LIVES OVER PROFITS: AN ANALYSIS OF IMPACT OF THE TRANSNATIONAL COALITION'S EQUITABLE ACCESS TO COVID-19 VACCINES CAMPAIGN

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ABSTRACT

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This thesis analyzes the impact of the equitable access to COVID-19 vaccines of the transnational coalition, the People's Vaccine Alliance. The thesis will specifically look into the campaigns of Human Rights Watch and Oxfam as major INGOs who are members of the People's Vaccine Alliance. The impact will be discussed in terms of framing and agenda-setting, change in discursive positions, change in policy, change in institutional procedures and change in behavior of different actors; such as states and pharmaceutical companies manufacturing COVID-19 vaccines.

Keywords: COVID-19, NGOs, Transnational Coalitions, Global Governance, Right to Health

ÖZ

KÂRDAN ÖNCE YAŞAM: ULUSÖTESİ KOALİSYONUN COVID-19 AŞILARINA ADİL ERİŞİM KAMPANYASININ ETKİLERİ ÜZERİNE BİR ANALİZ

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Bu araştırma, bir ulusötesi koalisyonun (the People's Vaccine Alliance) COVID-19 aşılarına adil erişim kampanyasının farklı aktörler üzerindeki etkisini analiz etmektedir. Araştırma, özellikle bahsi geçen koalisyona üye uluslararası STK'lar olan İnsan Hakları İzleme Örgütü ve Oxfam'in kampanyalarını inceleyecektir. Etki analizi, COVID-19 aşılarını üreten ilaç şirketleri ile devletler gibi farklı aktörler üzerinde ortaya çıkan çerçeveleme ve gündem belirleme, söylemsel konumlarda değişiklik, politikadaki değişiklik, kurumsal prosedürlerdeki değişiklik ve davranışlardaki değişiklikleri değerlendirecek ve tartışacaktır.

Anahtar Kelimeler: COVID-19, STK'lar, Ulusötesi Koalisyonlar, Küresel Yönetişim, Sağlık Hakkı

To those who lost their lives to COVID-19 and HIV/AIDS

To human rights activists and health workers around the world

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LIST OF ABBREVIATIONS

ACT	Access to COVID-19 Tools Accelerator
AIDS	Acquired Immune Deficiency Syndrome
ARV	Antiretroviral
CEPI	Coalition for Epidemic Preparedness Innovations
COVAX	COVID-19 Vaccine Global Access Facility
COVID-19	Coronavirus Disease 2019
CSO	Civil Society Organization
C-TAP	COVID-19 Technology Access Pool
EU	European Union
FDA	The United States Food and Drug Administration
GPA	Global Programme on AIDS
GSK	GlaxoSmithKline
HICs	High Income Countries
HIV	Human Immunodeficiency Virus
HRW	Human Rights Watch
IAVI	International AIDS Vaccine Initiative
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFPMA	International Federation of Pharmaceutical Manufacturers & Associations
INGO	International Non-Governmental Organization
IP	Intellectual Property
IVA	Inclusive Vaccine Alliance
LMICs	Low- and Middle-Income Countries
MEP	Members of the European Parliament
MP	Member of Parliament
NGO	Non-Governmental Organization
OXFAM	Oxford Committee for Famine Relief

PEPFAR	The US President's Emergency Plan for AIDS Relief
PHE	Public Health Emergency
PhRMA	Pharmaceutical Research and Manufacturers of America
PLHIV	People Living with HIV
R&D	Research and Development
SARS-CoV-2	Severe Acute Respiratory Syndrome Coronavirus 2
TRIPS	The Agreement on Trade Related Intellectual Property Rights
UK	United Kingdom
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNGASS	United Nations General Assembly Special Session
UNICEF	United Nations Children's Fund
UNITAID	International Drug Purchase Facility
US(A)	United States of America
WHO	World Health Organization
WTO	World Trade Organization
WWII	World War II

Here in Zimbabwe, I have lost many dear friends, struggling to breathe in their last moments. It is a cruel irony that activists who fought tirelessly for free medicines for HIV/AIDS are now being killed by COVID-19 because, yet again, pharma profits are being put ahead of people's lives.

-Lois Chingandu, activist and Director of Evidence and Influence at Frontline AIDS

CHAPTER 1

INTRODUCTION

As the world is about to witness almost the third anniversary of COVID-19 and safe and effective vaccines for the disease had been developed in an unprecedentedly rapid manner, inequitable access to COVID-19 vaccines remains a problem.

As of 19 December 2021, a total of 8.387.658.165 COVID-19 vaccine doses had been administered worldwide but low-and middle-income countries (LMICs) seemed to fall outside of the vaccine privilege (*WHO Coronavirus (COVID-19) Dashboard*, 2021). Despite the efforts of COVAX for global equitable access to COVID-19 vaccines, the vaccines pillar of the Access to COVID-19 Tools (ACT) Accelerator, the number of persons fully vaccinated per 100 population was still less than 10 in most of the African countries (*WHO Coronavirus (COVID-19) Dashboard*, 2021).

The situation hasn't changed much since then. The number of vaccines administered in the US was almost equal to that in all African countries. As of 30 June 2022, the US alone has administered 588,279,478 doses of vaccine in total, which means almost 80 percent of its population has received at least one dose of vaccine (*COVID-19 Vaccine Doses Administered in the Americas*, 2022). Meanwhile, on the same date, 46 of the 47 countries of the WHO African Region has received a cumulative total of 679,261,687 doses, which means only 22.7% of the African Region's population has received at least one dose of vaccine (WHO, 2022). It is clear that the unequal access to vaccine is in fact an allocation problem rather than a supply problem.

"Pandemics thrive on human-made inequalities"(Byanyima & Ihekweazu, 2021). Many forms of longstanding human-made inequality, such as poverty, hunger, inability to access clean water, cultivate the best conditions for diseases to take over. When the problem is human-made, it is logical that the solution that is provided -in this case a transnational campaign for the equitable allocation of COVID-19 vaccines- would be human-made too. The objective of this thesis is to assess the influence of the equitable access to COVID-19 vaccines campaign of transnational advocacy coalition -the People's Vaccine Alliance- formed around the issue. Since assessing activities of all members of the coalition would overstretch the limits of the thesis, I will be focusing on two major human rights INGOs, Human Rights Watch and Oxfam, as actors participating in the coalition. The thesis focuses on the influence of NGOs with respect to the abovementioned case. However, it is important to elaborate the role of NGOs in global politics beforehand. Although there is not a consensus on what the definition of an NGO (non-governmental organization) is, for the purpose of this thesis, the UN definition of NGO -which uses the terms NGO and CSO interchangeably- will be adopted: "A civil society organization (CSO) or non-governmental organization (NGO) is any non-profit, voluntary citizens' group which is organized on a local, national or international level" (United Nations, n.d.). The criteria applied to determine whether a particular voluntary citizens' group is an NGO is that it

> cannot be profit-making; it cannot advocate the use of violence; it cannot be a school, a university, or a political party; and any concern with human rights must be general rather than restricted to a particular communal group, nationality, or country (Shamima & Potter, 2006, p. 8).

