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

