NHI Bill Submission to Portfolio Committee on Health

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1. Background and context

The South African health system is in urgent need of an overhaul in terms of its financing arrangements, management and the ability to deliver quality health care services. The public health sector is dysfunctional, and the quality of the health services is poor. Access to quality health services is dependent on one's geographic location, race, employment status, income level, gender, and where the health care services are delivered: public or private health sector.

The unequal distribution of health spent in South Africa and the deteriorating state of public health care necessitates the implementation of the NHI. Ours is a society that has no option but to muster courage, to make resources available, to develop institutions and technical capacity and to mobilize the masses of the people to confront our four concurrent epidemics comprising poverty-related illnesses such as infectious diseases (including HIV/AIDS and TB), maternal and child deaths, non-communicable diseases and violence and injury.

COSATU together with like-minded organisations have on an ongoing basis called for the speedy release of the NHI Bill as a step closer towards the realisation of quality health care for many vulnerable groups. Unfortunately a few organisations with very deep pockets continue to fund the narrative that the NHI is a threat to economic growth and jobs, this narrative unfortunately takes us backwards and deny the poor and the working class of their fundamental right to quality health care. President Ramaphosa is providing leadership and stewardship on the NHI implementation process and has reiterated the commitment of the entire South African government to overcome the two-tier health system.

The findings of the health market Inquiry report confirm COSATU's fierce opposition to the commercialisation of health and its consequence on both quality and access to health care. The outcomes of the report necessitate the implementation of the national health insurance which will create a single public health system for South Africa. The speedy and efficient roll-out of the NHI will ensure that we achieve better health outcomes for all South Africans. We view the finding of the inquiry as one of

the crucial processes in affirming our beliefs that privatisation and commercialisation of essential services produces negative socio-economic effects.

COSATU's approach in this submission is to provide a chapter by chapter analysis of the bill. Identify sections of the bill that COSATU broadly supports and sections we propose for deletion. The conclusion will further provide a comprehensive list of recommendations for the portfolio committee on health to consider.

2. Purpose and application of the Act

COSATU broadly supports the purpose as well as the application of the act. The purpose of the act is aligned to the long standing resolutions of COSATU that seek to ensure the equitable and fair distribution and use of health care services[1].

To date the public discourse around the NHI has been extremely polarised and characterised by general fear mongering on the part of those opposed to the National Health Insurance. As COSATU we propose that the purpose of the act encapsulate all the important features that we seek to build. These important features are obtained from the NHI white paper. COSATU proposes to further include the distinguishing feature of the NHI which is the PHC approach in the purpose of the Act. This is the foundation of the NHI and it is at the heart of its financial sustainability and success in relation to health outcomes.

The emphasis on PHC distinguishes the NHI from any reform of health financing under conditions of a developing economy such as South Africa, and ours must be uniquely reflective of our specific conditions as inspired by:

- The African Claims, which called for "a drastic overhauling and re-organisation of the health services of the country with due emphasis on preventive medicine", with community based care services.
- The Freedom Charter, which envisaged a "preventative health scheme".
- Alma Ata Declaration, which stated that "primary health care is essential health care based on practical, scientifically sound and socially acceptable methods and

[1] Section 2(a) of the NHI Bill

technology made universally accessible to individuals and families in the community through their full participation and at a cost that the community and country can afford to maintain at every stage of their development in the spirit of self-reliance and self-determination. It forms an integral part both of the country's health system, of which it is the central function and main focus, and of the overall social and economic development of the community. It is the first level of contact of individuals, the family and community with the national health system bringing health care as close as possible to where people live and work, and constitutes the first element of a continuing health care process".

3. Access to health care services

3.1. Population coverage

COSATU supports the universal scope of population coverage which covers South African citizens, permanent residents, refugees, inmates as well as certain categories of foreign nationals[2]. However, we propose that in conjunction with the Department of Home Affairs and the Department of International Relations and Cooperation, the existing policies and legislation pertaining to the rights of asylum-seekers and migrants as far as health is concerned must be urgently reviewed. Indeed, we propose that where necessary these must be replaced with those that would be consistent with the values and principles of our constitution and international commitments to prevent discrimination and to ensure compliance with the laws of South Africa and uphold the Constitution of South Africa.

