention which deals with both professional and labour issues, including education, training, professional regulation, participation in policy making and career development and the standardization of diplomas. The Sri Lanka Nurses Association has a long history of supporting the professional development of nurses and is the only representative body directly associated with the International Council of Nurses. Ms. Vithana thanked both the ILO and the PSUNU for undertaking this important workshop which had been of particular interest to the SLNU for many years. She encouraged participants to remain united in their efforts and give appropriate suggestions and recommendations to make the deliberations productive and constructive. She reiterated the importance of the nursing profession as a source of employment for young men and women within the country and for its future potential as a foreign exchange earning mechanism. Ms. Vithana noted that there was much to be done to encourage greater interest in the profession, improve schools of nursing, train more nursing personnel and standardize training to meet the local and international demand for qualified health care professionals. She wished the participants all success in their deliberations and hoped that there would be a positive outcome from this workshop.

Mr. Emmanuel of the Association of Private Hospital and Nursing Home expressed his support for the Convention stating that it addressed many of the core issues that have rankled the health sector for years. The primary cause may have been the absence of an overriding national health policy which was politically inexpedient to address. He commended the comprehensive feasibility report undertaken by Dr. Thiloma Munasinghe which left no stone unturned in eliciting the views of all stakeholders and in presenting a balanced view of the maladies facing the nursing profession. He commented that his Association has no doubt that when the nursing profession is practiced properly is paramount to the success of the health sector, but cautioned that Sri Lanka has a long way to go for the nursing profession to reach the high standards expected internationally and the level of community acceptance the profession deserves, a task made all the more difficult by the duplicity of existing vested interests and the complexity of issues. The Association supports a united effort towards ratification and hopes that this landmark convention will be ratified in due course.

**TECHNICAL SESSION**

**The ILO Convention on Nursing Personnel**

*Ms. Shizue Tomoda - Senior Specialist, Sectoral Activities Department, ILO-Geneva*

Ms Shizue Tomoda presented Convention 149 on Nursing Personnel to the participants. She noted that it had been adopted in 1977 recognizing the vital role played by nursing personnel and other health workers in the protection and improvement of the health and welfare of a nation’s population and consequently in the achievement of its development objectives. Ms. Tomoda noted the importance and timeliness of ratifying C149 in Sri Lanka, especially in light of the shortage of qualified nursing personnel worldwide\(^1\) and the potential for Sri Lanka to benefit from foreign employment opportunities in this field. She

---

\(^1\) Ms. Tomoda highlighted the case of the Japanese Government which was seriously considering options for importing foreign nurses to deal with its aging population.
stressed, however, that although the ILO is supporting ratification of C149, it is up to stakeholders in Sri Lanka to determine the feasibility for adoption and to undertake the steps necessary to facilitate adoption of the Convention.

Ms. Tomoda reviewed the individual articles in Convention 149 pointing out that a country that adopted C149 would be obligated to enforce each of these provisions and be subject to period review by the Committee of Experts on compliance. She further noted that the accompanying recommendations (R157 Nursing Personnel Recommendations) provided extensive and very useful points on how the Convention should be implemented once it was adopted, however, due to the exigencies of time, she elected to concentrate on the specific articles of the Convention itself.

