

I. Summary

Over the past few years, public hospitals in Burundi have detained hundreds of patients who were unable to pay their hospital bills. Patients were routinely held for several weeks or months, and in one case for over a year. They were kept on the wards, guarded by security staff of the hospital, or were held in a separate room. Detained patients without money often went hungry if not fed by the charity of others. Some were forced to vacate their beds and sleep on the floor to make space for paying patients. Often, indigent patients did not receive further medical treatment once the bill had reached a large amount, even if they needed additional medical care, including basic follow-up care such as removing stitches after a caesarean delivery.

The detention of patients unable to pay their bills both results from and draws attention to broader problems of health care in Burundi. Although one of the poorest nations in the world, Burundi implemented in 2002 a cost recovery system as part of its delivery of health care services. The aim was to make the system more financially efficient. Patients must pay all medical costs, such as medical consultations, tests, medicines, supplies, and their stay at a hospital. There is a health insurance and a waiver system for the destitute, meant to assist the poorest in meeting medical expenses, but both function badly and in some places not at all. Public hospitals do not receive enough income from patient fees, direct donations and funds from the government to allow proper functioning, and they lack well-trained medical staff, equipment, and medicine. The Burundian health sector is plagued not just by huge funding shortfalls, but by inconsistent state funding, and by fraud and corruption that shrinks an already small pie. Hospital staff, who have been typically grossly underpaid, are among those involved in the financial mismanagement and corruption.

Most detained patients have had surgery, such as following an accident or as a result of birth complications, while others suffer from chronic diseases, including HIV/AIDS. The patients are very poor, often belong to vulnerable groups like orphans, widows, single mothers, or those displaced by Burundi's civil war, and lack family or larger networks of social support. Some of those detained are obliged to sell their last belongings in order to pay their bills and get released. Others find a benefactor (*bienfaiteur*), a wealthy individual or charity, to pay their expenses and allow them to return home.

On May 1, 2006, President Pierre Nkurunziza announced that maternal health care and health care for children under the age of five would henceforth be free of charge. If

sustainable, this measure should end hospital detentions of some women and young children. However, it provides no relief for other patients unable to pay their bills who constitute more than half the persons typically detained.

Official responses to hospital detentions have been confused and contradictory, vacillating between denial, justification, and misrepresentation. Hospital managers and government officials often minimize the problem, claiming that those who cannot pay their bills are released after a few days. Most refuse to use the term “detention” to describe the practice. At the same time they justify the detentions as necessary, saying hospitals would be forced to close their doors if they could not use such means to oblige patients to pay their bills. Because government officials do not consider detention of patients to be a human rights violation, they take no measures to make hospital staff halt the practice, nor do they punish them for continuing it.

International human rights law provides that everyone has the right to liberty and security of person. Arbitrary detention of any kind is a violation of article 9 of the International Covenant on Civil and Political Rights (ICCPR), to which Burundi is a party. The detention of anyone for non-payment of a debt specifically violates ICCPR article 11, which states: “No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.” The detention in crowded conditions with scarce food violates the right of persons not to be detained under inhumane conditions.

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Burundi is a party, requires states to progressively realize the right to the highest attainable standard of health. The detention of hospital patients who cannot pay their bills has important implications for health care in Burundi. Hospital detention discourages indigent people from seeking health care in the first place, subjects patients to having their treatment curtailed or ended when it is apparent to doctors and hospital staff that the patient cannot pay, and incarcerates recovering patients in conditions that may exacerbate their health problems.

The issue of hospital detentions also reflects the broader problem of access to health care for all members of Burundian society. While recent steps to end fees for maternity care and young children are welcome, the government should urgently provide health structures with the means to respond to the increased demands. More broadly, the government must ensure that funding for health care reaches the population most at risk, and take steps to reduce corruption in the health care system.

With the Millennium Development Goals, the international community has committed itself to reaching ambitious targets in the area of health, such as reducing child mortality, improving maternal health, and combating HIV/AIDS and malaria. In Burundi, international donors fund a large proportion of Burundi's health sector, and directly influence health policy decisions. Despite these commitments, donors have not pressed effectively for an end to the detention of patients, and for improved access to health care for the poor.

