



Date of Publication: January 30, 2021

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Title: “Imprisoning” patients unable to settle their medical bills: a public health issue or human rights crisis?

Health is a fundamental human right which creates an obligation for countries to ensure the availability and access to affordable healthcare services for its citizens without discrimination. This obligation notwithstanding, users may be unable to pay for services following hospital discharge. Even with the advent of national health insurance schemes, some persons may still be unable to pay for services out of pocket leading to their detention or ‘imprisonment’ in the healthcare facility till the bills are settled. The issue is a rather complex one which often raises crucial medical, ethical, and legal concerns and this blog aims to highlight these issues. Granted, hospitals need money to keep running, but how effective/ helpful is detention?

Although a standard definition is currently unavailable, hospital detention or ‘imprisonment’ may be described as refusing the release of either patients following discharge or bodies of deceased patients if families are unable to pay their hospital bills. The phenomenon of detaining or ‘imprisoning’ patients with outstanding medical bill has been identified as a common practice in parts of Africa, Asia, and Latin America. A [recent review](#), which included hospital detention reports from 46 countries, has highlighted that the phenomenon is more widespread than presently acknowledged although it is difficult to provide exact incidence rates due to under reporting. Although various human right groups have campaigned to raise awareness of the phenomenon and some governments have either denounced the practice or legislated against it, the practice continues regardless. In fact, the phenomenon of hospital detention is an open secret as it is frequently captured by the media which often leads to benevolent acts by individuals and corporate bodies.

At the core of this problem are [two key issues](#): firstly, the nature of healthcare systems that often require persons to make high out-of-pocket payments when seeking healthcare; and secondly inadequate governance systems that permit the detention of patients. Most affected or perhaps, most commonly reported in literature are [post-partum women and their infants who are often detained for days or months](#). These women are often younger, poorer, and with more obstetric [complications than other women](#). Similarly, other affected persons also tend to be the poorest members of society who have been admitted for emergency treatment or have undergone a prolonged period of treatment and such detention or ‘imprisonment’ [can push them further into poverty](#). This resultant effect is in sharp contrast to the goal of the universal health coverage (UHC) considering its focus to facilitate the provision of a full spectrum of essential healthcare services without the recipient suffering financial hardship.

Often, hospitals may assume that detention will serve as a motivator for the patient and family to pool resources to settle the bills. [Affected persons may often receive substandard care, exposed to abuse](#) and family members may either abandon them or may not claim their corpses. Potentially, detention can be a traumatic experience, delay the utilization of healthcare services in future, increase medical impoverishment, [and serve as a denial of one’s human rights](#) (right not to be imprisoned as a debtor). Besides, it can result in overcrowding which raises

public health/ medical concerns about the well-being of patients, staff, and family members particularly in the current COVID-19 pandemic.

Ethically, healthcare workers may experience moral distress as they struggle to maintain a balance between 'doing good' and 'avoiding harm' without risking legal ramifications. Healthcare staff may sometimes have to even contribute to support the detained patients on humanitarian grounds. Legally, a landmark ruling by a Kenyan high court involving two post-partum mothers (one was held for a month next to a flooded toilet and the other handcuffed to her bed for attempting to escape) [described the phenomenon as 'cruel, inhuman and degrading'](#). A [similar landmark](#) ruling also described the detention as unlawful and imprisoning patients is not one of the acceptable avenues for hospitals to recover debt. If this is the case, then perhaps healthcare facilities may be liable for an offence. Also, it may be tentatively argued that the healthcare facility or staff are potentially liable for tort of negligence should an incident occur during the period of custody.

In conclusion, it is evident that the phenomenon presents a complex bag of health and human right issues and raises more questions than answers. However, we do have a starting point to improving the situation as the root causes and extent of the problem have been highlighted. This should stimulate further discussions about governance, healthcare financing and direct attention to developing and implementing stronger legal frameworks to protect the interests of patients.