3.2. The Rights of users

The ultimate right of the user lays in the attainment of section 27 of the constitution which states:

[2] Section 4(1)(a)-(e) of the National Health Insurance Bill

(1) Everyone has the right to have access to-

(a) Health care services, including reproductive health care

The Presidential Health Summit Compact signed by various key stakeholders recognises the challenges that plague the public as well as the private health sector which continue to limit the rights of users to access quality health care. The public health sector faces challenges of poor quality and inequitable access to health services. These unresolved issues now characterise South Africa's health system to be in crises. Some of the root causes of challenges facing the public health sector include poor governance structures, inadequate management capacity and administrative systems that fail to provide effective oversight for implementation of national policies, strategies and regulations; inequitable funding; human resource shortages, inappropriate skill-mix and maldistribution; inadequate and poorly maintained infrastructure and equipment; inadequate and fragmented information systems and use of evidence for guiding investments, reducing overall inefficiencies and wastage in the system[3]. Similarly, the private sector, which is perceived by most South Africans to provide better quality health care services, is challenged by unaffordable prices, maldistribution of providers and facilities and perceptions of over-servicing, perverse incentives and lack of accountability[4].

In order to achieve universal health coverage for all the challenges in both the public as well as the private sector must be addressed urgently in order to ensure that the rights of patients and users are protected towards the progressive realisation of the right of access to quality personal health care services.

COSATU supports the rights of users as identified in the bill and further support section 6(0) which states that:

to purchase health care services that are not covered by the Fund through a complementary voluntary medical insurance scheme registered in terms of the

[3] Leong, T., 2019. National Department of Health.
[4] Makhubele, K.C., 2018. Health Market Inquiry: What you need to know. *South African Dental Journal*, *73*(6), pp.383-383.

Medical Schemes Act, any other private health insurance scheme or out of pocket payments, as the case may be[5].

This provision provides much needed relief to workers who can no longer afford the high premiums associated with medical aid schemes and the subsequent annual above inflation increases.

3.3. Health Care service coverage

COSATU broadly supports the section on health care service coverage particularly section 7(d) which states:

(d) a user—

(i) must first access health care services at a primary health care level as the entry into the health system;
(ii) must adhere to the referral pathways prescribed for health care service providers or health establishments; and
(iii) is not entitled to health care services purchased by the Fund if he or she fails to adhere to the prescribed referral pathways;

COSATU welcomes the reaffirmation of the PHC as a critical component of the NHI as it constitutes the foundation of the health system, PHC reengineering and the attended effort to build of a strong District Health System is critical in the endeavour to re-orientate the South African health system away from presently dominant and financially unsustainable hospi-centric and curative health care.

4. National Health Insurance Fund

4.1. Establishment of the fund

[5] Section 6(o) of the NHI Bill

COSATU supports the establishment of the NHI fund. The NHI fund must be a single-fund to leverage monopsony power through strategic purchasing of services and the proposed contracting arrangements to yield efficiency gains through economies of scale.

Whilst the NHI Fund is planned to be fully functional during the last phase of the implementation process, it is clear from its required capacity and resources that unless the department proactively plans ahead and begin the process of implementation appropriately, even more serious delays would be encountered, which would undermine the credibility of the NHI. The establishment of Fund and its accompanying public entity, with its specialised technical skills, would require adequate time for such capacity to be built and fully functional.

4.2. Functions of the fund

COSATU supports the functions of the NHI fund. COSATU particularly welcomes section 10(1) (g) states that:

The fund must determine payment rates annually for health care service providers, health establishments and suppliers in the prescribed manner and in accordance with the provisions of this Act;

COSATU specifically welcomes this section in the bill as it ensures that the fund is not vulnerable to exorbitant prices and above inflation medical cost increases. This mechanism ensures that the republic progressively realises the right to access to quality health care through the promotion of sustainable, equitable, appropriate, efficient and public funding for the purchasing of health care services and products.

4.3. Board of the Fund

COSATU supports the establishment of the NHI board as a measure to protect the fund from unethical and unlawful practices in relation to the fund. The Constitution and composition of the board as stipulated in section 13(5)(b) states that:

(b) have appropriate technical expertise, skills and knowledge or experience in health care service financing, health economics, public health planning, monitoring and evaluation, law, actuarial sciences, information technology and communication;

The NHI white paper envisaged that the NHI fund would be governed by the NHI fund board as an oversight mechanism. The white paper further envisaged the composition of the board to include relevant expertise in the fields of health care financing, health economics, public health, health policy and planning, monitoring and evaluation, epidemiology, statistics, health law, labour, actuarial sciences, taxation, social security, information technology and communication will be identified[6].

