Background

Though Indian Constitution recognises health as a state subject, yet it confers certain obligations on the Central Government towards ensuring health for all in terms of providing
certain public health facilities to workers, men, women and children (Article 39), providing just and humane conditions of work and maternity relief (Article 42), raising the level of nutrition and standard of living through improvement of public health (Article 47) and protecting the environment (Article 48A).


Thus, the Government of India and the state governments are responsible for progressive realisation of health and wellbeing of every individual person of this country. The Governments are liable to take measures and steps for addressing bio-medical determinants as well as the underlying socio-economic, cultural and environmental health and wellbeing to ensure the enjoyment of right to health and wellbeing of every person, equally and without any discrimination.

But it is unfortunate to mention here that our Governments have miserably failed to carry out their due responsibilities in ensuring health for all. This is reflected through a recent survey by HUNGAMA, where it has been reported that about 90% of the population of India belonging to lower middle class and downtrodden section of populations suffer for some degree of malnutrition. These people heavily depend on government health services. But due to wretched conditions in the health centres, there people are either forced to depend on traditional method of treatment of have to welcome pre-mature deaths. Studies have shown that common people have been fast losing their faiths on government health system; taking
this advantage, the private actors have gradually occupying the space; but they (poor) have least capacity to afford private health care services. In a situation where they are bound to seek for private health care services, they have to sell out all the productive resources or properties they own to meet the costly treatment expenditure of the private medical services. Such a situation is responsible for their impoverishment. Such a situation cannot be allowed to persist in a democratically managed governance structure. There should be some mechanism to ensure health for all those who cannot afford to costly health services provided by the private hospitals and clinics. Furthermore, the private health service providers must be controlled and regulated so that they could not convert this holy profession to a profitable business and at the same time make the Government health service providers accountable/responsible and transparent in performing their assigned duties.

A ripe situation has come up to enact a National Health Act and consequently State Health Act/regulations to ensure health for all. Fortunately, the Central Government took initiatives to draft a National Health Bill, but possibly at the pressure of the private health service providers; this Bill has gone to the cola bag in the Government storage. It is the bounden responsibility of the social/NGO workers to sensitize the government to take initiative for the enactment of the National Health Act incorporating all the local and regional health issues together.

It is in view of this above mentioned backdrop, a one day Consultation was organised in the state Headquarters in Patna to chalk out the state specific issues for the proposed health bill and also to sensitize the government health department on this issue.
Objective of the Consultation

Main objective of the one day state level consultancy meet was to advocate the legal entitlements of the poor and downtrodden section of people of Bihar to ensure their health rights. However, the event had the following major objectives:

- To promote better understanding about the National Health Bill 2009 and to initiate dialogue for policy intervention;
- To look into the provisions of the bill in the contest of Bihar;
- To enhance involvement of NGOs, civil society organisations and policy makers in making appropriate inputs;
- To put forth appropriate suggestions or recommendations to the law makers to ensure health rights for all.
The one day state level consultation on National Health Bill was started sharp at 10.00 am on 21st March, 2012 in the auditorium of SCADA Business Centre, Beer Chand Patel Marg Patna with registration of participants who were invited to attend the function. The registered participants were provided with a kit having background materials, pen and writing pads. They were also offered tea and light snacks. In all 46 representatives from different social/community organizations of Bihar, who have been seriously concerned with issues relating to “Health for All”, attended the Consultation. The whole day long Consultation deliberated elaborately on the issue to arrive at certain recommendations to be forwarded to the Government of Bihar for necessary steps to be taken for devising State Health Bill/Act to ensure health for all. Detailed proceedings of the Consultation have been documented in the following paragraphs:

**Inaugural cum Brain Storming Session**

The inaugural session of the Consultation on started at about 10.30 am. At the outset, Mr. Swapan Mazumder, Executive Director, BVHA, Patna introduced the Chief Guest and Resource Persons. He also invited them to take their sits in the presidium. The dignitaries in the dais were then honored with bouquets. This was followed by announcement of the Chairperson of the Session (Mr. Jose Thomas National Programme Coordinator, SIMAVI). Other dignitaries who expressed their opinions in this inaugural session included the Chief Resource Person Mr. Abhijit Das, Director, CHSJ New Delhi, Mr. Rafel, representative of Public Health Resources Network (PHRN), Patna, and Mr. Prakash Gardia from OXFAM India, Bihar Patna. Thereafter, Mr. Mazumder handed over the responsibility of conduction of the meeting to Mr. Khurshid Ekram, BVHA, Patna.