NGOs can be the transformers of international politics. They constitute an alternative to a state-centric understanding of the international system in terms of how it operates and what the legitimate actors are. NGOs are useful to pressure states on different topics, such as human rights or environment and "it would be difficult to dispute the claim that the world would be a less pleasant place to live

in today had there been no NGOs holding governments to account over the past 50 years" (Shamima & Potter, 2006, p. 50).

NGOs are not a subject which has attracted a large number of international relations theorists' attention who still focuses mainly on states. This is partly because NGOs' multifaceted roles and their influence are hard to understand in terms of political science. NGOs neither possess political power in a traditional state-centric sense, nor have great economic means comparable to some non-state actors, such as MNCs. However; many scholars argue today that they do have power; that is the "power to persuade" (Shamima & Potter, 2006, p. 15) which is central for the purposes of this thesis.

NGOs have long been regarded as non-political charity and relief organizations rooted back in Christian missionary works. Although many NGOs are still involved in emergency relief and charity actions, some have come to develop a political standing where they pursue advocacy, lobbying, public education and agenda-shaping activities to "persuade" governments, IGOs and other actors of international politics to act in line with their respective agendas. Therefore, their involvement in a challenging campaign advocating for equitable access to COVID-19 vaccines doesn't come as a surprise.

The inequality in access to treatment is unfortunately not new. The most recent global crisis with regards to access to treatment was during the 1990s, while the HIV/AIDS pandemic was spreading fear around the world. The high market price of antiretroviral (ARV) drugs designed to control HIV/AIDS had created a huge inequality in access to treatment, which meant certain death in the least developed parts of the world where HIV/AIDS is the most common. The high price was actually due to intellectual property (IP) rights. Another campaign, *"Cut the Cost"* led by Oxfam, as well as global activism on the issue, was advocating for waiving intellectual property rights and enabling parallel imports to ensure LMIC's access to lifesaving treatments, especially HIV/AIDS medicines. In November 2001, the activism came to fruition and Doha

Declaration, as an interpretive text, was adopted to facilitate access to lifesaving medicines.

The equitable access to COVID-19 vaccines campaign of the NGOs demand the same thing: a temporary waiver of IP rights with regards to vaccines. Therefore, I will refer to Cut the Cost campaign of Oxfam where relevant as a good example. It also shows the significance of this thesis. After more than 20 years of Cut the Cost campaign, the very same part of the world faces the very same problem that should never have existed. In fact, the very same activists who fought for access to lifesaving medicines in HIV/AIDS pandemic is dying today because of the same problem that puts profits over people's lives (Oxfam, 2021c). The global inequality in access to essential healthcare is more than a mere violation of right to health, it is also discrimination. Whether and how NGOs have an influence on a matter of life-and-death is significant and the thesis aims to explore this.

CHAPTER 2

METHODOLOGY

The objective of this thesis is to assess the influence of the equitable access to COVID-19 vaccines campaign of two major human rights INGOs, Human Rights Watch and Oxfam, as components of the transnational advocacy coalition formed around the issue, that is the People's Vaccine Alliance. In order to be able to assess this influence, I will resort to process-tracing method.

Process-tracing, originating from psychology field, "refers to techniques for examining the intermediate steps in cognitive mental processes to understand better the heuristics through which humans make decisions" (Bennett & Checkel, 2014, p. 5). The method has been applied to political science "to describe the use of evidence from within case studies to make inferences about historical explanations" (Bennett & Checkel, 2014, p. 5). The term "case" in this explanation refers to "an instance of a class of events" (George & Bennett, 2005, p. 17); and "within a case" refers to "evidence from within the temporal, spatial, or topical domain defined as a case" (Bennett & Checkel, 2014, p. 8).

For this method, a researcher analyzes "evidence on processes, sequences, and conjunctures of events within a case for the purposes of either developing or testing hypotheses about causal mechanisms that might causally explain the case" (Bennett & Checkel, 2014, p. 7).

It is important to identify the research purpose for which process-tracing will be used. In order to clear up the confusion, Beach and Pedersen differentiates three types of process-tracing within social sciences, that are theory-testing process-tracing, theory-building process-tracing, and explaining-outcome process-tracing (Beach & Pedersen, 2019, p. 3). The first one, theory-testing process-tracing,

which is mainly deductive, tests a theory by deducing it from the existing literature to understand whether "evidence shows that each part of a hypothesized causal mechanism is present in a given case, enabling within-case inferences about whether the mechanism functioned as expected in the case and whether the mechanism as a whole was present" (Beach & Pedersen, 2019, p. 3). The second one, theory-building process-tracing, which is mainly inductive, is used "to build a generalizable theoretical explanation from empirical evidence, inferring that a more general causal mechanism exists from the facts of a particular case" (Beach & Pedersen, 2019, p. 3). Lastly, explaining-outcome process-tracing is used "to craft a (minimally) sufficient explanation of the outcome of the case where the ambitions are more case-centric than theory-oriented" (Beach & Pedersen, 2019, p. 3).

Process-tracing has its own challenges which constitute the first limitation of this study. The four main problems in process-tracing are: "the resource problem, the measure-of-fit problem, the storytelling problem, and the problem of generalization" (Bennett & Checkel, 2014, p. 102). For the first, process tracing may "require enormous amounts of information" (George & Bennett, 2005, p. 223). Therefore, the researcher needs to be careful about the extent and limits of the search in order to avoid an "infinite regress"(Bennett & Checkel, 2014, p. 102). The problem of measures-of-fit is about accepting or discarding a hypothesis based on the traced evidence as an "uninterrupted causal path" must be established for causal inference (George & Bennett, 2005, p. 222). The problem of storytelling may arise, since "it is relatively easy to select, arrange, and present the material more or less consciously in a way that appears plausible to the reader" (Bennett & Checkel, 2014, p. 103). Lastly, although process-tracing can produce a highly valid explanation of a specific event, generalizability can be a problem considering the high costs of process-tracing (Bennett & Checkel, 2014, p. 104).

As best practices of process-tracing can include "identifying counterfactual ("control") observations to help isolate causal processes and effects" to avoid

"just-so" stories (Bennett & Checkel, 2014, p. 191), I will analyze counterfactual observations while assessing the influence of the transnational coalition's equitable access to COVID-19 vaccines campaign. To avoid "infinite regress" problem, the thesis will focus only on the campaign of Human Rights Watch and Oxfam, as two major INGOs, or "gatekeepers", "who play the greatest role in shaping the issue pool in an advocacy arena" (Carpenter, 2007, p. 113) from the start of the COVID-19 pandemic until the end of June 2022. "As all subsequent advocacy politics depend on an issue being defined as such by a norm entrepreneur and accepted as such by a critical mass of activists and gatekeepers" (Carpenter, 2007, p. 102), analyzing HRW and Oxfam's campaign for the given time period would be indicative for the overall influence of the transnational coalition formed around the matter of equitable access to COVID-19 vaccines. I will use explaining-outcome process-tracing since the research question is case-centric instead of theory-oriented.

