

AN INQUIRY INTO INDUSTRIAL ACTION AMONG NURSES IN KENYA: A MANAGEMENT PROBLEM OR A LEADERSHIP FAILURE?

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The phenomenon of “industrial action” or “medical strikes” has become a major occurrence in the current medical practice all the world over. It has been carried out by almost all medical practitioners and by Nurses in particular leaving a catastrophic impact to the community. The ministry of health in Kenya particularly has had a good number of the strikes since the current government assumed power in 2013 and it is still experiencing it currently. Most of the nurses issues of concern such as; nurses’ high workload, inadequate staffing, total lack of/inadequate medical supplies, poor working conditions, delayed or lack of promotion, Pay issues (delayed salaries and poor remuneration) remain unresolved leading to an endless cat and mouse game between the governments (National and County) who are the employers and the workers (nurses). The key players involved in Leadership (policy/decision makers) include the Council of Governors (CoG), Salaries and Remuneration Commission (SRC), Central Organization of trade Unions (COTU), Kenya National Union of Nurses (KNUN), and The National Assembly. The Management (Implementers) are County Public Service Boards, Treasury, Ministry of Health, Ministry of EAC, Labor and Social Protection. Until these two groups come to an agreement, ordinary citizens will continue to suffer from preventable and manageable illnesses and the progress achieved in health so far will be eroded. Consequently, the stalemate we are experiencing in Kenya between the nurses’ employers and the nurses is a sign of lack of both leadership and management skills in the health sector and the stakeholders involved.

Keywords: Leadership, management, industrial action, collective bargaining agreement (CBA)

Introduction

The phenomenon of “Industrial action” or “Medical Strikes” has become a major occurrence in the current medical practice all the world over. It has been carried out by almost all medical practitioners and by nurses in particular leaving a catastrophic impact to the community.

According to the Cambridge and Collins dictionaries, Industrial action means; an occasion when workers do something that is intended to force an employer to agree to something, especially by stopping work, such as a strike or go-slow, taken by employees in industry to protest against working conditions, redundancies, etc.

The Ministry of Health in Kenya particularly has had a good number of the strikes since the current government assumed power in 2013 and it is still experiencing it currently. Most of the nurses’ issues of concern remain unresolved and

only postponed for the future leading to an endless cat and mouse game between the governments (National and County) who are the employers and the workers (nurses). The question is whether this industrial action is due to management problem or leadership failure. Kruse (2013), a leadership expert, says that leadership is the process of social influence which maximizes the efforts of others towards achievement of a goal. Leaders here refers to policy and decision makers influencing the action of the nurses as a work force. General Colin Powell says leadership is solving problems. The day staff stop bringing you their problems is the day you have stopped leading them. They have either lost confidence that you can help or concluded you do not care. Either case is a failure of leadership (cited in Satterfield, 2015). Leadership is setting a new direction or vision for a group that they follow.

Management controls or directs people/re-

sources in a group according to principles or values that have been established (Murray, 2010). Therefore, if an organization or a government cannot control or direct its human resources, then there is a big problem with the management. In management here, we consider the policy implementers that have contributed to the nurses' industrial action.

Statement of the Problem

Access to affordable quality healthcare is a basic human right and lack of this disrupts the development of any society. High costs of accessing healthcare in the private hospitals retards development since this cost and time invested by these citizens could have been used for work and development. The nurses' strikes experienced deprives the taxpayers a chance to affordable care leading to preventable suffering and even death. The government should ensure that these services are not interrupted so as to safeguard the lives of its citizens and promote development.

The 2010 Constitution of Kenya provides the overarching legal framework to ensure a comprehensive rights-based approach to health services delivery. It provides that every person has a right to the highest attainable standard of health, which includes reproductive health rights. It further states that a person shall not be denied emergency medical treatment and that the State shall provide appropriate social security to persons who are unable to support themselves and their dependents. The State has a further constitutional obligation under Article 46 of the Constitution to protect consumer rights, including the protection of health, safety, and economic interests (MOH, 2014).

Purpose and Objectives

Purpose

This concept paper looks at the leadership and management issues surrounding the Nurses and industrial action in Kenya and suggest possible ways that can be employed to alleviate this crisis.

