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International Law & Covid-19 Symposium

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INTERNATIONAL LAW & COVID-19 SYMPOSIUM
APRIL 2021
UNIVERSITY OF MIAMI
SCHOOL OF LAW

By Joseph Candelaria,¹ Gita Howard,² Tamar Ezer³

BACKGROUND

The COVID-19 pandemic has sent shock waves through the international community, exposing systemic failures and highlighting injustices. At the same time, it has provided an opening to consider new approaches, including lessons for international law.

On April 12 and 16, 2021, the University of Miami School of Law International and Graduate Law Programs and Human Rights Clinic, in collaboration with the Human Rights Society, Health Law Association, Environmental Law Program, and *University of Miami International and Comparative Law Review* hosted a symposium on the impact of COVID-19 on international law. The **International Law and COVID-19 Symposium** specifically focused on the intersections of COVID-19 with human rights and public health, including state obligations towards vulnerable populations, rights restrictions to protect public health, environmental aspects, reactions by international and regional human rights bodies, and public health responses.

MONDAY, APRIL 12TH

Welcome

Dean Anthony Varona (*M. Minnette Massey Professor of Law, University of Miami School of Law*), welcomed students, staff, alumni, and distinguished guests to the event and expressed his gratitude to

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the organizers, moderators, and panelists of the symposium. Dean Varona remarked that “COVID has impacted all of us personally – from the way we learn, to how we work, buy groceries, attend conferences and symposia like this one, how we parent, and much more. **COVID-19 has revealed cracks in our social fabric – systemic failures – and has brought very serious injustices to light.**” He also highlighted COVID’s tremendous impact on international law, including on human rights and public health, areas of particular focus for the law school. He stressed lawyers’ critical role in addressing the challenges brought on by COVID-19, and Miami Law’s commitment to advocating for human rights at local, national, and international levels.

Next, Professor Bernard H. Oxman (*Richard A. Hausler Professor of Law, University of Miami School of Law*) commented, “**The nature of the symposium’s topic is broad, urgent, and forward looking.**” He expressed his hopes that the symposium would contribute to the understanding of the subject and its many facets. He underscored that although “institutions of governance are comprised of fallible human beings,” the government has a duty to protect us at all levels from danger, including danger to life, health, and economic and social institutions. He noted that conduct normally intolerable in ordinary situations is allowed during emergencies. He prompted the audience to consider the role of express emergency exceptions and express limitations on responsibility. He emphasized, “**The job of lawyers and scholars is to learn how to do a better in dealing with the current pandemic and in helping to avert and manage future crises.**”

Introduction: Building the Legal Framework

Dean Claudio Grossman (*Professor of Law, Dean Emeritus, Raymond I. Geraldson Scholar for International and Humanitarian Law at American University of Washington College of Law; Member, UN International Law Commission*) commented on the widespread impact of COVID-19: **COVID has impacted everyone, but not surprisingly, its burden has fallen most heavily on least developed countries and the most vulnerable.** To address these disparities, “**Current fragmentation in international law needs to give way to harmonization.**” Dean Grossman discussed the lack of a uniform

system to coordinate international efforts. He noted that, with increasing globalization and interdependence, these types of events are likely to occur again in the future, so developing a coordinated response by the international community is imperative.

Dean Grossman stressed the need to enhance the role of international organizations, such as the World Health Organization (WHO). He noted the value of the 2005 International Health Regulations; however, he considers the 2005 IHR insufficient because they do not require States to take all possible actions to prevent health crises or react effectively when they take place. Therefore, strengthening relevant international organizations and their ability to operate in a multilateral framework is essential. In this regard, he pointed to cooperation, transparency, and responsibility as crucial principles. He also addressed the need for capacity building and global assistance so that all States can take preventive measures and prepare for the next global health crisis.