Another limitation for conducting this study is that the fact that demonstrating NGO influence beyond doubt is challenging and the challenge is threefold. First, the definition of influence is varied and it must be put forth carefully to overcome this challenge. For the purposes of the thesis and to avoid the risk of creating a confusion between *power* and *influence,* I will use the definition of influence as suggested by Betsill & Corell, who stated "influence occurs when one actor intentionally communicates to another so as to alter the latter's behavior from what would have occurred otherwise" (Betsill & Corell, 2007, p. 24). Secondly, there are validity concerns when it comes to showing NGO influence. These concerns should be minimized to demonstrate NGO influence by not only relying on NGO activities, which shows participation but not necessarily influence. Therefore, I will also take the effects of such activities into consideration. Thirdly, comparing NGO influence across cases is difficult "because analysts rely on different types of evidence that may measure different aspects of influence" (Betsill & Corell, 2007, p. 20). A set of indicators may be used to qualitatively assess NGOs which can serve as a basis for comparison across cases (Betsill & Corell, 2007, p. 32). I will assess five indicators showing

NGO influence on global governance to enable an across case comparison; i) framing issues in a certain way to draw attention to them, creating new issues with the help of framing and shaping agendas of the target actors; ii) influencing discursive positions of actors, iii) influencing institutional procedures, iv) influencing policy change, and v) influencing state behavior (Keck & Sikkink, 1998, p. 25).

The abovementioned definition of influence I will embrace in this thesis has two dimensions "(1) how NGO diplomats communicate with other actors during a negotiating process, and (2) alterations in the behavior of those actors in response to that communication" (Betsill & Corell, 2007, p. 26). It must be noted that Betsill & Corell use the term "NGO diplomats" in the specific context of environmental diplomacy, however we will borrow their theory for the purposes of this thesis.

In relation to the first dimension, I will use data showing NGO participation, such as their activities, access to negotiations with other actors and use of resources, to demonstrate whether and how NGOs communicated with other actors (Betsill & Corell, 2007, p. 27). For the second dimension, I will evaluate the NGOs' goal attainment; both with regards to the outcome (i.e., the text of an agreement) and the process of the negotiations (i.e., the agenda) (Betsill & Corell, 2007, p. 27). Both these dimensions will be systemically analyzed by triangulation strategy, which "is supposed to support a finding by showing that independent measures of it agree with it or, at least, do not contradict it" (Miles & Huberman, 1994, p. 66). I will, therefore, be looking at multiple data from primary and secondary sources.

In this thesis, I assess the influence of HRW and Oxfam's campaign on equitable access to COVID-19 vaccines. I will argue that Oxfam and HRW had influence in terms of different indicators of influence.

First, I will argue that they had an influence on the framing. The significance of framing lies in the driving power it has. The power of framing was put forth by the widely cited experiment of Kahneman and Tversky. The authors asked the subjects: “Imagine that the U.S. is preparing for the outbreak of an unusual Asian disease, which is expected to kill 600 people. Two alternative programs to combat the disease have been proposed. Assume that the exact scientific estimates of the consequences of the programs are as follows: If Program A is adopted, 200 people will be saved. If Program B is adopted, there is a one-third probability that 600 people will be saved and a two-thirds probability that no people will be saved. Which of the two programs would you favor?” (Kahneman & Tversky, 1984). In the experiment, 72% of the respondents chose Program A over B and the remaining 28% of the respondents chose Program B over A. Then, two identical options framing the same outcome in terms of likely deaths rather than lives saved were presented such as; “if Program C is adopted, 400 people will die. If Program D is adopted, there is a one-third probability that nobody will die and a two-thirds probability that 600 people will die” (Kahneman & Tversky, 1984, p. 343). As it can be noticed, Program C is actually identical with A and Program B is identical with D. However, this time 22% of the respondents chose Program C and 78% chose Program D, whereas its twin -Program B- only received 28%. The example illustrates what people notice, how they understand and evaluate a problem as well as their choices, since the responses were clearly reversed with the power of framing.

Frames highlight some aspects of reality while omitting other elements, which lead audiences to have different reactions. As “frames exert their power through the selective description and omission of the features of a situation”, exclusion of certain information or interpretations of reality is as important as those included by the frames (Entman, 1993, p. 54).

Therefore, in the thesis, I will discuss the impact of HRW and Oxfam’s framing, which have used an “inequality” frame, with an emphasis on the “rich and poor”, “developed nations and developing nations”. I believe the frame choice of

"inequality" was intentional as it is a powerful concept. The emphasis on inequality between the rich nations and poor nations, with an injustice connotation to it, is emotive and driving for the public. An example to the importance of framing can be the case of anti-personnel land mines. In 1990s, "members of civil society have been the primary movers in generating worldwide concern about anti-personnel land mines"(Price, 1998, p. 619). Starting with the efforts of some INGOs, a vigorous transnational campaign focused on land mines involving some one thousand NGOs from more than 60 countries (Price, 1998, p. 618). The efforts of NGOs to ban anti-personnel land mines, by framing the issue as a humanitarian disaster, instead of an arms control and security frame, have gained momentum and a comprehensive ban treaty was signed in 1997 by 122 states (Price, 1998, p. 619). Similarly, I argue that HRW and Oxfam, as part of the transnational coalition, had chosen inequality frame for the inherent power of it. Moreover, they had an influence on the framing of the access to COVID-19 vaccine in general, as this "inequality frame" has been reiterated by other actors as well.

I also argue that they had an agenda-setting influence on key actors, that are states and private sector, namely the pharmaceutical companies developing COVID-19 vaccines. I will argue that the campaign had even greater influence on some states and the EU, by influencing their discursive positions. In fact, despite not being the same with the original Waiver Proposal, members of the WTO unanimously agreed on a waiver for certain parts of TRIPS Agreement as on 17 June 2022, which shows a change in state behavior. The Berlin Declaration (International Federation of Pharmaceutical Manufacturers & Associations, 2022) of the pharmaceutical industry also indicates an impact on framing, agenda-setting, and discursive position of the industry agents.

The thesis will look into the influence on different actors separately. This is because the content is quite rich in terms of the campaign material of HRW and Oxfam and rather intense in a relatively short period of time that is covered. Without separating actors, providing a direct chronological analysis would

produce a very long, complicated and hard to follow reading. Instead, I will base my influence analysis on chronological analysis of campaign material addressing specific actors/states for the sake of clarity of the research.

In my opinion, the equitable access to COVID-19 vaccines campaign echoes back to another campaign that had been run for another pandemic: the Cut the Cost campaign of Oxfam in 2001 on equitable access to essential medicines, especially those for HIV/AIDS. The Cut the Cost campaign, laying the groundwork for Doha Declaration in 2001, had great success at its time. Therefore, I will use the Cut the Cost campaign as a good example from the past where NGOs had achieved a very high-level of influence to better explain the concept of NGO influence where relevant. I argue that these INGOs made a strategic selection to use inequality frame, that was borrowed from Cut the Cost campaign which might have inspired this campaign.

