

**AMNESTY  
INTERNATIONAL**



**AMNESTY INTERNATIONAL IRELAND**  
Seán MacBride House,  
48 Fleet Street, Dublin 2, Ireland.

T: +353 1 863 8300  
E: [info@amnesty.ie](mailto:info@amnesty.ie)

F: +353 1 671 9388  
W: [www.amnesty.ie](http://www.amnesty.ie)

Taoiseach Micheál Martin TD,  
Department of the Taoiseach,  
Government Buildings,  
Merrion Street Upper,  
Dublin 2

By Email

24 September 2021

Dear Taoiseach,

**Re: Amnesty International's new report: *A Double Dose of Inequality: Pharma Companies and the Covid-19 Vaccines Crisis***

I write to share with you a copy of a new report from Amnesty International, entitled *A Double Dose of Inequality: Pharma Companies and the COVID-19 Vaccines Crisis*, and to seek a meeting to discuss our findings.

In researching this report, Amnesty International contacted six pharmaceutical companies which have developed COVID-19 vaccines based in Europe and the United States. These are AstraZeneca plc (AstraZeneca), BioNTech Manufacturing GmbH (BioNTech), Johnson & Johnson, Moderna, Inc. (Moderna), Novavax, Inc. (Novavax), and Pfizer, Inc. (Pfizer). Amnesty International wrote to each company, asking them a series of questions related to intellectual property, sharing of technology and know-how, pricing and vaccine allocation. At the time of writing AstraZeneca, Moderna, and Pfizer had replied. The substance of their responses has been incorporated into the report.

The report finds that some pharmaceutical companies are putting profits first. They cannot continue to adopt a business-as-usual approach during a global health emergency when the health and lives of millions are at stake. Their approach – notwithstanding commitments by AstraZeneca and Johnson & Johnson to sell at cost price during the pandemic - have ultimately failed to address the global health crisis, ending up concentrating intellectual property, knowledge, technology, profit and vaccines in the global north, and increasingly turning COVID-19 into a crisis for the Global South.

While much progress has been made in the vaccination of populations in high income countries, we are now witnessing devastation in some poorer countries, where minimal rates of vaccination and escalating infections are leading to the collapse of health systems and tens of thousands of preventable deaths. It is urgent and essential that governments and companies work together to confront this stark reality, scaling up production and promoting the fair distribution of vaccines by removing all possible barriers to a truly global roll-out.

It is in this context that Amnesty International is launching a global campaign calling on

both states and companies to meet their human rights obligations and responsibilities to rapidly scale up the delivery of vaccines to low- and lower-middle income countries, to meet the World Health Organisation's target of vaccinating 40 percent of the population in these countries by the end of the year.

## **100 DAY COUNTDOWN: 2 BILLION VACCINES NOW!**

Global organisations including the World Health Organisation, World Trade Organisation, World Bank and International Monetary Fund have set a target of vaccinating 40 percent of the population of low- and lower-middle income countries by the end of 2021. Yet, with 100 days until the end of the year, less than 10 percent of people in these countries are fully vaccinated, and less than 20 percent of WHO-approved vaccines have been delivered to states that make up half of the world's population.

Meeting this vital goal and reversing the scandal of global vaccine inequality will not be achieved with business as usual. States and companies need a radical shift in practice to deliver two billion vaccines to low and lower-middle income countries in the next 100 days, in order to fully vaccinate an additional 1.2 billion people. Yet it can be done. Over 2.6 billion vaccines could be provided if 50 percent of all production of WHO-approved vaccines between now and the end of the year went to low- and lower-middle income countries, while over 500 million vaccines could be made available immediately if the US, EU, UK, Japan, Canada and China redistributed surplus vaccines currently in their stocks.

As part of the campaign, Amnesty International is also supporting the World Health Organisation's calls for companies to openly share knowledge, technology and intellectual property in order to increase and diversify the supply of vaccines for the months and years to come.

## **THE REPORT**

### Vaccine developers' human rights responsibilities

Pharmaceutical companies, like all businesses, wherever they operate, have a responsibility to respect human rights. This is a widely recognised standard of expected conduct as set out in the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. This means that they should develop and implement policies that aim to make COVID-19 vaccines available, accessible and affordable, removing obstacles and refraining from any action that unduly impacts on states' abilities to make COVID-19 vaccines available to all.

To achieve a fair, rapid roll-out, vaccine developers must suspend their intellectual property rights by either issuing global, open, and non-exclusive licenses or by participating in C-TAP. They must share their knowledge and technology and train qualified manufacturers committed to contribute to the ramp-up of the production of COVID-19 vaccines. They should not seek to use their influence over governments to obstruct measures designed to facilitate intellectual property and technology sharing, such as the proposed TRIPS Waiver.

With regards to pricing, companies must not put their economic interests before their human rights responsibilities; profit must not become an obstacle to states' capacity to ensure access to the vaccine. All companies must prioritise increasing availability of vaccines in poorer regions and countries by devoting a significant share of their 2021

production runs to the COVAX Facility, as well as other initiatives providing vaccines to lower-income countries such as that coordinated by the African Union and sustaining high levels of deliveries into these mechanism throughout 2022. Transparency across all aspects of vaccine development and delivery is vital for optimising supply and ensuring fair vaccine allocation.

