
South-South Cooperation in Health and Intellectual Property Rights



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The health care narrative as it has developed over the years is based on a one system model, that is the allopathic system. In countries of the South like China, India, Sri Lanka, South Africa, etc. there are robust indigenous systems of medicine like Ayurveda, Chinese Medicine, etc. These indigenously grown systems can also effectively be used in providing universal health care and may be more conducive to the physiology of the people of the South than the Western system.

In the aspirational goals of nations, ensuring the health of the people is one of high priority since an unhealthy population is an economic burden. Ensuring healthy lives and promoting well-being for all at all ages is one of the sustainable development goals (SDGs). Since all individuals, both rich and poor, are concerned with personal health and well-being, it occupies the focus of all countries, whether developed or developing or least developed. The challenges being faced by a country vary from one country to the other. The economically more developed countries such as those in the West have achieved certain basic levels of health status like acceptable rates of maternal, neo-natal and under-5 child mortalities and have been able to contain communicable diseases. Their challenges now are in the areas of Non-communicable Diseases (NCDs) and Mental Illnesses. The developing countries present a kaleidoscopic picture of varied and changing levels of achievements in this area. The spectrum ranges from very poor health indicators in certain countries, particularly in sub-Saharan Africa, to some countries that compare well with the best advanced countries. There are countries like Cuba who have been able to provide universal health care at comparatively lower cost than many developed countries. This provides the South great opportunities and possibilities for cooperation among them.

Universal health care has to provide for access to affordable quality health care for all people. This

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would necessitate having adequate health care infrastructure, medicines, medical devices and human resources. Since the fight against diseases is one between human ingenuity and microorganisms there is a constant need to update the arsenal with humans in the form of medicines and drugs and this requires significant investments in research and development (R&D), both knowledge and financial. In both the areas of access to medicines and medical equipment's as well as R&D, Intellectual Property Rights (IPRs) play an important role. The scope for cooperation among the global South consisting of developing and least developed countries, in other words, less industrialized countries, in the two areas of health and IPRs is large.

Some scholars look upon SSC in health as "state-state exchange of technical, financial, and human resources, and policy expertise and support among low and middle-income countries."¹ The contours of SSC got delineated through the Buenos Aires Plan of Action (BAPA) for Promoting and Implementing Technical Cooperation among Developing Countries in 1978, which was signed by 138 countries and endorsed by the United Nations (UN) General Assembly. The objectives of SSC, according to BAPA, are "mutual benefit and for achieving national and collective self-reliance, which are essential for their social and economic development".² The 40 years that have elapsed since the BAPA signing have seen momentous changes in the global political and economic landscapes and the perceptions of self-reliance now are different from those of the 1970s. The emergence of a global economy has brought in interdependence and mutually beneficial cooperation as more productive than isolated and

secluded development. However, the basic principles of such cooperation, as different from the Washington Consensus based aid programme, as stated in the BAPA, still remain valid. They are "strict observance of national sovereignty, economic independence, equal rights and non-interference in domestic affairs of nations."³ In the Ministerial Declaration of Group of 77 and China in New York on 25 September 2009, among others, highlighted the following principles of SSC: They are "based on a strong, genuine, broad-based partnership and solidarity", "based on complete equality, mutual respect and mutual benefit", and "respects national sovereignty in the context of shared responsibility."⁴

Respecting and adhering to these principles in any SSC partnerships in health and IPR is what will distinguish them from the earlier models of cooperation or aid.

SSC in the health sector in the past has been broadly on the above lines. Many a time these cooperative endeavors involve more than two parties leading to emergence of South-South health networks (Chaturvedi and Mulakala, 2016) where the countries contribute on the basis of their strengths. The collaborations are in different areas like manufacturing, R&D, trade and so on. Setting up of hospitals and joint research centers have been components of SSC in health. India has collaborated with Brazil, China, Bangladesh, etc. on health biotechnology. Private players also played important roles in such collaborations. Provision of human resources, as in the case of Afghanistan, has been a major component of India's health collaborations. Africa has been a major partner in SSC in health. India has been engaged in the healthcare

sector in Africa in a big way. The Pan Africa e-Network project, covering 54 countries of Africa, with Africa Union as the coordinating agency, has tele-medicine as a programme. Under this programme, medical practitioners at the Patient End locations can consult on line Indian medical specialists in 12 super specialty hospitals in India. Five super specialty hospitals in Africa are also in the network. The Tele-Medicine network also provides continuing medical education services. (James, *et al.* 2015). The focus of the project is local capacity building, as it should be in SSC. China and Brazil have also been engaged in such collaborations through various fora such as, IBSA and BRICS. Access to affordable quality medicine is a major concern in almost all countries of the South. This is an area in which much has been contributed by SSC in the past. India has been a major generic drug supplier of the world. In fact, its generic medicines significantly contributed to the containment of HIV/AIDS in Africa as well as in South America.

