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# The International Migration and Recruitment of Nurses: Human Rights and Global Justice

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# The International Migration and Recruitment of Nurses

## Human Rights and Global Justice

Lawrence O. Gostin, JD

**T**HE INTERNATIONAL MIGRATION OF HEALTH CARE workers—physicians, nurses, midwives, and pharmacists—leaves the world's poorest countries with severe human resource shortages, seriously jeopardizing the achievement of the UN Health Millennium Development Goals.<sup>1</sup> Advocates for global health call active recruitment in low-income countries a crime.<sup>2,3</sup> Despite the pronounced international concern, there is little research and few solutions.<sup>4</sup> This Commentary focuses on the international recruitment of internationally educated nurses (IENs) from the perspective of human rights and global justice.

### Misdistribution of Health Care Workers

Although the World Health Assembly calls the human resource shortage “a crisis in health,”<sup>5</sup> leading to the creation of the Global Health Workforce Alliance, no international or national agency is charged with quantifying or solving the problem. The World Health Organization (WHO) estimates that 4.3 million more health care workers are required to meet the Health Millennium Development Goals, identifying 57 countries with critical shortages. Thirty-six of these countries are in Africa, which has a shortfall of 600 000 nurses.<sup>1</sup> Africa has 25% of the world's disease burden but only 3% of the world's health care workers and 1% of the economic resources.<sup>6</sup>

There is an extreme imbalance in the estimated 12 million nurses worldwide: the nurse-to-population ratio is 10 times higher in Europe than in Africa or southeast Asia and 10 times higher in North America than in South America.<sup>7</sup> This maldistribution is due in part to insufficient educational and training opportunities for nurses but is also attributable to the migration and recruitment of nurses. In some poor or transitional countries such as Ghana, Malawi, Swaziland, and the Philippines, more than half the registered nurses have emigrated. Several kinds of migrations are occurring simultaneously: internal migration from urban to rural areas and from public to private sectors, and international migration from poor to rich countries and from rich to rich countries.<sup>8</sup> The overall pattern disadvantages societies that are already the poorest and the least healthy. Nursing shortages are associated with poor out-

comes, ranging from higher rates of patient injury, disease, cross-infection, and premature mortality to increased violence against staff.<sup>9</sup> WHO data show that maternal, infant, and child survival rate increases with the density of health care workers in a country.<sup>6</sup>

Human resource shortages are also evident in high-income countries. The Department of Health and Human Services predicts that the United States will need at least 800 000 new nurses by 2020.<sup>10</sup> The current and projected nurse shortages have led employers to actively recruit IENs, not as a short-term stopgap but as a long-term solution.<sup>11</sup> The American Hospital Association reports that 17% of hospitals hired IENs in 2006, a proportion that is expected to increase.<sup>12</sup> These data do not even account for nursing homes, which employ 22% of IENs. Similar patterns are found in other developed countries such as the United Kingdom, which in 2001 had more foreign-trained than British-trained nurses registered.<sup>13</sup>

Many hospitals and health care organizations directly recruit IENs or rely on third-party firms. Recruitment strategies include advertising, text messaging, personal e-mails, Internet sites, and workshops, often with alluring promises of immigration assistance, guaranteed earnings, and reimbursement for moving expenses.<sup>2</sup> Academy Health identified 267 US-based international firms recruiting nurses in 74 countries, representing a 10-fold increase from the late 1990s. Many firms recruit from the Philippines, India, and China, whereas at least 28 recruit in low-income countries with severe nurse shortages.<sup>14</sup> Recruiters are either “placement” agencies, charging hospitals a standard fee of approximately \$15 000 to \$25 000, or “staffing” agencies paid on an hourly basis, which is 4 times more lucrative.<sup>14</sup>

### Drivers of International Migration

The international migration and recruitment of nurses is driven by 3 broad factors: globalization, supply-demand, and “push-pull.” Human resources are part of a global market spurred by international competition, information technologies, and worker mobility. The World Trade Organization's General Agreement on Trade in Services views health care workers like other commodities for which countries

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can compete to trade health services. An aging population, the increased prevalence of chronic diseases, shortages of primary care physicians, and the use of nurses in managing complex clinical cases increase demand for well-trained nurses in developed countries. In developing countries, demand is driven by the compounding burdens of epidemic diseases (eg, AIDS, tuberculosis, malaria), chronic noncommunicable diseases, and poverty.

At the same time, inadequate health system planning and underinvestment in health professional education has left all countries with too few domestic workers to meet the surge in demand. A survey of hospital nurses in 5 countries found that more than 40% were dissatisfied with their jobs, and one-third younger than 30 years were planning to leave.<sup>15</sup> A few countries, such as Fiji, Jamaica, Mauritius, and the Philippines, overproduce nurses, but the most specialized and well-trained nurses are recruited, leaving these countries with a less-skilled workforce. Health care workers are “pushed” from developing countries by the impoverished conditions: low remuneration, lack of equipment and drugs, and poor infrastructure and management.<sup>16</sup> They are “pulled” to developed countries by the allure of a brighter future: better wages, working conditions, training, and career opportunities, as well as safer and more stable social and political environments.

### **Global Justice: Rights and Duties of Countries and Workers**

Global justice requires a fair allocation of benefits and burdens to source countries, destination countries, and nurses. In source countries, health care workers serve basic health needs and are indispensable for safeguarding the public's health. Poor countries already have deep burdens of poverty, disease, and early death. The shortage of human resources affects the life prospects of the population for improved health and longevity. Recruitment, moreover, reduces a country's capacity to fulfill its international legal obligations to ensure the human right to health. When a country has a fragile health care system, losing skilled workers can render the system dysfunctional, with consequences measured in lives lost.

