



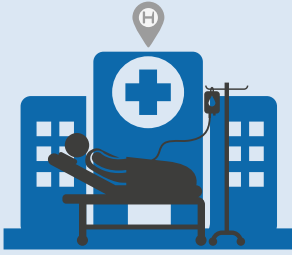
Know Your Rights

Should a Person Be Detained in a Health Facility Over Unpaid Bills in Kenya¹?

This factsheet explains the issue of people or dead bodies being held in health facilities because of unpaid bills, and the steps you can take if you or someone you know is affected.

The Answer is NO.

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In Kenya, many health facilities refuse to release patients who have been discharged, or the bodies of deceased persons, because medical bills have not been paid.

This practice continues to be reported in Kenya despite constitutional protections and ongoing efforts towards legal reform. It places individuals and families under significant emotional, financial, and psychological distress, and raises serious concerns about dignity, access to healthcare, and the abuse of power within health systems.



What the law and courts say

Kenyan law does not encourage the detention of patients or deceased persons for non-payment of medical bills.² While health facilities are entitled to recover fees for services rendered, Kenyan courts have advised that the recovery of fees payable is done through lawful debt recovery mechanisms. Courts in Kenya have increasingly affirmed that detention in health facility over unpaid bills is unlawful and inconsistent with constitutional protections.³

The detention of patients or deceased persons violates several rights under the Constitution of Kenya, 2010⁴:

- Freedom and security of the person, including the right not to be deprived of freedom arbitrarily or without just cause (Article 29(a))

²Millicent Awuor & Another v Attorney General & 2 Others

³Omari v Kenyatta University Teaching Referral and Research Hospital

⁴Grace Mwangi v Maryhelp of the Sick Hospital

- Freedom of movement (Article 39(1))
- Inherent right to human dignity and to have that dignity respected and protected (Article 28)
- Right to the highest attainable standard of health which includes the right to health care services (Article 43(1)(a))
- Protection of the family (Article 45(1))

Further, Article 24(1) of the Constitution provides that a right or fundamental freedom may only be limited by law, and only to the extent that the limitation is reasonable and justifiable in an open and democratic society. Detaining patients or deceased persons over unpaid bills is not authorized by law and has repeatedly been found by Kenyan courts to be unconstitutional.

In addition, Kenya is bound by international human rights obligations, including:

- **International Covenant on Civil and Political Rights (Article 11)**, which prohibits imprisonment for inability to pay a debt.
- **African Charter on Human and Peoples' Rights (Article 6)**, which guarantees the right to liberty and protection from arbitrary detention⁵.

The Health Act (Amendment) Bill, 2025

The proposed Health Act (Amendment) Bill, 2025⁶ seeks to introduce clearer protection against detention in health facilities over unpaid bills.

Once the Bill is passed into law, the Health Act will criminalize the detention of patients or bodies for unpaid medical bills. It will also require the Cabinet Secretary for Health to establish lawful mechanisms for recovery of medical fees, ensuring that hospitals are compensated without violating patient rights.

Key Judicial Rulings

Kenyan courts have consistently held that the detention of patients or deceased persons for unpaid medical bills is unlawful and violates constitutional rights.

⁵International Covenant on Civil and Political Rights; African Charter on Human and Peoples' Rights

⁶Health Act (Amendment) Bill, 2025

In a recent 2026 ruling⁷, Lady Justice R.E. Aburili reaffirmed that detaining patients over unpaid medical bills violates constitutional protections on liberty and dignity. The Court held that any form of detention not authorized by law and aimed at enforcing payment of a contractual debt is unconstitutional and unlawful. The Court further emphasized that medical bills are civil debts which must be pursued through lawful recovery procedures rather than through detention or coercion.

In *Millicent Awuor & Another v Attorney General & 2 Others*⁸, the High Court declared that the detention of patients in a health facility for failure to pay medical bills is arbitrary and unlawful, and a violation of constitutional and human rights standards. Additionally, the Court directed the government to take administrative, legislative, and policy measures to eradicate the practice of detaining patients.

