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Vaccine Commodification and Ramifications for countries in the Global South

Summary

The Covid-19 pandemic has exposed inequalities between countries in the Global North and those in Global South. While governments across the world have responded differently to contain the spread of the virus, vaccine hoarding and use of patent laws has crippled vaccine access and distribution in the Global South. Patent laws such as Intellectual Laws by pharmaceutical companies in the Global North makes it difficult for countries in the Global South to manufacture and distribute vaccines to their populations. The ring fencing of vaccine patents has created monopolies driven by profit and capitalism. The Covax scheme that was designed to bypass this has been plagued by inequity, funding shortfalls and a severe supply crunch. Its initial targets for the year 2021 were missed, partly as a result of the poor health infrastructure in many of the recipient country and partly because of vaccine hesitancy. Cultural and religious beliefs in most countries in the Global South have dealt a heavy blow to the attainment of herd immunity. Waiving of patents across the globe will culminate into better access of vaccines by countries in the Global South.

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1 Introduction/Background

The outbreak of the global COVID-19 pandemic has threatened the human race with countries in the Global North recording high fatalities. While there was swift response by Western countries to develop safe and effective vaccines, the rate at which the virus is moving is faster than the global distribution of vaccines. The emergence of Covid variants such as Delta and Omicron has further exposed the uneven distribution of vaccines by countries in the Global North. While many vaccines have been developed, offering hope to billions, many countries especially those in the Global South still face challenges in accessing them, in part because of restrictive Intellectual property (IP) laws. This is primarily because vaccine patents, which are a form of IP rights, lead to production monopolies that contribute to increased prices and decreased access. This rampant practice has been described as “vaccine apartheid” because it creates stark disparities in vaccine access between countries in the Global North and those in the Global South, as well as between elites and others within countries. A structural perspective of contemporary political economy illuminates how these aspects shape COVID 19 responses across the globe. This has exposed failures across health care systems, working conditions, supply chains, the depth of inequality and features of globalisation that exacerbate negative outcomes for many across the globe. This unsparing challenge provides an opportunity to critically review and analyse vaccine commodification by countries in the Global North and the attendant effects it has on countries in the Global South.

The Covid pandemic has not been an equal opportunity virus; it goes after poor people in environments with dysfunctional health infrastructure and those whose daily lives expose them to greater contact with others. Ultimately, this means that it goes disproportionately after poor countries and in advanced economies such as those in the Global North where access to health care is guaranteed. There are marked differences in how the pandemic has been managed, both in terms of how successful countries have been in maintaining the health of their citizens and access and availability of vaccines. Vaccine manufacturing companies in the Global North have used Intellectual property laws to ring fence vaccine patents thereby creating monopolies. In the late 1970s and early 1980s, United States based IP owners lobbied for regulatory and legislative reform to expand IP protection. Pharmaceutical, software, publishing and entertainment producers argued that their industries

provided America with competitive advantages in the global markets. They sought the incorporation of IP into the trade regime to ensure that their IP would be remunerated in global markets and that trading partners would respect and enforce their rights. By 1994, IP owners had succeeded in globalizing their preferences through the Agreement on Trade Related Intellectual Property Rights (TRIPs) in the World Trade Organization (Sell 2003). TRIPs is a hard law, it is binding and enforceable. It mandates 20 years of patent protection for pharmaceutical products. Violations result in trade sanctions. IP laws have fuelled vaccine commodification and have created monopolies for countries in the Global North. Patent protection increases prices and reduces access to medicines, diagnostics, vaccines, medical services and Personal Protective Equipment (PPEs).

2 Problem Statement

In this article, I highlight how existing application of IP laws perpetuates already acute global and domestic inequalities and prevents many countries in the Global South from progressively realising right to health for all people. This in turn, amounts to violation of states' human rights obligations to respect, protect and fulfill the right to health.