Dean Grossman further remarked on the consequences of failing to create an international legal order that respects human rights: **“COVID-19 is a gigantic wake-up call for all of us. If we fail to create a legal order that protects health, irrespective of economic status, nationality, religion, ethnicity, sexual orientation, and so forth, no one will be protected in the end.”** He concluded, **“We all know that most likely the future occurrence of such catastrophic events is unavoidable. . . . Reacting is not only a question of values, but also a question of valuables. Acting together is imperative, not only based on our common humanity and good intentions, but also based on utilitarian reasons.”**

Panel Discussion: COVID-19 and Human Rights Law

Introduction

In introducing this portion of the symposium, Professor Tamar Ezer (*Acting Director, Human Rights Clinic, University of Miami School of Law*) reflected that the pandemic has had a profound impact on human rights, touching on every human right and highlighting stark structural inequalities. In many cases, failure to realize rights has become a life and death matter with regards to homelessness and domestic violence. At the same time, COVID-19 also presents an

opportunity to consider new approaches and ways to address systemic problems. Over a year since COVID-19 has upended our reality, the time is ripe to take stock and draw lessons. She then laid out that the panelists will discuss specific areas of human rights law that the pandemic affected, urging them to reflect on lessons from the local to the regional to the global.

State Obligations Toward Vulnerable Populations in Light of COVID-19

Professor Ezer first focused on state obligations toward vulnerable population in light of COVID-19 and called on the former United Nations (UN) Special Rapporteur on the Right to Adequate Housing and Global Director of The Shift, Leilani Farha, to discuss the impacts of COVID-19 and responses regarding homelessness and housing. Ms. Farha began by noting that home or housing has been a central response to the pandemic. **“Around the world, home has become a frontline defense against the pandemic.”** Thus, access to housing has a direct bearing on health and many people, largely in racialized and marginalized communities with crowded or insufficient housing, have been hit the hardest. Had States implemented the right to housing initially, then the pandemic would have had a much different impact.

In any case, Ms. Farha remarked, the pandemic itself should have triggered an international human rights response, ending homelessness. **“Homelessness is a prima facie violation of the right to housing. It is further a violation of a right to life with dignity.”** States should have responded with improved housing conditions in informal settlements, strengthened tenant protections, long-term moratoriums on evictions, and recognition of the deep connection between monetary and fiscal policies and people’s housing conditions. While some States have taken positive measures to address the pandemic’s impact on homelessness, they are largely disjointed, and we have not seen a coordinated global response to comply with international human rights obligations. However, Ms. Farha is encouraged by the actions by individuals across the world who have shed light on these issues and who are demanding and claiming their human rights.

Next, Professor Ezer turned to Professor Caroline Bettinger-López (*Professor of Law and Director, Human Rights Clinic, University of Miami School of Law*) to discuss the pandemic's impacts and responses regarding another vulnerable group, domestic violence survivors. Professor Bettinger-López began by noting that, in fact, we are grappling with three concurrent pandemics: the COVID-19 pandemic, the domestic violence pandemic, and the pandemic resulting from racial and social injustice, particularly as these phenomena take shape in the criminal legal context. During times of crises, existing inequalities are exacerbated, leading to disparate health, safety, and social outcomes for low-income, marginalized, and other vulnerable populations, especially domestic violence victims.

Professor Bettinger-López further challenged human rights bodies to broaden their response to domestic violence. Human rights bodies have traditionally attempted to address domestic violence through the "due diligence framework," requiring States to prevent, investigate, punish and provide reparations for acts of violence, which puts emphasis on the state's criminal legal apparatus. However, there is a disconnect between how the framework is being applied and the needs of domestic violence survivors. A study conducted by Miami Law's Human Rights Clinic on the pandemic's effect on domestic violence survivors and providers in South Florida revealed that providers are finding clients less safe than ever before, and that people are more hesitant to engage with the police. Instead, survivors are seeking access to basic necessities, such as housing, transportation, and childcare. Professor Bettinger-López thus suggested that human rights bodies expand the due diligence framework to explore alternatives to criminalization and focus on the realization of survivors' economic and social rights.