Before diving into the discussion of the case at hand, I will review the literature on global governance of health with examples from previous health crises the world had faced, especially HIV/AIDS pandemic in 80s and 90s. It must be noted here that, for the purposes of this thesis, literature on global governance was preferred over international regime theory, which is traditionally quite state-centric and is rooted in rationalism. Therefore, global governance concepts, which also consider the actions and contributions of non-state actors were deemed more suitable for the context of the study.

I will then look into the concept of human rights as understanding what right to health includes and its connection to other human rights, such as protection from discrimination. This is especially important considering the inequality frame that has been used in the campaign of HRW and Oxfam. These INGOs' campaign implies that the inequality between the rich and poor countries is a violation of human rights, not only of the right to health, but also of the right to equality and non-discrimination. They argue that the imbalance in access to COVID-19 vaccines doesn't arise from the lack of supply, but rather from the inequality of

allocation, therefore the inequality of the value of human lives in different parts of the world, which translates into discrimination.

CHAPTER 3

GLOBAL GOVERNANCE OF HEALTH

In order to observe the impact of the transnational coalition formed around the subject, that is equitable access to COVID-19 vaccines, the literature on global health governance will be discussed first. Global health governance is the "totality of collective regulations to deal with international and transnational interdependence problems in health" (Bartsch and Kohlmorgen as cited in Buse et al., 2009, p. 138).

As the globalization has increased the rapidity and possibility of emergence and spread of diseases, global health collaboration has seen three different regimes. The first is from the 1850s to the early twentieth century during which states adopted the International Sanitary Convention in 1903. The period was also referred as the "golden age" of global health due to the major biomedical discoveries in addition to the institution building efforts (Harman, 2013, p. 657). This era was built on the Westphalian regime of 1648 in which states are the major actors in the international domain and the international rules governed the relations between states without interfering with their governance over citizens or within territories (Szlezák, 2012, p. 2). In the second period which lasted until 1980s, states largely ignored these rules when they are called to comply with them. However, the period covering from 1990s and onwards, has seen a stronger multilateral health cooperation and therefore global health governance (Weiss & Thakur, 2010, p. 288). With the impact of globalization, states have come to realize that some problems transcend national borders, i.e., epidemics like HIV or climate change and migration, which resulted in a shift from the traditional system of international governance depending on governments and intergovernmental organizations, towards a system with multiple state and non-state actors (Szlezák, 2012, p. 2).

The one and only certain victory against a disease in human history, the eradication of smallpox in late 1970s, inspired cooperation in fight against other diseases, such as polio (Weiss & Thakur, 2010, p. 290). Further alliances were formed against tuberculosis, malaria and HIV in 1980s and 1990s (Szlezák, 2012, p. 11). However, for a disease to become a global health agenda, "a perceived mechanism must exist by which the issue or some of its aspects travel across national boundaries such that the creation and involvement of supranational actors are required to address it"(Szlezák, 2012, p. 13).

The biomedical paradigm, by which health is framed a "global issue", strengthened by the increased availability of vaccines and medicines from 1930s onwards, focuses on "the afflicted individual that needs protection from a specific condition" (Szlezák, 2012, p. 13). With the developments in medicine and science, some diseases, even though they have been present for thousands of years, were regarded preventable or treatable by these new vaccines and medicines which should be within everyone's reach. This biomedical framing took the purpose of international health cooperation away from the Westphalian origins under which disease control had been designed for the improvement of relations between sovereign states, towards the improvement of disease control and the provision of health care to patients (Szlezák, 2012, p. 14). In the first half of the 20th century, WHO formed *vertical* disease control programs to deliver drugs and vaccines for infectious disease like tuberculosis, malaria, and leprosy, in a manner to operate separately from national health systems (Szlezák, 2012, p. 14). *Horizontal* approaches existed alongside, which aim for the provision of primary health care to all human beings as a human right. The WHO's idealistic Alma-Ata Declaration of 1978 defined health as a "state of complete well-being" rather than merely absence of a disease, reinforced the universal right to basic health care which constitutes a departure from Westphalian non-interference principle (Szlezák, 2012, p. 14). However, both vertical and horizontal approaches consider nation-state as the main provider of health care with the assistance of a UN agency, the WHO. The "Health for All" movement in the late 1970s and debates on equitable access to medicines supported by developing

countries and NGOs have sought to highlight social justice and equity concepts in global health governance (Buse et al., 2009, p. 8). The Declaration of Commitment on HIV/AIDS by the UN General Assembly in 2001 and the General Comment No.14 of the UN Committee on Economic, Social and Cultural Rights in 2000 underlined the "collective responsibility of an emergent global society for the world's health" which includes not only states but also non-governmental organizations and civil society, and are embraced by "a growing number of human rights organizations", a development which eventually undermined the principle of non-intervention as greater importance is attributed to humanitarian needs (Buse et al., 2009, p. 8).

The identification of Acquired Immune Deficiency Syndrome (AIDS), caused by the Human Immunodeficiency Virus (HIV) in 1980s, also marks the widespread transnational activism surrounding the disease (Harman, 2013, p. 659). Exacerbated by the stigma, the silence of political leaders, and misinformation about and self-protection from the disease, the transnational activism and institutional leadership led to the creation of the first UN agency established for a specific disease (UNAIDS) as well as the rise of partnerships with multiple actors (Harman, 2013, p. 659). The start of the millennium saw the creation and reinvigoration of partnerships such as the International AIDS Vaccine Initiative (IAVI), the GAVI Alliance, and UNITAID, for supporting vaccine research financially and reducing the cost of AIDS, malaria, and tuberculosis treatment, respectively (Harman, 2013, p. 660). This trend in partnerships culminated the creation of the Global Fund to fight AIDS, Tuberculosis, and Malaria in 2002 which has a board consisting of state representatives, representatives from civil society, campaign groups, and private sector with equal voting power (Harman, 2013, p. 660). In addition to the mentioned partnerships and institutions, Bill and Melinda Gates Foundation and its Global Health Program was established in 2000. With a budget exceeding that of the WHO, the Foundation gives money to the Global Fund and GAVI, as well as the World Bank(Harman, 2013, p. 660). The shift from international to global health governance have taken its source from this globality in decision making and the diversity and plethora of the

actors involved (Harman, 2013, p. 657) which would highlight the NGOs' role as important actors.

3.1. NGOs' Role in Global Health Governance

NGOs have power in global governance. As a concept, global governance implies that power cannot be boiled down into the ability to exercise coercion since "it is also achieving influence by mobilizing support for the endorsement of values and the adoption of norms in policy formulation and implementation" (Willetts, 2010, p. 150). NGOs have become a part of the global governance by their consistent pressure to be heard and through their access to global communications means which have assured that they cannot be silenced or blocked altogether (Willetts, 2010, p. 151). Therefore, in addition to inherently promoting the foundation for a global governance system, NGOs have "operated within that system to change the major norms that define the policy options on global issues" (Willetts, 2010, p. 154).