3 Objectives

This policy brief seeks to;

- To lobby on the need for the removal of IP on Covid 19 vaccines
- To create critical conversations on how countries can complement efforts and pull resources in the fight against Covid 19
- To identify gaps in Covid 19 responses by countries in the Global South

4 Options

4.1 Towards a Decolonised approach to Human Rights for Vaccine allocation

In her book, *Decolonising Methodologies Research and Indigenous Peoples*, renowned author, Linda T Smith¹ argues that a decolonised approach to human rights demands that providing access essential therapeutics such as vaccines should be prioritised through domestic, regional and international funding mechanism to

¹ <https://nycstandswithstandingrock.files.wordpress.com/2016/10/linda-tuhiwai-smith-decolonizing-methodologies-research-and-indigenous-peoples.pdf>

ensure that all states have adequate resources for the realisation of the right to health. In the covid context, this includes rethinking of the ways in which fragmented legal regimes, through international trade law for the IP and International human rights law for the right to health serve to reinforce patent law at the expense of access to vaccines. Decolonisation refers to the undoing of colonial rule over subordinate countries but has taken a wider meaning as “freeing the minds from colonial ideology” in particular by addressing the ingrained idea that to be colonised was to be inferior. Decolonisation enables us to critique positions of power and dominant culture. This is because human rights are no longer understood as being detached from geopolitics or history but transformed to serve those whose rights are being violated.

Since the outbreak of the pandemic, there has been calls to decolonize global health and since then, they have gained urgency due to power asymmetries illustrated by the Covid 19 crisis². Decolonial framing of human rights in global health enables us on ways in which structural or systemic issues reproduce inequalities that are manifested through; restrictive intellectual property laws that inhibit access to essential medicines such as vaccines and commodification of essential medicines such as vaccines which push countries into greater indebtedness and increase national and international inequalities. This approach enables us to address this systemic justice. A decolonised approach demands three things. Firstly, reparative justice, not through charitable models such as COVAX but through redistribution, secondly increasing manufacturing capacity of states from the Global South and thirdly that states should pay greater attention to their human rights responsibilities and obligations.

4.2 Attempts to prevent Vaccine hoarding through COVAX

In February 2021, the World Health Organisation (WHO) reported that countries seeking their own COVID 19 vaccine doses are making deals with drug companies that threaten the supply for the global Covax programme for poor and middle-income countries. WHO also called upon rich countries to ensure that vaccines are shared equitably. Covax is co-led by the WHO and the Global Alliance for Vaccines and Immunisation (GAVI). While the Covax scheme has been implemented to bypass the

² <https://www.tandfonline.com/doi/full/10.1080/17441692.2020.1760915?scroll=top&needAccess=true>

effects of vaccine hoarding, it has been plagued by inequity, funding shortfalls and a severe supply crunch. This initiative is meant to pool together the global vaccine efforts and ensure fairer distribution by which richer countries offset the costs of getting vaccines to poorer ones. COVAX hopes to distribute enough vaccines to protect at least 20 percent of the population in the 92 participating countries. Its initial goal was to provide two billion doses of vaccines worldwide in 2021 and 1.8 billion doses to poorer countries by early 2022. However, critics argue that is not moving fast enough. Some initial targets were missed, partly as a result of the poor health infrastructure in many of the recipient countries and partly because of vaccine hesitancy. It remains to be seen in 2021 annual reports how effective the scheme has cushioned poor countries and middle-income countries against vaccine Commodification and hoarding by rich and wealthier countries in the Global North.

4.3 Intellectual Property and the TRIPS agreement

In 2021 as countries across the globe struggled to contain the spread of the virus, there was an emergence of a debate on the need for pharmaceutical companies to waive Covid -19 vaccine patents. In May 2021, United States President, Joe Biden supported calls by the World Trade Organisation (WTO) to temporarily lift patents protections for corona virus vaccines. However, soon after the call, wealthier countries have been actively blocking the move in the pursuit of profits and monopolies. The proposal for lifting of patent protection has been spearheaded by India and South Africa, who have both been devastated by the virus and aims to facilitate the manufacture of treatments locally and boost the global vaccination campaign. The provisions of the proposal suggest a waiver for all WTO members on the implementation, application and enforcement of certain provisions of the TRIPs agreement in relation to the prevention, containment or treatment of covid 19.

