



Georgetown University Law Center
Scholarship @ GEORGETOWN LAW

2021

The battle for COVID-19 vaccines highlights the need for a new global governance mechanism

Anna Mia Ekström

Department of Global Public Health, Karolinska Institutet

Camilla Berggren

Swedish Institute for Global Health Transformation, Royal Swedish Academy of Sciences, Stockholm, Sweden

Göran Tomson

Swedish Institute for Global Health Transformation, Royal Swedish Academy of Sciences, Stockholm, Sweden

Lawrence O. Gostin

*Georgetown University - Law Center - O'Neill Institute for National and Global Health Law,
gostin@law.georgetown.edu*

Peter Friberg

Swedish Institute for Global Health Transformation, Royal Swedish Academy of Sciences, Stockholm, Sweden

See next page for additional authors

This paper can be downloaded free of charge from:


<https://scholarship.law.georgetown.edu/facpub/2367>

<https://ssrn.com/abstract=3808289>

Nature Medicine, Online First, March 11, 2021.

This open-access article is brought to you by the Georgetown Law Library. Posted with permission of the author.

Follow this and additional works at: <https://scholarship.law.georgetown.edu/facpub>

 Part of the [Health Law and Policy Commons](#), and the [International Humanitarian Law Commons](#)

Authors

Anna Mia Ekström, Camilla Berggren, Göran Tomson, Lawrence O. Gostin, Peter Friberg, and Ole Petter Ottersen

The battle for COVID-19 vaccines highlights the need for a new global governance mechanism

To the Editor—Although the rapid development of several vaccines against COVID-19 is an unparalleled scientific accomplishment, one made possible through the collaboration of researchers, industry and funding bodies, the absence of a system that secures equitable access to vaccines has uncovered deep fissures in the global governance systems for health, as noted in a recent *Nature Medicine* Editorial¹.

For example, advance purchase agreements for vaccines against COVID-19 have favored affluent countries, allowing them to secure 150–500% of their predicted needs², while many citizens of low- and middle-income countries (LMICs) will remain unvaccinated until 2024.

Additionally, the power of patent-holders and pharmaceutical companies to place conditions on the use of vaccines prices out access for LMICs, and bilateral purchasing deals are rarely disclosed.

By affording priority on the basis of economic or political power, today's discourse clearly deviates from previous ethical and public-health principles of maximizing lives or life-years saved, and the sentiment that “people's entitlement to lifesaving resources should not depend on nationality”³.

The COVID-19 pandemic has tested wealthy nations' commitments to Agenda 2030 (ref. 4) and to ‘leaving no one behind’ at the same time that it has revealed democratic deficits, institutional rigidity, weak accountability systems, and inadequate policy space that protects health-governance systems from economic goals⁵.

Thus, the as-yet-limited support for the vaccine-sharing and allocation principles of the COVAX initiative⁶ may be a sign not only of a moral catastrophe, to quote the director-general of the World Health Organization (WHO), but also of inadequate global accountability mechanisms that exposes the consequences of commercial determinants of health.

The ongoing battle for scarce vaccines against COVID-19 also highlights the lack of legally binding mechanisms that hold market actors accountable for failing to act for the public good, and the absence of global mechanisms for coordinating the pooling and sharing of resources.

In a recent example, high-income countries blocked an effort to enable

timely, affordable access to products for the ‘prevention, containment or treatment’ of COVID-19, when India and South Africa proposed that the World Trade Organization temporarily suspend Trade Related Aspects of Intellectual Property Rights rules⁷.

Already in 2019, a Lancet Commission recommended increased utilization of legal mechanisms to advance global health through justice systems⁸ and to harness the power of law to promote global health and sustainable development, calling upon governments, the WHO and United Nations organizations to make necessary legal reforms to translate vision into action.

The current crisis is a salient opportunity for strengthening the global response to upcoming pandemics. With the belief that vaccines against COVID-19 are a global common good and that allocation should be based on need, we make the following recommendations.

