



DAILY MAINS NEWSLETTER

07.05.2021

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Mains Value Addition

Supreme Court wants formula on oxygen supply ahead of third wave

Syllabus-- GS 2: Health

Analysis: -

- The Supreme Court on Thursday highlighted the need for the Union government to start preparations for oxygen allocation to the States, its supply and distribution ahead of a third wave of the COVID-19 pandemic.

- The court drew the attention of the government to reports that children may be affected in the next wave.
- A Bench of Justices D.Y. Chandrachud and M.R. Shah said the government needed to finalise a formula for allocation, supply and distribution of oxygen in a “scientific manner” ahead of the coming wave.
- It said the “rough-and-ready” formula devised presently on the “oxygen-for-bed” arrangement would hardly work.
- The current formula of allocating oxygen to Delhi, for example, on the basis of the number of ICU/non-ICU beds grossly underestimated need for oxygen in the National Capital.
- The court underlined the importance of vaccination. “Children are going to be affected. They will be taken into hospitals.
- They will be accompanied by parents. Vaccination needs to be done,” it stated.

US backs IP rights waiver for Covid vaccines, EU says ready to discuss

Syllabus -GS 2: IR

Analysis: -

- In a move that could potentially help increase production of Covid-19 vaccines around the world, the United States on



Wednesday announced its support for waiving intellectual property (IP) protections for these vaccines.

- Subsequently, the European Union (EU) agreed to discuss such a waiver, after having opposed the proposal made by India and South Africa last year.
- A waiver on IP protections would mean pharmaceutical firms and vaccine makers across the world can learn how to make these vaccines without fear of lawsuits from companies that originally developed them.
- Countries such as Canada, South Korea, and Bangladesh have all evinced interest in producing Covid vaccines if they have a patent waiver, so we should utilise whatever global capacity is there.
- A waiver on IP protections would mean vaccine makers around the world can produce them without facing legal action from companies that originally developed them. However, such a waiver can be enforced only after the proposal is debated at the WTO.
- The US and EU are among the major countries that have opposed this proposal during discussions at the WTO so far.
- But with US President Joe Biden coming under increasing pressure to back India and South Africa's move, especially with respect to a waiver for vaccines, United States Trade Representative (USTR) Katherine Tai on Wednesday announced that the country would "actively" participate in text-based negotiations at the WTO for this purpose.

Universalizing PDS won't work here: UN World Food Programme India Head

Syllabus - GS 3: PDS - objectives, functioning, limitations, revamping; issues of buffer stocks and food security;

Analysis: -

- Amid a debate on whether more people should be included in the public distribution system or the coverage should be pruned, the Centre recently announced resuming a scheme to provide free extra food grains to all Food Security Act beneficiaries as part of Covid relief.
- In an interview with Sanjeeb Mukherjee, Bishow Parajuli, United Nations World Food Programme (WFP) country director in India, said universalising the PDS, demanded by many civil society activists, might not be feasible as everyone in India does not need social protection.

Mains Analysis

Drugmakers say Biden misguided over patent waiver

Why in News?

U.S. President supports waiving intellectual property rights for COVID vaccines

Syllabus-- GS2: Issues related to Fundamental Rights (Reservations).

Background: -

- Mr. Biden on Wednesday threw his support behind waiving intellectual property rights

for COVID-19 vaccines, angering research-based pharmaceutical companies.

- If adopted by the WTO, the proposal would invite new manufacturers that lack essential know-how and oversight from the inventors to crowd out established contractors.
- Vaccine developers echoed his comments that waiving intellectual property rights was not a solution.
- Germany's CureVac, which hopes to release trial results on its messenger ribonucleic acid (mRNA) vaccine as early as this month, said patents were not to blame for bottlenecks.
- In contrast, the GAVI vaccine alliance, which co-leads the COVAX dose-sharing programme with the WHO and faces major supply constraints, welcomed Mr. Biden's support for waiving intellectual property rights.