COSATU calls for a broader representation of key stakeholders on the board as envisaged in the NHI white paper. The biggest contentious issue around the NHI is around the capability of the state to manage the NHI fund as well as the protection of the fund from unethical and unlawful practices in relation to the fund. As a result COSATU is calling for a broader representation of key stakeholders on the fund including organised labour.

COSATU supports the inclusion of organised labour in the advisory committee established by the Minister of health, namely: the health care benefits pricing committee as well as the stakeholder advisory committee.

4.4. Chief Executive Officer

COSATU welcomes the process to appoint the CEO as set out in section 19 of the Bill. Section 20 of the bill proposes two units that are tasked to combat corruption. Section 20(2)(e) states that the CEO will be responsible to establish an investigating unit within the national office of the fund. The Bill also stipulates that in section 20(3)(i) the CEO must establish a risk and fraud prevention investigation.

[6] National Health Insurance for South Africa Towards Universal Health Coverage (2017)

The Bill is not clear as to the clear functions of the two units to be established by the CEO. As a result COSATU therefore proposes the deletion of section 20(3)(i) as it seems to be a duplication of the investigating unit within the NHI fund.

General Provisions applicable to operation of the fund

4.5. The role of the Department and the role of the provinces

Section 32(2) stipulates that:

> *(2) Subject to the transitional provisions provided for in section 57, the Minister may introduce in Parliament proposed amendments to the National Health Act for the purpose of centralising the funding of health care services as required by this Act*

COSATU supports the inclusion of the role of the provinces under the NHI Bill. This inclusion ensures job security in the provincial department of health with the implementation of the NHI. COSATU echoes sentiments expressed in submissions on the NHI white paper of the centrality of people in the building of the NHI[7] and the importance of the Health workforce as a significant building block for South African health care system.

COSATU's support is premised on the notion that the centralisation of the fund and all the functions related to procurement of health-related products, including medicines, devices and other products within the NHI environment[8] should not result in the loss of jobs of those workers that currently perform this function in the provinces. Workers displaced by centralisation must be absorbed in other functions of the NHI fund.

[7] COSATU submission on the National Health Insurance for South Africa: Towards Universal Health (2015)
[8] National Health Insurance for South Africa Towards Universal Health Coverage, version 40 (2015)

4.6. Role of Medical aid schemes

Upon implementation of the National health insurance medical schemes will only offer complementary cover services not reimbursed by the fund. COSATU supports this inclusion in the bill. COSATU supports this inclusion in the bill. The increased medical aid costs erode workers gains at various bargaining councils in terms of wage increases, and further erode the buying power of the working class and the poor. The right to health is compromised by the requirement of large co-payments that have become synonymous with many medical aid schemes. The high monthly payments for medical schemes which do not sustain the health needs of the user for much of the year further exacerbate the limited access to quality health care.

This is as a result of the over-financing of the private health sector. The nation cannot achieve equal access to health care if finance is dominated by the private sector. Finance in the private sector is not guided by the goals of social equity and increased access to essential services such as health. This financing has made it difficult for the state to execute its obligation under the constitution to provide affordable health care.

4.7. Contracting units for primary health care and the role of bargaining council clinics

Section 37(1) makes reference to the contracting unit for primary health care established in terms of section 31B of the national health act. Contracting units of primary health care will manage the provision of primary health care services, such as prevention, promotion, curative, rehabilitative ambulatory, home based care and community care in a demarcated geographical area.

Through victories won in the bargaining council various trade unions have established clinics at the workplace in an effort to combat the quadruple disease burden resulting from communicable diseases such as HIV/AIDS and TB; maternal and child mortality; non communicable diseases such as hypertension and cardio

vascular diseases, diabetes, cancer, mental illness and chronic lung diseases like asthma as well as injury and trauma[9].

COSATU envisage that collective bargaining clinics can be a benchmark for the ideal-clinic concept which the Department of Health can use as a flagship for others in the private sector to learn from and replicate. An opportunity presents itself for the DOH to establish a successful PHC level care prior to the NHI rollout in 2026 and thereby negate the fear mongering on the part of those opposed to NHI.

