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Title: “Does Pakistan patent law support or hamper access to medicines/vaccines?”  

Abstract: Article 25 of the Universal declaration of Human rights 1948 provides that adequate health is a fundamental Right of every Human being. Protection of public health which includes access to essential medicines is one of the most critical issues around the world but specially in least developed and developing countries like Pakistan. There are many reasons for this such as poor health facilities, low budget allocation towards health, bad governance, inflation, feeble economic system etc. Hence, a large part of the world’s population including majority of Pakistani population still lacks access to essential medicines and basic health facilities.

Patents provide exclusive ownership and exploitation rights in respect of inventions possessing a degree of novelty, some scintilla of inventiveness over what is already known and having significant utility value. Patent protection is very important to ensure that inventors are able to recoup the cost of their investments and also obtain economic rewards for their labour. Nonetheless, in protecting patent rights there is always a need to ensure a good balance is struck with social policy goals especially in relation to access to essential goods such as medicines/vaccines. TRIPS Agreement seemed to have taken this view into consideration in ensuring the inclusion of certain flexibilities in the TRIPS Agreement. Before the TRIPS Agreement, most developing countries including Pakistan did not extend patent protection to pharmaceutical products per se. However, with the advent of TRIPS, all WTO countries including Pakistan became bound to grant patents for pharmaceutical inventions to meet their obligations under the Agreement. This is because TRIPS requires WTO Member States to make patents available in all fields of technology to the extent that the invention to be patented meets the criteria for patentability.

Pharmaceutical industry around the world has been a major proponent of patent protection and same is the case in Pakistan as well. However, patent protection for essential medicines has always been a major concern worldwide and especially for least developed and developing countries like Pakistan and it is often considered that strict patent regimes interfere with widespread access to medicines and keep the medicines well beyond the reach of those who need them. This debate of patent protection for essential medicines becomes even more vocal with the advent of any pandemic like COVID-19 which is affecting people globally but is becoming more and more dangerous for people living in low- and middle-income countries like Pakistan which ultimately will be a threat to everyone around the world. Therefore, currently the biggest challenge for every country is to provide essential medicines/vaccines of COVID to everyone and this especially is a challenge for least developed and developing countries like Pakistan.

This paper will critically analyze legal provisions provided in the Pakistan Patent Law regarding public health and medicines/vaccines. Current prevailing practices in the context of medicines, vaccines and drugs will be examined legally. What are the contemporary challenges and the way forward in this era of pandemic involving Pakistani law will also be discussed.