

Position Paper
On

House Bill No. 68

**AN ACT PROHIBITING THE DETENTION OF LIVE OR DEAD
PATIENTS IN HOSPITALS AND MEDICAL CLINICS ON GROUNDS OF
NONPAYMENT OF HOSPITAL BILLS OR MEDICAL EXPENSES**

And

House Bill No. 2127

**AN ACT PROHIBITING THE DETENTION OF PATIENTS OR THE
REMAINS OF PATIENTS IN HOSPITALS AND MEDICAL CLINICS ON
GROUNDS OF NONPAYMENT OF HOSPITAL BILLS OR MEDICAL
EXPENSES**

Paragraph 1 of Article 9 of the *International Covenant on Civil and Political Rights (ICCPR)* which enunciates the Right to Liberty and Security of Persons states :

" 1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

Article 11 likewise states :

" No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation."

The 1987 Philippine Constitution likewise provides under Article III which is the Bill of Rights under Section 1 thereof :

" Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws. "

Any deprivation of liberty of this kind however is also penalized under the Revised Penal Code falling under Title IX entitled *Crimes against Personal Liberty and Security* particularly Art. 268 thereof entitled Slight Illegal detention which states :

"Art.268. Slight Illegal Detention. – The penalty of reclusion temporal shall be imposed on any private individual who shall commit the crimes prescribed in the next preceding article without the attendance of any of the circumstances enumerated therein."

The same penalty shall be incurred by anyone who shall furnish the place for the perpetration of the crime."

If the offender shall voluntarily release the person within three days from the commencement of the detention, without having attained the purpose intended, and before the institution of criminal proceedings

against him, the penalty shall be prison mayor in its minimum and medium periods and a fine not exceeding seven hundred pesos.

Under this law, it is possible the hospital officials concerned may be held criminally liable for detention of patients with unpaid bills. Even the hospital itself as an entity with a separate and distinct corporate personality may be held civilly liable if the detention is proven to be malicious and made in bad faith.

It is also worth mentioning that no less than our own Philippine Constitution as specifically provided for in section 20 of Article III which is our *Bill of Rights* state :

“ Sec.20. No person shall be imprisoned for debt or non-payment of a poll tax. “

This shows that non-payment of whatever debt could never be tantamount to imprisonment more so be the subject of detention in a hospital or a medical institution as a result thereof. This of course is subject to the agreement between the institution and the patient as to the terms of payment of the unpaid bills and necessary arrangements so as not to deprive the institution of their income.

Clearly, both under international and domestic law, deprivation of liberty in whatever form including the evil which is sought to be prevented and avoided under the abovementioned House Bills are considered unacceptable and contrary to law.

The House Bills should be consolidated into one since they provide the same theme and subject matter which basically involves deprivation of liberty and possibly slight illegal detention as a distinct offense punishable under the Revised Penal Code.

Both House Bills have focused on the reality existing today of the situations mostly experienced by the impoverished to whom quality health services and medical treatments are often deprived of and discriminated against under such terms which ultimately violates not only their civil and political rights but also economic, social and cultural rights which are indivisible and enumerated explicitly in specific international covenants including those provided for in local legislation.

Of course human rights do not distinguish and is available and enforceable by all human beings. As hospitals are given certain rights and obligations towards their patients, so do patients with similar entitlements and corresponding duties and obligation as well. In this case, the patient, before being allowed to be released from hospital confinement is required to execute a negotiable instrument in the form of a promissory note covering the unpaid obligation as a guarantee for the created debt but nevertheless, the patient is allowed to demand the issuance of the necessary documents such as the corresponding medical certificate and other pertinent papers required for the patient's release from the hospital or medical clinic.

Considering the fact that the proposed House Bills were indeed created to uphold the human rights of every individual especially those who are considered impoverished, the Commission on Human Rights strongly supports and encourages the adoption and immediate passage

into law of House Bill no.68 and 2127. The abovementioned House Bills are also strongly suggested to be consolidated into one bill due to similar themes.

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