While the debate on the need to waiver patents have gathered momentum, discussions have not gone beyond the exchange of clarifications and additional explanations, mainly due to economic powerhouses such as the UK, Canada and EU and its member states taking a firm stand against it. Arguments against waiving patents are that diluting national and international intellectual property frameworks would be dangerous and counterproductive, with the Pharmaceutical Research and Manufacturers of America concerned that the waiver would sow confusion between public and private partners, further weaken already strained supply chains and foster

the proliferation of counterfeit vaccines. Western countries argue that the waiving of intellectual property rights would hinder research and innovation and that the move would not result in a sudden surge of vaccine supply.

4.4 Vaccines as Market Commodities

In March 2021, UK Prime Minister, Boris Johnson torched a storm when he remarked that capitalism and greed were the reasons why his country successfully rolled out Covid 19 vaccines. While he backtracked on his statements immediately, his loyal supporters leaped to his defense with several competing explanations of varying plausibility, saying that it was a “joke” and that he was referring to the profit motive driving companies to develop new products. Within the context of Johnson remarks, the profit motive has been expressed differently across economies to the detriment of countries in the Global South that have little resources to leverage. Debates that have been going on include the move by Russia and China to utilise a vaccine strategy where they donate or sell vaccines to countries in the Global South in return for favours. This approach that is now known as “vaccine diplomacy” has seen China donate a shipment of their Sinopharm jab to Algeria in exchange for the North African country to support China’s “core interests” and oppose interference in its internal affairs. In Zimbabwe, China’s involvement in the fight against the pandemic is well documented. Zimbabwe has not explicitly disclosed whether vaccines from China are donated or being purchased. It is such arcane dealings that have raised suspicions among the populace over China’s increased influence in key sectors in Zimbabwe’s economy such as mining and manufacturing. China has ensured that its covid assistance to struggling countries forms the basis of its defense against criticism over allegations of human rights abuses in Xinjiang. Meanwhile, Russia allegedly sold 5.2 million doses of its Sputnik vaccine to Bolivia in order to spark dialogue about topics as varied as building a nuclear plant to lithium mining and gas reserves in the country. Despite sending hordes of vaccines abroad, Russia has only inoculated about 46% of its population who are increasingly becoming skeptical about taking the vaccine. All this exposes the insincerity of countries in the Global North in ending the pandemic but rather exposes greed and profits as the major driving force behind some of their covid 19 interventions.

5 Analysis of Options

Given the above, the lesson for countries in the Global South is simple. For a country that are struggling to strengthen public health care and suffering from poor population health as well as high unemployment, a people decommodified model like Cuba can turn health care into a means of transformation. Dubbed the Plan for Prevention and Control of the Disease, Cuba's pandemic strategy included healthcare worker training, reinforcement of the National Program for the Surveillance of Acute Respiratory infections (ARI) and the expansion of laboratory infrastructure and facilities for the molecular diagnostics of Covid 19 infections. The Cuban strategy for controlling the spread of COVID 19 has been lauded by experts as effectual because it entailed extensive ARI surveillance, widespread contact tracing and a rational testing program, as well as a mandate that civilians wear masks in public spaces. Moreover, proponents of Cuba's pandemic response claim that the state-controlled economy and public health policy facilitated the mobilisation of emergency resources and the rapid isolation of confirmed cases. Cuba employed its widespread health care system and the collaboration of undergraduate medical students to implement the door-to-door surveillance of ARI to identify suspected cases and immediately assess whether to recommend home isolation and prioritized airport, marina and port surveillance.

The production of health goods that prioritizes the needs of the majority and trains and employs local people in the process helps strengthen population health while keeping costs down. It also avoids the draining of resources and lives as in the Johnson and Johnson case of soaring profits and destructive products. In addition, healthcare production driven by the needs of the majority creates the potential for exports that spread yet greater good.