The Heavily Indebted Poor Countries Initiative might bring some change. Under this initiative, Burundi got debt relief on an interim basis during 2005, and the government has been able to almost triple the health budget as a result. The country is currently completing several economic measures, with a view to finalizing the debt relief agreement in late 2006. International financial institutions and other donors should ensure that such funds are used to improve access to health care and to end hospital detentions.

II. Recommendations

To the Government of Burundi

- Immediately effect the release of all current hospital detainees.
- Order an end to the practice of detaining insolvent patients in hospitals, and monitor hospitals to ensure that the practice does not continue. Take disciplinary or legal action as appropriate against persons responsible for hospital detentions.
- Propose legislation to make the detention of debtors, including insolvent patients in hospitals, illegal and punishable by law.
- Progressively implement the right to health by adopting measures to improve access to health care for the poor. Existing systems of cost exemption for the poor are inadequate and should either be reformed, or replaced with a new health care system. Reforms that should be considered include abolishing user fees for basic health care or the introduction of *mutuelles*, a community-based health insurance system. Any health policy reform should focus on access to basic health care for the poor and focus on the four essential elements regarding the right to health— availability, accessibility, acceptability and quality. In particular consider making health policy changes in the following areas:
 - Urgently take measures to implement the new policy of free maternal health care and health care for children under the age of five. Ensure that primary health care systems are strengthened to respond to the increased demands, with access to staff, medicine, and equipment made available to all on an equitable basis. Develop a long-term plan on how to make this policy effective and link it with the broader health policy.
 - Any future reform to abolish user fees should be prepared carefully as part of a larger policy, should rely on sufficient funding that is sought in advance, and should inform and involve stakeholders at all levels during the planning phase.
 - Clarify plans to introduce a community-based health insurance and, if they are pursued, develop a strategy on how to include the poor in this scheme and ensure high levels of enrollment.
 - Clarify plans to subsidize health care for the poor, as announced in the government health policy plan. Any cost exemption mechanism should be well publicized with clear criteria, administered in a transparent way, and include a patient's right to appeal decisions.

- Inform the public about ways to obtain assistance from the Support Project for Returnees (*Projet d'Appui au Rapatriement et à la Réintégration des Sinistrés, PARESI*) and from the Fund for the Displaced at the National Commission for the Reintegration of the Displaced (*Commission Nationale pour la Réintégration des Sinistrés, CNRS*), and any other cost exemption systems established.
- In the Poverty Reduction Strategy Paper (PRSP), lay out specific plans on how to end hospital detentions and reform the health system to improve access to basic health care for the poor.

To the newly established Government Anti-Corruption Brigade

- Investigate corruption in the health sector, including in hospitals and illegal sales of medicine, and ensure that those accused of crimes be promptly brought to trial according to international standards of due process.

To Donor Countries

- Urge the government of Burundi to end the detention of poor patients in hospitals immediately.
- Provide technical expertise to reform or replace existing cost exemption mechanisms and assist the government to develop health policy reforms that would better ensure access to health care for the poor, as outlined above.
- Provide positive incentives to the government of Burundi to dedicate a greater portion of debt relief funds to the health sector, particularly to improve access to health care for the poor.
- Ensure that development assistance for Burundi's health care system specifically addresses the problems of access to health care by the poor, which previously was funded through humanitarian assistance programs.

To The World Bank

- Urge that funds made available to the health sector through debt relief are used to end the detention of poor patients in hospital and to improve access to health services for the poor, including through health policy reforms, as those outlined above.
- Urge the government of Burundi to enforce laws on corruption and fraud and make use of the newly established government Anti-Corruption Brigade specifically to address misuse of funds in the health sector.

- Urge that development assistance for Burundi's health care system specifically addresses the problems of access to health care by the poor, which previously was funded through humanitarian assistance programs.
- Ensure that the PRSP and any future Poverty Reduction Support Credit (PRSC) for Burundi contain detailed plans for improving access to health care for the poor and fighting corruption in the health sector.

To the International Monetary Fund (IMF)

- Urge that funds made available to the health sector through debt relief are used to end hospital detentions and to improve access to health services for the poor, including through health policy reforms, as those outlined above.
- Ensure that the PRSP and any future Poverty Reduction Growth Facility for Burundi contain detailed plans for improving access to health care for the poor and fighting corruption in the health sector.

To the UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health

- Investigate the issue of detention of poor patients in hospitals in Burundi and other parts of Africa, and make recommendations to governments on how to end the practice.