Next, Commissioner Antonia Urrejola Noguera (*President, Inter-American Commission on Human Rights*) discussed how Indigenous peoples have been affected by the pandemic. Commissioner Urrejola Noguera related that Indigenous communities in voluntarily isolation, are generally at greater risk from infectious disease through contact, which the pandemic has been amplified. The right to self-determination requires respect for these groups' isolation, which the extractive industry has violated. She further stressed that Indigenous groups are entitled to health care that is culturally

appropriate, including provision of traditional medicine, and that States must collaborate with communities to best meet their needs. As the previous speakers underscored, the pandemic has deepened structural discrimination, including difficulties faced by Indigenous peoples in accessing basic health care and water. Commissioner Noguerra concluded, **"We are now grappling with a triple pandemic, impacting humans, the environment, and the economy."**

Impacts and Responses to COVID-19 and the Environment

Professor Ezer next turned to Professor Nilüfer Oral (*Director, Centre of International Law, National University of Singapore; Law Faculty, Istanbul Bilgi University; Member, UN International Law Commission*), to deepen the discussion on the environment and COVID-19, which she described as a "global calamity." Professor Oral pointed to the human right to a healthy environment, enshrined in the Stockholm Declaration. She explained that scientists have warned of the harms of human interference in our ecological systems, leading to a loss in biodiversity. Deforestation and human encroachment into animal habitats increase intermingling, leading to the transfer of 3-4 new diseases from animals to humans per year. Moreover, environmental degradation has worsened the impact of the pandemic through pollution, which weakens people's lungs and respiratory systems. Professor Oral echoed Dean Grossman's description of a fragmented response to COVID, while also noting that moments of crisis could be moments of opportunity. She advocated for the creation of a single institution responsible for global wildlife health and diseases, as these issues will continue to occur.

Rights Restrictions in the Name of Protecting Health

To discuss rights restrictions to protect public health, Professor Ezer turned to Professor Charles Jalloh (*Professor of Law, Florida International University College of Law; Member, UN International Law Commission*). Professor Jalloh endorsed Professor Oral's point about turning moments of crisis into moments of opportunity, advocating for development of a new cooperative framework between States, and a new global treaty on pandemics. While international human rights conventions allow countries to restrict or suspend certain individual

rights times of crisis, countries may not disregard human rights completely. For example, Article 4 of the International Covenant on Civil and Political Rights (ICCPR) permits States Parties to derogate from the ICCPR so long as the derogation is for a “public emergency that threatens the life of the nation.” Additionally, although national including Constitutional laws also regulate public emergencies and may be relevant, from the perspective of international law, States must calibrate responses to the threat with which they are dealing. Any limitations and derogations must be temporary, in good faith, necessary, and applied in a nondiscriminatory fashion. As part of this, if a State wishes to avail itself of permissible derogations under the ICCPR, it is procedurally required to notify other States Parties through the Secretary-General of the United Nations (as treaty depository) specifying the derogation and the reasons for the derogation with the further duty to notify when the derogation is terminated. The record of state compliance with this procedural requirement is not encouraging. Significantly as well, countries may not limit or derogate from the fundamental right to equality or the right to life or to be free of torture or freedom of thought or religion. Indeed, under Article 4 of the ICCPR, even in times of public emergency, a State cannot derogate from these fundamental rights enshrined in articles 6, 7, 8, 11, 15, 16, and 18 of the ICCPR. Despite the existence of these rights, some States have been accused of violating them, for example, the right to life in the context of enforcement of COVID-19 restrictions. In addition, across the world, COVID-19 has disproportionately affected women, children, racial and other minorities, effectively the same groups that have also borne the brunt of the disease, as Ms. Farha, Professor Bettinger-López, and Commissioner Noguera highlighted. Prof. Jalloh urged the international community to “create the framework of legality in terms of dealing with the gaps we have seen in the diverse areas of international law,” using the lack of institutional organizations available to address environmental issues noted by Prof. Oral as an example.