The growing involvement of NGOs and civil society in world politics has signified the shift from "international organization" to "global governance" in the recent decades (Scholte, 2013, p. 322).[1] For this to be realized, civil society actors engage with global governance in direct and indirect ways, as well as showing open resistance to the current governance through demonstrations and boycotts. While direct participation covers activities like accreditation, seats on official committees and boards, performance evaluations, memberships of government delegations; in indirect participation the aim is to shape the global governance institutions through third parties, including the media, with hopes to influence the positions that governments take in global institutions (Scholte, 2013, p. 325-327).

[1] For the purpose of this thesis, since I will specifically focus on two INGOs, Oxfam and HRW, I will use the terms NGO and civil society interchangeably by embracing the narrow conception of civil society which is "a collection of formally structures, legally registered, and professionally staffed organizations … that undertake a variety of advocacy and service delivery operations"(Scholte, 2013, p. 323).

Buse and others identify five modes of actions regarding civil society organizations' engagement with or influence on global health governance (Buse et al., 2009, p. 215). First of all, CSOs might participate with the decision-making structures of global health governance institutions through formal or informal advising and consultations. Secondly, owing to the greater freedom to express their views and independence arising from operating outside the formal institutions, they can lobby, campaign, and shame when necessary. Thirdly, by monitoring and evaluating their accountability, they can play the watchdog role for global health institutions. Fourthly, by providing technical support to developing country delegations within IGOs, they can support fairer intergovernmental negotiations. Lastly, they can embrace a more confrontational approach and oppose or resist against the global health institutions (Buse et al., 2009, p. 216). In short, despite not being powerful in the traditional sense of term, NGOs can be influential actors in global governance.

3.2. Global Governance of HIV/AIDS Pandemic

HIV/AIDS is a milestone in global governance of health where NGOs have greatly taken part in and actually achieved significant impact on equitable access to antiretroviral medicines. AIDS has first been reported on 5 June 1981 by the US Centers for Disease Control and Prevention as a cluster of *pneumocystis carinii* in five homosexual men in Los Angeles (Centers for Disease Control and Prevention, 2001). Once the new and deadly virus was identified, a research retracing the past samples was conducted, including a plasma sample of an adult male taken back in 1959 in Kinshasa (Weiss & Thakur, 2010, p. 291).

Two years after the first identified cases, in November 1983, the WHO, one of the most professional UN agency, held its first meeting to evaluate AIDS on a global scale and started international surveillance (*A Timeline of HIV and AIDS*, 2016). However, it didn't mean that the disease is receiving the utmost attention as a global priority. In the beginning, the Western world considered HIV/AIDS as a disease of homosexuals, hemophiliacs, heroin users, and afterwards of a

small population of promiscuous individuals only, which therefore, couldn't threaten the stability of industrialized states (Szlezák, 2012, p. 33). An effective treatment was not available anyways, and then Director General of the WHO, Halfdan Mahler, considered tuberculosis and malaria to be much more important in their agenda (Gellman in Szlezák, 2012, p. 34). In fact, when Peter Piot, who was leading a group of Western researchers alerted by a local medical practitioner in Kinshasa about the rapid spread of an immune deficiency disease among heterosexual individuals, wanted to warn the Western world about what he had seen, many scientific journals rejected his work arguing that HIV/AIDS was a heterosexual disease (Szlezák, 2012, p. 35). "Western medical scientists, including influential advisers to the WHO, were not convinced that the disease was a heterosexual problem, let alone of its potential to become a global epidemic or pandemic"(Lisk, 2009, p. 11). It was another AIDS researcher and a pioneer in AIDS activism, Jonathan Mann, who convinced WHO that AIDS was not just an infectious disease and considered that "it flourishes in, and reinforces, conditions of poverty, oppression, urban migration, and social violence" (Weiss & Thakur, 2010, p. 299).

In 1987, the Global Programme on AIDS (GPA) led by Jonathan Mann was established by the WHO marking the beginning of global awareness (Lisk, 2009, p. 14). However, the multidimensional characteristics of HIV/AIDS, including culture, religion, human rights, and politics, required the response of a collective action which led to the establishment of a joint and co-sponsored programme, the UNAIDS, in 1996 (Lisk, 2009, p. 26). It had a mandate of five parts: "provide advocacy and leadership for effective action; provide technical support and strategic information to combat the epidemic worldwide; track, monitor, and evaluate the epidemic and responses to it; form strategic partnerships and civil society engagements globally and in the field; and mobilize resources to support an effective response"(Weiss & Thakur, 2010, p. 302).

Then UN Secretary-General Kofi Annan, who is from Africa where HIV/AIDS was stated to be "spreading like a bush fire" (Lisk, 2009, p. 12) by the once-

skeptical Director General of the WHO, Halfdan Mahler, also made HIV/AIDS one of his personal priorities during his term from 1997 to 2007 (Lisk, 2009, p. 39). A historic occasion was the UN Security Council's meeting on 10 January 2000, where the Security Council had discussed the HIV/AIDS, a health issue, as a security concern (Lisk, 2009, p. 39). Later that year, the Security Council adopted Resolution 1308 and declared the disease a threat to international peace and security (Weiss & Thakur, 2010, p. 287). The securitization of HIV/AIDS brought debates over the tension between "framing health issues in certain ways to generate greater political attention and money to address the issue, and safeguarding the human rights of individuals"(Harman, 2013, p. 662). Framing HIV/AIDS as a security issue caused debates because it has the potential to make it a concern of military and intelligence organizations "which also possess the power to override human rights and civil liberties" (Elbe, 2006, p. 128). Moreover, as Elbe argued from a historical point of view, state responses to diseases have been undemocratic and insensitive to affected people amounting to the level of persecution; "calls for quarantining such people, subjecting them to various forms of violence, attempting to bar them from serving in state institutions, and refusing visas to HIV positive foreigners are only a few of the examples" (Elbe, 2006, p. 128).

On the other hand, the establishment of the Global Fund to Fight AIDS, Tuberculosis, and Malaria in 2001 and the US President's Emergency Plan for AIDS Relief (PEPFAR) in 2003 laid the foundations of global resources to fight HIV (Lenard & Kaida, 2014, p. 127). In addition, the G8 summit in Gleneagles, Scotland in 2005 endorsed a plan to finance HIV/AIDS prevention and treatment in Africa (Lisk, 2009, p. 77). Therefore, the period from 2002 to 2009 witnessed "an unprecedented global effort directed at increasing access to Antiretroviral Therapy (ART) for people living with HIV in Sub-Saharan Africa and other resource-limited settings", so much so that "by the end of 2009, 5,254,000 people were receiving antiretroviral therapy in low-and-middle-income countries, an increase of over 1.2 million people from December 2008. This

represents a 30 per cent rise from a year earlier and a 13-fold increase in six years" (Lenard & Kaida, 2014, p. 127).

