

People's Resolution: A Roadmap to Protect the Right to Life in a Failed Multilateral Order

We, as members of communities, civil society and activists affected by epidemics, call for a plan of action to end the politics of death, structural violence and racism that increasingly put health technologies out of reach for people who need them. We are strongly affirming that health technologies are not commodities and that we are people, not markets, We:

PP1. Recognize the right to health and access to health technologies as basic human rights, and acknowledge that, for years, underfunded civil society members and their organizations have engaged in policymaking and legal battles to uphold these rights – in the absence of adequate action by governments and multilateral institutions, and in response to the greed of pharmaceutical companies;

PP2. Recognize that the right to health and the right to life are under serious threat, as are democratic spaces and sustainable funding for the effective participation of civil society in an increasingly fragmented, privatized global health governance;

PP3. Recognize that the World Health Organization has estimated that Covid-19 caused 14.1 million excess deaths between January 2020 and December 2021,¹ and has declared that the inequitable distribution of Covid-19 vaccines and therapeutics is a moral failure;

PP4. Recall that an estimated 10 million people died unnecessarily of HIV/AIDS between 1996 and 2003, when effective antiretroviral treatment regimens were already available in rich countries, because pharmaceutical monopolies and cartels kept them from the most affected communities in the developing world;

PP5. Recall that between 2014 and 2017, more people acquired the hepatitis C virus than were cured,² because of the rationing of patented, extortionately priced novel antiviral treatment;

PP6. Acknowledge that every year, over 100 million people are pushed into extreme poverty due to their health expenditures, including by increasing and unjustified prices for drugs and other health technologies;

PP7. Note that treatment for diabetes, cancer, rare diseases and numerous other health conditions is already unaffordable and unavailable, even in rich countries;

PP8. Witness the impunity that multinational pharmaceutical companies enjoy, as their power has become unlimited. These companies have violated the right to health by intentionally limiting supplies of health technologies; charging abusive and artificially high prices while

¹ <https://www.who.int/data/stories/global-excess-deaths-associated-with-covid-19-january-2020-december-2021>

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5518239/>

failing to pay billions of dollars in taxes;³ remaining unaccountable for the national and international public funds that sustain their R&D efforts, while expropriating knowledge from the public domain with undeserved patents; threatening the sovereignty of countries with trade pressures;⁴ disregarding the benefit-sharing principle for clinical trial participants, and disrespecting the Helsinki declaration's obligations on transparency;⁵

PP9. Consider that “International trade law, including international intellectual property (IP) law, perpetuates and worsens racial discrimination in access to lifesaving COVID-19 vaccines and medicines,” as highlighted by the United Nations Special Rapporteur's statements on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;⁶

PP10. Recall 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 colonized states and descendants of enslaved groups,” as stated by the Committee on the Elimination of Racial Discrimination 106th session;⁷

PP11. Recognize that the World Trade Organization Agreement (WTO) on Trade Related Aspects of Intellectual Property Rights (TRIPS) did not deliver on any of its stated goals, such as technology transfer, increased levels of innovation and social welfare - and that it has instead become a major obstacle to the right to health;

PP12. Note that governments constantly fail to use public health flexibilities enabled by the TRIPS agreement, in part, due to pressure from pharmaceutical companies, or find them too limited to address public health needs;

PP13. Note that negotiations aimed at improving the use of public health flexibilities or establishing temporary waivers of IP rules to facilitate equal distribution of life-saving health technologies during health crises, such as Covid-19, are always obstructed by political and commercial interests at WTO, and deliver delayed, inadequate and insufficient results;

PP14. Observe that market-based solutions, such as voluntary licenses promoted by multinational pharmaceutical companies, are not sustainable and can create additional barriers to the circulation of pharmaceutical ingredients and generic products, thereby keeping the power in the hands of pharmaceutical companies that mask this predatory practice as “charity;”

PP15. Recall recommendations from the Global Commission on HIV and the Law (2012),⁸ the statement of the Peoples' Summit “WTO Out, Building Sovereignty” (2017),⁹ and the Lancet

