

Oxfam India's submission to National Human Rights Commission's (NHRC) Committee of experts on 'Impact of COVID-19 pandemic on human rights and future response'

Protection of rights of patients during the COVID-19 Pandemic

It is critical to reiterate the [rights of patients](#) during the response. Doing so will not only provide ethical guidance during these difficult times, but also set the foundation for how India and the world responds to public health crises going forward. Therefore, to protect the Rights of the Patients during these unprecedented times, we would like to submit some recommendations:

1. Hospitals should display details of the charges for various procedures, government fixed package rates for COVID-19 at a conspicuous location in private hospitals, such as the reception area, entrance etc.

The Patients' Rights Charter developed by NHRC and its adapted version sent by the Union Health Ministry to the states for adoption and implementation includes information on the charges for various procedures as a basic right of the patient. However, several private healthcare providers are using the pandemic as an opportunity to make profits and end up violating the rights of their patients.

Incidents of overcharging are rampant across the country, with many charging over One Lac Rupees per day. Despite the Supreme Court's order¹ for regulation of prices for COVID treatment and capping of prices by several state governments, the orders for regulation of prices are freely flouted. For instance in Delhi², when hospitals are supposedly billing on the basis of the government rates, they are additionally charging patients for components of care that are included in the package rates fixed by the Delhi Government Order, such as doctor's consultation fees, medicines, consumable, investigations, PPE and management of comorbidities. Additionally, private providers have been found to be overbilling patients for Personal Protection Equipment³; some hospitals are not being transparent about the number of PPE units used on a patient and per-unit cost of PPE, leaving patients confused as to how many PPEs were used for their care, and at what rate they were billed.

2. The information regarding availability of beds being displayed at a conspicuous location in or outside hospital as well as on digital media like website or Apps and must be accurate and in real time.

¹ <https://www.hindustantimes.com/india-news/sc-tasks-centre-to-regulate-covid-19-treatment-costs-at-private-hospitals/story-NnK1Xty49R4s3CTAVvqXoL.html>

² <https://www.thehindu.com/news/cities/Delhi/private-hospitals-flouting-price-caps-for-covid-19-treatment/article32193621.ece>

³ <https://scroll.in/article/964534/private-hospitals-in-india-are-overcharging-for-safety-gear-in-the-absence-of-government-regulation>

The World Health Organisation (WHO) envisages Health as a fundamental human right⁴. The right to health (Article 12) was defined in General Comment 14 of the Committee on Economic, Social and Cultural Rights of WHO includes Availability and accessibility of health facilities as a peoples' right to health⁵. Moreover, Article 21 of the Constitution of India⁶ guarantees a fundamental right to life, which would be clearly denied if the patients were not able to get admissions in hospital and receive requisite treatment/ care.

Despite this, there are been multiple reports of denial of admission to COVID patients by hospitals across the nation. A 52-year old man in Bangalore succumbed due to denial of admission⁷ by 18 hospitals between 27th and 28th June, on the pretext of unavailability of beds/ventilators. However, as per official data, of the 1,619 beds in the private sector for COVID-19 cases, only 418 were full between June 1 and June 28. Similar incidences have been reported elsewhere like 18-year-old diabetic COVID patient died after three hospitals refused admission⁸. Refusal to admit the patients by hospitals violates their basic right and to receive treatment.

Furthermore, despite many governments using technological, including state specific apps, to help citizens track the availability of beds in their nearest hospitals, experience suggest that the information communicated by hospitals on their arrival and App have been frequently seen to not match.

3. The government must institute a formal grievance redressal mechanism to ensure timely redress of formal complaints against hospitals. A live publically-accessible database should be maintained of all the complaints received. The process of redress must include members from civil society to ensure transparency.

The Patients' Rights charter created by NHRC⁹ suggests that every patient and their caregivers have the right to give feedback, make comments, or lodge complaints about the health care they are receiving or had received from a doctor or hospital. This includes the right to be given information and advice on how to give feedback, make comments, or make a complaint in a simple and user-friendly manner. Moreover, Consumer Protection Act 1986¹⁰ also reiterated that patients and their caregivers may seek redressal in case they are aggrieved. Despite this, many

⁴ <https://www.who.int/mediacentre/news/statements/fundamental-human-right/en/>

⁵ <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health#:~:text=Understanding%20health%20as%20a%20human,%2C%20housing%2C%20health%2Drelated%20information>

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https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2021#:~:text=Constitution%20of%20India&text=Protection%20of%20life%20and%20personal%20liberty.&text=No%20person%20shall%20be%20deprived,to%20procedure%20established%20by%20law

⁷ <https://indianexpress.com/article/cities/bangalore/karnataka-govt-issues-notice-to-9-pvt-hospitals-for-denying-covid-treatment-to-patient/>

⁸ <https://www.ndtv.com/india-news/diabetic-covid-patient-18-dies-after-3-hospitals-refused-admission-parents-2261287>

⁹ <http://clinicaestablishments.gov.in/WriteReadData/8431.pdf>

¹⁰ http://ncdr.nic.in/bare_acts/Consumer%20Protection%20Act-1986.html#CONSUMER_DISPUTES_REDRRESSAL_AGENCIES

violations of patient rights have been reported in the media. Patients and caregivers have struggled to report their grievances, with many resorting to social media¹¹ to vent out their pain.

4. The Hospitals should ensure the relatives of COVID patients are updated on the condition of the patients on a daily basis, at least. The information provided to them should be in simple language, understandable to them. Moreover, video-conferencing facilities should be organised to allow relatives to speak to their family members admitted in hospitals.