In the light of the commitments of all countries towards the achievement of health for all by 2030, the SSC can play a more active role than in the past. This is especially so as quite a good number of countries of the South have miles to go to reach the set targets. In the matter of access to health care, many of them need to add significantly to their existing capacities in hospitals and dispensaries. Collaborative ventures, as per the requirements of the host country, can contribute in this. Health care also demands human resources and medicines and drugs. Countries like India in the past had provided health personnel in many countries. Apart from continuing to do so, they can also help in developing

and expanding medical and paramedical education in other countries. In the area of medicines, there is need to develop local manufacturing capabilities in most countries. Joint ventures by countries who already have robust pharmaceutical industries such as China and India can boost this. These new ventures will have to keep in mind the paying capacity of the patients in the country where they are situated and not be unduly influenced by export potential to the developed countries. The joint ventures could also be a vehicle for technology transfer in the relevant field. With patents on a large number of medicines having expired in the recent years and more on the way, generic drug production can pick up in all the countries. But many of them have not developed the capabilities for the same which should be attended though the SSC projects. In entrepreneurial collaborations including starting new joint or other ventures, issues of regulatory approvals can come up. In order to encourage cooperation among Southern partners it may be necessary to have more harmonisation of such regulations including quality standards among them. It is necessary for all countries to develop domestic capacity for inspection mechanisms and regulatory agencies of their own which are to be as per their national requirements (James, Mellow and Reddy, 2018).

An area where SSC can and should focus is on pharmaceutical R&D. In the past, joint biomedical research has been in the fields of tuberculosis, malaria, HIV and AIDS and biotechnology (Chaturvedi and Thorsteinsdottir, 2012). While continuing these efforts there is need for collaboration in the areas of Neglected Tropical and

other Diseases. Large pharmaceutical firms from the North have little motivation to develop drugs for these diseases in view of the low paying capacity of the patients affected by the same. These diseases mostly affect the South and the South itself will have to explore the solutions. Collaborative research will greatly reduce the cost. R&D and collaboration should also extend to the area of medical devices. Diagnostic tests and surgical procedures are often costly and the stated reason is the high prices of the equipment's and instruments. There is need to develop low cost but quality devices in developing countries and SSC can focus on the same.

Another sector for SSC is that of Intellectual Property Rights (IPRs). Since the times of the Uruguay Round of trade negotiations leading to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), the countries of the South were having much cooperation in this field in international fora like World Trade Organisation (WTO), World Intellectual Property Organisation (WIPO) and World Health Organisation (WHO). It was the solidarity among them that led to the Doha Declaration on Public Health in 2001. But the trend towards including TRIPS plus provisions in bilateral free trade and investment agreements flags the need for more cooperation in this area. The TRIPS Agreement has provided for adequate flexibilities for countries in the IPR laws to take care of public health requirements including ensuring affordable access to health products. However, whenever countries try to implement such flexibilities like Compulsory Licenses there are concerted pressures on them from industrialised countries. Coordinated

and collaborative efforts by South like the recommendation in the 2nd EAC Regional Pharmaceutical Plan of Action 2017-2027 to use public health related TRIPS flexibilities by the member countries of EAC, can make the use of the flexibilities much easier. Exchange of information on the use of compulsory licenses and other flexibilities can also be part of SSC. They can collaborate in areas of law and policy. Drafting of laws has to be as per the local conditions. Not all countries in the South have local expertise in drafting IP policies and laws. Some countries like India have drafted legislations in such a way as to fulfil the obligations under the TRIPS Agreement but providing innovative ways for preventing the ever-greening of patents. IP regimes must be in accordance with local realities. Many countries lack the capability to examine patent applications, particularly pharmaceutical patents; common IP offices with well qualified personnel and modern infrastructure can be made possible through SSC. Africa has already set up a Regional IP Office.

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To conclude, SSC can play a significant role in the programmes of the South to achieve SDG 3. They should build on the

experiences which they have already had in this area and explore new opportunities. The basic principles of local ownership of the programmes and respecting national sovereignty should continue to guide them. An objective should be to develop local capacity and not merely passing on of goods and services. The cooperation has to be an outcome of shared goals and targets.

Endnotes

- ¹ Anne-Emanuelle Birn, Carles Muntaner and Zabia Afzal. *South-South cooperation in health: bringing in theory, politics, history, and social justice*, in CSP Reports in Public Health 2017; 33 Sup 2:e00194646; 2017.S38.
- ² United Nations. *Buenos Aires Plan of Action for Promoting and Implementing Technical Cooperation among developing countries*. Buenos Aires: United Nations; 1978.p.6.
- ³ *Ibid*, p.8
- ⁴ Group of 77 and China, *Ministerial Declaration of the 33rd Annual Meeting of the Ministers of Foreign Affairs of the Member States of the Group of 77 and China*, 25 September, 2009, New York. See <http://www.g77.org/doc/Declaration2009.htm>, para.70.

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MYANMAR-SOUTH KOREA SIGN MOU FOR A 'FRIENDSHIP BRIDGE

The Yangon regional government and South Korea-based Myanmar Company Wooree signed a memorandum of understanding for the Dala Industrial Development Project to be implemented on the west bank of Yangon River near the ongoing Yangon-Dala bridge project. The industrial development project will be a part of the Yangon-Dala bridge project which is a friendship bridge between Myanmar and South Korea. The Yangon-Dala bridge project agreement was reached under then-president Thein Sein's government and is expected to cost \$137.8 million in loans from South Korea's Economic Development Cooperation Fund with the Myanmar government promising to provide an additional \$30.3 million. The bridge will connect Phone Gyi Street in downtown Yangon with Bo Min Young Street in Dala Township. The bridge will benefit the industrial development project and will also support Yangon Region's economic development.

Source: <https://www.irrawaddy.com/news/burma/mou-dala-industrial-development-project-signed.html>