³ <https://www.oxfam.org/en/press-releases/drug-companies-cheating-countries-out-billions-tax-revenues>

⁴ <https://www.thebureauinvestigates.com/stories/2021-02-23/held-to-ransom-pfizer-demands-governments-gamble-with-state-assets-to-secure-vaccine-deal>

⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2681053/>

⁶ <https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-WTO-Open-Letter.pdf>

⁷ https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/1_Global/INT_CERD_SWA_9548_E.pdf

⁸ <https://hivlawcommission.org/wp-content/uploads/2017/06/FinalReport-RisksRightsHealth-EN.pdf>

⁹ <https://fueraomc.org/final-statement/>

Covid-19 Commission Global Health Diplomacy and Cooperation Task Force report (2021),¹⁰ to remove health technologies from the scope of TRIPS Agreement, due to its failure to respond to health needs;

PP16. Recognize that the current architecture for health R&D and access has failed at avoiding tragic health crises in the past, and is not able to respond to future health needs with equity; therefore, it is crucial to establish new approaches based on solidarity and collaboration, and rethink models of ownership over knowledge.

OP1. We commit to:

OP1.1 Affirming human rights, social justice, equity, universality and solidarity as the necessary principles to put an end to human suffering caused by exclusion from access to health technologies;

OP1.2 Responding to any emerging health need, by defending prevention and treatment as human rights, confronting any violation of such right by state or private actors, and challenging monopolies on key health technologies;

OP1.3 Defending universal public health systems with sufficient and sustainable funding as the best approach for ensuring the right to health for all, and for pandemic preparedness;

OP1.4 Advocating to remove health technologies from the scope of the TRIPS agreement, and from the scope of all existing and future Free Trade Agreement negotiations;

OP1.5 Pushing for simplified, bolder and more regular use of public health flexibilities by governments during transition towards removing health technologies from the TRIPS agreement;

OP1.6 Promoting pharmaceutical sovereignty, by stimulating local innovation and production which is guided by public health needs and access policies;

OP1.7 Contribute to the discussion on how to establish collective ownership over health innovations and technologies, and how to implement open-science models;

OP1.8 Making the public understand how IP rights affect access to medicines, and demystifying pharma narratives;

OP1.9 Challenging WHO to simplify regulations to ensure wider generic competition, including for generic versions of biological products, to improve access;

OP1.10 Promoting capacity-building and network building, to expand and strengthen the access to medicines movement and reinvigorate mobilization capacities.

OP2. We urge scientists to:

OP2.1 Actively engage in ensuring that their work results in affordable, equitable and accessible health technologies as a moral obligation;

OP2.2 Prioritize development of products suited to the needs of people and health systems, such as multi-disease diagnostic platforms, combination therapies and cure-oriented research;

¹⁰<https://static1.squarespace.com/static/5ef3652ab722df11fcb2ba5d/t/6217c34f72f0fc325fdcdafc/1645724495404/GHD+Final+Note+Dec+2021.pdf>

OP2.3 Base product development on fit-for-purpose Target Product Profiles that are developed by communities, patient groups, civil society organizations and public health institutions;

OP2.4 Create and support independent research networks to address unmet health needs and the knowledge gaps from clinical trials led by for-profit pharma;

OP2.5 Demand that universities and research centers create right-to-use frameworks for innovation, and foster collective ownership over health technologies;

OP2.6 Demand that research financing arrangements include non-exclusive technology transfer and affordable access to health technologies;

OP2.7 Follow the same excellent ethical standards and criteria in all countries for clinical trials (including refusing collusion with pharma industry, taking into account environmental considerations, etc).