Amnesty International is calling on vaccine developers to:

- Deliver 50 percent of their production of COVID-19 vaccines to low- and lower-middle income countries throughout the last 100 days of 2021, preferably through international and regional mechanisms such as COVAX, and ensure that deliveries continue to be equitable throughout 2022 and beyond.
- Pursue vaccine allocation based on human rights considerations, such as the prevalence of the pandemic in a country, the functioning of a country's health care system, vaccination rate and non-discrimination.
- Engage with the purchasers of their COVID-19 vaccines and build in contractual flexibility regarding delivery terms to ensure that those most at risk globally get access to the vaccines in a timely manner, in particular in cases of sudden COVID-19 outbreaks which require urgent responses.
- Share intellectual property by issuing open and non-exclusive licences or participating in C-TAP, and publicly disclosing all terms and conditions.
- Share their codified and tacit knowledge and technology and train qualified manufacturers committed to contribute to the ramp-up and diversification of the production of COVID-19 vaccines by participating in C-TAP and, where applicable, making use of technology transfer hubs established by the WHO.
- Price their vaccine doses so that profit does not constitute an obstacle to access to COVID-19 vaccines. At a minimum, supply vaccines at cost to low- and middle-income countries for at least the duration of the global health emergency.
- Publicly disclose their pricing and allocation policies in a timely and accessible fashion, including the actual costs of production, individual cost items, sources of external funding, prices charged in different countries under what contractual terms and conditions, and information about discounting, donations and advance order guarantees.
- Allow purchasing states to sell or donate any surplus of COVID-19 vaccine doses to other countries, including for donation via NGOs or the WHO, without a prior consent of the vaccine developer or any other obstacle such as indemnity clauses.
- Cease lobbying against initiatives seeking to increase manufacture and supply of COVID-19 vaccines and promote their fair distribution, such as the proposed TRIPS waiver and WHO technology sharing mechanisms.

#### States' human rights obligations regarding access to vaccines

The current structure of the global public health system affords private actors a fundamental role in the development, manufacturing and allocation of medicines. The protection of international intellectual property rights puts manufacturers of medicines in a position of immense power which allows them to decide whether and under what conditions other companies and countries can develop and manufacture life-saving COVID-19 vaccines. Vaccine developers – many extraordinarily profitable – must exercise that power in alignment with their human rights responsibilities.

[Under international human rights law](#), States have the obligation to ensure that COVID-19 vaccines are available, accessible, affordable and of good quality to everyone, without discrimination, irrespective of where they live or their income.

Within the context of COVID-19, the [UN Committee on Economic, Social and Cultural Rights \(CESCR\)](#) has established that states must combat the pandemic in a manner consistent with human rights, which includes extraterritorial obligations to support other states fulfil their duties. As an example, the CESCR has said that states should ensure that no decision or unilateral measure obstructs access to essential goods, such as health equipment. Any measure based on the goal of securing national supply must be proportionate and take into consideration the urgent needs of other countries.

Therefore, states should adopt legislation or other measures to ensure that private actors, including companies, conform with human rights standards when providing health care or other services. States must therefore ensure that vaccine developers' operations extend access to COVID-19 vaccines and do not impede their own and other states' ability to ensure access for all.

States must also ensure that intellectual property rights do not prevent any countries from upholding the right to health. This includes agreeing to a 'waiver' on certain aspects of the TRIPS agreement for the production of COVID-19 health products and supporting C-TAP. States must also assess and make any necessary adjustments to their intellectual property laws, policies and practices to ensure that these do not form a barrier to access to health.

In light of our findings, I welcome the announcement that the Irish government will share at least 1 million doses through COVAX and I urge Ireland and all States to:


- Redistribute all surplus COVID-19 vaccine stocks to low- and lower-middle income countries over the last 100 days of 2021, preferably through international and regional mechanisms such as COVAX, and ensure that vaccine allocation continues to be equitable throughout 2022 and beyond;
- Put measures in place, including legislation, to prevent vaccine developers from impeding access to COVID-19 vaccines;
- Support and resource C-TAP and promote open and non-exclusive licences that include knowledge and technology transfer;
- Respect the spirit of the Doha Declaration on the TRIPS Agreement and Public Health (2001) by supporting initiatives that increase access to COVID-19 health products, such as the waiver to the WTO TRIPS Agreement and making use of the TRIPS flexibilities in a timely fashion;
- Make public funding to companies transparent and conditional on companies sharing intellectual property, knowledge and technology, joining global vaccine supply and technology sharing mechanisms, such as C-TAP, and publicly disclosing disaggregated costs of research, development, production, marketing, distribution and all other relevant data in a timely and accessible fashion;
- Allow contractual flexibility regarding delivery terms to ensure that those most at risk globally get access to the vaccines in a timely manner, in particular where sudden COVID-19 outbreaks require urgent responses;
- Publicly disclose terms and conditions of agreements with vaccine developers, including funding, advance purchasing and purchasing agreements;

- Support efforts to reform intellectual property rights regimes to ensure universal access to essential, life-saving medicines.

Detailed findings and further recommendations can be found in the full report, a copy of which is enclosed.

I would very much welcome a meeting to discuss these in more detail. Please do contact me to arrange a time at your earliest convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Colm O'Gorman', with a stylized flourish at the end.

Colm O'Gorman  
Executive Director

CC: Tánaiste Leo Varadkar TD, Minister for Enterprise, Trade and Employment; Minister Simon Coveney TD, Minister for Foreign Affairs; Minister Stephen Donnelly, Minister of Health; Minister Colm Brophy TD, Minister of State for Overseas Development and Diaspora; Deputy Charles Flanagan TD, Chair, Oireachtas Joint Committee on Foreign Affairs and Defence; Deputy Séan Crowe TD, Chair, Joint Committee on Health; Deputy Maurice Quinlivan TD, Chair, Oireachtas Joint Committee on Enterprise Department of Foreign Affairs, Trade and Employment.