Objectives

The objectives of this concept paper were to assess the measures put in place by the Ministry of Health, Ministry of labor, the county governments, the hospitals and the workers' unions to safeguard the rights of the workers (nurses) and to explore the Collective Bargaining Agreement and its implementation.

Collective Bargaining Agreement

The Council of Governors for the county government enters into agreement with Kenya National Union of Nurses. This agreement is contained in a document known as collective bargaining agreement (CBA). It was drafted following various clauses of the Kenya constitution, namely: Article 41 and the Fourth Schedule, clause 13, the Employment Act No. 11 of 2007, the Labour Relations Act No.14 of 2007, the Labour Institutions Act No. 11 of 2007, the County Governments Act 2012 the Service Commission Act, Chapter 185 Laws of Kenya, Public Service Commission Act No. 78 of 2012 Laws of Kenya, with Public Service union, Scheme of Service for nurses, salaries and remuneration Commission Circulars and all other enabling provisions of the law. It was written following grievances by nurses, including: nurses' high workload, inadequate staffing, total lack of/inadequate medical supplies, poor working conditions, delayed or lack of promotion, Pay issues (delayed salaries and poor remuneration). The current CBA was signed in 2013 and has not been implemented.

The key players in drafting the CBA are the Council of Governors (CoG), Salaries and Remuneration Commission (SRC), Central Organization of Trade Unions (COTU), Kenya National Union of Nurses (KNUN), and the National Assembly. The implementers are the County Public Service Boards, Treasury, Ministry of Health, and Ministry of EAC, Labor and Social Protection.

Non-implementation of Clauses of the CBA Leading to the Strikes

Since 2013 there have been about three (3) major national nurses' strikes. There have been many other regional nurses' strikes specific to various counties. This is primarily due to aspects of the CBA that have not been implemented which include salary increment, allowances increment, delayed and/or lack of promotions, and staffing inadequacies not addressed.

Salary Allocation

Salaries and benefits are subject to provisions of section 230, subsection 4(b) of the Constitution which gives the Salaries and Remunerations Commission (SRC) the mandate of advising both the National and County government on the remuneration and benefits of all other public officers. The SRC has however rejected the CBA citing that it is not recognized as a legally binding document. The proposed salary changes are shown in Table 1, but they have not been implemented.

Allowances

These allowances include hardship allowance, extraneous allowance, house allowance, health risk allowance, and uniform allowance. No allowances have been fully implemented such an example is seen in the extraneous allowance for urban area nurses shown in Table 2.

Job Grades and Promotions

In the case of Common Cadre Establishment, the date of promotion shall be the date the officer qualified and after serving in the preceding scale for a period of 3 (three) years or any shorter period as agreed by the respective County Government and the Union, provided that the provision of the scheme of service in this regard shall apply. There has been reported delayed and/or lack of promotions for nurses qualified for

Table 1

Nurses' Salaries by Job Group
promotions.

Nurses' High Workload

According to the most recent national nurses' census which was completed in 2012, Kenya's nurses are overworked, short-staffed, underpaid, and doing jobs that are poorly matched to their specialized skills. Nurses are an essential part of Kenya's healthcare system, but public hospitals operate with far fewer than are necessary. Currently, Kenya has around 46,000 registered nurses and 27,500 enrolled nurses, according to the 2016 Economic Survey. KNUN Secretary General, Mr. Seth Panyako, says that there are many specialisations in nursing, which make it difficult for a nurse with a huge workload to cope (Otieno, 2016).

Job Group	Current Salary N.G		National Negotiated & agreed CBA		Current Salary D.L.G		New Proposed Harmonized Salary	
	Min	Max	Min	Max	Min	Max	Min	Max
Q	89,748	120,270	112,185	150,338	65,430	88,955	112,185	129,868
P	77,527	103,894	96,909	129,868	61,080	85,345	96,909	103,894

N	48,190	65,290	62,647	84,877	58,180	81,735	62,647	84,877
M	41,590	55,840	54,067	72,592	53,685	75,580	54,067	75,580
L	35,910	45,880	46,683	59,644	50,640	69,790	50,640	69,790
K	31,020	41,590	40,326	54,067	46,580	65,430	46,580	65,430
J	24,662	29,918	32,061	38,893	42,850	59,630	42,850	59,630
H	19,323	24,662	27,052	34,527	39,450	56,730	39,450	56,730
G	16,692	21,304	23,369	29,826	36,050	53,685	36,050	53,685

NB: This is only part of the table

has a nurse to population ratio of 103.4 nurses per 100,000 compared to the WHO recommendation of 250 health workers per 100,000 (MOH, 2012). According to the nurses' census which was conducted by the Nursing Council of Kenya, the country had 23 nurses, doctors and midwives per 10,000 people should be available at a minimum

Staffing

Based on the active nursing workforce, Kenya has about 50 for every 100,000 or 5 for every 10,000 people services, going by WHO units. The World Health Organization (WHO) recommends that in order to sufficiently cover the population with essential health (Otieno, 2016).