OP3. We urge journalists to:

OP3.1 Facilitate the dissemination of information and critical analysis on access challenges produced by civil society groups;

OP3.2 Produce more stories on the suffering and damage people experience because of lack of access to treatment and prevention technologies, due to their high prices;

OP3.3 Do more investigations to uncover and document pharmaceutical industry tax avoidance practices, and compare the amounts sitting in tax havens to the amount of funds necessary for reaching people who lack access to life-saving medicines;

OP3.4 Produce more stories on the pharmaceutical industry's lobbying, especially on how it operates to limit the use of public health flexibilities and block public interest-oriented patent law reforms;

OP3.5 Investigate how voluntary licenses allow large pharmaceutical companies to expand their market dominance and control generic supply;

OP3.6 Debunk misinformation campaigns from pharmaceutical companies;

OP3.7 Document alternative R&D models that prioritize public health and access.

OP4. We urge jurists and legal specialists to:

OP4.1 Develop legal frameworks for collective ownership over health technologies that are developed through collective resources, knowledge and data (such as data generated by clinical trial volunteers);

OP4.2 Develop legal grounds for violations of the right to health by pharmaceutical companies through their practices of excessive patenting, abuse of patent rights, lobbying and supply chain control;

OP4.3 Formulate legal and constitutional obligations for equal distribution of any health technology, especially those funded and/or supported with public resources;

OP4.4 Formulate legal means to ensure the right to share benefits from scientific developments;

OP4.5 Formulate ethics code to limit pharma influence over governments, donors and institutions through "revolving door" practices and secretive negotiations;

OP4.6 Introduce the need to base all policies, legal frameworks and regulations on human rights-based approaches;

OP4.7 Create programs, in partnership with civil society groups, to educate and train lawyers and judges on barriers created by IP rights on access to health.

OP5. We urge government officials, policymakers and lawmakers to:

OP5.1 Make effective use of existing public health flexibilities, to address inequities on access to health technologies, including by normalizing the use of compulsory licenses;

OP5.2 Improve national IP laws, to ensure public health flexibilities are used recurrently, automatically and apply to a larger scope of IP rights, such as trade secrets (which are the ‘know-how’ to produce health technologies) and copyrights;

OP5.3 Remove any language related to health technologies from Free Trade Agreements;

OP5.4 Contribute to developing patent examination guidelines that are designed to protect public health, block *evergreening* strategies and use stricter patentability criteria;

OP5.5 Make public investments in research and development initiatives focused in developing a cure for diseases such as HIV/AIDS;

OP5.6 Support alternative innovation models that are not market-based and ensure that civil society and affected communities can shape research priorities and approaches towards knowledge management and sharing. (Eg. The mRNA Hubs, among others).

OP7. We urge funding agencies and donors to:

OP7.1 Increase substantive funding for health as a priority social agenda, and recognize civil society as a driving force behind the establishment of the right to health and policies at national, regional and international levels that protect it;

OP7.2 Increase funding for IP and access to health technologies work, considering that pharmaceutical companies are trying to undermine independent advocacy and apply pressure for structural changes through their own funding to civil society;

OP7.3 Prioritize support to communities, patient groups and civil society organizations working on the ground to defend access to medicines, vaccines, diagnostics and other health technologies, to ensure creation or continuity of universal, free-of-charge treatment and prevention programs, and to hold pharmaceutical companies accountable for their abuses and violations;

OP7.4 Offer funding that provides institutional support, so organizations can build the financial, political and programmatic sustainability they need for long term actions, campaigns and network-building efforts;

OP7.5 Prioritize funding for public interest and to multi-disciplinary projects and teams which include patients;

OP7.6 Add protection of human rights and the right to health to funding policies, and enforce them through funding agreements.

OP8. We urge activists working on education, environment, food sovereignty and traditional knowledge:

OP8.1 To join health activists in a campaign for removing essential goods from the scope of the TRIPS agreement.

OP9. We urge writers, video-makers, cartoonists, designers and artists to:

OP9.1 Produce more books, documentaries, movies, series, cartoons, and artwork that focuses on the injustice of lack of access to treatment and prevention, highlights stories of human suffering resulting from the greed of pharmaceutical companies, and the tragedies caused by the expansion of a failed, inhumane and immoral IP system, to help us to get our message to the public.