Mr. Khurshid welcomed the guests/resource persons and the learned participants. In the welcome address, he also explained the objectives behind organizing this Consultation. Thereafter, the Chief Resource Person Mr. Abhijit Das, Director, CHSJ New Delhi was invited to deliver the key note address. Mr. Das through a Power Point presentation elaborately discussed
the history behind formulation of National Health Bill 2009 and its relevance in the context of ensuring health for all especially for the marginalized section of population (Dalits, STs and EBCs). He mentioned that the bill has eight chapters other than Preamble and Schedules. Mr. Das in his presentation elaborately explained the content of each chapter of the Bill. He also referred some features of the State specific Health Acts/Bills like that of Assam Public Health Act 2010: and also pinpointed on some of the lacunas therein. Mr. Das’s presentation is narrated below:

- The draft National Health Bill 2009 came into being in a historical process;
- The Civil Society Organizations played a leading role in its evolvement;
- Instead of taking necessary step to give it a legal status, Central Government has put it in the cold bag;
- The Civil Society Organizations need to mobilize the community people and sensitize the Central/State Governments to make health for all a political agenda and pressurize the Government to give it a legal status.

He further mentioned that there is congenial social environment for the National Health Bill to transform it into Act. He put forward this following background behind enactment of such an Act for the common good:

- India is a rapidly growing economy:
- Absolute number of poor has increased over the years;
- There is sharp regional/inter-state and intra-state disparity in all walks of life;
- Health cost has been very high;
- Government investment in health sector has been very low;
- Public health system has been very poor and ineffective;
- Health system is highly privatized;
- Poor regulatory mechanism.

Lastly, Mr. Das mentioned the strengths and weaknesses of the National Health Bill a; details of which are mentioned below:
Strengths of the Bill:

- It is a well drafted document and so it is worth reading;
- Its clarity in raising the fundamental health issues is indeed superb as it is based on a very clear ‘health rights approach’ and ideas outlined in the ICESCR – Right to Health – General Comment No 14- AAAQ;
- It clearly articulates health as ‘right’ and outlines the states obligations for fulfilling this right;
- It integrates bio-medical aspects of health with some vital socio-economic-cultural determinants like food, water, housing sanitation, hygiene, environment, etc other than bio-medical;
- It provides for user’s rights as well as user’s obligations/duties and addresses issues of consent, autonomy, privacy, medical records, etc;
- It has clearly delineated the role and responsibility of the state government and mentions of a clear cut grievance redressal mechanism.

Weakness of the Bill:

- The Bill has been prepared by the advocates recognizing international perspectives. This is because of the fact that the Bill makers have drawn inspiration from human rights law and not public health reality;
- The provisions in the Bill are so much so generalized that these may be fitted into the situation of any country or any community in this world;
- The Bill does not mention the health problems of any specific region or community;
- Instead of bottom-up approach, it recognizes the top-down approach of its framing and implementation;
- It does not adequately relate poverty – nutrition – health in operational terms;
• Instead of free health care, it mentions of affordable health care; which imply that this is not that much pro-poor;
• It does not mention that who would be the care givers - Government institutions or Private agencies?
• It is based on some superfluous promises and thus it will require a whole set of operational guidelines codified through bye- laws, rules and programmes to be operationalized;
• It does not mention anything of our century old health traditions;
• It would be very difficult to execute the provisions of the bill unless these are redefined carefully and clearly giving stress on the health of the poor and marginalized;
• Nothing has been written in Chapter 8 of the Bill.