Responses to COVID-19 by the United States Supreme Court

Further with regards to the balancing of rights and public health concerns, Professor Ezer turned to Professor Madeleine Plasencia (*Visiting Professor of Law, University of Miami School of Law*) to discuss responses by the United States (U.S.) Supreme Court. Professor Plasencia noted that during the pandemic, businesses, schools, and other covered entities have had to navigate three categories of people congregating: people who behave as they normally would, people who have medical conditions that make them at high risk of complications from COVID-19, and people who have already contracted COVID-19 and are experiencing symptoms or have recovered. Because pandemics “threaten the ties that bind communities together,” previous jurisprudence developed to address the AIDS epidemic protected the second and third groups against the first. However, now the Supreme Court is concerned with discrimination against people in the first group, who would like to proceed as usual, rather than protecting the vulnerable people in the other two categories. Justice Elena Kagan stated that “public health decisions should be made by health experts based on scientific evidence,” and that instead the Court’s current trend “defies the factual record.” Now, instead of continuing “the long history of state regulation in the area of contagious diseases” to protect vulnerable groups, a majority of the Court is now engaged in “defying the record, not making COVID-19 the basis for a new disability protection jurisprudence, but rather a new contagion non containment jurisprudence.”

The Role of International and Regional Human Rights Bodies

Professor Ezer asked the speakers to reflect on the role of international and regional bodies in response to the impacts of COVID-19. Commissioner Urrejola Noguera remarked that international organizations are “absolutely crucial” in the face of novel challenges that the pandemic brings to States and the entire world. From the perspective of the Inter-American Commission on Human Rights, she stated that international human rights organizations need to try to on the one hand to understand the challenges that States are

facing, while also reminding States of the human rights framework that they must operate within. She noted that the Inter-American commission has offered guidance through recommendations to States and private enterprises, a resolution on the pandemic and human rights, and resolutions on vaccine distribution and intellectual property.

With regards to the international human rights system, Ms. Farha echoed Professor Grossman that the pandemic has affected “every area of international law,” requiring a response by the various international bodies. However, because these responses were disjointed, she endorsed Professor Jalloh’s call for a new, cooperative international legal framework. Nationally, Ms. Farha called for governments to “get on board and start recognizing the human rights dimensions and implications” of the pandemic.

Professor Jalloh then noted that the pandemic has been a “multifaceted problem and unprecedented crisis,” generating a response by States, regional bodies, and international institutions, which is hopeful. Professor Jalloh also highlighted the link between the “global stress we are placing on the environment and human existence,” requiring immediate action. He found it encouraging that the UN General Assembly has called on all UN organs and all States to think about what we can do to be better prepared to address the next crisis. This requires strong international frameworks, as well as support for the WHO, which has responded under very difficult circumstances. Yet, the deepening of cooperation and clarification of international law also will potentially implicate the work of other bodies such as the International Law Commission where he and several of the panelists had the immense privilege to serve. The Commission, which has the mandate to assist the UN General Assembly with the promotion of the codification and progressive development of international law, could address the systemic aspects of pandemic that are not regulated under the WHO’s specialized regime principally set out in the 2005 International Health Regulations. Lastly, Professor Jalloh echoed Ms. Farha’s sentiments that “no matter what we create or what legal framework we put up, if the States do not follow through with their obligations and change their mindset, then we will end up in the same position.” Dating back to World Wars I and II, catastrophes also create opportunities for collaboration and

organizations to respond. While he hopes that the current pandemic will lead a better legal framework, he is especially looking for States to “fulfil their obligations to human beings.”

In response to a question about how the international human rights law community should deal with global capitalism, deforestation, and homelessness, Professor Oral recognized, **“Consumer demand and our over exploitation and use of natural resources is a pandemic itself.”** She further lamented, “We have so many international instruments and institutions in place, but what we seem to be lacking at the national levels is some kind of adequate political will, and if the pandemic does not do it, I’m not sure what will.” She then stated that we need to reexamine our institutions and ensure that the necessary cooperation and solidarity are present internationally. She concluded, “We may not be able to end global capitalism, but we can change our behaviors.” Accordingly, maybe the pandemic will shift people’s attention and efforts towards environmental and human rights concerns.

Recovery from COVID-19

Professor Ezer invited the panelists to share reflections on important considerations for recovery from COVID-19. Professor Plasencia raised the need to address the effect of COVID-19 on another vulnerable group, people with disabilities. During the pandemic, people with disabilities have been at higher risk of infection, as well as disproportionately impacted by institutional barriers that are “reproduced and exacerbated in the COVID-19 response,” including greater susceptibility to the negative effects of COVID-19 and increasing isolation by dependence on others for support during the lockdown. Institutions that are supposed to help them are overwhelmed. Professor Plasencia further highlighted that women with disabilities face higher rates of domestic and sexual violence and noted the disproportionate impact of the pandemic on prisoners with disabilities and persons with disabilities without adequate housing. For a recovery from COVID-19, it is imperative to address these issues.

