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### **Vaccination inequalities and the role of the multilateral system<sup>1</sup>**

*By Carlos M. Correa*

The COVID-19 crisis has evidenced the fragility of the multilateral system to address a global health challenge. There are multiple reasons behind it. Since donations are not enough, a global solution to the pandemic would have required concerted actions in several fronts. The author suggests that, while examining how the proposed “pandemic treaty” might contribute to a global solution in future health emergencies, immediate actions are needed.

#### *A test for the multilateral system*

The health and socio-economic crisis created by the COVID-19 pandemic represented a major test about the extent to which the multilateral system is able to respond to global challenges in line with the principles of international cooperation, equality and solidarity. Despite solemn declarations in the context of the United Nations (UN) General Assembly,<sup>2</sup> the World Health Organization (WHO)<sup>3</sup> and other fora, such as the Group of Twenty (G20),<sup>4</sup> any analysis of the current situation regarding the world distribution of vaccines indicates that this has not been the case.

An outstanding inequality has characterized the distribution of vaccines against COVID-19 as they became available. In accordance with various estimates, 85% of vaccines administered worldwide have been in high- and upper-middle-income countries, while less than 1 percent of

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<sup>1</sup> This paper will also be published in *Gaceta Interamericana para el Bienestar*, Conferencia Interamericana de Seguridad Social (CISS), No.7, 2021.

<sup>2</sup> Nirmalya Syam, “The UN General Assembly Resolutions on COVID-19: Solemn Assurances for Access to Health Technologies without an Action Plan”, Policy Brief, No. 81 (Geneva, South Centre, 2020). Available from <https://www.southcentre.int/wp-content/uploads/2020/07/PB-81.pdf>.

<sup>3</sup> Nirmalya Syam, Mirza Alas and Vitor Ido, “The 73rd World Health Assembly and Resolution on COVID-19: Quest of Global Solidarity for Equitable Access to Health Products” Policy Brief, No. 78 (Geneva, South Centre, 2020). Available from <https://www.southcentre.int/wp-content/uploads/2020/05/PB-78.pdf>.

<sup>4</sup> In the G20 Rome Declaration, the Group members “[s]trongly underline the urgent need to scale up efforts, including through synergies between the public and private sectors and multilateral efforts, to enhance timely, global and equitable access to safe, effective and affordable COVID-19 tools”. See [https://global-health-summit.europa.eu/rome-declaration\\_en](https://global-health-summit.europa.eu/rome-declaration_en).

doses have been administered in low-income countries.<sup>5</sup> A key reason for this situation is the shortage of vaccines' supply associated with the fact that developed countries purchased vaccine doses well in excess of their needs, in some cases up to 3 or 4 times what was actually required to vaccinate their populations, while such doses were missing in low-income countries. For example, the European Union (EU) ordered 1.6 billion doses for its adult population of roughly 375 million people.<sup>6</sup>

In April 2021, the WHO Director-General, Tedros Adhanom Ghebreyesus, stated: "There remains a shocking imbalance in the global distribution of vaccines. On average in high-income countries, almost one in four people has received a vaccine. In low-income countries, it's one in more than 500".<sup>7</sup> In May 2021, Ghebreyesus noted that "not just that the world is at risk of vaccine apartheid; the world is in vaccine apartheid".<sup>8</sup>

The management of the COVID-19 crisis has generated very worrisome signals regarding the robustness of the multilateral system, which should be solidly based on the above-mentioned principles. The unequal world distribution of vaccines has made it evident that such a system was not well prepared to ensure a true global response to the crisis brought about by this disease. While, as noted, this situation was denounced on several occasions by the head of the WHO, developing countries' governments, world leaders and by many civil society organizations (CSOs),<sup>9</sup> actions to address this situation show not only a failure from the point of view of a sound health policy but from an ethical perspective. This situation has led to what may become one of the greatest failures of the multilateral system in the 21st Century.

