IP in a Post-pandemic World

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The World Health Organization declaration that "the global health emergency of COVID-19 is over" has removed the sense of urgency that for more than three years shaped global health discussions. As a result of the pandemic, the topic of intellectual property and its influence on access to health technologies was widely and intensely discussed. The support gathered by a waiver proposal on certain parts of the Trade Related aspects of Intellectual Property (TRIPS) Agreement, the creation of the COVID-19 Technologies Access Pool (C-TAP) and a number of national and regional initiatives aimed at scaling up production of health goods are just some examples of where the needs of the many were framed above profits and monopolies.

Several policy processes that were set-aside, stalled or even stopped during the pandemic have resumed, while initiatives that originated in the response to the pandemic have either evolved or run their course.

This policy brief looks at some of the interventions designed during the COVID-19 pandemic to counter an impact of excessive use of IP protection tools. Secondly, it assesses recent post-pandemic policy discussions, at every level, regarding the role of IP in relation to access to innovation. Finally, it sets out several recommendations on the management of IP and related policy processes in order to improve access to health technologies.

Recommendations

- Higher visibility should be given to the International Health Regulations and International Negotiating Body processes and greater access be granted to public-interest civil society so public interest organisations can contribute their expertise, including relaying demands from Global South entities. Also, national governments should be held accountable for the positions held in the negotiations and their coherence with current policies, previous commitments and future plans in non-health domains.
- To ensure more equitable access to health technologies during pandemics and other health emergencies, negotiating parties at INB should agree binding clauses on overriding IP rules in case of in case of a declaration of International Public Health emergency.
- The review of the EU pharmaceutical policy and associated initiatives is an historic opportunity to place affordability of medicines, transparency of R&D costs and health-oriented use of IP high in the public agenda. It is critical that lawmakers, both at the EU and national levels, actively engage in the scrutiny and debate. Civil society has a role to play in educating the public on the importance of the legislation.
- In the post-pandemic global health landscape, IP issues will remain contentious and in need of an evidence-based discussion amongst stakeholders across constituencies.

Civil society contribution to this conversation is critical to ensure public interest. Tools like the TRIPS flexibilities navigator should be scaled up to achieve it potential and contribute to a better understanding, at national level, of the cost of too stringent IP protection for a access to health technologies.
- Governments should direct international organisations including WHO, WTO and WIPO to take specific steps to explore the feasibility of an international instrument or convention acknowledging the condition of therapeutics, vaccines and diagnostics as global public goods in case of a pandemic or health emergency.

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