What must be highlighted that is not only IGOs and nation states, international NGOs (INGOs) "such as Oxfam, ActionAid, Médecins Sans Frontières, Save the Children, and World Vision provide critical support for the global HIV/AIDS response, even if not so much in terms of direct financial contributions"(Lisk, 2009, p. 108). In addition to fundraising activities and making use of their expertise in specific areas, they

> have been instrumental in drawing attention and responding to the non-health impact and the broader development challenges of the epidemic, such as the linking of HIV/AIDS with poverty, the promotion of prevention through gender equality and the education of girls, and the incorporation of nutritional requirements in ARV therapy (Lisk, 2009, p. 108).

However, funding commitments do not reflect the actual funds available. UNAIDS estimated the cumulative disbursement gap to reach US$14 billion by 2007 (Lisk, 2009, p. 110). Similarly, several of the Gleneagles pledges have not been matched by G8 governments in reality and in just a couple of months the Global Fund fell short of its target by several billions of dollars (Lisk, 2009, p. 110). The overall budget of UNAIDS has also declined since 2015 as the organization "has experienced severe shortfalls in funding" (*UNAIDS Calls for Greater and Sustained Funding Commitments to Support Its Work in Leading Global Efforts to End AIDS by 2030*, n.d.). These figures indicate that international cooperation effort which seem promising at first may not reflect the real picture, as the further discussion will mention for COVID-19.

3.3. Perspectives on Human Rights and Health

Equitable access to medicines and treatment is a human right in two ways. First, every human being has the right to access to treatment under the human right to health. Second, "equitable access" is a matter of non-discrimination which means that while enjoying human rights, no one shall be discriminated for their

race, ethnicity, political belief, economic or social condition. To understand the impact of equitable access to COVID-19 vaccine campaign of the transnational coalition that was formed, one should have a closer look at human rights.

Despite its roots can be traced back to ancient Greece and Rome as part of the natural law theory, the term human rights as we know today is fairly new, in fact it was not until the rise and fall of Nazi Germany that the idea of human rights was recognized on its own and active concerns for human rights emerged internationally. In 1945, The United Nations was founded to maintain international peace and security and to promote and encourage "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion." (United Nations Charter (Full Text), n.d.) Following that, one of the pioneer documents in terms of human rights, The Universal Declaration of Human Rights, commonly referred to as the international Magna Carta, was adopted without dissent by the UN General Assembly in 1948 to put "a common standard of achievement for all peoples and all nations", under which "Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms" (Universal Declaration of Human Rights, n.d.). Although not being a legally binding document putting forward legal obligations, the Declaration has achieved the status of customary international law (*A Short History of Human Rights*, n.d.). Over time, three "generations" of human rights, all are interdependent and at equal level, were advanced particularly with the adoption of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) which are: civil and political rights; economic, social, and cultural rights; and solidarity or group rights. "Together with the Universal Declaration, these treaties are commonly referred to as the International Bill of Human Rights" (*A Short History of Human Rights*, n.d.).

Civil and political rights, as prescribed in the 23 articles of the ICCPR, include substantive rights such as right to life, freedom from torture, rights of non-

discrimination, right to a fair trial, right to vote, and freedom of expression. These rights guarantee one's "personhood" and "involvement in public affairs and the affairs of state"(Landman, 2005, p. 4).

Social and economic rights are those that guarantee an adequate standard, in the most general sense; such as, the right to health, the right to work and fair remuneration, the right to education, the right to speak one's own language, and the right to social security. Although stated by the UN to be equally important as the former category, ICESCR "generally requires only that the states parties take steps *towards* achieving the rights recognized in the covenant" (Keith, 1999).

The last set of rights, solidarity rights, include rights of individuals and groups, such as the right to development and a healthy environment. "Of the three sets of rights, this final set is the newest and most progressive and reflects a certain reaction against the worst effects of globalization, as well as the relative effectiveness of 'green' political ideology and social mobilization around concerns for the health of the planet" (Landman, 2005, p. 5).

It can be understood that individuals or groups of individuals are the owners of these human rights, whereas the state is the main body that either protects (positive obligation to do) or violates (negative obligation to not to do) them. This understanding naturally results in a dichotomy between negative and positive claims inherent to the categories of human rights that tends to put civil and political rights above economic and social rights, since the protection of the civil and political rights seems less reliant on state resources than economic and social rights (Foweraker & Landman, 2000, pp. 14–17). Similarly, violations of civil and political rights have been treated as far more concerning and intolerable, "than are massive and direct denials of economic, social, and cultural rights" (Gomez, 1995, p.160). Even though the indivisibility and interdependency of these rights found formal expression in the 1993 Vienna Declaration as "all human rights are universal, indivisible, and interdependent and interrelated…", civil and political rights are still

> considered to be 'absolute' and 'immediate', whereas economic, social, and cultural rights were held to be programmatic, to be realized gradually, and therefore not a matter of rights. A related assumption was that civil and political rights were 'justiciable' in the sense that they could easily be applied by courts and similar judicial bodies, whereas economic, social and cultural rights were of a more political nature. It was further believed that civil and political rights were 'free' in the sense that they did not cost much (Eide et al., 2001, p. 10).

In fact, the very existence of economic, social, and cultural rights were denied by the liberal view, which embraced the dichotomy of positive and negative claims as explained above, because of the fact that these positive claims can only be ensured if and when the negative freedoms are promoted and protected for these negative freedoms provide the basis for the creation of wealth in principle (Evans, 2002, p. 203). Therefore, socioeconomic claims can only be legitimate aspirations but never "rights" as interpreted by the liberal consensus that still prevails in the age of globalization (Evans, 2002, p. 201). Whether socioeconomic rights are actually human rights or just some distant ideals to be strived for, of course, is very central for this thesis. However, no matter what the answer to that debate is, having a specific part of the world deprived of lifesaving healthcare -either in the form of treatment, such as drugs, or prevention, such as vaccines- can also be considered a form of discrimination, as it has happened before COVID-19 pandemic, with HIV/AIDS pandemic.

3.4. The Emergence of Right to Health

The Constitution of WHO made the definition of health in its preamble as the "state of complete physical, mental and social well-being and not merely the absence of disease or infirmity" and continued "The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."(Constitution of the World Health Organization, 1946). The definition of health in WHO's Constitution, made in the aftermath of WWII, was groundbreaking for its holistic approach of health which widens the scope to the psychological and social components of health, and confusing at the same time,

since it was initially “criticized as too idealistic and unmeasurable” (Larson, 1999, p. 127). Not only considered vague and abstract, the WHO definition of health has been criticized over the years as there is no consensus on the definition of well-being and social well-being; the definition of health can change culturally; the definition does not specify which states of health are preferable (Larson, 1999, p. 128) and it corresponds to happiness rather than health (Saracci, 1997). Also, according to this definition, which “makes invalids of us all”, “99% of the world’s population must be in need of care and attention, the World Health Organization has simply written itself into existence for eternity”(Garner, 1979, p. 14). On the other hand, “the WHO definition of health is the most popular definition worldwide” (Larson, 1999, p. 128).

