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## Demand for Compulsory Licencing of Remdesivir

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### Why in News

Recently, the CPI (Marxist) party has suggested that the government shall issue **compulsory licences for the manufacturing of a generic version of Remdesivir** which is being used to treat **Covid-19** patients.

Generic medicines and vaccinations are copies of originally researched drugs, but at much lower prices.

### Compulsory Licensing

- Compulsory Licensing (CL) allows governments **to license third parties** (that is, parties other than the patent holders) to produce and market a patented product or process without the consent of patent owners.
- Any time **after three years from date of sealing of a patent**, application for compulsory license can be made, provided:
  - Reasonable requirements of public have not been satisfied;
  - Patented invention is not available to public at a reasonably affordable price;
  - Patented inventions are not carried out in India.
- Compulsory Licensing is regulated under the **Indian Patent Act, 1970**.
- The **Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement)** does not specifically list the reasons that might be used to justify compulsory licensing. However, the **Doha Declaration on TRIPS and Public Health** confirms that countries are free to determine the grounds for granting compulsory licences, and to determine what constitutes a national emergency.

### Key Points

- **Background:**
  - Remdesivir is developed to **treat Ebola and related viruses.**
  - According to the **World Health Organization (WHO)**, the drug helps to **prevent Covid-19 viral replication.** It has the best potential and can be used in high doses without causing toxicities.
  - It has been observed that the USA has bought the **entire stock of Remdesivir for the next three months.** It will therefore **not be available for the rest of the world.**
    - **Vaccine nationalism** occurs when a country manages to **secure doses of vaccine for its own citizens or residents** before they are made available in other countries.
    - It is done through **pre-purchase agreements** between a government and a vaccine manufacturer.
  - Also, the manufacturing firm of the drug Remdesivir has a **patent monopoly** and thus **charging a price that is hundreds of times its original cost.**
- **Proposals:**
  - With the USA buying up all the stocks of the drug and high cost may cause **unavailability of the drug** for other countries including India.
  - Thus, the party has suggested the government invoking Clause **92 of the Patent Act (1970)** that allows it to issue compulsory licences.
    - Clause 92 of the Patent Act states that the Central Government in **circumstances of national emergency or in circumstances of extreme urgency can issue the compulsory licenses** for any patent in force.
    - It can be issued at any time after the sealing thereof to work the invention by notification in the Official Gazette.
  - The issuance of compulsory licences **will allow** Indian manufacturers to produce a **more affordable generic version.**

## Way Forward

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The government should work towards breaking the patent monopoly as access to medicine especially during this pandemic time is one of the fundamental rights (Right to Health under Article 21) of every person in the country.

**Source:TH**