The Patients' Rights Charter¹² empowers Patients and caregivers to Right to Information. Medical Council of India, (Professional Conduct, Etiquette and Ethics) Regulations, 2002¹³ also reiterates that every patient and /or their relatives have right to adequate relevant information about the nature, cause of illness, provisional / confirmed diagnosis, proposed investigations and management, and possible complications. This must be explained at their level of understanding in language known to them. Patients Charter by National Accreditation Board for Hospitals (NABH)¹⁴ also includes that the treating physician/ doctor/ medical professional has a duty to ensure that this information is provided in simple and intelligible language to the patient to be communicated either personally by the physician, or by means of his / her qualified assistants.

However, there have been several instances where relatives of the patients are not informed¹⁵ about the condition of their patients¹⁶, and in some instances, they have been allowed to keep in touch with patients.

5. Hospitals must ensure dignity of deceased by handing dead body to relatives immediately or providing dignified final rites as per the recommended guidelines.

The Patients' Rights Charter directs clinical establishments to not to deny the release of body of deceased due to any reason including non-payment of bills. However, the dignity for deceased have been violated in several cases where release of dead bodies have been denied due to varied reasons. For instance, body of 40 year old woman was retained inside an ambulance for 2 days after her death¹⁷. In yet another instance of inhuman treatment to a deceased COVID-19 patient, an earthmover was used by government authorities to dump a body into a grave¹⁸.

6. The state needs to ensure access to ambulances as a critical prerequisite to ensure access to healthcare.

¹¹ <https://thewire.in/government/covid-19-death-facebook-post-delhi>

¹² <http://clinicalestablishments.gov.in/WriteReadData/9901.pdf>

¹³ Professional Conduct, Etiquette and Ethics) Regulations, 2002

¹⁴ https://nabh.co/Images/pdf/Patient_Charter-DMAI_NABH.pdf

¹⁵ <https://www.hindustantimes.com/cities/relatives-say-no-information-on-covid-19-patient-thane-hospital-says-he-s-doing-well/story-E8eRJ8oJfJavVp3L4w85O.html>

¹⁶ <https://www.bbc.com/news/world-asia-india-52990324>

¹⁷ <https://punemirror.indiatimes.com/pune/civic/covid-19-patients-body-left-for-2-days-inside-ambulance/articleshow/77321899.cms>

¹⁸ <https://www.hindustantimes.com/india-news/covid-19-casualty-in-tirupati-denied-dignity-in-death-body-dumped-by-earthmover/story-n50XDF5qs9MSJpqtAGGXeO.html>

Article 41 of Indian Constitution¹⁹ imposes the duty on state to public assistance for those who are sick & disable. Therefore, it becomes immensely vital for the government to ensure assistance to sick COVID and non- COVID patients for getting transportation so that they are able to access healthcare.

With public transport being disrupted, it becomes doubly critical to ensure access to ambulance services. However, there have been several incidences about **non-availability of ambulance** services for COVID and non- COVID patients. There have been incidences reported in media where COVID as well as Non- COVID patients have lost their lives²⁰, waiting for an ambulance. Moreover, complaints about overcharging from ambulance providers is also rampant. The **rates of ambulances have skyrocketed** during the pandemic making affordability of an essential service like ambulance unaffordable to many. Thus, news reports suggest that in Hyderabad, ambulance was charging nearly INR 240 for 10 Km trip in pre-COVID times to around INR. 5,000 nowadays. Similarly, estimates suggests that charges in Chandigarh have risen from INR 400 to INR 1,500²¹. Additionally, many private ambulance services²² were also charging INR 3,000 extra for PPE and disinfecting the ambulance²³. Despite this, **accessing well-equipped ambulance is also becoming a challenge** for public. Reports suggest 90% private ambulances²⁴ in Telangana lack even basic equipment.

Conclusion:

Incidences of violation of Patients' Rights have been reported amidst the COVID-19 pandemic. The National Human Rights Commission must urge the Government to adopt and implement the Patients' Rights Charter to bring down incidences of denial of the rights of patients by clinical establishments.

There is need to communicate via circulars to various state governments the need for development and implementation of strict guidelines to ensure the availability of free/affordable and quality transportation services for patients. Similar circulars are also needed to ensure that patients and their relatives get adequate and timely information about the working condition of patients. NHRC should put forward guidelines for setting up of state level online redress mechanisms to address grievances of patients and ensure timely resolution of the same.

¹⁹ <https://indiankanoon.org/doc/1975922/>

²⁰ <https://timesofindia.indiatimes.com/city/bengaluru/covid-19-patient-waiting-for-ambulance-dies-by-roadside/articleshow/76777584.cms>

²¹ <https://timesofindia.indiatimes.com/india/few-checks-in-place-ambulances-fleece-desperate-covid-patients/articleshow/77057107.cms>

²² <https://timesofindia.indiatimes.com/city/pune/fir-against-ambulance-operator-for-rs-8000-bill/articleshow/76863639.cms>

²³ <https://timesofindia.indiatimes.com/india/few-checks-in-place-ambulances-fleece-desperate-covid-patients/articleshow/77057107.cms>

²⁴ <https://timesofindia.indiatimes.com/city/hyderabad/90-private-ambulances-in-telangana-lack-even-basic-equipment/articleshow/76781250.cms>

Additionally, state governments also need to be urged to set up guidelines regarding real time reporting of availability of COVID beds in public and private health facilities.

We believe our recommendations would definitely help to address the violation of Rights of Patients and build a more just and equitable healthcare.