### *Globalization without global policies*

Why was this situation possible in a globalized world with functioning international institutions and, particularly, a specialized international agency on health, the WHO, established more than 70 years ago? One of the founding principles of the WHO states that "[u]nequal development in different countries in the promotion of health and control of disease, especially communicable disease, is a common danger". The organization was set up "for the purpose of co-operation" among the contracting parties and "with others to promote and protect the health of all peoples".<sup>10</sup>

Moreover, in accordance with article 2 of the International Health Regulations (IHR) - adopted by the WHO members to deal with health situations of global concern: "The purpose and scope

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<sup>5</sup> See, e.g. Progressive International, "Summit for Vaccine Internationalism hails a 'new international health order'", 21 June 2021. Available from [https://progressive.international/wire/2021-06-21-progressive-international-hails-the-beginning-of-a-new-international-health-order-as-global-south-states-commit-to-share-covid-19-vaccine-technology-and-production/en?mc\\_cid=6c420186fe&mc\\_eid=f409fe448e](https://progressive.international/wire/2021-06-21-progressive-international-hails-the-beginning-of-a-new-international-health-order-as-global-south-states-commit-to-share-covid-19-vaccine-technology-and-production/en?mc_cid=6c420186fe&mc_eid=f409fe448e).

<sup>6</sup> Robin Cohen, "COVID vaccines: rich countries have bought more than they need – here's how they could be redistributed", *The Conversation*, 9 February 2021. Available from <https://theconversation.com/covid-vaccines-rich-countries-have-bought-more-than-they-need-heres-how-they-could-be-redistributed-153732>.

<sup>7</sup> World Health Organization (WHO), "Director-General's opening remarks at the media briefing on COVID-19 – 9 April 2021", 9 April 2021. Available from <https://www.who.int/director-general/speeches/detail/director-general-s-opening-remarks-at-the-media-briefing-on-covid-19-9-april-2021>.

<sup>8</sup> "World is at Risk of 'Vaccine Apartheid', Says WHO Chief Tedros Adhanom Ghebreyesus", *NDTV*, 18 May 2021. Available from <https://www.ndtv.com/world-news/coronavirus-world-is-at-risk-of-vaccine-apartheid-says-who-chief-tedros-adhanom-ghebreyesus-2443812>.

<sup>9</sup> See, e.g. Reuters and Jessie Yeung, "Hundreds of Former Leaders Urge G7 to Vaccinate Poor against Covid-19", *CNN*, 7 June 2021. Available from <https://edition.cnn.com/2021/06/07/world/world-leaders-g7-covid-vaccine-intl-hnk/index.html>.

<sup>10</sup> Constitution of the World Health Organization, available from [https://www.who.int/governance/eb/who\\_constitution\\_en.pdf](https://www.who.int/governance/eb/who_constitution_en.pdf).

of these Regulations are to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade”. One of the principles of the IHR is that “[t]he implementation of these Regulations shall be guided by the goal of their universal application for the protection of all people of the world from the international spread of disease” (article 3.3).

Despite these clear principles and objectives, the WHO was manifestly unable to implement a truly global policy that ensured equality in the access to vaccines as they were developed and approved by drug regulatory agencies for inoculation. International cooperation is a key ingredient missing in the management of the pandemic. There are several factors that may explain the dramatic asymmetry in access to vaccines.

First, developed countries engaged in what has been characterized as ‘vaccine nationalism’, a short-sighted, morally indefensible, practically inefficient and risky approach in the response to COVID-19.<sup>11</sup> High income countries benefited from their superior financial capacity<sup>12</sup> to pre-purchase vaccines still under development or testing. It could have been argued that the hoarding<sup>13</sup> of vaccines aimed at mitigating the risk of failure of any of the vaccine candidates in the development process or clinical trials.<sup>14</sup> But this strategy completely ignored the framework announced in September 2020 by WHO for world vaccine allocation.

In accordance with the Fair Allocation Framework, WHO advised “that once a vaccine(s) is shown to be safe and effective, and authorized for use, all countries receive doses in proportion to their population size, albeit initially in reduced quantities. This will enable every country to start by immunizing the highest priority populations”.<sup>15</sup> A key element of this Framework was “an initial proportional allocation of doses to countries until all countries reach enough quantities to cover 20% of their population”.<sup>16</sup> This Framework was, however, purely indicative - today we can even say illusory - as there were no means for the WHO to enforce the required minimum 20%. Moreover, once some vaccines were tested and approved (on an emergency basis) for inoculation, developed countries continued to purchase doses in excess of their needs and only belatedly considered direct donations as a tool to help undersupplied low-income countries (see below).