Closing

To close, Professor Bettinger-López underscored the “importance of having an intersectional approach that the entire panel embodies” to address the multiple dimensions of the pandemic and its impact on international law. Going forward, “regardless of whether it be through the direction of development of a new treaty or using existing mechanisms, one must take a multidimensional and interdependent approach.”

Professor Ezer then thanked the panelists for their insightful remarks, highlighting critical issues, and Miami Law staff for smoothly overseeing the logistics. She encouraged participants to stay tuned for a special symposium issue of the *University of Miami International and Comparative Law Review*, deepening analysis of the various topics discussed.

FRIDAY, APRIL 16TH

Introductory Remarks

Professor JoNel Newman (*Professor of Clinical Legal Education and Director, Health Rights Clinic, University of Miami School of Law*) welcomed participants. She referred to the previous symposium session, noting that it challenged us to draw lessons from the COVID-19 pandemic to address systemic gaps and be more prepared for the next global crisis, which is “a when, not if situation.” She further linked the previous panel focused on human rights with the current panel focused on public health, indicating that respect for human rights is also good public health policy and in line with evidence-based care.

*Panel Discussion: COVID-19 and Public Health Law**Introduction*

Professor Gabriel Scheffler (*Associate Professor of Law, University of Miami School of Law*) welcomed and thanked everyone for joining. He stated that COVID-19 has had numerous intersections with public health with both domestic and international implications. However, “one important through-line” is the need for an equitable to

response. **“The pandemic has both reflected and exacerbated existing inequalities with respect to its health and economic disparities.”** He noted that some legal and policy responses have addressed inequities, while others have further compounded them.

Gender and the COVID-19 Pandemic

Professor Aziza Ahmed (*Professor of Law, Northeastern University School of Law*) discussed gender as it relates to COVID-19, as well as pandemics more generally. First, she pointed to the need to account for intersecting discrimination and disaggregating data by both gender and race. While data shows fewer women than men dying from COVID, further disaggregation by race reveals that Black women are dying more than any group of men, underscoring the importance of understanding the interaction between gender and multiple identities shaping health.

Second, Professor Ahmed explained how gender impacts the ability to mitigate the risk of contracting COVID. She stated that women’s greater involvement in care work leaves them particularly exposed and unable to mitigate personal risk. She also noted that social and political components of minority status can play a role in contracting COVID. For instance, minorities in industrialized countries are more likely to live in intergenerational and joint households, where social distancing is not as effective. Women who are migrants or incarcerated face additional COVID risks, including discrimination in health care. With respect to material and distributional effects, Professor Ahmed remarked that the resounding impact of COVID on women and girls includes increased poverty, with women more likely than men to lose employment, food insecurity, and gender-based violence.

Professor Ahmed then proposed recommendations for the way forward, including focusing on structural drivers of pandemics to mitigate risk, paying attention to and attributing importance to care work, pushing for further disaggregation of COVID data beyond sex, and ensuring an inclusive gender perspective on the COVID crisis. She recommended, **“Listen to social movements, feminists, racial justice advocates, and migrants that are calling for a different way of responding to the pandemic.”**

The Domestic Public Health Response to COVID-19

Emely Sanchez (MPH, JD Candidate, Health Law Association President, University of Miami) addressed the domestic public health system and its response to the pandemic. Ms. Sanchez noted that the public health infrastructure, including its workforce, is severely underfunded with a gap of \$4.5 million. While funding to public health departments is given to address emergency outbreaks, it is later reappropriated with a change in legislative priorities. Adequate infrastructure, however, requires continuous funding.

Ms. Sanchez next discussed the need for public health and policy analysis and strategic communication skills to strengthen the public health workforce. Public health professionals need to understand the policy process and engage with the various levels of public authority. She said, **“The pandemic has shown that public health professionals need the ability to understand, use, and explain public health law and policy, and this needs to be an ongoing part of their training and development.”** Persuasive communication is further critical to the public’s understanding of public health law and policy and building public trust.