Global Response:-

1. All 164 WTO members must agree on the draft, and any one member can veto it. The European Union, which had earlier opposed the waiver, has now stated its intent to discuss the US-backed proposal.
2. Germany, the EU's biggest economic power and home to a large pharmaceutical sector, rejected the idea, saying the reasons for the lack of vaccines were capacity and quality standards.
3. South Africa and India made the initial waiver proposal at the WTO in October, gathering support from many developing

countries, which say it will make vaccines more widely available.

What does the intellectual property waiver for Covid-19 vaccines mean?

- Most production is currently concentrated in high-income countries; production by middle-income countries has been happening through licensing or technology transfer agreements.
- Ramping up production capacities will be a lengthy process — a reason being cited by pharmaceutical companies against the move. Most analysts expect this to take at least a few months; it is likely the agreement will be targeted by the WTO's next ministerial conference in end-November.
- The US support for an IP waiver stems from a proposal by India and South Africa in the WTO last year. That proposal had, however, called for a waiver on all Covid interventions, including testing diagnostics and novel therapeutics.
- Experts said the IP waiver proposal should include other interventions going forward. Amid the pandemic, the "widest possible" access to these interventions is limited by production capacity as well as the propensity of high-income countries to acquire "most of the supplies", Public Health Foundation of India president Prof K Srinath Reddy said. Countries including Canada, South Korea, and Bangladesh have shown interest in making Covid vaccines if they can get a patent waiver, Prof Reddy said.

What are the deterrents for the waiver?

- In a joint letter to US President Joe Biden in March, pharma companies including Pfizer and AstraZeneca had opposed the proposed waiver — saying eliminating IP protections would “undermine the global response to the pandemic”, including the ongoing efforts to tackle new variants.
- It could also create confusion that could potentially undermine public confidence in vaccine safety and create a barrier to information sharing, they had said. And, “most importantly, eliminating protections would not speed up production.”
- Microsoft founder Bill Gates has expressed reservations against tweaking IP rules and sharing Covid-19 vaccine technologies. “The thing that’s holding things back, in this case, is not intellectual property.
- It’s not like there’s some idle vaccine factory, with regulatory approval, that makes magically safe vaccines,” Gates said in a recent interview to Sky News.
- His justification for not sharing vaccine tech with developing countries is “that it would not be feasible for a company to move vaccines to a developing nation”.
- Gates mentioned India, and said that even if the transfer were to happen, it is because of “our grants and expertise”.
- The argument that these countries do not have the capacity to speedily produce vaccines goes against earlier moves towards a patent’s regime for generic drugs.
- Experts said the same reasoning can be used now for the production of vaccines.

- “They will question the capacity and quality. But a number of companies from different countries have said they are ready to produce, and quality can always be assessed.
- Between 1972 and 2005, India had adopted process patenting rather than product patenting, and built up a huge generic industry.
- If western companies are interested in contracting Indian companies for manufacturing their vaccines in India, then how can they say you do not have the quality to produce on your own?” Prof Reddy said.

What was the earlier proposal from India and South Africa?

- In October 2020, India and South Africa had asked the WTO to waive certain conditions of the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement that could impede timely access to affordable medical products to combat Covid-19.
- The countries had asked the TRIPS Council to recommend, “as early as possible”, a waiver on the implementation, application and enforcement of four sections in the second part of the agreement.
- These sections — 1, 4, 5, and 7 — pertain to copyright and related rights, industrial designs, patents, and the protection of undisclosed information.
- The proposal had said that developing countries “especially”, may face institutional and legal difficulties when

using flexibilities available in the TRIPS Agreement.

What are patents and IP rights?

- A patent represents a powerful intellectual property right, and is an exclusive monopoly granted by a government to an inventor for a limited, pre-specified time. It provides an enforceable legal right to prevent others from copying the invention. Patents can be either process patents or product patents.
- A product patent ensures that the rights to the final product is protected, and anyone other than the patent holder can be restrained from manufacturing it during a specified period, even if they were to use a different process.
- A process patent enables any person other than the patent holder to manufacture the patented product by modifying certain processes in the manufacturing exercise.
- India moved from product patenting to process patenting in the 1970s, which enabled India to become a significant producer of generic drugs at global scale, and allowed companies like Cipla to provide Africa with anti-HIV drugs in the 1990s.
- But due to obligations arising out of the TRIPS Agreement, India had to amend the Patents Act in 2005, and switch to a product patents regime across the pharma, chemicals, and biotech sectors.

