

How do Government restrictions meet Proportionality Test? – (1) The State is empowered under **Entry 6** of the State List of Schedule VII of the Constitution, the **Disaster Management Act of 2005** and the **Epidemic Diseases Act of 1897** to take effective measures on issues concerning ‘**public health**’; (2) The **State’s aim** is legitimate. Vaccination is necessary to prevent illness and reducing the number of deaths due to COVID-19. The Indian Council of Medical Research said that 92% of COVID-19 deaths in India in 2021 occurred in unvaccinated individuals. Mandatory vaccination helps achieve the aim of public health; (3) The extent of **State’s interference** with the privacy and bodily autonomy of an individual is not disproportionate. The Governments are facing the challenge of preventing the transmission of COVID-19 and the **number of deaths**. In the absence of restrictive measures, the number of people undergoing vaccination might have been much lower. The COVID-19 virus has kept on mutating. The presence of a class of unvaccinated persons would have wide-ranging ramifications for an already **overburdened healthcare system**.

Moreover, the Right to bodily autonomy under Article 21 is based on the Right to Life itself, making it essential for the State to first safeguard the life and health of its citizens before individuals’ decisional autonomies.

Judgments Related to Vaccine Mandates



- **Jacobson v. Massachusetts (1905, the U.S. Supreme Court):** A community has the right to protect itself against an epidemic of disease which threatens the safety of its members.
- **Zucht v. King (1922, the U.S. Supreme Court):** A State may exercise its police power to provide for compulsory vaccination.
- **Asha Ranjan v. State of Bihar (2017):** The Supreme Court of India said that **community interests take priority over individual interests**. The SC observed that the **community interest cannot be sacrificed** at the altar of individual interests especially in a situation where a fear psychosis is running through the community.

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India is a signatory to **the International Covenant on Economic, Social and Cultural Rights**. Thus, India is bound to take all possible measures to progressively realise the enjoyment of ‘**highest attainable standard of physical and mental health**’ of its citizens under **Article 12**. Therefore, the State should **expedite inoculations** at a time when infection rates are relatively low.

The vaccination will alleviate the **burden** on the **healthcare system** during more difficult times. It will also ensure that the **State’s healthcare policies** are proactive and not merely reactionary.

#8 The Indus Water Treaty

News: The 118th Meeting of the India-Pakistan Permanent Indus Commission was held recently. The role of India, as a responsible upper riparian abiding by the provisions of the treaty, has been remarkable. However, of late, there has been pressure on the Government to rethink the treaty given the political relations with Pakistan and its approach towards bilateral issues especially terrorism.

What are the main provisions of the Indus Water Treaty? – The Treaty was signed in 1960 under the aegis of the World Bank. (1) The Treaty gives **India control of 3 Eastern Rivers (Beas, Ravi and Sutlej)** with a mean annual flow of 33 million acre-feet (MAF). **Pakistan gets control of 3 Western Rivers (Chenab, Indus and Jhelum)** with a mean annual flow of 80 MAF; (2) The treaty gives **India 20%** of the water from the Indus River System and the rest **80% to Pakistan**; (3) The treaty allows India to utilize the waters of Western Rivers for **limited irrigation** and **non-consumptive use** for such applications as **power generation, navigation** etc. Thus, India can generate hydroelectricity through a **run-of-the-river projects (without the storage of waters)** on the western rivers, subject to specific criteria for design and operation. Further, Pakistan also has the **right to raise concerns** on the design of Indian hydroelectric projects on western rivers; (4) The treaty allows India to have a **minimum storage level on the western rivers** – meaning it can store up to 3.75 MAF of water for **conservation and flood storage purposes**; (5) A **Permanent Indus Commission** was set up by the United Nations for resolving any disputes that may arise in water sharing. Its functions include serving as a forum for exchange of information on the rivers, for continued cooperation and as a first stop for resolution of conflicts.