

# An Analysis of the Resolution 1/2021 of the Inter-American Commission on Human Rights



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## Paving the Way for Equitable Access to Vaccination

The global and regional distribution of COVID-19 vaccines has become one of the biggest geopolitical issues in the fight against the pandemic. On April 7, the Inter-American Commission on Human Rights (IACHR) published its [Resolution 1/2021](#) “COVID-19 Vaccines and Inter-American Human Rights Obligations.” As it looks back on more than one year of health crisis and its multiple effects over all spheres of life, the Resolution addresses the urgency of ensuring rapid immunization throughout the Americas.

In this text, we argue that the IACHR’s Resolution not only clarifies the States’ duty to protect public health by developing an Inter-American legal standard for equitable access to vaccines; but it also recognizes vaccines as a global and regional public good. This important recognition gives incentives to revisiting the structural inequalities the pandemic exacerbated at both the national and global levels.

### Current challenges in vaccination allocation

In Latin America, the impact of the COVID-19 pandemic has profoundly deepened preexisting inequalities and poverty while fostering the vulnerability of historically underprivileged groups. At the same time, a glimpse of hope has emerged from the development of several vaccines worldwide and [joint efforts for their distribution](#). The issue of distribution is particularly relevant for the Latin American and the Caribbean context, considering that the [vast majority of countries](#) in the region “lack the scientific and industrial capacities and rely heavily on both vaccine and various other medical supplies imports”. However, while there is a shared awareness that “No one Is Safe Until Everyone Is Safe”, the global landscape of vaccine allocation witnesses two [antagonistic trends](#): the renewal of nationalism through [priority access strategies](#), on the one hand, and [discrepancies between low- and middle-income countries](#), on the other.

Hence, striving for equity in vaccination strategies raises a challenge at the intersection between national level inequalities and discrepancies in the regional and global spheres. In this context, international law plays a crucial role as it enables global and equitable access to COVID-19 vaccines. International law not only establishes obligations for states to guarantee the equal enjoyment of the right to health and the

right to life. It might even set standards for the right to health within the political order, as a [ruling](#) by the European Court of Human Rights (ECHR) of April 8, 2021, demonstrates: vaccinations should also be considered in terms of their contribution to a democratic society, particularly considering [social solidarity](#) for safeguarding the right of health for all. Finally, international law plays a crucial role in bringing particularly vulnerable groups to light when governments define priorities in their national strategies.

Against this context, the Resolution 1/2021 of the Inter-American Commission sets forth an international human rights law and equity approach as an answer to the pandemic.

## **IACHR-Resolution 1/2021 and its recommendations**

The IACHR is a principal and autonomous organ of the Organisation of American States (OAS), and – next to the Inter-American Court of Human Rights (IACtHR) – an institution of the Inter-American System for the protection of human rights (ISHR). A central function of the Commission lies in its recommendations to the OAS Member States for adopting measures that contribute to the [protection of human rights](#) in the countries of the continent. From a strict reading, the Commission's decisions are not binding jurisdictional decisions. However, according to Art. 2 of the Convention, states are responsible and obliged to [adapt their normative provisions to the inter-American order](#). The Commission hence has [set up](#) both “functions which go beyond jurisdiction over individual petitions” and “procedures to enhance implementation”. Finally, this matter has been received distinctly in different countries of the regions; while some reject a binding function of the Commission's decisions, others have actively manifested their subjection to it. Within an ample discourse between practitioners and academia, a [transformative mandate of the Inter-American Human Rights System and the Commission](#) is recognized as well as the consideration that the realization of human rights goes [beyond jurisdictional decisions and compliance](#) to the latter. In this sense, the Commission and the Court act jointly to create human rights standards for the region.

The Resolution 1/2021 was prepared by the Commissions' Coordination and Timely Integrated Response Room to the COVID-19 pandemic crisis (SACROI COVID-19), under the auspices of the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA) and with the support of the Office of the Special Rapporteur for Freedom of Expression (RELE). It hence reflects the continuous efforts of the IACHR to respond to the pandemic by developing a holistic human rights approach, as it has been demonstrated with the adoption of [Resolution 1/2020](#) “Pandemic and Human Rights in the Americas” and [Resolution 4/2020](#) “Human Rights of Persons with COVID-19”.

