

Policy Brief

Assessing the viability of access and benefit-sharing models of equitable distribution of vaccines in international law

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KEY INFO

Research question: what role can international law play in ensuring a COVID-19 vaccine is distributed fairly and equitably around the world?

Policy area or themes: Governance: Ethics, Procurement, Data

Methods: Doctrinal legal and policy analysis of relevant international legal frameworks and policy documents in respect of equitable access to vaccines and medical countermeasures. For example, we examined procurement contracts between vaccine manufacturers and governments, WHO guidance, treaties, and policy documents from WHO, COVAX, and governments around the world.

Geographical area: Global

Research stage: Completed

Summary of the research

Our research predicted that low-and-middle-income countries (LMICs) would receive significantly fewer vaccines, and receive them far later, than their developed country neighbours. We sought to understand *why* this is the case, and, crucially, to understand if legal and policy options being pursued by organizations like the World Health Organization could improve this clear injustice. To do this our team evaluated, in real time, international efforts to secure improved access to vaccine for LMICs, such as the COVAX initiative. Our research concluded that initiatives such as COVAX were largely unsuccessful, due to a range of factors, including unsustainable financing; poor contractual management; insufficient global supply; unequal geographical location of vaccine manufacturing capacity; intellectual property rights. These problems remain to this day, and unless clear, concrete action is taken, during the next pandemic billions of people around the world will be without timely access to lifesaving vaccinations.

Policy recommendations

- There is a need to diversify global vaccine manufacturing capacity, including platform technology, geographical location, and manufacturer.
- A permanent COVAX-style initiative needs to be created, with sustainable and consistent financing, to enhance equitable access to vaccines during the next pandemic.
- The above permanent COVAX-style initiative needs to explore using Advance Purchase Agreements in order to secure priority access to vaccines in the future.
- There is a need to de-link the developmental costs for medical countermeasures from their resulting costs, to improve access in low-income settings.

- A permanent public health TRIPS waiver needs to be negotiated at the World Trade Organization, to prevent intellectual property barriers from impeding access to medical countermeasures in a future pandemic.
- Explore options, such as technology clearing houses and patent pools, to facilitate transfer of technology to vaccine manufacturers based in LMICs.

Key findings

Our doctrinal legal and policy analysis demonstrates that:

- The current international system is unable to facilitate equitable access to medical countermeasures, particularly vaccines, during a pandemic.
- Without significant structural changes, particularly at the international level, the vast inequality in access to vaccines we have seen during COVID-19 will be seen again in future health emergencies.
- At present, there is very little appetite amongst the world's wealthiest nations to make the necessary structural changes to facilitate equitable access to vaccines – e.g., not engaging in vaccine nationalism or expanding global manufacturing capacity through IP waivers and transfer of technology. This is largely because wealthy nations benefit significantly from such structural inequality, by being able to dominate the limited supply of vaccines which are currently available.

Further information

- Project website:
<https://www.keele.ac.uk/law/research/researchclusters/internationaland europeanlaw/assessingtheviabilityofaccessandbenefit-sharingmodels/>
- Mark Eccleston-Turner, 'How countries get away with hoarding drugs in a pandemic' The Conversation July 6, 2020, https://theconversation.com/how-countries-get-away-with-hoarding-drugs-in-a-pandemic-141854#comment_2272501
- Michelle Rourke & Mark Eccleston-Turner, 'WHO Decides? The "Fair and Equitable" Distribution of COVID-19 Vaccines' 25 August 2020 Griffith News, university of Griffith blog <https://news.griffith.edu.au/2020/08/25/who-decides-the-fair-and-equitable-distribution-of-covid-19-vaccines/>
- Clare Wenham & Mark Eccleston-Turner, 'Where will poorer countries stand in the queue for a Covid-19 vaccine?' The Guardian 12 November 2020
<https://www.theguardian.com/commentisfree/2020/nov/12/covid-19-vaccine-pfizer>
- 'The COVAX Facility and Equitable Access to Vaccines for COVID-19 in Developing Countries' briefing report to Members of the House of Commons and the House of Lords. The report was delivered to Lord Collins on the 25th August 2020
<https://www.dropbox.com/s/uva54vpgof03wp7/The%20COVAX%20Facility%20and%20%20Equitable%20Access%20to%20Vaccines%20for%20COVID-19%20in%20Developing%20Countries%20%20.pdf?dl=0>
- Mark Eccleston-Turner, "COVID-19 and Global Vaccine Access | From equity to nationalism" Keele University Grand Challenges Lecture <https://www.youtube.com/watch?v=pGk-4qSzoRw>
- Phelan, Eccleston-Turner, et al, 'Legal Agreements: barriers and enablers to global equitable COVID-19 vaccine access' *The Lancet* (2020) [https://doi.org/10.1016/S0140-6736\(20\)31873-0](https://doi.org/10.1016/S0140-6736(20)31873-0)
- Eccleston-Turner M & Upton H, 'International Collaboration to Ensure Equitable Access to Vaccines for COVID-19: The ACT-Accelerator and the COVAX Facility' *Milbank Quarterly* (2021) <https://doi.org/10.1111/1468-0009.12503>

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