Highlighting on the Bihar situation, Mr. Das said that the state has recorded a higher growth in recent years, yet the magnitude of mass poverty has increased and at the same time health burden on people has also increased. On the other hand the process of privatization in health sector has been fanning up sharply. With regard to proportion of population below poverty line, Bihar is in the top of the list surpassing Orissa. Proposing a Bihar State Public Health Bill, Mr. Das mentioned that such Bill should address these following:

• It should be aligned to the state level priorities and realities;
• It should clearly distinguish high disease burden with specific disease burden like kalaazar;
• It should clearly acknowledge the differences of health burden in different groups of population like women, children, marginalized communities (mahadalits, adivasis, etc);
• It should acknowledge of present limitations of both the health seekers and care givers like poverty, lack infrastructure, lack of adequately qualified human resources etc.
• It should acknowledge and incorporate local and private systems and set standards/norms for regulating or monitoring it;
• It should acknowledge the potential of abuse of rights of poor and marginalized (like denial of quality services, coercion in between family planning and maternal health programming, etc) by public and private health system;
• It should advocate only on bottom up implementation mechanism;
• It should provide a robust monitoring and accountability framework;
• It should bind the Government to incorporate the community health in its political agenda;
• It should allow adequate space for the Civil Society Organizations to act as defenders of the health interests of the poor and marginalized;
• It should bind the government to provide a strong and committed implementing mechanism along with adequate budgeting for fulfilling the health entitlements of the poor.

Speaking on the occasion as the second speaker, Mr. Prakash Gardia, Programme Officer from OXFAM India, Bihar (Patna) initially dealt with the modus-operandi followed by OXFAM India in tackling the health issues using right based approaches. He mentioned that the OXFAM India has set a target to empower the community people of India (especially the poor and downtrodden) through advocacy programmes to enable them to exercise their rights in availing community health facilities provided by the government.

Speaking on the OXFAM’s interventions in the State of Bihar among the Dalits/Mahadalits and Minorities, Mr. Prakash said that the target groups of population are severely impoverished and so they struggle mainly for physical survival. Basic human development inputs like education, skill promotion etc are their least priorities. He mentioned that the Mushars of Bihar are in worst situation as they are largely (more than 90%) landless. Poor health conditions of the poor people trap them under the vicious cycle of poverty. To make the poor community people free from the impasse of the vicious cycle of poverty and malnourishment, there is need to awaken them to ensure their due rights and entitlements in the safety net programmes run by the
government and this can be done only by mobilizing them using right based approaches in the one hand and sensitizing the service givers through advocacy, networking and convergence on the other, he mentioned.

Speaking on the available health infrastructure in the state of Bihar, Mr. Prakash said that there has been a severe shortfall in the number of Community Health Centers. Instead of required 622 numbers of CHCs, there are only 70 CHCs available in the state; thus, there is shortfall of 552 CHCs. Under such circumstances, how health services can be ensured to the poor community people who have least affordability to avail the medical services going outside from the locality they live in. Moreover, there is no mechanism to look into the performance of the existing CHCs, he said.

Mr. Prakash informed the house about the progress of their interventions in the state that have been taken up through the partner organizations like BVHA and CHARM. These partner organizations are seriously involved in identifying the positive elements in the government run safety net programmes including those of the income generating programmes that could be made used for the interests of the targeted (poor) community people through advocacy. He stressed the need of devising a strong and effective community monitoring mechanism to streamline the activities of the health department to serve the interests of the poor community people. He further said that OXFAM targets to share the health intervention experiences in influencing the National Health Programmes.