Ms. Sanchez also highlighted the need for technology and data collection. She noted that one of the largest areas of growth during the pandemic has been the reliance on technology. She explained that the lack of data modernization has led to a lot of backlog and delay, with local and state health departments still relying on paper methods. Furthermore, she underscored that public health’s lack of data infrastructure to connect with government agencies can lead to a greater loss of life. She noted the Center for Disease Control and Prevention (CDC)’s proposal to improve data modernization and bring together state, tribal, local, and territorial partners to increase public health surveillance and the exchange of data. The CDC is further launching a cloud-based system that will connect with hospital laboratory and public health department data, aiming to detect the next outbreak or potential pandemic.

Lastly, Ms. Sanchez discussed the need for increased data to tackle structural inequities highlighted by the pandemic. COVID-19 has had a disparate impact on people of color, leading to greater rates of hospitalization and death. In fact, in 2020 States and localities began

to declare racism a public health crisis. We need data disaggregated by race and ethnicity to address and prevent these disparities. One positive development is that in 2020, the CDC updated its ten essential public health services to put equity at the center. Ms. Sanchez urged, **“Public health can be used as a tool for social justice to create inclusive health policy to address persistent structural health disparities.”**

COVID-19 and the Need for Global Health Infrastructure

Eric A. Friedman (*Global Health Justice Scholar, O’Neill Institute for National & Global Health Law, Georgetown University Law Center*) focused on how improved global governance is needed to prevent or mitigate pandemics and other health emergencies in the future. Mr. Friedman remarked that **“COVID-19 provides an opportunity to build back better, with human rights at the core of a transformed global governance for health.”** He explained, **“Trust is an absolutely vital asset to global health security.”** He stated that such trust would lead to greater tolerance of behavioral or social interventions like social distancing, mask wearing, and vaccine uptake. Building this trust requires addressing social determinants underlying inequities, access to universal health care, and adherence to the principles of accountability, participation, and equality.

Mr. Friedman first discussed the need for a Framework Convention on Global Health (FCGH). This is a proposed global treaty with the mission of increased accountability for implementing the right to health, aimed at global and domestic health equity. The proposed treaty seeks to implement the key human rights principles of accountability, participation, and equality, would provide resources to realize the right to health, and would operate across all actors and sectors, and from the local to the global levels. The framework would thus bring “unique powers to set strong norms in addition to being legally binding.” Additionally, it would empower health advocates and create opportunities for judicial enforcement.

Additionally, Mr. Friedman discussed Health Equity Programs of Action, national roadmaps towards health equity. These programs could be actualized through national health plans and development strategies, and would follow seven principles: (1)

participation and inclusive leadership; (2) maximizing health equity; (3) addressing social determinants of health; (4) addressing each population experiencing health inequities (recognizing that particular groups have distinct needs); (5) actions, targets, and timelines; (6) comprehensive accountability; and (7) sustained high-level political commitments. Moreover, the plans should provide specific actions, targets, and timelines and sustain a high-level political commitment.

Finally, Mr. Friedman proposed a new global funding mechanism, the Right to Health Capacity Fund. The mechanism would advance the right to health principles of equality, accountability, and participation through funding civil society advocacy, as well as mechanisms for health accountability and participation. Specific funding activities could include support for policy analysis, right to health education, strategic litigation, and participatory budgeting and health monitoring. The mechanism would further be governed by a board, including representatives of civil society, as well as foundations, governments, and international institutions.

COVID-19 and Vaccine Justice

Jonathan Cohen (*Program Director, Public Health Program, Open Society Foundations*) shared a framework for vaccine justice. Mr. Cohen highlighted, "Since the pandemic began, it was clear that the development of COVID-19 vaccines, diagnostics, and therapeutics would be a major site of struggle for human rights, equity, and access in health care." Barriers to realization of the right to health include hoarding and export restrictions on personal protective equipment and testing, the bulk pre-purchasing of not yet approved vaccines by wealthy countries, and the reliance on traditional aid models to distribute vaccines to low- and middle-income countries. Now that safe and effective vaccines have been developed, the situation is even worse than imagined, with 110 countries that have not received vaccines. At this rate, more than 85 countries will not have access to COVID vaccines before 2023.