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<sup>11</sup> Vaccine nationalism refers to the “my country first” approach of some resourceful countries to secure priority access to doses of emerging COVID-19 vaccines for their populations through advance purchase agreements (APAs), adversely impacting equitable distributive outcomes for others. (Muhammad Zaheer Abbas, “Practical Implications of ‘Vaccine Nationalism’: A Short-Sighted and Risky Approach in Response to COVID-19”, Research Paper, No. 124 (Geneva, South Centre, 2020). Available from <https://www.southcentre.int/wp-content/uploads/2020/11/RP-124.pdf>.

<sup>12</sup> This was also evidenced by the size of the stimulus packages disbursed by governments to mitigate the crisis, which reached 9.73% of gross domestic product (GDP) in developed countries and 5.46% in developing countries. See Chantal Line Carpentier, Drew D’Alelio, Bruno Cardoso Zuccolo, Olivier Combe and Raymond Landveld, “Unprecedented COVID-19 stimulus packages are not being leveraged to accelerate SDG investment”, UNCTAD, 11 December 2020. Available from <https://unctad.org/news/unprecedented-covid-19-stimulus-packages-are-not-being-leveraged-accelerate-sdg-investment>.

<sup>13</sup> Declaración de la XXVII Cumbre Iberoamericana de ANDORRA (21 de abril de 2021), para. 7. Available from <https://www.segib.org/wp-content/uploads/Declaracio%CC%81n-XXVII-Cumbre-Andorra-ES.pdf>.

<sup>14</sup> Renato González Carrillo and Daniel Juárez Torres, “La carrera por la vacuna contra la COVID-19 ciencia y geopolítica para entender el camino”, CISS Nota Técnica 8, Septiembre 2020. Available from <https://ciss-bienestar.org/wp-content/uploads/2020/09/la-carrera-por-la-vacuna-contra-la-covid-19-ciencia-y-geopolitica-para-entender-el-camino.pdf>.

<sup>15</sup> WHO, *WHO Concept for fair access and equitable allocation of COVID-19 health products* (Geneva, 2020). Available from <https://www.who.int/publications/m/item/fair-allocation-mechanism-for-covid-19-vaccines-through-the-covax-facility>.

<sup>16</sup> Ibid.

Second, although there has been significant opacity in relation to the contractual conditions for the procurement of COVID-19 vaccines,<sup>17</sup> it seems that rich countries provided the guarantees demanded by the vaccines' producers to exclude or limit their liability in case of side effects or other potential problems (including manufacturing defects and negligence). These issues reportedly impeded the purchase of Pfizer's vaccines by some Latin American governments.<sup>18</sup>

Third, some of the main vaccines' manufacturers are hosted in the developed countries and have been subject to the legal measures imposed<sup>19</sup> and the political pressures exercised by their respective governments to supply the domestic market first, as exemplified by the restrictions on exports of COVID-19 vaccines.<sup>20</sup> Those countries are also the home of suppliers of many of the raw materials and components that the production of a vaccine requires; the whole production chain may ultimately be under those suppliers' control. Export restrictions over key vaccines' raw materials or components can delay or impede production in other countries, as experienced by India as a result of United States' restrictions.<sup>21</sup>

Fourth, the establishment of the COVAX facility was premised on the need to supply on an equal basis all countries in the world, but its governance has not been of a true multilateral nature. Despite its objective of distributing 2 billion doses of vaccines by the end of 2021, by June of the same year it had only been able to distribute 95 million of doses.<sup>22</sup> Despite its laudable intention, this facility has failed to provide the necessary response to alleviate the crisis in the developing world.

### *Donations are not enough*

In anticipation of the Group of Seven (G7) summit that took place in June 2021, the United Nations Children's Emergency Fund (UNICEF) stressed that "G7 countries and other well-supplied nations immediately donating additional available doses to COVAX is a **minimum, essential and emergency stop-gap measure, and it is needed right now**".<sup>23</sup> It also noted that "[w]ell-supplied countries can donate **while still meeting commitments to their own populations**".<sup>24</sup>

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<sup>17</sup> See, e.g., Transparency International, "Lack of Transparency over Vaccine Trials, Secretive Contracts and 'Science by Press Release' Risks Success of Global COVID-19 Response", 25 May 2021. Available from <https://www.transparency.org.uk/covid-19-coronavirus-vaccines-clinical-trials-results-contract-transparency-research>.