Significance of waiving IPR for covid vaccines: -

- More than 155 million people have been reported to be infected worldwide by the coronavirus and almost 3.4 million have died, according to a Reuters tally.
- But the vast bulk of the 624 million people who have received at least one dose of the vaccine, according to the Our World in Data website, live in wealthier countries.
- The global COVAX facility, which is backed by the WHO and the Global Alliance for Vaccines and Immunization (GAVI) and aims to supply vaccines to low-income countries, has so far handed out around 41 million doses.
- Vaccine-making is complicated, as shown by the production problems experienced by several manufacturers, and would also require a transfer of technology, know-how and personnel.
- Morgan Stanley analysts noted that there was no mechanism to force companies to teach others how to make their vaccine.
- Von der Leyen said that, in the short run, the EU was urging all vaccine-producing countries to allow exports and to avoid measures that disrupt supply chains.

Associated Concerns: -

- Drugmakers said Biden's move could disrupt a fragile supply chain, and urged rich countries instead to share vaccines more generously with the developing world.
- The International Federation of Pharmaceutical Manufacturers and

Associations said a waiver would invite new manufacturers that lacked essential know-how and oversight.

- They argue it would undermine incentives for manufacturers -who have produced coronavirus vaccines in record time – to do so in a future pandemic. They also say waiving patents would not instantly resolve a shortage of manufacturing capacity.
- Vaccine developers echoed his comments that waiving intellectual property rights was not a solution.
- Patents are not the limiting factor for the production or supply of our vaccine. They would not increase the global production and supply of vaccine doses in the short and middle term.

Significance for India: -

- The World Health Organization said in April that of 700 million vaccines administered around the world, only 0.2% had been in low-income countries.
- A recent surge of infections in India, the world's second most populous country, has underlined the point.

Way Forward: -

- The International Federation of Pharmaceutical Manufacturers & Associations (IFPMA) has pointed to other “real challenges” in scaling up production and distribution of Covid-19 vaccines.
- These include trade barriers, bottlenecks in supply chains, scarcity of raw materials and ingredients in the supply chain, and the

unwillingness of rich countries to share doses with poorer nations.

- The scarcity of raw materials has been a growing issue for ramping up production; several manufacturers have been relying on specific suppliers, and alternatives are limited. Also, countries like the US had blocked exports of critical raw materials used in the production of some Covid-19 vaccines using regulations like the American Defence Production Act.

Question: -

Enlist the concerns associated with waiving Intellectual Property Rights for COVID 19 vaccines. What is the significance of the move for India?

HC rejects Delhi govt statement on oxygen supply being only issue: ‘Medical infra completely exposed during pandemic’

Why in News?

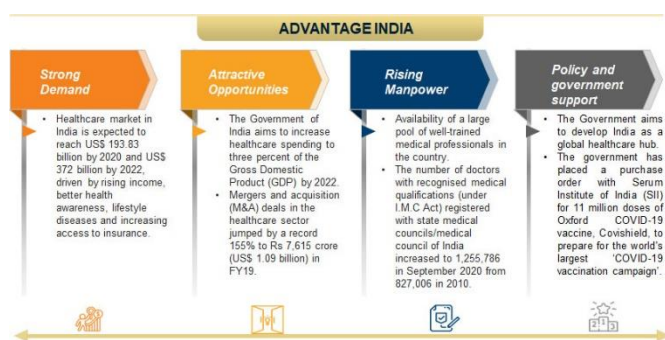
The Delhi High Court on Thursday said medical infrastructure in Delhi has been “completely exposed” when put to the test during the pandemic, and rejected Delhi government’s submission that oxygen supply was the only issue currently ailing its health sector.

Syllabus-- GS2: Issues related to the Criminal Justice System.

- Prior to the court’s observations, senior advocate Rahul Mehra, who represents the Delhi government, submitted that infrastructure is struggling for various reasons and requested the court to not say

existing medical infrastructure is in “shambles” as “it gives a different connotation”.