The third speaker was Mr. Rafay State representative from Public Health Resources Network (PHRN). Mr. Rafay cautioned the house with the increasing trend of privatization in the health sector; and if not regulated, this trend would further damage the socio-economic environment of the poor and the marginalized. He opined that the Government’s move in the health sector reform through promotion of health insurance among the poor, so far, has created scope for the private investors to use this sector to quench their thirst of profit maximization by exploiting the common people of the state. He also lamented on the political situation of the state where there is conspicuous absence of strong opposition political power. Under such a situation, Mr. Rafay expressed apprehension of the government being influenced by the private
capitalists that in turn would invariably damage the interests of the common man who are not only ignorant but also powerless and unorganized. However, he expressed hope that the Bihar situation is ripe as the present Government is pro-change and the international donor agencies are having their influence on the government particularly in health sector.

Mr. Rafay suggested that the civil society organizations should first create fertile ground for the poor i.e. devise of a mechanism to protect their (poor) interests and then they should move to pressurize the state government to enact the Bihar state Health Bill; otherwise such a move would be futile. He advised the audiences to learn lesson from the implementation of NRHM where all the provisions of PPP were smoothly implemented but the things could not be implemented at the community level ensuring their meaningful (community people) participation.

Speaking on the occasion, the Chief Guest cum inaugurator of the function Dr. M. Kishore, Joint Director, Health Services, Government of Bihar appreciated the state government’s move towards ensuring health services to all. He informed the house about the progress of some of the government run health programmes; such as continuation of running weekly immunization under Muskan Abhiyan, weekly meet of the concerned government workers at local levels, continuing DOTs programme/ school health checkup programme, referral programme, etc. He boasted of the deeds of his department people for making the state a polio-free state by setting up polio implementation committee starting from the grassroots levels to the state level.

Commenting on the family planning programme, Dr. Kishore said it is a question of the people’s contingency of the social need of population control and sustainable development, so it cannot be imposed. He expressed his dissatisfaction over the participation in the family planning programme by females alone and not by the males.

At last, Mr. Jose summarized the presentations and put forward his comments and suggestions on the theme of the Consultation. Describing the situation of the community health service in Bihar, Mr. Jose said that everything here is viewed with a project approach. Infrastructures are created under a project but no provision is made for the maintenance of the infrastructure after the completion of the project period. He stressed three things to be incorporated in the
proposed Health Bill for the state such as (i) deployment of adequate number of quality manpower in the health centers, (ii) Creation and maintenance of quality infrastructure and (iii) proper management of the health delivery system through Rogi Kalyan Samities.

**General Discussion**

Immediately after the inauguration cum brainstorming session, the house was opened for general discussions on the theme highlighted by the dignitaries in the previous session. Initiating the discussion, Mr. Ram Chandra Choudhary, Secretary of Gram Nirman Mandal, Nawada, firstly raised the issue of alienation of the poor people from the government programmes. He labeled unawareness about the provisions of the government programmes as the prime reason for that. Therefore, he urged for awareness creation among the beneficiaries.

Describing the pitiable situation of the community health services in the rural areas of Nawada district he said the common people are not getting proper treatments and free medicines from the government run health centers. There is dearth of doctors in the community health centers. One doctor deputed there treats every ailment or disease. The health functionaries do their duties to save their services. They lack service motives. The dailt community people are being victimized by the situation. Citing an example from his area he showed ‘how they (health functionaries) behave differently at times when the area was visited by Chief Minister of Bihar’. He demanded for strong community organizations to create pressure on the government health functionaries to act with sincerity, responsibility and transparency.

Mr. Shailendra Kumar, representative of Nav Bharat Jagriti Kendra (NBJK), contended that there are evidences of siphoning of medicines and medical kits from government run health centers or hospitals to private clinics medicine shops and quacks. He alleged the government health personnel to be irresponsible and connive with the private actors for petty gains as a result the
government health system is becoming ineffective and in its place costly private health system are being promoted.

Mrs. Sujata Verma, a representative of MSF, narrated her field experiences in the Kala-azar prone Vaishali district of Bihar. She said the poor people, who are victims of Kala-azar, are completely unaware of the symptoms, causes, remedies and preventive cares of kala-azar. Besides, there is need to work on making the government health services easy accessible to the poor and needy and in absence of such mechanism they (poor) have to depend heavily of village quacks.