**Presentation of the C149 Feasibility Report**

*Thiloma Munasinghe - Consultant*

Dr. Thiloma Munasinghe presented her findings on the feasibility of ratification of C149 within the existing legislative and administrative framework in Sri Lanka, noting at the outset that she had a very short time to conduct her research, and welcomed the participants’ comments and observations on any shortcomings. She began, by way of introduction, noting the vital role that nursing personnel play in the delivery of promotive, preventive, curative and rehabilitative health care. She described the evolution of international standards on nursing, stating that prior to 1977, standards for nursing personnel were subsumed under general standards laid down in respect of employment – i.e. hours of work, holiday with pay, maternity benefits - within broad international criteria for employment standards for workers. However, thereafter efforts were made to recognize the special status and circumstances that nurses work under in the field of health, and, in collaboration with the World Health Organization, the ILO developed specific proposals referring to the employment conditions, work and life of nursing personnel. It is these provisions that were adopted in 1977 as the International Convention 149 on Nursing Personnel, which is the subject of the workshop’s deliberations. Through June, 2001 a total of 36 countries had ratified C149, however, Bangladesh was the only South Asian country to have adopted it to date. The primary objective of ratifying C149 would be to develop a national policy concerning nursing services and personnel which is effectively consolidated within a broader framework of a national health policy that provides the environment necessary for attaining the highest possible level of health for a country’s population. Ratification would envisage specific measures in the areas of education and training, working conditions and career prospects. Dr. Munasinghe then provided a general overview of the health care system in Sri Lanka, as it exists today, noting the expanding role of the private sector in the provision of health care and the Ministry of Health basically serving as the regulatory body for the health sector. She then analyzed the individual Articles of the Convention to determine the country’s state of readiness for effective implementation of C149.

The following represents a summary of the provisions of Convention 149, as presented by Ms. Tomuda, and the current status of each provision in Sri Lanka, as analyzed by Dr. Munasinghe in her feasibility study on the ratification of C149.

**Article 1**

*Article 1 defines the term “nursing personnel” broadly to include all categories of persons providing nursing care and nursing services (including midwives), wherever they work, regardless of size of workplace or nature of work. Further, paragraph 3 (which is discretionary) also notes that any special rules established for all nursing personnel must be equally applicable to those working on a voluntary basis.*

- Do existing laws in Sri Lanka cover all nursing personnel and all workplaces?

With specific reference to Sri Lanka, Dr. Munasinghe noted that matrons, sisters, nursing officers, public health nursing sisters, public health midwives and institutional midwives would fall within the purview of this Convention. However, there is presently no single standard or licensing mechanism relevant to all such categories of nursing personnel in Sri Lanka as regulations differ between the public and private sectors. Although public sector nurses are registered with the Sri Lanka Medical Council (SLMC), as stipulated by the Medical Ordinance, private sector nurses are excluded from this mechanism. The skills
of private sector nurses are therefore not easily transferable either to the public sector or internationally. The Ministry of Health’s Strategic Plan for Nursing and Midwifery Services (2001-2010), which was developed in consultation with all stakeholders, proposes that the basic training of nurses be upgraded to a BSc (Nursing).

RECOMMENDATION: A single minimum standard for nursing should be established, either a single unambiguous, objective criterion for all nurses or a separate but equivalent licensing mechanisms which do not distinguish between the sectors that nurses will ultimately serve in. Use of a common criteria like a basic undergraduate degree (BSc) in Nursing from a recognized university would facilitate unified registration.

Article 2
Each ratifying country is expected to adopt and apply, in a manner appropriate to national conditions, a national policy concerning nursing services and nursing personnel designed within the framework of a general health program and based on resources available for health care to provide the quantity and quality necessary to achieve and maintain the highest level of health

Such countries shall undertake measures to provide nursing personnel with (a) education and training to exercise their function competently, and, (b) appropriate remuneration, working conditions and career prospects to attract and retain people in the profession.

National policy shall be formulated in a participatory and inclusive manner within a tripartite consultative framework. The national policy must be harmonious, integrating and coordinating with policies relating to other aspects of health care and other workers in the field of health.

Are resources for education and training adequate in Sri Lanka?
Dr. Munasinghe noted that within the framework of the health sector program and the restrictions of the health budget, the Ministry of Health in Sri Lanka attempts to provide opportunities for education, training, employment and career development for nursing personnel. The Government has established 11 Nurses Training Institutes (NTIs), there is a post-graduate Institute for Nursing and the Open University of Sri Lanka has a BSc program in Nursing. Education opportunities are constrained by irregular intake into available institutions, the need for updated curricula, the low use of modern technology and poor library facilities. In service training is mainly undertaken by nursing officers within wards. Dr. Munasinghe cited several critical constraints faced by the Government in terms of the quantity and quality of nursing services in the country, including the severe shortages of nurses, loss of experienced nurses to the private sector and mal-distribution of available nursing staff. The Ministry of Health conducts Efficiency Bar examinations to determine promotions to higher grades within the government, but general continuing education, although an accepted need in principle, is not widespread.