The main objective of Resolution 1/2021 is to clarify States' international human rights obligations regarding decisions on vaccination and health policies. Hence, the Resolution is especially helpful in protecting and promoting the rights to health and life. Guided by the principles of equality and non-discrimination, human dignity, informed consent, transparency, access to information, cooperation, and international solidarity, the Resolution offers a range of valuable recommendations.

The present text focuses on the following:

### ***Distribution and prioritization of vaccine doses***

The IACHR highlights the importance of prioritizing vulnerable groups (including older persons and

persons deprived of liberty) if there is a shortage in vaccines. In this context, the Report recommends that countries adopt a human rights and equity approach in elaborating their vaccination plans, “based on i) the best scientific evidence available; ii) applicable national and international human rights law; iii) applicable bioethics principles; and iv) criteria developed through an interdisciplinary exchange”.

### ***Active dissemination of adequate and sufficient information on the vaccines and combating disinformation***

The ultimate goal, herd immunity and protection for everybody, can only be reached if a high enough number of persons is vaccinated. The main challenge on the long run hence will be to inoculate sufficient doses. That is why the IACHR encourages its members to carry out information campaigns about the vaccines and their advantages and to put special efforts in reaching out to indigenous peoples; to collaborate with them and to respect their cultural characteristics.

### ***Right to access to information, transparency, and combat against corruption***

Information is perceived as a critical factor in monitoring and controlling the distribution of vaccines and, at the same time, fighting corruption. Any limitation on the access to information must hence be compatible with the American Convention. In its Resolution, the IACHR has established a tripartite proportionality test. This test establishes that restrictions “must i) pursue one of the legitimate objectives that justify them; ii) demonstrate that the disclosure of information effectively threatens to cause substantial harm to that legitimate objective; and iii) demonstrate that the harm to the objective outweighs the public’s interest in having the information.”

### ***Business and human rights as regards the COVID-19 vaccines***

The IACHR calls the States to monitor pharmaceutical firms to ensure transparency in their business processes whereas making sure these companies also consider the fundamental Inter-American standards on business and human rights. The Resolution also reminds the States of their responsibility to regulate, supervise, prevent, or investigate companies whose actions may affect the realization of human rights beyond their borders. It also points out that national and international intellectual property regimes must cease as they contravene equal global coverage of vaccination and pose an obstacle to producing safe and effective vaccines.

### ***International cooperation***

Besides cooperating with pharmaceutical companies, the Resolution also encourages the interstate exchange of information to advance an efficient and human rights-oriented vaccination plan. This includes the exchange of knowledge about the virus and successful strategies in public policy. Therefore, the IACHR requests the international community to strengthen both global initiatives for vaccine development and equal allocation. It also reminds International Community and OAS Member States to “design, finance, and establish effective frameworks for international cooperation”. Consequently, the overall goal must be to promote organizational structures that enhance compliance by States with the objectives set forth in Resolution 1/2021.

## **A call for an international human rights law and equity**

## approach in answering to the pandemic

Only the equitable access to vaccines, tests and treatments can overcome the pandemic. The Inter-American Commission's Resolution, too, highlights that "equity must be a key component, not only among countries but within countries, in order to put an end to the severe phase of this pandemic". It hence reinforces what the World Health Organization (WHO) Strategic Advisory Group of Experts on Immunization (SAGE) has put forward in its [values framework for the allocation and prioritization of COVID-19 vaccination](#). Accordingly, vaccines, technologies, and treatments developed to address COVID-19 must be considered global and regional public health goods. "States must (...) avoid health nationalism in the context of the pandemic by promoting actions that enable them to eliminate obstacles to acquiring supplies, medical technology, and vaccines, obstacles that prevent access by middle- and low-income countries and by—in particular—persons living in poverty and extreme poverty". This is the clear message of the Resolution.

The pandemic, as a result and mirror of the dynamics of the globalized world, but also of profound inequalities, needs to be controlled in a global effort with "differentiated, intersectional and intercultural approaches", in accordance with resolution 1/2021. The IACHR, in sum, reflects on what academia has introduced as [differentiated schemes of distributive justice](#). It reminds us of the urgency of achieving public policies under international human rights law, especially for populations in situations of greater vulnerability or historical discrimination.

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