Bargaining council clinics are a much needed and effective primary health care service delivery model. The Bill envisages strengthening primary health care services. The memorandum on the objects of the NHI bill states that the NHI will build a high quality and effective PHC service delivery platform which will be the platform upon which the entire health system will be based. Further to that, the memorandum states that the delivery of PHC services will be population oriented with extensive use of community based services in addition to PHC facilities.

COSATU recommends the use of collective bargaining clinics in the network of PHC facilities identified by the NHI Bill. Collective bargaining clinics can contract to the fund and integrate into the PHC service delivery platform in line with the vision of making comprehensive promotive, preventive curative and rehabilitative services accessible to all and will be coordinated through the Contracting Units for Primary Health Care (CUPs).

Collective bargaining clinics will be an integral part of district health services, contribute not only to clinical service delivery but, where appropriate, also clinical governance activities, and have strong working relationships with other elements of the district health care delivery platform[10].

[10] MEMORANDUM ON THE OBJECTS OF THE NATIONAL HEALTH INSURANCE BILL, 2019

5. Financial Matters

COSATU's broader funding objective with regards to the NHI is clearly indicated in COSATU's resolutions[11]:

- NHI must be funded via general revenue, taxes on high-earning self-employed individuals, payroll linked progressive contribution tax, tax on high earning individual taxpayers and contribution by employers.
- There must be no additional levies through VAT
- There must be no co-payments as those who can afford to pay will have paid through employee taxes.
- Tax subsidies to medical scheme members must be ended.
- The NHI Fund must be publicly-funded and administered with no outsourcing of administration.
- There must be no investigation into multi-payer systems.

5.1. On General Taxation

COSATU envisage the general national revenue to continue to play a key role in the financing of the NHI, and propose additional funding mechanisms in this submission. There is no doubt that economic growth is critical to the increase in the general revenue, especially in the light of the supposedly competing and pressing spending pressures. However, in a case such as South Africa, the tax net must be expanded even in the midst of a subdued economic performance. Indeed, since there is a need to expand the national revenue to respond to these spending pressures, as COSATU we propose that additional tax measures must be considered as referred below.

[11] Adopted resolutions from the
11th national congress and as further adopted by the 2013 February CEC

5.2. On Payroll tax

The current social security insurance arrangements, i.e. retirement and health insurances evolved out of the Apartheid social security system which was based on the expectation that everyone would be employed, hence the beneficiaries were generally white. Thus, in this voluntary arrangement the state provided tax expenditure subsidies to incentivise enrolment of employers and employees. The NHI requires mandatory enrolment and mandatory pre-payment arrangement. Thus, along the lines of the reforms introduced in 1998 in France, as COSATU we propose that there must be a payroll tax levied on employers. There would have to be a detail consideration as to what kinds of categories of small businesses that can be excluded in this regard. As acknowledged by the White Paper that "the present payroll burden is low" and since many employers are already contributing to their employees' premiums, a shift to a payroll tax in this regard should impose no "distortionary" effect on the labour market. In any event, we believe that it is in the interest of employers to invest in the health of the labour force to enhance productivity.

5.3. A surcharge on taxable income or NHI tax

Along the lines of the French General Social Contribution, we propose the introduction of a progressive earmarked tax levied not only on wage (above a determined threshold) but also on income from financial assets and investments. This mandatory progressive contribution for anyone who pays personal income tax must be based on a sliding scale to ensure equitable contribution and social solidarity. Thus, we believe that this form of NHI tax has the benefit of being more broad-based as it would incorporate many of the employees who currently have no health insurance arrangements with their employers, wealthy individuals who are neither employees nor employers and some of the self-employed who would be levied in proportion to their ability to contribute.

5.4. Additional sources of income

5.4.1. Wealth Tax

We call for the exploration and the implementation of a wealth tax. The White Paper cites small amounts of revenue from the Securities Transfer Tax and Estate Duty (which it regards as a form of a wealth tax) and imply that these are not viable sources of funds when it should be proposing how they could be reviewed to ensure that they enhance national revenue or as a complementary source to fund the NHI. Indeed, as COSATU we insist that these taxes must be reviewed. The World Bank[12] calls measures such as the wealth tax, the currency transaction tax as well as the financial transaction tax as: "innovative sources of domestic revenue". As a result more studies need to be conducted on the revenue generating ability of these taxes.