In the private sector, the Association of Private Hospitals and Nursing Homes (APHNH), which has 60 members and an advisory council, is the only body which has the capacity for undertaking training. Yet, most private institutions tend to conduct their own training programs. Very recently, the APHNH collaborated with the Ministry of Health to use a Ministry approved syllabus for training of nursing personnel.

Are pay and working conditions competitive?
The salaries and other emoluments of nurses and midwives are specified in the Establishments Code. Salaries within the private sector are higher for trained and experienced nursing personnel and therefore there is an exodus of trained staff, who use the Government’s early retirement schemes, and enter the private sector on attractive terms. However, the public sector remains more attractive to junior nurses because of job security, ability to be transferred to locations close to home and retirement benefits. In general, the nursing profession does not compare well to other professions, such as teaching, in terms of remuneration, benefits packages or social standing. There is no renewal of registration in Sri Lanka based on competency based evaluation.

What tripartite consultative mechanisms are in place?
Are coordinating mechanisms in place with other sectors and workers in health care?
The National Strategic Plan for the health sector was developed in a collaborative manner, however, opportunities for tripartite consultative mechanisms are few and far between. There have been numerous instances where training has been undertaken across workers and sectors in health care, particularly on issues such as HIV aids and universal practices, however this is not the norm.

RECOMMENDATION: If nurses are to be retained within the profession, avenues must be provided to satisfy their career aspirations and enhance their professionalism. In the private sector, measures are needed to standardize their training and certification. Tripartite consultative mechanisms need to be put in place to institute mechanisms to improve the status and conditions of nurses within the framework of the national health plan.

Article 3
Basic requirements regarding nursing education and training and the supervision of such education and training shall be laid down by national laws or regulations, or, by a competent authority or competent professional body empowered by law or regulation to do so.

- Is there a regulatory body for nursing personnel in Sri Lanka?
- How are requirements established?

Basic requirements regarding nursing and midwifery education and supervision in the public sector are determined by the Ministry of Health. Selection criteria are standardized and basic training and supervision is monitored by staff of the National Training Institutes. However, the private sector does not have a similar capacity to train and is therefore facing severe shortage of trained nurses. (estimated at around 15,000 nurses). The proposed Sri Lanka Nurses Council Bill (SLNC) was proposed in 1988 but has stagnated due to lack of consensus.

RECOMMENDATION: Measures are needed to improve the monitoring and evaluation of nursing personnel and services in the State sector. Renewal of certification linked to competency based examinations is necessary. An Advisory Council or its equivalent should be set up to address issues in the private sector. No independent regulatory body presently exists to lay down norms and standards for nursing practice, define a code of ethics, advise on policy matters and advance the professional status of the nursing profession.

Article 4
National laws shall specify the requirements for the practice of nursing and limit that practice to persons who meet these requirements.

- Are there requirements and specified limits?
- How are they controlled and enforced?

Ms. Tomoda stressed the importance of setting limits, particularly in an environment of shortage. Overstepping the bounds of what nursing personnel are permitted to undertake is, in many countries, deemed a criminal offence and punishable by law. In an environment of shortages, nursing personnel are often requested to undertake duties beyond their technical capacity and qualifications. In such cases, an independent professional body should enforce standards through an inquiry mechanism with an adequate appeal process. In Sri Lanka, the Sri Lanka Medical Council provides life-time registration for nurses in the public sector and establishes basic standards. However, there is no mechanism for renewal or recertification based on new competencies except in the case of obtaining a Diploma in Teaching or Public Health. Sri Lanka has access to nursing and midwifery standards set by the International Council of Nursing and the WHO, however, in the absence of a regulatory body, these standards cannot be effectively enforced. There is presently no registration mechanism for the private sector.

RECOMMENDATION: A regulatory body, or bodies, should be set up to develop and implement a code of ethics, establish nursing standards and practices relevant to enhancing the professionalism of nursing personnel in both the government and private sectors.

