

ADVANCE UNEDITED VERSION

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
106th session
11-29 April 2022

Statement 2 (2022)

Statement on the lack of equitable and non-discriminatory access to COVID-19 vaccines

The Committee on the Elimination of Racial Discrimination, meeting in Geneva at its 106th session from 11 to 29 April 2022,

Acting under its Early Warning and Urgent Action Procedure,

Concerned about the devastating disparate impact of the COVID-19 pandemic on individuals and groups vulnerable to racial discrimination as defined in Article 1 of the Convention, in particular persons of African or Asian descent, those belonging to national or ethnic minorities, Roma communities, Indigenous Peoples, non-citizens, living in both global north and south countries;

Concerned further that the disproportionate impact of the pandemic on those groups protected by the Convention in terms of higher levels of morbidity and mortality is in significant part attributed to consequences of the historic racial injustices of slavery and colonialism that remain largely unaccounted for today and the contemporary racially discriminatory effects of structures of inequality and subordination resulting from failures to redress the effects of racism rooted in slavery, colonialism and apartheid;

Acknowledging that failures to redress these injustices have impeded the ability of communities to enjoy fully the right to life, health and health care, and the capacity of States to address entrenched structural inequities which have been exposed and deepened by the pandemic and enduring practices of discrimination and exclusion;

Further concerned that across the globe higher rates of COVID-19 morbidity and mortality have been reported among persons and groups protected under the Convention due to little or no access to vaccines as well as living conditions, with limited or no access to clean water and sanitation facilities, healthcare, medication, medical services, social security and social services;

Reaffirming that States must protect against and mitigate the impact of the pandemic on individuals and groups subject to structural discrimination and disadvantage on the basis of the grounds in the Convention, taking into account the gender-related dimensions of racial discrimination;

Reaffirming further that States have an obligation to ensure equal access to lifesaving healthcare services, including testing, vaccines and medical treatments, which have been key in order to prevent the spread of COVID-19 and reduce fatalities as a consequence of infection with the virus;

Deeply concerned that the vast majority of COVID-19 vaccines have been administered in high- and upper-middle-income countries and that, as of April 2022, only 15.21% of the population of low-income countries has received even one vaccine dose,¹ creating a pattern of unequal distribution within and between countries that replicates slavery and colonial-era racial hierarchies; and which further deepens structural inequalities affecting vulnerable groups protected under the Convention;

Deeply concerned that the pattern of unequal distribution of lifesaving vaccines and COVID-19 technologies between and within countries manifests as a global system privileging those former colonial powers to the detriment of formerly colonised states and descendants of enslaved groups;

Recalling that under established ICERD provisions and practice, States are obligated to eliminate all forms of racial inequities whether they are by purpose or effect, de jure or de facto, and ensure substantive equality without discrimination on the grounds of “race, colour, descent or national or ethnic origin”;

¹ [Global Dashboard for Vaccine Equity - UNDP Data Futures Platform](#)
(last accessed on 25 April 2022).

Noting that most of the vaccines approved are subject to an intellectual property rights regime and that the insufficient supply of vaccines due to unequal global distribution necessitates urgent measures in relation to the intellectual property regime;

Noting also the proposal within the World Trade Organization (WTO) on a temporary waiver on part of the Trade-Related Intellectual Property Rights Agreement (TRIPS) for COVID-19 vaccines and treatment, supported by the Committee on Economic, Social and Cultural Rights² and a number of special procedure mandate holders of the Human Rights Council³, and noting the Report of the United Nations High Commissioner for Human Rights to the Human Rights Council on the human rights implications of the lack of affordable, timely, equitable and universal access and distribution of coronavirus disease (COVID-19) vaccines and the deepening inequalities between States;⁴

Noting that the States parties of Germany, Switzerland, the United Kingdom of Great Britain & Northern Ireland have opposed a request spearheaded by India and South Africa in October 2020 at the WTO to temporarily waive intellectual property protections on healthcare technologies concerning COVID-19 prevention, containment or treatment imposed by the TRIPS Agreement (later revised in May 2021) and in addition, Germany, Switzerland, and the United Kingdom of Great Britain & Northern Ireland have failed to mandate technology transfers by nationally based pharmaceutical companies that insist on guarding their intellectual property monopolies on COVID-19 healthcare technologies;

Noting further that, while the State party of the United States of America has declared support for a narrow vaccines-only waiver, it has failed to use all its available tools, including activating its

² See: “Statement on universal affordable vaccination against coronavirus disease (COVID-19), international cooperation and intellectual property”, 23 April 2021. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/2021/1&Lang=en

³ See: “COVID-19: UN experts urge WTO cooperation on vaccines to protect global public health”, 1 March 2021. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26817&LangID=E; statement by United Nations human rights experts, “Universal access to vaccines is essential for prevention and containment of COVID-19 around the world”, 9 November 2020. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26484&LangID=E; statement by United Nations human rights experts, “States must prioritize health and equality over profits and vaccine hoarding, UN experts say. Omicron and other new variants underline urgency to act”, 29 November 2021. Available at <https://previous.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27875&LangID=E>

⁴ Report A/HRC/49/35. Available at [OHCHR | HRC | 49th regular session of the Human Rights Council: Reports](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27875&LangID=E)

Defense Production Act, to mandate COVID-19 healthcare technology transfers from nationally based pharmaceutical companies;

Recalling its Statement of 7 August 2020 on the “Coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination”,⁵

1. ***Reiterates*** its call on States parties to ensure, including through international cooperation, effective and non-discriminatory access to COVID-19 vaccines and treatment technologies taking into account the situation and needs of groups which are marginalized and subjected to discrimination;
2. ***Reiterates further its call*** on States parties, in particular Germany, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America, to combat the COVID-19 pandemic guided by the principle of international solidarity through international assistance and cooperation, including by supporting the proposal of a comprehensive temporary waiver on the provisions of the TRIPS Agreement, and taking all additional national and multilateral measures that would mitigate the disparate impact of the pandemic and its socioeconomic consequences on groups and minorities protected under the Convention.

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⁵ See “Statement on the Coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination”:
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CERD/SWA/9234&Lang=en