Mr. Cohen emphasized the importance of amplifying and broadening the international human rights framework to tackle structural injustice in both theory and practice. In theory, human rights are rooted in inherent dignity and freedom of all people and may

require concepts of justice to be capable of addressing historical oppression, dispossession, and exploitation of people built into existing structures. Therefore, in practice, human rights action supplemented by theories of justice must broaden its focus beyond specific violations, directing efforts at radical and transformative change of systems. The impact of COVID and resources available to respond are vastly inequitable across race, gender, socioeconomic status, and income levels of individuals and countries. The current framework prioritizes White people in the Global North, perpetuating the racist myth that the vaccine will go to waste in poorer countries.

To address these disparities, Mr. Cohen described the People's Vaccine Campaign that coalesced months before the vaccine was approved. The campaign represents a growing movement of health and humanitarian organizations, past and present world leaders, health experts, faith leaders, and economists, urging that vaccines be rapidly developed at scale for all people in all countries, free of charge. **"Vaccine Justice rejects the myth of scarcity—the false idea that there are not enough vaccines to go around. Instead, it calls for structural changes that unleash the capacity of low- and middle-income countries to develop and manufacture for themselves."**

Mr. Cohen further underscored, **"Vaccines alone do not save lives. Rather, we need vaccine programs delivered in comprehensive health systems and holistic community services."** He outlined three specific areas that vaccine justice requires addressing. First, development and manufacturing of vaccines needs to diversify and expand to the Global South. Second, vaccine financing and distribution needs to shift from a charity model providing aid to a model of mutual resources and shared goods. Lastly, vaccine delivery and uptake need to target structural barriers faced by historically marginalized groups. These proposed approaches address the root causes of the vaccine inequity we witness today. In describing the difference between the current and proposed systems, he noted, "It is quite obvious which of the two systems amounts to pandemic profiteering versus which one amounts to an actual pandemic response."

Legal and Policy Steps to Respond to COVID-19

Professor Scheffler then asked the panelists what they think are the most important legal and policy steps that have been taken or should be taken to respond to COVID in an equitable fashion. Ms. Sanchez responded that the passage of legislation to increase funding to public health infrastructure, stressing that the funding must be continuous. Second, she suggested that state and local health departments must have community-based health workers on the ground that are culturally competent and understand the needs of local communities, including low income and rural communities. Lastly, Ms. Sanchez stressed that representation within the public health system is extremely important.

Mr. Friedman suggested fully funding COVAX and the ACT Accelerator, which are mechanisms for the sharing of vaccines. He also called for a more equitable distribution of diagnostics and therapies and an infusion of funding for countries where poverty and food insecurity are soaring. Specific to the U.S., President Biden has put substantial effort into targeting low-income communities and communities of color for vaccines and COVID interventions. Mr. Friedman further noted that the approach of turning asylum seekers back during the pandemic is harmful to public health and is causing egregious harm to some of the most vulnerable individuals. It is thus important for countries to provide asylum to refugees in accordance with international law.

Mr. Cohen called for increasing pressure on member States of the World Trade Organization (WTO) to waive the Agreement on Trade Related Intellectual Property (TRIPS) for the COVID-19 Pandemic. He explained that the TRIPS agreement, as a condition of being a member of WTO, makes countries jump through various hoops to make medicines available in a pandemic. Such restrictions are aimed to reduce the kind of competition necessary to lower driving prices. Countries declaring a public health emergency risk sanctions by wealthy countries who face pressure from pharmaceutical companies and highly paid lobbyists. While waiving the TRIPS agreement is not a perfect solution, it is a profound and important act of global solidarity with middle- and low-income countries.

Mr. Cohen further made the point that while COVAX is incredibly important, it also has certain limitations. It does not go past the charity model, only targets 20-30% of the vaccine need in countries and includes liability waivers that countries are forced to sign in case of adverse impacts of the vaccine.

Vaccines and Travel Restrictions

Responding to an audience question regarding travel restrictions depending on the type of vaccine, Mr. Cohen explained that it is likely that there will be a standard WHO list of approved vaccines. He further expects WHO to issue a vaccination card for international travel.