Article 5
The Convention prescribes that measures must be taken to promote the participation of nursing personnel in the planning of nursing services; conditions of employment should preferably be determined through negotiation between employers and workers organizations; settlement of disputes should be accomplished through an independent and impartial machinery (like mediation, conciliation and voluntary arbitration).

- What consultative mechanisms are in place to encourage participation?
- Are mechanisms of dispute resolution independent and transparent?

Dr. Munasinghe reported that there is substantial evidence of participation of nursing personnel in planning nursing services and lists numerous concrete examples in her paper. However, she noted that more representation is required in high level policy and planning activities although training may be required to enable representatives to contribute meaningfully. The State sector is governed by the Establishments Code. Dr Munasinghe noted the existence of several active worker organizations representing nursing personnel. She further noted that, despite bitter rivalry among them, these worker organizations (including the Sri Lanka Nurses Association and the Public Services United Nurses Union) have successfully resorted to trade union action to obtain speedy redress for their grievances. Issues can also be brought forward through existing administrative redress mechanisms in the public sector. No comparable representative bodies, mechanisms for negotiation and dispute settlement appear to exist in the private sector, in fact, it was suggested that formation of trade unions among nursing personnel in the private sector may be actively discouraged.

RECOMMENDATION: The skills and competencies of nursing personnel should be enhanced through leadership and management training to enable them to contribute more effectively to policy development pertaining to nursing services. Trade unions must find common agendas to work collectively for the betterment of their membership wherever possible. Standard mechanisms to address grievances in the private sector need to be developed.

Article 6
Nursing personnel shall enjoy working conditions at least as equivalent to that of other workers in the country in hours of work, weekly rest, paid annual leave, sick leave and social security.

- Are labour laws that apply to other workers also applicable to nursing personnel?

Ms. Tomoda noted that remuneration is left out of this prescription on the basis that it should be based on individual qualifications, experience and job duties, however, other labour laws should apply equivalently to all workers. In the case of the nursing profession, it is important to remember the nature of the working environment. For example, appropriate standards must be set and enforced on overtime as repeated overtime affects productivity, quality of work and, in the nursing profession, can have life threatening implications for the patient and caregiver. Dr. Munasinghe noted that direct comparison of work standards is difficult in the Sri Lankan context, particularly as significant discrepancies exist both within and between the private and public sectors. (eg. Although nursing staff in both sectors are entitled to 84 days paid leave, private sector office employees are entitled to 84 working days). The “E” code of the Establishments Code of the Ministry of Public Administration applies for the public sector, while, nursing personnel in the private sector are governed by the Wages Board for the Nursing Home Trade, and in the case of office staff, the Shop and Office Act.

RECOMMENDATION: Both the public and private sector must find appropriate incentives to attract and retain nursing personnel to improve the quality of nursing care. Anomalies in working hours and other aspects of employment much be rectified. Salaries of nursing personnel need to be revised. Discrepancies between nursing and office staff need to be rectified.

Article 7
The State should improve occupational safety and health laws by adapting them to the special nature of the nursing personnel’s work environment.

- What special measures have been adopted – against HIV/AIDS?
- How is “universal precaution” ensured?
Ms. Tomoda pointed out that Sri Lanka will be required to adopt special measures to take into account the special nature of the nurses’ working environment – i.e. exposure to radiation, contagious diseases and particularly the new emphasis on potential exposure to the HIV virus. For example, special precautions will have to be taken regarding the use of protective clothing and equipment, restrictions on reselling and reusing of medical equipment, introduction of proper safety and cleaning processes, provision of preventive vaccinations and special medical check-ups. Dr. Munasinghe noted that several such precautions are already taken by the Government of Sri Lanka, which provides Hepatitis B vaccines to nursing staff in vulnerable stations, introduced universal precautions and infection control practices to all nursing personnel through a special STD/AID Control Program of the Ministry of Health.

**RECOMMENDATION:** Policy decision need to be taken to formulate and implement special occupational health and safety laws for nursing personnel applicable to both sectors.

**Article 8**
The provisions of C149 need to be given effect by laws, if not made effective by collective agreements, works rules, arbitration awards, and court decisions.