- The court then referred to the incident of a lawyer’s brother-in-law passing away for lack of an ICU bed while his petition was being heard by the court: “When Mr (Amit) Sharma’s brother-in-law passed away, we all felt that the State has failed. What answer do we give to family?”
- Saying that he only wanted to state the reasons behind the infrastructure failure, Mehra withdrew the statement and apologised to the court.



What data says?

- According to the National Health Profile (NHP) 2018, Maharashtra has 711 public hospitals with 51,446 beds, a number that was inadequate even in a non-covid scenario.
- Rising coronavirus cases and the coming surge in monsoon ailments threaten to put a greater burden on the state’s healthcare system. As per NHP, in Maharashtra, there is just one government hospital in the state for every 166,880 people.

Example of Infrastructure failure: -

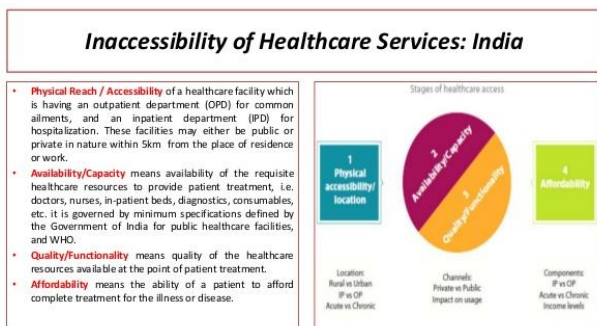
- The court made the observations while passing an order in the petition of a 52-year-old patient who is suffering from Covid-19 and urgently requires an ICU bed.
- The court was told by his counsel that his SP02 level has fallen below 42 but the hospital where he is admitted does not have any ICU bed and authorities, including the Centre and Delhi government, be directed to provide him the same in any other hospital in the national capital.

Reasons behind health system failures: -

- Health infrastructure is creaking at this stage of the pandemic because of mismanagement, unprofessional planning, greed of private institutions and unjustified fear.
- Health delivery in India is concentrated in urban and more in metro cities.
- Peripheral and primary care system was neglected. Majority of private hospitals in rural areas have either stopped giving services for covid-19 patients or are extorting huge money.
- Therefore, patients are moving to bigger cities. ICUs with ventilator and available anaesthetics or pulmonary medicine professionals are not available at even district-level hospital
- Reasons are that people of this country are not demanding enough.
- They elect a government without insisting that they fulfill their promises... without

really looking at the relevant issues. Because we do not plan.

- there are thousands of others who are afflicted with the same disease in the city and whose condition may be as bad, if not worse.
- “They would have an equal claim to secure an ICU bed with a ventilator facility,” it said, adding merely because the petitioner has been able to approach the court through his counsel “cannot be a reason to pass an order so as to allow him to steal a march over others similarly situated”.



Source: IMS Institute for Healthcare Informatics, Understanding Healthcare Access in India, June

Constitutional obligations: -

- Article 21 of the Constitution guarantees the most fundamental basic right, which is the right to life and liberty to every person, the bench said it cannot turn him away by merely telling him that the state does not have the infrastructure to deal with his condition because all ICU beds are already taken by other patients.
- We are sworn to protect fundamental rights of the people, therefore, we are bound to issue writ to the state to provide the infrastructure to enable the petitioner to undergo treatment that is required to save his

life. He requires an ICU bed with a ventilator facility, ideally speaking the same should be made available to him.

Way Forward: -

- The COVID-19 pandemic has put some health systems under immense pressure and stretched others beyond their capacity. As such, responding to this public health emergency and successfully minimizing its impact requires every health resource to be leveraged.
- Failure to protect health care in this rapidly changing context exposes health systems to critical gaps in services when they are most needed, and can have a long-lasting impact on the health and wellbeing of populations
- The obligation of the state to provide sufficient infrastructure to protect the lives of people cannot be understated.
- “At the same time, one cannot lose sight of the fact that we are faced with once in a century pandemic and even most economically advanced nations have found their infrastructure to be lacking to deal with the massive surge of cases of Covid-19”.

Question: -

The COVID-19 pandemic has put some health systems under immense pressure and stretched others beyond their capacity. Discuss the reasons behind the infrastructure failure of health system in India in the wake of COVID 19.