First, a global legal framework is needed to regulate the commercial determinants of health and to secure universal fair access to essential technologies and vaccine production. This may be financed through existing alliances (such as COVAX, or Gavi, the Vaccine Alliance) or by new G7 or G20 standing funds for vaccine development and allocation⁹. In times of emergency, the World Trade Organization should also grant temporary waivers for Trade Related Aspects of Intellectual Property Rights rules for governments to produce their own vaccines or, if necessary, to exercise compulsory licensing powers for a third party to produce a patented technology. Ideally, perceived legal risk could facilitate the negotiation of purchase transparency, voluntary licensing arrangements and patent sharing while committing the industry to global justice.

Second, to strengthen crisis preparedness⁴ and make the response less blunt and more evidence-based, coordinated and effective, the existing gaps in infrastructure, technology and information must be reduced. The WHO warns that lockdown-induced disruption (e.g., of childhood immunization and essential care) could cause greater death and suffering than COVID-19 itself¹⁰. As LMICs embark on an unprecedented vaccination scale-up, substantial investment is needed

to prevent redistribution of scarce health personnel that further undermines routine immunization. Future plans must have a clear health-systems dimension and must include social mobilization and strategies for fighting vaccine misinformation⁷.

Third, as shown by COVID-19, updated global governance mechanisms are needed that better reflect the contemporary geopolitical order and truly encourage international collaboration across sectors, through political and legal solutions rooted in commitments to justice and shared global responsibility^{5,8}. We call for a 21st-century Bretton Woods-type conference, similar to that of 1944, when states met to improve global economic interaction, secure peace and provide assistance to countries devastated by World War II, which resulted in new global governance structures such as the International Monetary Fund and the World Bank.

Using the dynamics of one acute crisis to build resilience against the next could also serve a greater good in line with the growing notion of the United Nations Security Council that health, poverty mitigation, security and peace are interlinked. □

Anna Mia Ekström¹✉, Camilla Berggren², Göran Tomson^{2,3}, Lawrence O. Gostin⁴, Peter Friberg^{2,5} and Ole Petter Ottersen³

¹Department of Global Public Health, Karolinska Institutet, Stockholm, Sweden. ²Swedish Institute for Global Health Transformation, Royal Swedish Academy of Sciences, Stockholm, Sweden. ³President's Office, Karolinska Institutet, Stockholm, Sweden.

⁴O'Neill Institute for National and Global Health Law, Georgetown University, Washington, DC, USA.

⁵Department of Public Health and Community medicine, Sahlgrenska Academy, Gothenburg University, Gothenburg, Sweden.

✉e-mail: anna.mia.ekstrom@ki.se

Published online: 11 March 2021

<https://doi.org/10.1038/s41591-021-01288-8>

References

1. *Nat. Med.* **27**, 1 (2021).
2. Launch & Scale Speedometer. <https://launchandscalefaster.org/COVID-19> (2021).
3. Emanuel, E. J. et al. *Science* **369**, 1309–1312 (2020).
4. Ottersen, O. P. & Engebretsen, E. *Nat. Med.* **26**, 1672–1673 (2020).
5. Ottersen, O. P. et al. *Lancet* **383**, 630–667 (2014).
6. COVAX. Gavi, the Vaccine Alliance https://www.gavi.org/sites/default/files/covid/covax/COVAX_Principles-COVID-19-Vaccine-Doses-COVAX.pdf (2020).

7. Deutsche Welle. <https://www.dw.com/en/rich-countries-block-india-south-africas-bid-to-ban-covid-vaccine-patents/a-56460175> (2021)
8. Gostin, L. O. et al. *Lancet* **393**, 1857–1910 (2019).
9. Gostin, L.O., Friedman, E.A. & Moon, S. *Foreign Affairs* <https://www.foreignaffairs.com/articles/world/2021-01-19/wealthy-countries-should-share-vaccine-doses-it-too-late> (2021).
10. World Health Organization. <https://www.who.int/news/item/15-07-2020-who-and-unicef-warn-of-a-decline-in-vaccinations-during-covid-19> (2020).

Author contributions

All authors contributed to the writing of this manuscript; A.M.E. drafted the first version and edited the final

version on the basis of feedback from all co-authors; and all authors have seen and approved the submitted version.

Competing interests

The authors declare no competing interests.