The human right to health was also recognized in Article 25 of the Universal Declaration of Human Rights dated 1948, which states that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services." In 1976, International Covenant on Economic, Social, and Cultural Rights reiterated “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” In 2000, the United Nations' Committee on Economic, Social and Cultural Rights issued General Comment No. 14 to address issues related to the implementation of ICESCR and stated that it “interprets the right to health, as defined in article 12.1, as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health. A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels”(*General Comment No. 14: The Right to the Highest Attainable*, n.d.). Although the

document is a soft law instrument, “it is considered authoritative by many scholars and practitioners from the field” (Toebes, 2015, p. 309).

The ambiguity of the right itself and lack of consensus on the definition of health, have complicated the discussions even more. In light of the above discussions on the so-called hierarchy between civil and political rights and social, economic and cultural rights, and even the very existence of the latter at all, liberal consensus argues that socioeconomic claims can never be at the same status with civil and political rights, which are the negative and the only kind of rights, in other words the abstentions that the states should abide. In contrast, some scholars embracing the basic rights approach argued that there is no clear distinction between negative and positive rights, and correlative duties of the state cannot be wholly positive or negative either (Evans, 2002, p.203-204). Therefore, “if there are costs attached to both negative and positive rights, and we can reach a consensus on an acceptable level of expenditure for protecting civil and political rights, then why not for socioeconomic rights” (Plant as cited in Evans,1989, p.204). In this regard, right to health, especially right to healthcare which is the sister of right to life, as a socioeconomic right, can perfectly be considered a human right inseparable from civil and political rights.

3.5. The Connection Between Health and Human Rights

So far, the conceptualization of health as a human right mainly under ICESCR has been discussed. Yet, health has been placed to a much central role in human rights discussions by some scholars rather than merely being a social right whose realization depends on the states’ reallocation of resources in accordance with their capabilities. This is especially important to understand the “inequality” frame that was used for the “equitable access” to COVID-19 vaccines campaign.

The inextricable link between health and human rights, initially was put forth in three ways. The first relationship between health and human rights arises out of the impact of health practices, policies, and programs on human rights. Practices

such as assessing health needs and problems, and collecting data on them to develop health policies and programs may create burden on human rights of some, by intentionally or unintentionally excluding already marginalized groups such as those living with HIV (Mann et al., 1994, pp. 13–17). The second relationship was stated to be physical, mental, and social well-being, or in other words "health", impacts of human rights violations (Mann et al., 1994, pp. 17–19). The third relationship is the argument that health and human rights are complementary approaches to the challenge of defining and advocating for human rights (Mann et al., 1994, p. 19). Although modern concepts of health recognizes the socioeconomic conditions, especially the relationship of poverty and health, laying the foundation for one's well-being in a holistic sense, "it is remarkable how little priority has been given within health research to their precise identification and understanding of their modes of action, relative importance, and possible inter- actions" (Mann et al., 1994, p. 19).

Comparing the Haitian government's response -or lack thereof- to anthrax epidemic in Haiti due to incapability and the US government's extravagant bioterrorism prevention efforts, Paul Farmer states:

> infections and inequalities: in a wealthy country, the spectre of biological warfare, for which there is exceedingly slender evidence, triggers a sort of officially blessed paranoia. In a poor country tightly bound to the rich one, real infections continue to kill off the poor, and we are told sternly to look harder for cheaper, more 'cost-effective' interventions. At best, those of us working in places like Haiti can hope for trickle-down funds if the plagues of the poor are classed as 'U.S. security interests' (Farmer, 2000, p. 95).

Therefore, the connection between health and human rights and inequality surrounding the matter has been very "real" in less developed parts of the world.

3.6. Human Rights and HIV/AIDS Response

Although right to health had already been conceptualized in international law earlier in history, "it was HIV/AIDS that acted as a catalyst in bringing together

these two domains, through the explicit recognition of a rights-based approach to the prevention and treatment of the disease" (Lisk, 2009, p. 50). In fact, GPA's global AIDS strategy in 1987 is considered a first where "a public health strategy had been framed in human rights terms and anchored in international law" which held governments responsible for the overall well-being of their populations (Lisk, 2009, p. 51). Therefore, looking closely at the global governance of HIV/AIDS pandemic and the role of INGOs in access to ARV drugs is crucial to make sense of today's discussions and arguments surrounding the matter of equitable access to COVID-19 vaccines.

In global efforts to tackle HIV/AIDS pandemic, inequality has been keeping its centrality since "AIDS-prevention efforts have failed in precisely those areas where they are needed most" (Farmer, 2000, p. 99). Regarding the spread of HIV/AIDS pandemic, Jonathan Mann, the founder of WHO's Global Programme for AIDS, proposed that discrimination was a cause of the disease rather than an effect, a representation which was not purely biomedical (Szlezák, 2012, p. 35). The argument was that, "discrimination, marginalization, stigmatization and more generally, a lack of respect for the human rights and dignity of individuals and groups heightens their vulnerability to becoming exposed to HIV" (Mann et al., 1994, p. 20).

Not only the cause of infection, but the medical care remains a significant problem and reveals the global inequality in access to HIV treatment. Millions of people are unable to access antiretroviral therapy (ARV), which "transforms the status of HIV infection from an inevitable fatal disease to a chronic but manageable condition, and allows those undergoing treatment to live longer and even continue to lead a relatively normal life" (Lisk, 2009, p. 52). According to the data of UNAIDS, Sub-Saharan Africa is home to two thirds (67%) of people living with HIV and roughly one third of the nearly 38 million people living with HIV globally had no access to treatment at the end of 2020 (*Global HIV & AIDS Statistics — Fact Sheet*, n.d.). The same data indicate that percentages of all people living with HIV accessing antiretroviral therapy are significantly lower in

the least developed and developing regions compared to the developed regions of the world (*Global HIV & AIDS Statistics — Fact Sheet*, n.d.). In fact, despite efforts to increase the proportion of individuals diagnosed with HIV who receive anti-retroviral therapy, "42% of people living with HIV (PLHIV) aged 15 years and older in western and central Africa were not receiving anti-retroviral therapy in 2019" (Kim et al., 2021, p. 1). Even when ARV therapy is available per se, a study shows that 1.5 million PLHIV in Sub-Saharan Africa live more than an hour's drive from the nearest health facility offering it (H. Kim et al., 2021, p. 6).

The high cost of ARV drugs has been the major provoker of this inequality. Universal access to ARV treatment, which reverses the patients' certain end and allows them to have the same life expectancy as HIV-negative people, was stated to be achievable by WHO and UNAIDS, if only access to drug is provided as a right to those affected (Lisk, 2009, p. 51). The debate over pricing of ARV drugs, manufactured by the pharmaceutical companies in developed countries, and are unaffordable for low- and middle-income countries, whose populations are stated to be more susceptible to be infected with HIV due to structural inequality, is one of the key aspects with regards to access to treatment. Due to the high cost of therapy, which is considered a first world province, in developing countries, "we are encouraged to restrict our 'AIDS-related activities' to prevention alone" (Farmer, 2000, p. 100). Prevention of AIDS is much cheaper compared to therapy but Farmer states "we must move beyond weak prevention programs to develop a global HIV strategy which encompasses meaningful prevention efforts and treatment of those already afflicted" (Farmer, 2000, p. 102).

