Forget ‘play’, the machine needs to be scrapped

The Centre must revisit its vaccine policy by procuring 100% doses which can then be equitably disbursed to States

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In its affidavit (https://bit.ly/3eHudlb) submitted to the Supreme Court on May 9 in the suo motu COVID-19 management case, the Union of India avers, in the words of Justice Holmes, that “play must be allowed for the sake of the machine”. Arguably, in this instance, such play is irrelevant because the machine needs to be scrapped. The Centre must revisit its policy by procuring 100% of the vaccine doses which can then be equitably disbursed to the State governments.

Reasons to revisit policy

The States were indeed thoughtful enough to ask for an immediate expansion of vaccination to all adults, beyond the 45-plus priority group, but the affidavit shows the Centre as cavalier and spiteful. The submission provides three good reasons to revisit the new “liberalised” policy:

First, it is indefensible and out of line with international practice; put bluntly, it is patently stupid.

Second, it is incoherent and internally inconsistent – it alludes to liberalisation while controlling both price and quantity for every State – an inevitable consequence of the feebleness of a liberalised policy at this time. Indeed, the Centre is currently threatening to penalise States that do not administer sufficient second doses.

Third, the submission frequently resorts to legal legerdemain, obfuscating the argument, instead of constructively addressing the essential problem at hand.

To begin with, at a time when the Centre is deciding whether the manufacturer of Remdesivir, hitherto a competitively marketed drug with multiple manufacturers, will sell how much to which State at what price, it is concomitantly deregulating the vaccine market, which currently has just two suppliers, in a situation of extreme shortage, exacerbated by adding 600 million to 44-year-old citizens to 200 million unvaccinated people above the age of 45. This is far from using “differential pricing” to instil a competitive market”, a goal best left for later. In every other country, only the national government is buying vaccines, with odd exceptions such as Indonesia and the Philippines, where corporates are allowed to buy in bulk. Therefore, States do not or cannot vaccinate their workers for free. It is also perplexing why Covaxin is not more widely licensed, given that the affidavit makes it clear that much of the core work in developing the vaccine was done at the ICMR-NIV in Pune.

The high price States will pay

In the affidavit, the Centre baldly admits that “by nature of its large vaccination programme, [it] places large purchase orders for vaccines as opposed to the State Governments and/or Private Hospitals and therefore, this reality has some reflection in the prices negotiated” – i.e., it can buy vaccines cheaper than States or the private sector. So if, why should it not buy and distribute, as it was doing till April 30?

Next, the Centre takes 50% (it may have booked more than its share) to give to States for the 45-plus age group, and the States get 25% of the total vaccine production for their use. Each State is “informed by the Central Government in writing about the number of vaccines it would receive.” Further, “by conducting informal communications with the vaccine manufacturers, [it] ensures that the prices of vaccine is uniform for all the States”, i.e., the Centre has fixed both quantity and price. It is clearly not a liberalised policy.

The balance 25% in each State “will go to the private sector based upon the contracts between private sector and vaccine manufacturers,” but how is the private sector in a specific State defined, since contracts are at a corporate level and not by State units? Also, what happens if the private sector cannot absorb the 25%? After all, in terms of CoWIN sites, the private sector, which earlier had about 10% share, is now under 3%. Day before yesterday, Bihar had nine sites, Chhattisgarh, 32 and Arunachal Pradesh had none. The private sector allocation actually privileges large urban areas, where it is more present.

Thus, instead of the full production at zero cost, the States now get one quarter of the production at twice or more the price paid by the Centre. The private sector will access the other quarter, at a landed cost that, based on current reports, might be up to 10 times the price it paid earlier.

Little did States know that their petulant insistence on universal vaccination would come at such a high price.

The Centre has little to show

But, cannot States secure other supplies, e.g., via global tenders that many are now floating? The affidavit states, quite sensibly, that “efforts in the direction of procurement of other vaccines from other countries is essentially a responsibility of the Central Government” and “discussions for procurement of vaccines... have been ongoing since third-quarter of 2020... These negotiations are a complex undertaking which is currently ongoing on a war footing using all resources including diplomatic channels.” Effectively, the Centre has been trying for over six months, with little to show for it. Thus, States are either being led up the garden path – it is difficult to believe that States are so naive or their global tenders are just grandstanding.

Finally, legal legerdemain, that is most evident in the response to door-to-door vaccination. Yes, it is impracticable. But, the spirit was captured years ago, e.g., through pop-up centres in communities, maintaining the necessary protocols. Instead, after expending five pages on creating and demolishing an unnecessary straw man of door-to-door vaccination, the affidavit dismisses the central question as to “whether the Central government will revisit its policy by procuring 100% of the doses which can then be equitably disbursed to the State Governments” with an airy “the answer has already elaborated hereinabove”, when it has no such answer.

Is there not enough residual trust between the Centre and States for such equitable distribution? If so, the need is to reinvigorate this trust, rather than accept policies leading to further Balkanisation.

What does this liberalised policy accomplish? It increases the vaccine maker’s revenue, with a weighted price of Rs77 per dose for Covaxin and Rs52 per dose for Covishield, based on prices to be paid by States and private firms. (On pricing, the weighted average is calculated based on a share of 50% for the Centre, 25% for States and 25% for the private sector for both vaccines, according to the affidavit. Covaxin and Covishield are both at Rs154 = https://bit.ly/2SBtwwa for the Centre, and Rs200 for States and Rs1,200 for the private sector for Covaxin and Rs300 for States and Rs600 for the private sector for Covishield.) While this is possibly too high, their revenue can be raised more simply by increasing the Centre’s price, currently Rs154, directly, leaving the comfort of large long-term orders for 100% of India’s needs, enabling firms to invest more and sell globally. States could bear the extra cost directly without this convoluted new policy. It could even be financed by making it easier to access, e.g., through pop-up centres in communities, maintaining the necessary protocols. Instead, another five pages on creating and demolishing an unnecessary straw man of door-to-door vaccination, the affidavit dismisses the central question as to “whether the Central government will revisit its policy by procuring 100% of the doses which can then be equitably disbursed to the State Governments” with an airy “the answer has already elaborated hereinabove”, when it has no such answer.

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