

GRIEVANCE REGISTERED WITH PRESIDENT OF INDIA & DEPT. OF HEALTH & FAMILY WELFARE: PRSEC/E/2023/0046745 & DHLTH/E/2023/0015495

IHR, World Pandemic Treaty and HEPR (WHO) negotiations: Call for transparency and inclusive processes by Indian civil society

*Open Letter to the Government of India
7 November 2023*

WE, CITIZENS OF INDIA AND REPRESENTATIVES OF ORGANISATIONS, named below, are deeply concerned at and anguished by the lack of transparency and non-inclusive consultation processes adopted by the Union Government in the negotiations that are happening at the World Health Organisation (WHO), on International Health Regulation, Global Pandemic Treaty and global architecture for health emergency preparedness, response and resilience (HEPR). Several countries such as the United Kingdom, United States of America, Canada, Israel and the European Union and private foundations such as Bill and Melinda Gates Foundation, Global Vaccine Alliance, are lobbying for their respective interests. India is yet to formulate its position on these 3 instruments, or has failed communicate if this position has been formulated. There is no discussion either in national media or in other public domains. Despite its promises of greater openness and transparency, the NDA Government continues to pursue opaque and limited consultation processes that characterize several international negotiations with other countries.

The discussions towards a new World Pandemic Treaty at WHO includes a broad range of political priorities for WHO member states, including India. There are early indications that a WHO treaty is going to provide authority to WHO over developing countries, and is not a place to negotiate human rights. We are aware that COVID-19 has resulted in many WHO member states committing flagrant violations of human rights. The negotiations at WHO on the 3 instruments, which have a singular goal of providing unprecedented powers over national, sovereign governments, does indeed provide a crucial opportunity to safeguard human rights in global health governance, addressing human rights limitations in the COVID-19 response and establishing human rights obligations to meet future pandemic threats.

Even as we express our concerns on the processes of the negotiations, the World Health Organisation (WHO), through Intergovernmental Negotiating Body (INB), is holding consultations and dialogues in a distant mode, which precludes participation from Indian civil society. With civil society stakeholders in the EU member-states and other developed countries able to monitor and possibly participation in the negotiations related to the 3 instruments, or tools, through which the WHO wants to assume a greater role in policies within countries, on health, food, trade and economy, Indian government has so far failed to reveal its position and perspectives. Meanwhile, we in India, do not have an official communication on the progress of the negotiations either in the form press notes or tweets, from the Health Ministry about the content. The rare statements made by the Health Minister bypass any reference to the negotiations and participation of the government, which in any case are aimed at pharma business and industry and the foreign media.

The millions of Indians, including farmers, workers, artisans, fisherfolk, small businesses, gig workers, home-based workers and others, who will be affected by the provisions in these 3 instruments are completely invisible in the scheme of the government of India and its participations in WHO parleys.

In addition to its failure to proactively engage and share information with different stakeholders, the Union Government is also rejecting formal requests for even basic details about such matters. Applications submitted under the *Right to Information Act, 2005* (RTI Act) seeking information on covid responses are stalled citing silly reasons. The Union Government's rejection of even formal requests for information, flies in the face of the objective of the RTI Act to ensure meaningful transparency in governance, matches the secrecy that shrouds negotiations within WHO. Long back, in 1995, India signed WTO agreement, without involving Indian Parliament and has skittered away our sovereign powers. The agreement copy itself was not available to people, including Members of Parliament, until 4 to 5 years.

Of particular concern to us is also the absence of an obligation on the Union Government to consult with Parliament on international negotiations and treaties. The Constitutional scheme of division of powers grants the Union Government assumed a monopoly over matters relating to bilateral and multi-lateral agreements, conventions and treaties. Parliamentary approval *post facto* is also not specifically mandated by the Constitution and the power of ratification currently vests with the Executive i.e., the Union Government. However, the Global Pandemic Treaty, International Health Regulations and HEPR, once agreed at WHO, could result in the amendment or even scrapping of several Central health, food, animal and other legislations that are firmly in the domain of Parliament. Parliament must therefore deliberate on the implications of the proposed legislative changes for the lives, livelihoods and well-being of all citizens, particularly the most vulnerable groups.

We are not sure if the Health Ministry is holding consultations with Industry Associations and relevant Ministries and Departments. Lack of transparency and continuous release of information on WHO negotiations, does not inspire much confidence. It is a matter of grave concern that State governments are not being consulted, despite the fact that health is under the State List. The Union Government has also not opened up the consultation process with civil society in India, including Doctors Associations, environmental rights and human rights groups, consumer associations, farmers' associations, pastoral communities, animal rights associations, labour unions and many others who are legitimate and critically important stakeholders.

Current non-consultative and exclusionary process signals a disregard for the questions of human rights, social justice and environmental impacts that wider stakeholder involvement would put on the table. We are concerned that ignoring these concerns will also undermine or short-circuit mandatory processes of environmental and social impact assessment.

On the other hand, we note that the WHO has not initiated consultations with civil society stakeholders to ascertain their views about the areas covered by the proposed global pandemic treaty, IHR and HEPR with India.

Given this starkly visible imbalance in the practice of transparency and inclusive consultation processes adopted by the negotiating partners, we demand that the Government of India immediately take the following steps.

1. Give wide publicity and provide open access to proposals submitted to the WHO by Government of India, as well as the responses to the textual proposals tabled by the WHO which are publicly available.
2. Widen the Indian delegation representing India at WHO to include multi-disciplinary experts and civil society representatives.
3. Create forums and platforms for public stakeholders and experts including civil society, academia and media representatives to submit their views on ongoing negotiations at WHO on the 3 instruments under discussion.
4. Ensure effective public participation in the negotiations by providing timely and comprehensive information on the status and details of the negotiations and holding dialogues and consultations with public stakeholders in India at each stage so that the negotiations are informed by the views and aspirations of all stakeholders.
5. Enact a legislation that mandates affirmation of Indian Parliament to all international treaties, Conventions and agreements.

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