In *Omari v Kenyatta University, Teaching Referral and Research Hospital*, the High Court held that a dead body is not a merchantable product, and that its continued detention serves no lawful purpose. It further held that the release of the body does not extinguish the hospital's right to pursue payment through lawful means.⁹

In *Grace Mwangi v Maryhelp of the Sick Hospital*, the High Court held that a dead body has no property value and therefore cannot be used as collateral for a debt.¹⁰

Similarly, in *Maina v Registered Trustees of the Sisters of Mercy (Kenya) t/a Mater Misericordiae Hospital*¹¹, the High Court emphasized that detention arising from the inability to fulfil a contractual debt cannot override constitutional protections, particularly the right to liberty and dignity.

⁷Millicent Awuor & Another v Attorney General & 2 Others

⁸Omari v Kenyatta University Teaching Referral and Research Hospital

⁹Grace Mwangi v Maryhelp of the Sick Hospital

¹⁰Grace Mwangi v Maryhelp of the Sick Hospital

¹¹Maina v Registered Trustees of the Sisters of Mercy (Kenya) t/a the Mater Misericordiae Hospital (Constitutional Petition E020 of 2021) [2023] KEHC 22347 (KLR)

Taken together, these decisions demonstrate a clear and consistent judicial position that:

- Health facilities have no legal right of lien over patients or deceased persons for unpaid medical bills.
- Medical bills are civil debts, not grounds for detention.
- Patients and bodies must be released without delay.
- Hospitals must use lawful debt recovery mechanisms, rather than coercion.
- The dignity of both patients and deceased bodies must always be respected.

Steps to Follow if You or Someone You Know is Detained

If you or someone you know is being detained in a health facility because of unpaid bills:



Step 1: Ask for written reasons for the detention: Request the facility to explain in writing why the patient or body is being held. You can also write a formal letter demanding release. You may use the templates provided in the link below this factsheet.

Step 2: Keep records: Save copies of medical bills, payment receipts, discharge documents, and all communication with the health facility.

Step 3: Have someone accompany you: Bring a trusted friend, relative, or witness when speaking with hospital staff or management.

Step 4: Report the matter immediately: Contact the relevant oversight bodies or human rights organizations if the facility refuses to release the patient or body.

Step 5: Seek urgent legal help: Courts can issue orders requiring the immediate release of the patient or body.

Where to seek assistance:

a) **Lodge a complaint against the health facility at the [Kenya Medical Practitioners and Dentists Council](#)**

Kenya Medical Practitioners and Dentists Council
Woodlands Rd, Hurlingham, Nairobi
Tel: +254 111052222 | +254 727666444
Email: info@kmpdc.go.ke

b) **File a report about the human rights violation to the [Kenya National Commission on Human Rights \(KNCHR\)](#)**

Kenya National Commission on Human Rights (KNCHR)
CVS Plaza 1st Floor, Kasuku Lane, Off Lenana Road,
P.O. Box: 74359-00200 Nairobi, Kenya
Landline: +254-020-3969000
Mobile: 0726 610 159
WhatsApp: 0798 849 871
Complaints: complaint@knchr.org
SMS: 22359
Twitter: [@hakiKNCHR](https://twitter.com/hakiKNCHR)

c) **Secure a lawyer to file a lawsuit for urgent orders for the release of the patient or body of deceased person.**

d) **Approach the National Legal Aid Service – for assistance in securing free legal services in the event you cannot afford to pay for legal services of a lawyer to conduct a case.**

National Legal Aid Service
Kenya Charity Sweepstake (KCS) House, 9th Floor, Nairobi
P.O. Box 45597 – 00100 Nairobi
Tel: +254110149938, +254110149935, +254110149939
Email: info@nlas.go.ke

Annex 1: [Template of a letter demanding the release of a patient](#)

Annex 2: [Template of a letter demanding the release of body of a deceased](#)