



## Balancing Intellectual Property with Public Health

 [drishtiias.com/printpdf/balancing-intellectual-property-with-public-health](https://drishtiias.com/printpdf/balancing-intellectual-property-with-public-health)

This article is based on **Vaccinating policy** published in Business Standard on 27/04/2020. It talks about the tradeoff in pharmaceutical innovation i.e. between patents and public health.

The current response to the **Covid-19 pandemic** involves the aggressive implementation of **suppression strategies**, such as **case identification, quarantine and isolation, contact tracing, and social distancing**. However, the transmission of infection may quickly rebound if interventions are relaxed. Therefore, the development of Covid-19 vaccines that can be used globally is a priority for ending the pandemic.

This developmental effort for vaccines should be guided by **three imperatives: Speed, Manufacture and Deployment at scale, and Global access**.

But the bigger challenge once the vaccines enter the market will be **balancing Intellectual Property (IP) regimes with public health interests**.

Issue: Patent (Intellectual Property Rights) vs Patient (Public Health Interest)

### Provision of IP laws

- The production of vaccines requires high cost, very sophisticated methods and the high level of knowledge.
- In order to protect the initial investment, the global pharmaceutical industry exercises **Intellectual Property Rights (IPRs)** like patents and passes on this cost (and leveraging huge profits) to final consumers.

Further, international trade agreements require countries with vaccine manufacturing capabilities to provide patent protection under the **WTO agreement on trade-related aspects of intellectual property (TRIPS)**.

- In this context, IP laws are required to promote innovation in the R&D of new medicine or vaccines. However, it is due to these IPRs laws only, the global pharmaceutical industry **establishes a monopoly over life-saving drugs.**
  - This, in turn, generates billions of dollars in revenue and wealth for shareholders.
  - This also impedes new manufacturers from entering the Pharma research domain.

## Monopolisation Comes at the Cost of Human Lives

- Public-health advocates and scholars have long argued, monopolies kill, by denying access to life-saving medicines. The patents are preventing competition and threatening both the affordability and the supply of new drugs.
- **PCV13**, the current multi-strain pneumonia vaccine administered to babies, costs hundreds of dollars because it is the monopoly property of Pfizer.
  - In India, **more than 100,000 preventable infant deaths from pneumonia are recorded every year**, while the vaccine brings in roughly \$5 billion in revenue for Pfizer annually.
- Monopoly control over the technology has even impacted battle against Covid-19.
  - The rapid rollout of more testing kits, the respirator or N95 masks have made it more difficult for new producers to manufacture medical-grade face masks at scale.
  - Multiple patents are in force for three of the most promising treatments for Covid-19 — **Remdesivir, Favipiravir, and Lopinavir/Ritonavir.**

## Way Forward: Intellectual Production without Intellectual Protection

---

### Leveraging Global Forums

- **The World Health Organization's Global Influenza Surveillance and Response System (GISRS)** which has remained largely defunct, should be revived.
- **Coalition for Epidemic Preparedness Innovations (CEPI)** is supported by a World Bank financial intermediary fund that brings together public, philanthropic, and private funding to respond to global priorities.
  - Through this fund, CEPI can act as a global mechanism for funding vaccine development until vaccines can be licensed or used under emergency use provisions.

### Note:

- GISRS involves experts from a laboratory network in 110 countries funded by governments and some foundations which convene twice a year to analyse the latest data on emerging flu strains.

- It decides which strains should be included in each year's vaccine.
- This global not-for-profit, knowledge-sharing architecture for the flu vaccines has been around for 50 years and could be a useful template in the quest for the Covid-19 vaccine.

## Establishing Patent Pool

- Costa Rica's government recently called on the WHO to establish a voluntary pool of IP rights for Covid-19 treatments, which would allow multiple manufacturers to supply new drugs and diagnostics at more affordable prices.
- Through the **Medicines Patent Pool**, the United Nations and the WHO have for years sought to increase access to treatments for HIV/AIDS, hepatitis C, and tuberculosis.
- **Patent pools, prize funds**, and other similar ideas are part of a broader agenda to reform how life-saving drugs are developed and made available.  
The goal is to replace a monopoly-driven system with one based on cooperation and shared knowledge.
- Therefore, the idea of patent pooling should now be expanded to cover vaccines for Covid-19 vaccine and health hazard.

## Vaccine Bonds

- **Innovative finance mechanisms** have been successful in raising funds for vaccines in the past and should be used to fund the development of Covid-19 vaccines.
- The **International Finance Facility for Immunisation (IFFIm)** raises funds with vaccine bonds.  
These bonds are launched with advanced market commitments, where donors make funding commitments to vaccine manufacturers and, in exchange, companies sign a legally binding commitment to provide the vaccines at a price affordable to low-income and middle-income countries.

## Role of India

- India is among the **largest manufacturers of generic drugs and vaccines** in the world.
- It is home to half a dozen major vaccine makers and a host of smaller ones, making doses against **Polio, Meningitis, Pneumonia, Rotavirus, BCG, Measles, Mumps and Rubella**, among other diseases.
- India has a state of art R & D facilities in the field of vaccines development.  
For example, the **Serum Institute of India is the world's largest vaccine maker** by the number of doses produced and sold globally.
- Following its conventional role of being a **pharmacy to the world**, India has already decided to speed up vaccine trials (six firms are in the fray).

- The Indian government can deploy the TRIPs-compliant tool of **compulsory licensing** to enable the vaccine to be produced by third-party manufacturers at affordable prices.



### ***Drishti Mains Question***

Intellectual Protection regimes should not outweigh public health interests. In light of the statement, critically analyse the need for Intellectual property rights in the pharmaceutical sector.



Watch Video At:

[https://youtu.be/uRULD0\\_qeVM](https://youtu.be/uRULD0_qeVM)

This editorial is based on **"Virtual, yet open"** which was published in The Hindu on April, 29th 2020.