Draft National Health Bill, 2009: Working Draft for Feedback from Public

(Proposed by Ministry of Health & Family Welfare, Government of India)

Brief Introduction to the Bill:

The proposed draft National Health Bill is a 'framework law' laying down an overarching legal framework on health at the national level. This is the first step towards legally recognizing 'right to health' while locating it within a complex, cross-sectoral milieu of socio-economic rights requiring multi-sectoral, multi-level, multi-actors, multi-pronged legislative interventions of dedicated nature. It is a starting point for developing and facilitating a coherent and uniform legal response to issues of health, as against the existing fragmented and partial one.

This law would set the tone for that process by establishing a broad framework for addressing health issues. The framework would comprise the following: people's rights relating to health and health care; concomitant obligations of governments as well as private actors; core principles, norms and standards on health rights and obligations; institutional structure for implementation and monitoring; and justice mechanism for health rights.

The bill stops there without getting into finely regulating each of the areas that it covers. It thus leaves space, sanction and mandate for the competent Governments, Central and State and Panchayati Raj Institutions (PRIs), to determine specific measures to be taken to achieve them, as per the constitutional division of powers. Such measures that would flow out of it include implementing legislations on each of the specific issues/ areas, or subordinate legislation through rules, regulations or administrative decisions. It would also entail a compatibility review/ reform of the existing health laws and policies and financial measures on them, while acting as a touchstone for future health laws.

One of the key guiding principles of this bill is people's participation and empowerment in their health issues, which is throughout woven into its contents, hoping to enhance its ownership among people.

Notably this bill recognizes that a complete response to health challenges requires specific legislative and policy interventions on the underlying determinants of health as well. These are, especially and immediately, food, water, sanitation and housing. These, according to the UN ESC committee, are areas of core and non-derogable primary health obligations of Governments. While this bill defines the immediate and minimum government obligations towards them under this framework, it also creates a practical basis for those several interventions to be able to converge around right to health.

It is hoped that this law would act as a critical tool to empower people about their health and to establish the responsibilities of Governments and private actors to deliver health rights in a justiciable manner. While understanding the complex socio-economic and political underpinnings of health, it would hopefully serve as an additional device to catalyze change.