From an economic perspective, international recruitment may, in effect, represent a cross-subsidy from poor to wealthier states as source countries invest in the training and education of health care workers who then leave to work abroad. However, migrating nurses also provide value to source countries: health care workers send remittances back home to support their families and bolster the economy; they may form clinical or educational partnerships between countries; and, after a time, a proportion of workers return home with enhanced skills and experience.

Developed countries have important social and health needs as well. Although these countries are able to provide the population with greater opportunities for health, the public and private sectors strive to maintain quality services.

Hospitals and nursing homes have strong economic and social incentives to provide sufficient trained staff with cultural and linguistic competencies. Rich countries do not necessarily act unethically by recruiting nurses to meet basic health needs, provided they do not deprive poorer countries of the same opportunities to serve their populations.

Perhaps most important, health care workers have duties and rights that deserve respect. They have a social responsibility to contribute to the public's health, safety, and welfare of their home country. Their home countries often subsidize their education and they are loyal to family and community. But health care workers also have human rights and cannot be tied to an impoverished life at home with grim prospects. Liberty of movement is an indispensable condition for the free development of a person.<sup>17</sup> International law guarantees freedom of movement and residence within the person's state and the right to leave his or her country and to return to it.<sup>18</sup>

An individual's right to travel, emigrate, and return is not only central to self-determination but also reinforces other vital rights, such as the right to safety from persecution, abuse, arbitrary imprisonment, torture, and genocide. Health care workers have a justifiable desire to pursue their happiness and livelihood by taking advantage of the educational and economic opportunities afforded in prosperous, stable societies. They also have rights arising from the employment relationship that deserve respect, including a fair bargaining position, decent working conditions, equitable compensation, nondiscrimination, and legal redress for harms.<sup>19</sup>

Migrating IENs are vulnerable to exploitation because of imbalances in information, resources, and power when dealing with sophisticated recruiters. Academy Health reports that 18% of recruiting firms charge nurses an up-front fee, despite its questionable legality; and most require a “buy-out” or breach fee (\$10 000-\$50 000) in the event that a nurse wishes or needs to resign before the end of the contract.<sup>14</sup> These practices economically entrap poor nurses, restricting their freedom of choice and mobility and making it harder to prevent abuse in the workplace because they cannot withhold their labor. Recruiting practices sometimes are harsh and unethical, such as denying nurses a right to obtain a copy of their contract; altering contracts without consent; imposing excessive demands for overtime without differential pay; retaining green cards; delaying payments; and offering lower pay, substandard housing, and insufficient clinical orientation. Nurses are sometimes lured with misleading promises, and they are threatened with deportation if they break the contract.<sup>14</sup>

### **Responsible Recruiting: Toward National and Global Solutions**

The 2004 WHO Resolution 57.19 urges member states to develop strategies to mitigate the adverse effects of the migration of health care workers, including bilateral agreements, such as the South Africa/United Kingdom Memo-

randum of Understanding, and regional agreements, such as the Pacific Code and the Caribbean Community agreement. The Health Worker Migration Policy Initiative also plans to recommend an International Code of Practice to the World Health Assembly in May 2008.<sup>20</sup> These codes are not legally binding but have persuasive value and supplement professional position statements on ethical nurse recruitment; for example, by the International Council of Nurses.<sup>21</sup>

A comprehensive set of guidelines for responsible recruiting would include the following features, which reflect the legitimate interests of source countries, destination countries, and health care workers:

- Surveillance of migration patterns: Monitoring and research of global migration patterns and assessment of their health effects should inform national and global policies and result in objective indicators for responsible recruiting.
- Human resource investment and planning: Source and destination countries should build the supply of skilled workers through education and training, leading to national self-sustainability and limiting the need for active recruitment.
- Reducing the “push”: Source countries, with international assistance, should improve the conditions, pay, and career opportunities of health care workers to provide incentives for them to stay at home or to return home after visiting abroad.
- Take no more than a fair share: Because all countries should have fair opportunities to serve the health needs of their populations, rich states should restrict active recruitment in low-income countries with severe nurse shortages.
- Give back: Rich states should build capacities in poor countries in which they recruit with a variety of means, such as cash payments, scholarships, clinical training, health care worker exchanges, and support for retention programs, providing benefits to both countries.
- Information and transparency: Recruiters should provide health care workers with clear information about their rights and responsibilities in the destination country, offer clinical and cultural orientations, and provide recourse for the fair resolution of grievances.
- Health care worker rights: States should enact and enforce strong laws to guarantee freedom of movement and association and to prevent exploitation, abuse, and discrimination of foreign health care workers, including unfair contract arrangements, poor or unsafe working conditions, and unequal pay and treatment.

These guidelines for responsible recruiting can create a mutually beneficial situation for countries and health care workers. Such guidelines can promote self-sustainability in

human resources and build health system capacity in poor countries, enable rich countries to gain the benefits of foreign workers while giving back to the developing world, and respect the rights of workers who want to fulfill their social obligations to family and communities and follow their dreams for a better life, but deserve fair treatment. What is primarily important, however, is that poor countries have the human resources necessary to ensure the right to health for their populations.<sup>22</sup>

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