<sup>18</sup> Allie Nawrat, "Pfizer accused of 'bullying' Latin American countries during vaccine negotiations", *Pharmaceutical Technology*, 23 February 2021. Available from <https://www.pharmaceutical-technology.com/news/company-news/pfizer-latin-american-vaccine/>.

<sup>19</sup> Such as the US Defense Production Act (DPA). See, e.g., Shayan Karbassi, "Understanding Biden's Invocation of the Defense Production Act", *Lawfare*, 4 March 2021. Available at <https://www.lawfareblog.com/understanding-bidens-invocation-defense-production-act>.

<sup>20</sup> See e.g. Congressional Research Service, "Export Restrictions in Response to the COVID-19 Pandemic", 23 April 2021. Available from <https://crsreports.congress.gov/product/pdf/IF/IF11551>; Nirmalya Syam, "Intellectual Property, Innovation and Access to Health Products for COVID-19: A Review of Measures Taken by Different Countries", Policy Brief, No. 80 (Geneva, South Centre, 2020). Available from <https://www.southcentre.int/wp-content/uploads/2020/06/PB-80.pdf>.

<sup>21</sup> "US defends restrictions on export of COVID-19 vaccine raw materials to India, says requirements of Americans first", *DNA*, 24 April 2021. Available from <https://www.dnaindia.com/world/report-us-defends-restrictions-on-export-of-covid-19-vaccine-raw-materials-to-india-says-requirements-of-americans-first-2887672>.

<sup>22</sup> See Gavi, the Vaccine Alliance (GAVI), "COVAX Vaccine Roll-out: Country Updates". Available from <https://www.gavi.org/covax-vaccine-roll-out>.

<sup>23</sup> UNICEF, "COVID-19 vaccines: 5 reasons why dose donations are essential". Available from <https://www.unicef.org/coronavirus/covid-19-vaccines-why-dose-donations-are-essential> (emphasis in the original).

<sup>24</sup> *Ibid.* (emphasis in the original)

While the G7 Summit pledged an increase in its members' donations to poor countries, this was done in insufficient quantities.<sup>25</sup> Such donations may be motivated by true solidarity - which only manifested, however, after the own populations of those countries were largely vaccinated - but also by the belated recognition that the pandemic will not be controlled until the global population is vaccinated and the emergence of new variants is prevented. Thus, the Norwegian Prime Minister observed while announcing the donation of 5 million vaccine doses, that "accelerated access to vaccines is vital in the fight against new variants of the virus, which can potentially make current vaccines less effective".<sup>26</sup>

A global solution to the COVID-19 pandemic would have required concerted actions in several fronts, not just donations. A critical and fundamental one was to rapidly increase the manufacturing capacity of vaccines.<sup>27</sup> Efforts in this regard were manifestly absent or came too late,<sup>28</sup> despite the existence of capacity in many countries, including developing countries, and the expressed interest of many companies and institutions in engaging in such a production.<sup>29</sup>

The reluctance of the Western companies, such as Pfizer and Moderna, to share their technologies, is one of the key factors explaining the global failure to timely increase the global supply of vaccines.<sup>30</sup> This was the case despite the efforts by the WHO to set up a mechanism - the COVID-19 Technology Access Pool (C-TAP) launched in May 2020<sup>31</sup> with that purpose. The resistance by the US, the EU and other developed countries to approve a waiver in relation to the obligations concerning intellectual property rights under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)<sup>32</sup>, as requested by India and South Africa with a large support of other World Trade Organization (WTO) members,<sup>33</sup> is another manifestation of the lack of willingness to contribute to a global solution through an increase in

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<sup>25</sup> Ibid. While the G7 summit agreed to donate 1 billion doses of COVID vaccines to poor countries, this remains largely insufficient to prevent further dissemination of the virus and achieve collective immunity. See Vincent Georis, "La promesse de don de vaccins du G7 jugée insuffisante", *L'Echo*, 11 juin 2021. Available from <https://www.lecho.be/economie-politique/international/general/la-promesse-de-don-de-vaccins-du-g7-jugee-insuffisante/10313030.html>.

<sup>26</sup> "Norway to Donate Five Million Vaccine Doses to Combat COVID-19 Globally", *Donor Tracker*, 21 May 2021. Available from <https://donortracker.org/policy-updates/norway-donate-five-million-vaccine-doses-combat-covid-19-globally>.