- What laws and regulations in Sri Lanka need to be revised and/or enacted to adequately meet the standard for applying for ratification of C149?

Ms. Tomoda proposed two possible routes that can be taken when ratifying a new convention - one route would attempt to ensure that all necessary legal instruments are in place before application for ratification. This route is often long and cumbersome and involves waiting for full compliance prior to ratification. The second route, is a practical one, that is, to ratify a convention based on a firm commitment to the principles of the convention and then systematically introduce reforms and work toward full compliance in collaboration with the ILO and the Committee of Experts. Ms. Tomoda pointed out that this second path is often more effective, since ratification creates an incentive for the reform process. The ILO is not interested in immediate change and instantaneous compliance with all provisions of a ratified convention. In most cases, a country is given 2 years from ratification to commence its path toward compliance and permitted a gradual evolution of its legal and administrative framework.

**Employer’s response**
*Mr. Emmanuel, The Association of Private Hospitals and Nursing Homes (APHNH)*

The APHNH representative stated that the union agrees with most of the findings of the feasibility report. He pointed out that private sector hospitals would have been more than willing to comply with any universal registration requirement imposed by the SLMC, if they had been included. He stated that the private sector had no reservations about adhering to a common syllabus or in working toward obtaining the same qualifications, however, it was his contention that the obstacles in fact came from within public sector nursing unions who wanted to ensure that they are able to retain lucrative job opportunities within the private sector after retirement. The APHNH fully endorsed the recommendation that a single minimum standard for nursing be established, but also accepted the view that an independent license to practice nursing or two parallel but equally accepted qualifications would be viable options.

The Association concurred on the observation that National Training Institutes do not have sufficient capacity to meet the requirements due to limited facilities and staff. Their representative observed that many of the problems in the sector would be solved by the ability to increase the intake of nursing trainees and thereby fulfil the demand for qualified nursing personnel in both the public and private sectors. APHNH endorsed the need to provide nursing personnel with education and training appropriate to their functions, employment and working conditions, stressing the importance of “appropriate” education and certification at different levels.

The APHNH supports the ratification of the Sri Lanka Nursing Council Bill but feels that it has stagnated since 1988 due to vested interests, primarily motivated by fears of having to re-certify.
The Association noted their concerns about the validity of proposals related to career aspirations and professionalism of nursing personnel, noting the high drop-out ratio of nursing staff, which indicates that most have entered the field of nursing as a stepping stone to other employment or marriage. The private sector remains concerned that 70% of their investment in training nursing personnel is lost due to this high fallout rate.

**Trade Union response**

*Hector Francis (Secretary, PSCNU)*

The PSCNU representative pointed out that the Convention defines nursing very broadly and from their point of view only qualified nurses should be included in the definition. All nurses should undertake to meet the same standards and registration so that every patient’s right to care by a competent, trained nurse is fulfilled. The Union fully supported the institution of a single registration mechanism for all nursing personnel, the regularization of education, and the introduction of more multi-disciplinary curriculum and distance education. The Union also noted that although many aspects of international convention are in Sri Lankan legislation, they are not implemented. For example, disability in the workplace has not been accepted in principle in Sri Lanka. He encouraged the participants to support ratification of Convention 149, as it will give impetus to reforms and changes and for the development of a consolidated national policy on nursing.

**Response by the Ministry of Employment and Labour**

*Mahinda Gammampila (Secretary, MOEL)*

Commending the “right perspective” of the previous speaker, Mr. Gammampila, noted that his response was solely on behalf of the Ministry of Employment and Labour, while it would be the Secretary, Ministry of Health who would take primary responsibility in the ratification of this convention. He agreed with previous speakers that it is crucial that the public sector take the lead role in laying down general standards for the nursing profession and in the formulation of policies after due consultation with the employers and workers. The fundamental objective of this exercise should be the professionalization of nursing personnel and all anomalies between the public and private sector in terms of training and registration should be regularized. He further noted that in recent times, the public sector unions have been very effective and have improved their conditions of employment through industrial action. The same ability to unionize and engage in collective bargaining should be given to the private sector nurses. However, he pointed out a general problem faced by public sector unions, in that they are unable to federate under existing government regulations. One glaring deficiency in both sectors is access to effective mechanisms of dispute settlement like mediation, conciliation and arbitration. He expressed the full support of the Ministry of Employment and Labour for ratification of C149, and encouraged participants to review Recommendation 157 as they deliberate upon the feasibility of ratification. He noted that from the Government’s point of view, it was their full expectation that ratification would serve to improve the health conditions of the population through an ongoing process of social dialogue.