Vaccine manufacturing is exacting, and time-consuming and health experts remain divided on whether waiving these patents rights would offer relief to developing countries as quickly as needed. While there are many logistical hurdles to tackle, the consensus is clear; Western countries must assist poorer economies in vaccinating their populations. While the US is one of the world's major producers of vaccines, it has exported only a few million shots so far. In comparison, China has shipped over 217 million doses, the EU over 94 million, India 67 million and Russia about 12 million.

The waiving of Covid-19 patents worldwide would allow for a wider amount of people to get the life-saving jab. While there are concerns about the capabilities of manufacturers in countries in the Global South, there are larger concerns about how fast the corona virus is spreading through countries with inadequate resources to assist their populations. Closely linked to this is the absence of rapid and effective testing of people in these countries to help manage and contain the spread of the virus. Initiatives like the COVAX scheme and the TRIPS proposal rely heavily on pledges and commitments that have yet to materialise and realistically would be insufficient to provide the level of coverage needed to bring an end to the pandemic. If the situation stays stagnant, the interests and profits of the few countries in the Global North will determine the fate of most. As the Director General of the World Health Organisation (WHO), Dr Tedros Adhanom Ghebreyesus has said, “we face the risk of a catastrophic moral failure”.

6 Recommendations

There are enough doses of vaccines globally to drive down transmission and save many lives if they are distributed to people who need them most around the world. Worldwide, access to the Covid 19 vaccines offers the best hope for slowing the pandemic, saving lives and securing global economic recovery. The WHO strategy to achieve global Covid -19 vaccination by mid 2022 outlines the road that must be religiously followed to achieve the targets of vaccinating 40% of the population of every country by the end of the year and 70% by the middle of next year. In order to do so, there is need for reparative redistribution of resources in global solidarity, shifting vaccine access from a charitable plea to a legal obligation, increasing manufacturing capacity in the Global South and clarifying human rights responsibilities of pharmaceutical corporations themselves.

As Covid -19 relief packages in many countries suggest, the risk of neoliberal solutions is high, with the largest share of benefits going to big employers, banks and other corporations rather than workers, the underemployed and the unemployed. Health systems also face greater risk of being shaped and reshaped along neoliberal capitalist lines. The fast spread and multiple impacts of Covid-19 make the demand for decommodified, fully non-profit, people driven universal public health care the basis from which to begin rebuilding society. As the world continues to battle the pandemic, the urgency to waive covid 19 patents must remain prioritised as it will

allow for a wider amount of people to get vaccines. The proposal by US President to ensure that the WTO temporarily loosens patent restrictions must be monitored and followed up. The TRIPs agreement has been identified as one of the most significant barriers to covid 19 vaccines and medicine affordability particularly for countries in the Global South.

In addition, health security can only be achieved by ensuring coherence between domestic and international policies on vaccine access and delivery, thereby helping to address the inequality gaps within and between countries. Recovery will be faster and resilience to new crises will be stronger if vaccines are rolled out equitably to all countries, including the poorest and most vulnerable.

Research and development of vaccines as well as production capacity, is concentrated in just a few countries in the world, thereby requiring most low- and middle-income countries to import vaccines. A global consensus on principles for equitable access can be build and establish principles for sharing vaccine doses between countries through Covax. It should also translate into allocation sequences and distribution mechanisms that are legally binding and can be enforced. Where possible, the transfer of technical know-how to manufacturers in developing countries should be encouraged. There is also need to provide context-driven solutions to vaccination roll-out in developing countries. This goes beyond research and development, manufacturing and procurement to produce more doses. Vaccination campaigns need to be well-planned and executed, requiring a functioning health system with sufficient infrastructure, population outreach and human resources as well as appropriate information systems to schedule and track vaccinations. To sustain these efforts, developing countries should have a central role in determining strategies for vaccination roll-out, including in targeting vulnerable groups.

There is also need to strengthen support and cooperation with civil society, in particular local Civil Society Organisation (CSOs) to enable them to contribute to equitable access to vaccines through advocacy work and oversight on vaccine distribution and access. While it is key to ensure vaccine access in developing countries is key for global health security, adequate consideration and financing must also be given to treatment access and improvement of testing and tracing protocols as well as boosting intensive care capacity.

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