

Equitable access to COVID-19 Vaccine: Voices from International Human Rights Law

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Abstract

COVID-19 pandemic has left the international community in the doldrums. While everyone is trying to live with the pandemic, there is hope that vaccine will lead to normalcy. However, hegemony exists in access to resources (vaccines). In the current setup of trade and commerce the third world countries lack the power to procure the vaccine and bargaining power in diplomatic relations. A brief introduction of the hegemony and the importance of a human rights for analysing the access to vaccines is given in the first segment of this research paper. The hegemony in access to resources along with the New International Economic Order is analysed the second segment of the research paper.

*The vaccines are usually analysed from trade and commerce perspective. Nevertheless, they are also a matter of human right during the times of COVID-19. The objective of this paper is to establish the necessity of the COVID-19 vaccine as human rights, in furtherance of which the third portion of the research paper dwells into human rights treaties like the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights in recognising access to healthcare as a human right. It is supplemented with multiple cases like *Viceconte, Mariela Cecilia v. Argentinian Ministry of Health and Social Welfare*. These treaties and cases have recognised access to vaccination in times of an epidemic as human rights. Further, in the third segment of the paper, the authors analyse the role of the World Health Organisation in ensuring equitable access to the vaccine. The authors contend in the course of the research that the World Health Organisation has developed the 'Health for All' scheme, which was an impressive initiative, but with weak implementation.*

In the fourth segment of the paper, the authors analyse the current situation of access to the vaccine. It is supplemented with the Oxfam Report which elaborates on the unequal access of the vaccine so far. Further, the access of non-citizens like the refugees and stateless people is advanced. Furthermore, it is argued that the World Health Organisation cannot afford to be on the sidelines and need to act hand-in-glove with the States and human rights enforcement agencies.

In the fifth portion of the paper, the authors espouse the need for a new and revised convention in the lines of the New International Economic Order.

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These issues and recommendations are vital, considering our current position, where we need a vaccine more than ever.

1. Introduction

COVID-19 pandemic struck the humankind without any notice, leaving everyone unprepared for the challenge.¹ There is no surgical treatment to cure this virus. The vaccine for the same has been under development for the past few months. The wrath of COVID-19 led the world to a global standstill. In this light, the vaccine for COVID-19 has become a fundamental commodity for every human being. It is believed that when the vaccine develops, then all the problems would be solved.² However, the challenge of access to vaccination is the most visible hurdle towards the solving of COVID-19 difficulties. All States are not equally placed for accessing the vaccine. However, all of them should have equal access to the vaccine since it should be the fundamental human right for everyone. It is the objective of this paper to establish that access to this vaccine is a human right. Someone with just the ‘*abstract nakedness of being human*’³ should have equal access to the vaccine vis-à-vis someone who can buy hundreds of such vaccine. ‘*Abstract nakedness of being human*’ as stated by Arendt means that someone who has lost every other distinguishing quality and is reduced to the status of a mere human, and nothing else. Such a person has no other quality except the fact of being human to appeal to one’s conscience. Before COVID-19, the issue of the vaccine was seen from the prism of *Intellectual Property Rights (IPR)*. However, post-COVID-19, it is pertinent to analyse the access to the vaccine from a human rights perspective since ensuring equitable access is more vital than earning through patenting.

After a wholesome understanding, it is believed that access to any resource or commodity depends on two aspects of power. Firstly, it depends on the power to access raw materials and develop the end-product. It requires the State to have sufficient raw materials, machinery and equipment, human resources and intellectual resources. Particularly in the case of vaccine, an advanced research and development unit is needed too. Secondly, it depends on the power of diplomatic relations. It requires the State to have harmonious diplomatic relations with the States in the previous point (who can make the end-product).

¹ Unnati Sharma, ‘World was unprepared for Covid despite warning signs, says global panel’, *The Print* (New Delhi, 15 September 2020) <<https://theprint.in/world/world-was-unprepared-for-covid-despite-warning-signs-says-global-panel/503263/>> accessed 12 December 2020.

² Sanchita Sharma, ‘Herd immunity unviable, Covid-19 vaccine the only solution’, *Hindustan Times* (New Delhi, 20 September 2020) <<https://www.hindustantimes.com/health/herd-immunity-unviable-covid-19-vaccine-the-only-solution/story-oscIr6O3nERUQgMrf15mhJ.html>> accessed 12 December 2020.

³ Hannah Arendt, *The Origins of Totalitarianism- Chapter 9: The Decline of the Nation-State and the End of the Rights of Man*, (Penguin Books Limited, 2017) 297.