

## **Vaccine Nationalism - Need for Vaccines as Public Good**

### **What is the issue?**

- The COVID-19 pandemic is a human tragedy and needs global solidarity, especially when it comes to offering vaccines to all.
- In this regard, the WTO has a role in getting pharma firms and countries to treat vaccines and life-saving medicines as a public good.

### **What all should an emergency response entail?**

- There is (and should be) empathy and concern about human suffering.
- Such solidarity is a recognition of the need to:
  - i. prevent further damage and destruction
  - ii. rescue and evacuate affected people to safer zones, and salvage belongings
  - iii. meet their minimal survival needs
- Nobody is charged for this. Instead, it is considered as relief work which comes out profusely as charity; a humane gesture.
- On the contrary, it is illegal to hoard, for black marketing, essential goods in affected areas.
- Overcharging of commodities and services during any natural disaster is always a scandal.
- It is a crime against humanity to make a profit during any human tragedy.

### **What is the case with the COVID-19 pandemic in this context?**

- The COVID-19 pandemic is also a human tragedy.
- It needs global solidarity, and definitely not a time to be doing business and being conscious of making profit.
- But the international trade market is working otherwise.
- In a liberalised economy, there is a shocking silence in the global market trying to do business out of human suffering.
- When economies crumbled in many countries, e-commerce and gadget-based gaming business boomed.
- Also, there are numerous examples of companies having made enormous profits in the supply of personal protective equipment and kits and ventilators.
- Business lies in selling technologies around COVID-19, the diagnostics, drugs

and vaccine candidates.

### What is the challenge with vaccine access?

- The entire global population, estimated to be nearly 8 billion people, is in need of a vaccine (still being tested and yet to be approved) for COVID-19.
- So the production at full capacity and supply to every country will take time.
- The world community cannot allow the rich and the strong to grab everything first.
  - The advance purchase agreements that some countries have negotiated with pharmaceutical companies exemplify such adverse trends.
  - Such **vaccine nationalism** undermines equitable access to vaccines.
- So, organisations of the United Nations and global networks for people should coordinate.
- The World Health Assembly, in May 2020, set up mechanisms to counter the obstacles to equitable access to COVID-19 technologies such as vaccines, diagnostics, medicines, PPE kits and machines.
- There has to be prioritisation for high-risk groups in all countries, especially in the least developed, low- and middle-income nations.
- That framework has to be accepted by the global community without dispute.
- The **COVAX partnership** is a mechanism for ensuring that.
- **GAVI**, or the Global Alliance for Vaccine Initiative, was in existence during the pre-COVID-19 period.
  - This was meant to ensure the pooled procurement and equitable supply of life-saving vaccines to low- and middle-income countries.
  - It has been roped in for the COVID-19 vaccine too.

### What role should the governments play?

- The World Health Organization Director General Dr. Tedros exhorted member countries to treat COVID-19 technologies as a “**public good**”.
  - A public good is a common property of the nation and such goods are not excludable or there should not be any rivalries in dealing with it.
- But pharmaceutical companies were far from this ideal.
- If it is a public good, governments must step in to regulate its development, innovation, manufacture, sale, and supply ultimately to the public.
- If there is public financing for technology development, there is no scope for grant of patent protection.
- A public good cannot be submitted to the vagaries of market fluctuations of pricing dependent on demand-supply dynamics.
- Governments should be the custodian of public goods.
- It is a basic human right to avail accessible and affordable health care.

- If such an idealistic outcome does not materialise based on basic human rights, then some regulation mandated by the UN General Assembly must be thought of.

### What are the WTO provisions in this regard?

- The WTO had raised concern over public health with regard to the non-availability of patented drugs in sufficient quantity, and at affordable prices.
- The WTO had made provisions for compulsory licensing through -
  - i. the Paris Convention for the Protection of Industrial Property,
  - ii. the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
  - iii. the Doha Ministerial Conference declaration 2001
- With these in place, the government intervenes when patent clauses regarding availability, reasonable pricing, local production and technology transfer are not met by the patent holder.

### What are the options before India for vaccine availability?

- **Compulsory licensing** is an “involuntary contract” issued by the national government between a “willing buyer” or local manufacturer and an “unwilling seller” or patent holder foreign company.
  - India utilised this provision for the first time on March 9, 2012.
  - It was used to grant licence to Natco Pharma Hyderabad against the will of patent owner Bayer, Germany.
  - This was to manufacture Sorafenib tosylate, a life-saving anti-cancer drug for kidney and liver tumours, with 97% cost reduction.
  - It is sold by Bayer under the brand name, Nexavar.
- This is an extreme step available with India ‘if rich countries go for advance purchase and hoarding of a COVID-19 vaccine produced in India by multinational pharma companies and deny India’s supply needs’.
- But COVID-19 vaccine candidates are still in trial phase; regulatory approval and patent are still awaited.
- So, failure to comply with patent regulations as a reason for the issue of compulsory licence cannot be applied.
- **Coercion** to issue “voluntary licensing” to subsidiary companies in many developing countries such as India, Egypt, Thailand and Brazil by the patent holder is another option.
- **Waiver** - India and South Africa jointly sent out a communication, on October 2, 2020 to the IPR Council of the WTO.
- It asked for a waiver of the protection of copyright, design, trademarks and patent on COVID-19 related technologies including vaccines.

- If this is decided favourably as a special case considering the unprecedented impact of the pandemic, it will set a precedent.

### **What is the way forward?**

- A UN organisation such as the WTO can wield influence on member-nations to forgo trade profits for a humanitarian cause.
- Global campaigns through the media and civil society organisations can garner enough momentum to exert pressure on TRIPS.
- Despite these, vaccines and life-saving medicines being treated as a public good must definitely be the long-term goal.

**Source: The Hindu**