**DISCUSSION**

The definition of nursing personnel was brought by several participants. It was noted that dental nurses are not included in the definition as they are treated as a separate category – dental therapists – and undergo a different training in a different school and are categorized independently as paramedical staff. It was also noted that tutors and principals of National Training Institutes must be included in the definition. The President of the Sri Lanka Nurses Association pointed out that they are directly affiliated with the International Council of Nurses who provide a standard definition for a nurse. About 5% of the nurses in Sri Lanka are male and it is anticipated that this percentage is on the increase and will reach 15% in the coming decade.
The discrepancy between 45 hour week legislation and the expectation of a 40 hour week in the Convention was brought up and resulted in a lengthy discussion of over time regulations (3 consecutive nights with one day off being the norm) versus the practical realities (60-70 hour per week with no time off). It was concluded that the most serious anomalies arise on account of the severe shortage of nurses which result in nurses working unacceptable shifts, however, such discrepancies could be resolved by addressing the shortage of trained nurses first.

The severe shortage of nursing personnel was discussed and, in that context, the inadequate number of training institutions and qualified training personnel. With an approximately 20 million population, Sri Lanka is managing with 11 nursing schools in the country. The specific issues related to the status of principals and tutors of nursing schools who work 50 hours per week, have supervisory duties related to students, are required to maintain the health records of students as well as handle examination duties in other schools were brought up both due to the need to increase the cadre of tutors and principals to meet the country’s requirements but also with a view to upgrading the quality of tutors to undertake new subjects and specialize.

The issue of upgrading from “O-level” to “A-level” entrance requirements was discussed, with general support for the use of the “A-level” qualification. One participant commented that there already were over 35,000 A level applicants for the existing 1000 positions in nurses training facilities and recommended that a direct allocation be made from the standard University intake schedules as with Medical and Dental training. It was suggested that education responsibilities for the nursing profession could be handed over to the Ministry of Higher Education. It was noted that “A-level” graduates may prefer to apply for university level qualifications rather than a certificate level. Comments were made about the importance of creating greater social recognition and social acceptance for members of the nursing profession through the upgrading of training standards to a professional level.

Standardization of the curriculum for nurses’ training was brought up by several participants, who felt that regularized training was a crucial aspect of ratification. It was suggested that a single examination and a standardized curriculum be introduced with the Government establishing the guidelines for the curriculum.

The issue of occupational safety and health was discussed in the context of a participant commenting that the standard laws on health and safety in Sri Lanka do not specifically cover the nursing profession. The nursing profession is also faced with some unique occupational hazards ranging from exposure to radiation, toxic drugs and infectious diseases and to psychosocial stress (night work, violence in the workplace) and special ergonomic problems (lifting patients) and it is unclear at present as to what institution will take responsibility for maintaining standards. Although the Health and Safety Act is to be expanded, it is not possible to prosecute the Government, and enforcement mechanisms have not been defined clearly.
## WORKING GROUP SESSION