The CHARM representative Mr. Arman appreciated the government of Bihar for accelerating the health services in the rural areas in recent years. But he expressed his dissatisfaction over the available health infrastructure and poor health care services made available to the community people in the government run health centers. Comparing the government health service delivery mechanism of Gujarat and Rajasthan, he said that our Bihar state is lagging far behind. Our Government doctors treat the patients most casually, he added. He made the house aware of the findings of examining 3000 prescriptions where they (CHARM research team) found that the patients were not only provided medicines for two days from the government dispensaries but they had to purchase 50% of the prescribed medicines from the market. Under such circumstances, most of the patients fail to take full course of medicine prescribed by the doctors and in course of time they become drug resistant. He also urged for waging people’s movement for rectifying the existing health delivery mechanism and also in favor of framing an effective health bill for the state to ensure health for all.

On behalf of Bihar state Health Watch Forum, Ms. Devika Biswas said that we, the activists of the Civil Society Organizations, lack a comprehensive outlook to realize the health issues confronting the poor and weaker sections of population; we all need to look into the health perspectives on a holistic way. The community health centers in different parts of Bihar are not functioning uniformly. The 6 bedded PHCs are occupied mostly by the delivery patients and
there is no space for the other patients. Under such circumstances, how the health care delivery can be pro-people. She suggested the government to take a stock of real situation at the Sub-centre levels where the ANMs manage the whole affairs.

Mr. Rakash, the representative of BRED and Bihar Janadhikar Manch said that everything cannot be done or the situation cannot be improved merely through formulation of Bill and Act. Such Bills and Acts are not always helpful in creating healthy social environment. He exemplified the Act concerning two child norms which violates the reproductive health right of the women. He suggested for availability of a basket of choice in the government health centers where the community people would avail the services of their choices voluntarily.

The inaugural cum brain storming session was closed with vote of thanks delivered by Mr. Y.K Gautam, ex-Secretary of the BVHA.

**Technical Session**

Technical session of the Consultation started immediately after lunch. Mr. Khushid Ekram Ansari, the Convener of the Consultation, presented a recap of the previous session. Thereafter, he handed over the responsibility of conduction of this technical session to Mr. Abhijit Das, the Chief Resource Person. Initiating the discussion, Mr. Das raised two contradictory opinions relating to health services. Some section of people considers it as a profitable business; other section of people views it as a means to serve the people’s interests. He further opined that “larger sections of people belonging to weaker sections consider that pre-mature death as their destiny and it is quite natural; they have conceptualized this notion in their life style; so they do not get angry with anyone for the awkward health situation prevailing around them; this is so because, transaction of health services is distinctly different from the transaction of general commodities meant for consumption; such a situation compels us to think (i) whether health can ever be a political issue or it will remain a technical issue; (ii) whether uniformity of thinking on health issues could be transformed into our uniform structure; (iii) can we publicize the real health situation of Bihar by validation of Government data or compile all the findings of the
field level empirical studies conducted by various agencies; all these are vital aspects for to be considered by the social activists; we all should understand that there cannot be any movement without any knowledge of the ground reality.

Mr. Das concluded that if we are not be able to find time to fight for the common issues, like health and education, then nothing fruitful for the poor and downtrodden section of population of Bihar could be achieved except completion of one after another project or time bound schemes. Finally, Mr. Das sought suggestions from the participants that should be incorporated in preparing a document to be handed over to the Government of Bihar demanding formation of a comprehensive State Health Bill to ensure health for all.