Gender Inequality in the Care Sector

In response to an audience question regarding addressing gender inequality in the care sector, Ms. Sanchez suggested public-private partnerships and incentives to diversify and create gender parity in the workforce with funding as an important policy intervention. She stressed the importance of incentives for parental leave and highlighted the need for representation within the health sector. Moreover, it is crucial to ensure that women and girls have the opportunity to take jobs where they can ascend and take on leadership positions.

Mr. Friedman highlighted that President Biden's infrastructure package includes well-paying jobs in the care sector. Mr. Cohen affirmed Mr. Friedman's comment that care is infrastructure. Additionally, he noted that advocates have been calling for care throughout a person's life course, including childcare, family care, and long-term care, to be integrated into our safety net. The infrastructure bill takes us a step towards that, and there are also proposals by the Campaign for Universal Family Care. Mr. Cohen further echoed Professor Ahmed's point about seizing on the transformational opportunity of the pandemic to extend temporary safety net provisions and ease the burden of remote work and isolation.

Closing Reflections

Professor Caroline Bradley (*Professor of Law, Dean's Distinguished Scholar, Associate Dean for International and Graduate Programs, University of Miami School of Law*) closed out the symposium, expressing her pleasure in having International and Graduate Programs sponsor the symposium with the Human Rights Clinic, Human Rights Society, Health Law Association, Environmental Law Program, and *University of Miami International and Comparative Law Review*. She expressed gratitude to Dean Grossman for helping with the symposium's development and thanked the various symposium speakers, Annette Hughes and Ryan Erickson for overseeing the logistics, and the students working to publish papers from the symposium discussions. She especially thanked Professor Tamar Ezer for her work organizing the symposium.

Professor Bradley reflected that the complex issues raised by the pandemic relate to numerous issues of international law. COVID has disrupted all aspects of life and highlighted persistent structural inequities, exacerbating poverty, food insecurity, and domestic violence. Moreover, it has led to increasing debt for less wealthy countries and increased inequality within and between countries. She concluded, **"The University of Miami School of Law will continue to be actively involved in addressing these issues as part of our longstanding and continuing commitment to the study of international law and policy within our hemisphere and beyond."**

RESOURCES

Symposium Materials

- Website: <https://www.law.miami.edu/academics/clinics/human-rights-clinic/international-law-covid19-symposium>
- Speaker Biographies: <https://miami.app.box.com/s/p0gu9tk9nv0j45aknnhdxgfsscdataoo>
- Day 1 Recording: <https://echo360.org/media/122fa347-f362-48d5-a9ec-df08c5962ea3/public>
- Day 2 Recording: <https://echo360.org/media/db885b6e-4969-45c2-84a4-97fa13e59a34/public>

Public Health Resources

- Framework Convention on Global Health Alliance: <http://foghalliance.org/>
- Health Equity Programs of Action: <https://oneill.law.georgetown.edu/projects/tuberculosis-law-and-human-rights-project/health-equity-programs-of-action/>
- Right to Health Capacity Fund: <https://www.hhrjournal.org/2020/05/global-health-in-the-age-of-covid-19-responsive-health-systems-through-a-right-to-health-fund/>

Housing Resources

- Right to Housing Factsheet: <https://miami.app.box.com/s/7i1w7myiz27qc1yuiwohrscaopl1rbq2>
- Addressing the Impact of COVID-19 on People Experiencing Homelessness: <https://miami.app.box.com/s/neb02gohomjcu zdmya3ivvuxl7dj4edf>
- A Racial Justice Response to Homelessness: <https://miami.app.box.com/s/p3b5g6xoaw05lbcxnf bou6fx557c5krw>
- Addressing the Impact of Homelessness on Women: <https://miami.box.com/s/h7csvo69hy8rbhd94j31v0l9f1j5l3pg>
- Addressing the Impact of Homelessness on the LGBTQ Community: <https://miami.box.com/s/6ajyu7b7mt7g59ckoe0onho02jzokf8l>
- Model emergency legislation to protect the right to housing in light of the COVID-19 pandemic and the resulting economic crisis and an accompanying briefing paper.