<table>
<thead>
<tr>
<th>OBSTACLES/CHALLENGES</th>
<th>KEY ISSUES</th>
<th>RECOMMENDATIONS</th>
</tr>
</thead>
</table>
| Lack of standardized registration system for nursing personnel | Standardized education systems, registration/licensing and recruitment of nursing personnel                                                                                                               | • Increase number of schools of nursing  
• Increase facilities and human resources  
• Build a training partnership with private sector developing a standardized curriculum.  
• Establish standardized registration under Nursing Council                                                                                                                                 |
| Inadequate quality of both basic and post-basic training | Consider setting new minimum standards and re-registration scheme which upgrade basic training from certificate to degree level.  
Maintain a systematic training calendar to ensure a consistent supply of trained nurses  
Re-registration based on established procedures of discipline, ethics and evaluation  
Up to date competency based curriculum  
Develop the Post Graduate Institute of Nursing | • Standards for basic and post basic training  
Consider affiliation to the Ministry of Higher Education  
• Improve the physical facilities available in the East. Residential facilities would be beneficial  
• Develop a good monitoring system to Specialized Regulatory Body for Nursing  
• Recruit more mentors and preceptors  
• Enable specialization in nursing (Intensive care, psychiatry)  
• Improve library facilities  
• Provide enhanced budget allocation for training activities.                                                                                                                                 |
| Lack of proper representation among nurses in the private sector to enable them to participate in the planning of nursing services and in the determination of conditions of their employment | Private sector nursing personnel inexperienced, young, unaware of their rights, distributed over 100 establishments and have little opportunity to meet and organize.  
Private Sector nurses to be organized into a representative body  
Legal provisions (Trade Union Ordinance, Wages Board Ordinance) must be enforced. | • Tripartite worker education on rights and obligations  
• Standardized recruitment and nursing education  
• NMC to undertake practical research to be carried out.  
• Collaboration by the Ministry of Higher Education and Management to provide resources for training activities.  
• Create a human resource development regarding the training and education of personnel  
• Nursing Council to be an active functioning body by August, 2003.                                                                                                                                 |
| Lack of adequate HRD measures to provide and sustain quality nursing services | Lack of capacity to train and monitor  
Lack of resources | • Implementation of Nurses Council  
• Create a HRD unit to advise the Ministry on specialization supported by research  
• Enhance resources available for training activities.                                                                                                                                 |

---

12
CONCLUSIONS

Although all the working groups supported the ratification of C149, several were of the opinion that numerous changes needed to occur prior to the Government embarking on a serious path to ratification. Among the most serious of these concerns were the severe shortage of trained nurses and the importance of setting up a uniform system of registration with an internationally accepted standard for both the private sector and the public sector. Suggestions were made that a joint public/private task force be established to review legislative framework and make policy prescriptions for the nursing profession within the next 6 -12 month. Considerable emphasis was placed by all working groups on the importance of establishing an independent regulatory body for the nursing profession to standardize recruitment and licencing, monitor to maintain quality standards and focus on upgrading the profession. Yet, there was some debate as to whether there should be self regulation by an independent regulatory body. Many were opposed to privatization of nurses training and felt that the Government should take the lead in establishing standards. It was noted that the Sri Lanka Medical Council has had a Nursing Advisory Board for approximately 14 years, but proposals to set up a Nurses Council have been mooted since 1988 and faced opposition from nurses unions. There was much anticipation regarding the proposed adoption of the Sri Lanka Nursing Council (SLNC) in March, 2003 which would serve as the regulatory body for the nursing profession.

Ms. Shigue Tomoda offered the advice that if there was a general consensus on commitment to the obligations of C149, which there clearly appeared to be during the workshop, it was not necessary to postpone the ratification of the convention to get the legal framework in order. In most cases, following ratification of the convention, the ILO Committee of Experts would support ratifying countries to review anomalies and work collaboratively during the long, slow process of achieving compliance, which few countries, even North European ones with well established high social compliance standards, had yet achieved. Therefore, she advised the group to give serious consideration to ratification as it often enables countries to push forward internal reform efforts. A committee consisting of representatives of the nurses unions, Ministry of Health, Ministry of Employment and Labour, and private health sector employers was set up to continue the discussion regarding the feasibility of ratification.

Dinesha de Silva Wikramanayake
December 13, 2002

2 Tripartite Committee to Review the Feasibility Ratifying C149
Employers – Mrs. Wijenaika (Asha Central Hospital), Mrs. Costa
Nurses Unions – Mrs. Kusum Withana (Nurses Association), Mr. Hector Francis (United Nurses Union)
Government – Mr. Upali Athukorale (Ministry of Employment and Labour), Dr. Thiloma Munasinghe (Ministry of Health), Mrs. Sumana Perera (Director of Nursing), (Director of Private Hospitals)