**General Discussion**

To arrive at some conclusion, a threadbare discussion was held on the above issues raised by Mr. Abhijit Das. Those who participated in the discussion included Mr. Arman from CHARM, Patna; Mrs. Sujata Verma, from MSF Vaishali; Mr. Jose Thomas from SIMAVI, Patna; Ms. Radhika from NGO forum, Patna; Mr. Shailendra Kumar from representative of Nav Bharat Jagriti Kendra; Mr. Harendra Kumar from Vaishali Samaj Kalyan Sansthan, Bidupur, Vaishali; Ms. Kali Devi from Jyoti Bihar; Dr. Mukhtarul Haque, State Convenor of Bachpan Bachao Andolan and Mr. Ram Chandra Choudhary from Gram Nirman Mandal, Nawada. Besides, a few individual participants also put forward their expert opinions on the proposed Health Bill for Bihar state. Issues raised in the discussion for the consideration in the proposed State Health Bill included the following:

- Formation of a common platform of action with common goal;
- Scope for Community Organizations for community mobilization and sensitization of the health service providers, policy makers and health administrators through advocacy;
- Safeguarding of the interests of all poor (rural as well as urban);
- Convergence of the government programmes that have concern with health or related issues;
● Focus on neglected diseases;
● Regulation and control of private actors in the health sector to make them accountable, responsible and transparent;
● Regulation of drug companies to make them accountable, responsible and transparent;
● Special attention on quality of community health services and abilities/efficiencies, responsibility and accountability of the service providers;
● Uniform health services at all levels (PHC/Sub-centre and/or family or community level);
● Community participation in programme planning/designing and implementation (bottom-up approach);
● Formation of pressure groups at the community level;
● Strong and effective community monitoring mechanism;
● Grievance redressal mechanism;
● Advocacy for sound financing for health sector reform.

The one day Consultation was concluded with vote of thanks delivered by Mr. Muktarul Haque from Bachpan Bachao Andolan.
Suggestions and Recommendations

On the basis of the above discussions the one day Consultation recommended the following points to be considered in drafting the State Health Bill for Bihar:

- There should be enough scope for the Community Organizations to intervene through community mobilization and sensitization of the health service providers, policy makers and health administrators through advocacy, networking etc;
- Interests of all poor (rural as well as urban) need to be guarded and it should not be like NRHM;
- Programmes of all the government departments having concerned with the health or related issues need to be converged;
- There should be special focus on neglected diseases;
- There should be regulation and control of private actors in the health sector to make them accountable, responsible and transparent;
- There should be regulation of drug companies to make them accountable, responsible and transparent;
- Special attention should be given on quality of community health services and abilities/efficiencies, responsibility and accountability of the service providers;
- There should be provision for uniform health services at all levels (PHC/Sub-centre and/or family or community level);
- Community participation needs to be ensured at all levels starting from programme planning/designing and implementation (bottom-up approach);
- Formation of pressure groups at the community level need to be promoted at the Government initiatives;
- There should be provision for a strong and effective community monitoring mechanism;
- There should be provision for setting up grievance redressal mechanism at all levels;
- Government should be pro-active towards sound financing for health sector reform.
**Annexure**

One day State Level Consultation on Draft National Health Bill at Patna  
Date: 21st March' 2012  
Venue: Scada Business Centre - Patna

**Programme Agenda**

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<td>10.30-11.15</td>
<td>Welcome of participants</td>
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<td>11.15-11.30</td>
<td>Inaugural Session &amp; lamp lighting</td>
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| 11.30-11.50 | Key Note address on National Health Bill   | Mr. Abhijit Das  
Director, CHSJ-New Delhi                 |
| 11.50-12.00 | Guest of Honor                             | Director in chief Health Services             |
| 12.00-12.15 | Inaugural Speech                           | Executive Director SHSB                       |
| 12.15-12.30 | Health Right for all                       | Oxfam Representative from New Delhi           |
| 12.30-1.00  | Health Bill in Present Context of Bihar    | Mr. Jose Thomas NCP- SIMAVI                   |
| 1.00-2.00   | Lunch                                      |                                               |
| 2.00-2.30   | Gaps Identify on Health Bill               | Mr. Abhijit Das                               |
| 2.30-3.30   | General Discussion and Observations        | Moderate by Mr. Abhijit Das                   |
| 3.30-3.45   | Tea                                        |                                               |
| 3.45-4.15   | Recommendation & Suggestion                | Mr. Abhijit Das                               |
| 4.15-4.25   | Vote of Thanks                             | BVHA                                          |

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List of Participants