5.4.2. Tax on currency transactions

The World Institute for development economic research highlights up to twenty-one suggestions for global revenue[13], which include the tax on currency transactions. With the use of a currency transaction tax/levy, all foreign exchange transactions can be levied. Gradually this can be expanded to include assets such as derivatives and treasury bills.

Given the flexible nature of the South African Rand, the exchange rate is inherently and excessively volatile. The main advantage of a tax on currency transactions is that they are able to reduce exchange rate volatility, and provide some much needed policy space for the central banks.

The discussion below gives the reader an insight into the magnitude of revenue that is generated on a daily basis on the currency market.

The Reserve Bank's quarterly bulletin (2016) noted that the nominal effective exchange rate of the rand was significantly lower in the first quarter of 2016 as

[12] C, Cashin. (2016). Health Financing Policy: The Macroeconomic, Fiscal, and Public Finance Context. Washington D.C.: The World Bank.

[13] Jha, R. (2004) . Innovative Sources of Development Finance: Global Cooperation in the Twenty-first Century. *The World Economy*, *27*(2), pp.193-214

compared to the final quarter of 2015. However, on a quarter-end to a quarter-end basis, the trade-weighted exchange rate of the rand increased. The net average daily turnover in the South African Market for foreign exchange increased from US$20.1 billion in the final quarter of 2015 to US$21,2 billion in the first quarter of 2016. A small portion of such massive turnovers could generate sufficient revenue to allow South Africa to achieve universal health coverage.

5.4.3. A tax on financial transactions

The World Bank identifies financial flows to sub-Saharan as a "new source and an innovation mechanism for financing development in Sub-Saharan Africa.

Taxes on currency transactions as well as taxes on financial transactions represent a source of untapped revenue which can be used to advance government's developmental goals. It is difficult to determine the effect of these impositions on the markets; however the revenue yields are huge. Studies on financial liberalization and development are conclusive in the case of developed nations however, when it comes to developing and less developed nations the empirical findings are not conclusive, for example Valickova et al. (2014) conducted a recent survey and even though they were able to link financial liberalisation to economic development in developed nations the same could not be determined for developing countries[14]. Therefore the suggestion that imposing taxes on currency as well as financial transactions is detrimental for the development of the economy is not sufficiently supported, particularly with the experience of developing nations.

6. Conclusion

We conclude by reiterating our proposals which can go a long way in strengthening the design of the NHI and laying a foundation of genuine people's health system:

1. Include the distinguishing feature of the NHI which is the PHC approach in the purpose of the Act. This is the foundation of the NHI

[14] Valickova, P., Havranek, T. and Horvath, R., 2015. Financial Development and Economic Growth: A Meta-Analysis. *Journal of Economic Surveys*, *29*(3), pp.506-526.

and it is at the heart of its financial sustainability and success in relation to health outcomes.

2. Broader representation of key stake holders on the board as envisaged in the NHI white paper. The biggest contentious issue around the NHI is around the capability of the state to manage the NHI fund as well as the protection of the fund from unethical and unlawful practices in relation to the fund.
3. The Bill is not clear as to the clear functions of the two units to be established by the CEO. As a result COSATU therefore proposes the deletion of section 20(3)(i) as it seems to be a duplication of the investigating unit within the NHI fund.
4. COSATU's support is premised on the notion that the centralisation of the fund and all the functions related to procurement of health-related products, including medicines, devices and other products within the NHI environment[15] should not result in the loss of jobs of those workers that currently perform this function in the provinces. Workers displaced by centralisation must be absorbed in other functions of the NHI fund.
5. COSATU recommends the use of collective bargaining clinics in the network of PHC facilities identified by the NHI Bill. Collective bargaining clinics can contract to the fund and integrate into the PHC service delivery platform in line with the vision of making comprehensive promotive, preventive curative and rehabilitative services accessible to all and will be coordinated through the Contracting Units for Primary Health Care (CUPs).
6. COSATU proposes additional sources of funding which include: a wealth tax, a tax on financial transactions as well as a tax on currency transactions.

[15] National Health Insurance for South Africa Towards Universal Health Coverage, version 40 (2015)

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