Table 2

Extraneous Allowance for Urban Area Nurses

Job Group	Current Allowance N.G As per SRC	National Negotiated & Agreed C.B.A	Current allowance D.L.G	New Proposed Harmonized allowance
U	-	-	-	-
T	30,000		.....	40,000
S	30,000		.....	40,000
R	30,000	35,000	.....	35,000
Q	30,000	35,000	.....	35,000

P	25,000	30,000	.....	30,000
N	25,000	30,000	.....	30,000
M	20,000	25,000	.....	25,000
L	20,000	25,000	.....	25,000
K	20,000	25,000	.....	25,000
J	15,000	20,000	.....	20,000
H	15,000	20,000	.....	20,000
G	15,000	20,000	.....	20,000

Discussion

The Central Organization of Trade Unions (COTU) is aware of the CBA as stated by its leaders. “We had a meeting with the nurses’ union leaders and they are very clear that they will not allow renegotiation in the existing CBA and we support it since the negotiations were held between the union and the nurses’ employer and agreed upon,” COTU acting secretary- general Benson Okwaro told the Star. He said, COTU officials will meet the Council of Governors and the Labor ministry today to discuss the disputed CBA and the contentious sections (Nyaundi & Muchangi, 2017). “We want to hear from the employers’ side what they are against to be able to harmonize both sides,” Okwaro said. The CoG reiterated that they cannot honour the Sh40 billion CBA because it is too expensive.

According to the Star, the CoG chairman Josphat Nanok said the counties do not even have money to pay for the allowances awarded to Nurses in December and Doctors in March. He said the counties and the Commission for Revenue Allocation proposed an allocation of Sh314 billion to the counties in the Division of Revenue Bill, 2017. However, the National Assembly has slashed that to Sh291 billion.

“The CRA and CoG proposals, which the National Assembly disregarded, include allocations on the negotiated allowances for doctors, nurses, clinical

officers and other health professions amounting to Sh12.3 billion. Furthermore, this has not factored in the ongoing CBA negotiations for nurses,” Nanok said in a statement. He said promotions and increased allowances for other staff will also be put on hold because there is no money.

“The National Assembly figures do not factor in the job reevaluation exercise done by the Salaries and Remuneration Commission, which has financial implications on the county governments,” the statement says. Parliament has still not passed the Division of Revenue Bill, which the counties require to draw the 2017-18 budgets. This also means the County Revenue Allocation Bill, 2017, cannot be debated and passed. And therefore “without a County Revenue Allocation Act, 2017, the county governments cannot develop their budgets for the 2017-18 financial year,” Nanok said. KNUN called the strike on June 5, demanding the registration of a collective bargaining agreement it negotiated with the governors and the Ministry of Health. According to the business daily newspaper (Omullo, 2017), the Kenya National Union of Nurses has expressed their frustrations in the ongoing negotiations. “The CBA has been concluded but the Council of Governors is playing games to obstruct the signing of the agreement. We had agreed that the signing of the deal would be on June 2 and until Wednesday when we went to find out how far we

were, they had not forwarded even a single minute we had agreed upon to the Salaries and Revenue Commission (SRC),” said Joseph Ngwasi, the union's acting national chairman.

Conclusion

Could this be a case of mismanagement taking into consideration that most of the issues raised range from lack of proper and equitable remuneration, lack of order, lack of discipline, and lack of unity among the work force?

Or is it failure in leadership in a way that there is no sense of higher purpose, no unity of government organs, no direction from leaders, no moral understanding of the nurses' divine lifesaving service to humanity? In a critical analysis it is as a result of both mismanagement and failure in leadership and until it is solved the innocent Kenyans will continue to suffer.

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