<sup>27</sup> See, e.g., Germán Velásquez, "Re-thinking Global and Local Manufacturing of Medical Products After COVID-19", Research Paper, No. 118 (Geneva, South Centre, 2020). Available from [https://www.southcentre.int/wp-content/uploads/2020/09/RP-118\\_reduced.pdf](https://www.southcentre.int/wp-content/uploads/2020/09/RP-118_reduced.pdf).

<sup>28</sup> WHO, "WHO Supporting South African Consortium to Establish First COVID mRNA Vaccine Technology Transfer Hub", 21 June 2021. Available from <https://www.who.int/news/item/21-06-2021-who-supporting-south-african-consortium-to-establish-first-covid-mrna-vaccine-technology-transfer-hub>; Josh Wingrove, "World Bank Announces Deal to Fund Vaccines for South Africa", *Bloomberg*, 30 June 2021. Available from <https://www.bloomberg.com/news/articles/2021-06-30/world-bank-announces-deal-to-fund-vaccines-for-south-africa>.

<sup>29</sup> See, e.g., Carlos Correa, "Expanding the Production of COVID-19 Vaccines to Reach Developing Countries, Lift the Barriers to Fight the Pandemic in the Global South", Policy Brief, No. 92 (Geneva, South Centre, 2020). Available from <https://www.southcentre.int/wp-content/uploads/2021/04/PB-92.pdf>.

<sup>30</sup> Ibid.

<sup>31</sup> See WHO, "WHO COVID-19 Technology Access Pool". Available from <https://www.who.int/initiatives/covid-19-technology-access-pool#:~:text=In%20May%202020%2C%20WHO%20and,products%20by%20boosting%20their%20supply.&text=WHO%20C%2DTAP%20implementing%20partners,UN%20Technology%20Bank%20and%20Unitaid>.

<sup>32</sup> See, e.g., Henrique Zeferino de Menezes, "The TRIPS Waiver Proposal: an Urgent Measure to Expand Access to the COVID-19 Vaccines" Research Paper, No. 129 (Geneva, South Centre, 2021). Available from <https://www.southcentre.int/wp-content/uploads/2021/03/RP-129.pdf>.

<sup>33</sup> Thiru, "62 Co-sponsors of the TRIPS Waiver Issue a Joint Statement on COVID-19", *Knowledge Ecology International*, 18 May 2021. Available from <https://www.keionline.org/36196#:~:text=Knowledge%20Ecology%20International,-62%20co%2Dsponsors%20of%20the%20TRIPS%20waiver%20issue,joint%20statement%20on%20COVID%2D19&text=62%20WTO%20Members%20have%20co,are%20supportive%20of%20the%20proposal>.

manufacturing and supply of vaccines. Vaccine nationalism is, hence, supplemented by an expression of techno-nationalism, a new strain of a mercantilist approach.<sup>34</sup>

## **Conclusion**

The COVID-19 crisis has evidenced the fragility of the multilateral system to address a global health challenge. The capacity of the WHO to act in this and future emergencies needs to be drastically reinforced. The unequal world distribution of COVID-19 vaccines could have been avoided if there was a real will to practice international cooperation and solidarity to rapidly expand their supply through technology sharing and the utilization of suitable manufacturing facilities around the world. A proposed ‘pandemic treaty’<sup>35</sup> may, if adopted with the required provisions, contribute to a global solution in the future, but immediate action is still needed to multilaterally manage the current COVID-19 pandemic in an effective way and protect the population of countries so far marginalized in the access to vaccination.

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<sup>34</sup> Alex Capri, “Techno-Nationalism: What Is It And How Will It Change Global Commerce?”, *Forbes*, 20 December 2019. Available from <https://www.forbes.com/sites/alexcapri/2019/12/20/techno-nationalism-what-is-it-and-how-will-it-change-global-commerce/?sh=34dd197b710f>.

<sup>35</sup> Germán Velásquez and Nirmalya Syam, “A New WHO International Treaty on Pandemic Preparedness and Response: Can It Address the Needs of the Global South?”, Policy Brief, No. 93 (Geneva, South Centre, 2020). Available from <https://www.southcentre.int/wp-content/uploads/2021/05/PB-93-A-New-WHO-International-Treaty-on-Pandemic-Preparedness-and-Response-REV-2.pdf>.