Considering the existing inequalities, INGOs began to frame the debate by using the emotive language of human rights with the argument that "public health, the right to health and the right to life were at risk due to the patent provisions of the TRIPS Agreement" (Matthews, 2011, p. 5). In turn, civil society activism and competition from manufacturers of generic drugs, which became available after Doha Declaration on TRIPS Agreement and Public Health in 2001, decreased

the prices of ARV medicines from about US$ 14,000 per person per year in 1990s to about US$ 1,200 per year in 2003 and by 2018, the price per person per year in sub-Saharan Africa was under US$ 100 (*Big Drops in the Cost of Antiretroviral Medicines, but COVID-19 Threatens Further Reductions*, n.d.). This example made the significance of inequality a concern in global health.

3.7. COVID-19 Response and Human Rights

Although the global pandemic response highlights the concept of equity within a human rights framework, COVID-19 crisis uncovered the fact that it is still disproportionate in the year 2020 between low-and middle-income countries and high-income-countries. Considering the global health governance response to COVID-19, under which quarantine, frequent handwashing, social distancing, and business closures were implemented as prevention measures, it can be said that these cannot be easily translated into the LMIC context without significant challenges (Eyawo & Viens, 2020, p. 1). Similarly, African countries were said to be shoved out of the diagnostic market for the purchase of essential materials necessary to produce testing reagents, as "given the established supply chains and purchasing power of HICs [Higher Income Countries], their ability to buy up most of the supplies prevents African countries from taking essential steps to protect themselves from COVID-19" (Eyawo & Viens, 2020, p. 3). Therefore, what creates the global health inequality is high income countries' actions rather than lack of supplies or capacity for COVID-19 response which is an opportunity to develop global health governance.

This pattern of inequity is not specific to COVID-19 but was similar with the HIV pandemic as explained above. The effects of both diseases disproportionately affecting poor and marginalized people are exacerbated by social and economic disparities with resultant higher rates of adverse outcomes and mortality (The Lancet, 2020). The abovementioned inextricable link between health and human rights has been first identified in the early response to the HIV/AIDS pandemic which underlined that one of the most effective paths to

advance global health with justice is rights-based approaches constituting the foundation for the response to COVID-19 (Sekalala et al., 2020, p. 1). As UN member states have pledged that "no one will be left behind", some argued that the "global response to COVID-19 must honor this pledge" (Hargreaves et al., 2020).

Considering the urgency of a vaccine, WHO have received pledges amounting to US $11 billion from governments and other international organizations (WHO, 2020). Also, initiatives, such as the Access to COVID-19 Tools (ACT) Accelerator under WHO and the Inclusive Vaccine Alliance (IVA) by some EU member states were formed to speed up the development and support global and equitable access of a COVID-19 vaccine. The ACT Accelerator consists of four pillars -diagnostics, therapeutics, vaccines, and health systems connector. The vaccines pillar is the COVID-19 Vaccine Global Access Facility (COVAX) co-led by CEPI, GAVI and WHO, alongside key delivery partner UNICEF, aims to ensure timely, equitable access to vaccines in all participating countries (Eccleston-Turner & Upton, 2021, p. 313). Another global approach to facilitate greater global cooperation has been the WHO's COVID-19 Technology Access Pool (C-TAP), launched in May 2020, to promote "technology transfer and the global pooling and sharing of intellectual property (IP) and is largely aligned with the aims of the 'people's vaccine'"(Human Rights Watch, 2020a, p. 21). Currently endorsed by 45 WHO Member States (mostly low-and middle income-countries with a few exceptions), C-TAP was launched as a response to WHO's "Solidarity Call to Action" in May 2020, "to realize equitable access to COVID-19 health technologies through pooling of knowledge, intellectual property and data"(World Health Organization, 2020c). On 14 May 2020, more than 140 world leaders, scientists, humanitarians, and business leaders "have signed an open letter calling on all governments to unite behind a people's vaccine against COVID-19" which is "an unprecedented call for guarantees that COVID-19 vaccines, diagnostics, tests and treatments will be provided free of charge to everyone, everywhere" (UNAIDS, 2020). The coalition formed, The People's Vaccine Alliance, states "every life now lost to vaccine inequality is avoidable"

(The People's Vaccine Alliance, 2020). These developments give the impression that COVID-19 response has embraced equality as a core principle, yet the real picture, is far from the ideal which in the end bring forth the advocacy campaign of civil society.

In reality, there was no equality. "Developing countries may not have access to a COVID-19 vaccine without assistance from the multilateral system" as "vaccine market is dominated by a small number of manufacturers operating in a small number of largely developed countries; there is no generic competition" and an "advanced infrastructure, knowledge and technical ability" is required just to store, transport, and license a vaccine (Eccleston-Turner & Upton, 2021, p. 311). WHO targeted to vaccinate 10% of all countries' populations by the end of September 2021, yet "56 countries effectively excluded from the global vaccine marketplace were not able to reach this target – and most of them in Africa"(*Vaccine Equity,* n.d.). In fact, according to UNAIDS data, as of July 2021, the percentage of people in Africa, where the population is already susceptible to diseases including HIV, who had received at least one dose of a COVID-19 vaccine is less than 3% (*Global HIV & AIDS Statistics — Fact Sheet*, n.d.).

LMICs "are home to a majority of the world's people living with HIV, and an increasing body of evidence indicates that people living with HIV who acquire SARS-CoV-2 infection are at heightened risk of severe COVID-19 illness and death" (UNAIDS, 2021). That shows the importance of transnational coalition's equitable access to COVID-19 vaccines campaign, as history has been repeating previous crises some parts of the world had faced.

3.8. Analyzing the Role of NGOs in Global Politics

With the shift from "international organizations" to "global governance", NGOs have increasingly started to be involved in global politics. NGOs are not social movements, but they aim for a change in the existing order. They can be part of

transnational advocacy networks or transnational coalitions as well, as the two INGOs included in the thesis, HRW and Oxfam have been. Therefore, the thesis will look into what transnational advocacy networks and transnational coalitions are and what type of influence they can have over the targeted actors.

3.8.1 Transnational Advocacy Networks and Transnational Coalitions

Introduced to the IR theory by Keohane and Nye, transnationalism was a challenge to the paradigm in international relations in 1970s, i.e., the classical tenets of realism (Şahin, 2006, p. 259). Keohane and Nye argued that "a good deal of intersocietal intercourse, with significant political importance, takes place without governmental control" (Nye & Keohane, 1971, p. 330).

The early analysts of transnationalism lump together relations between different actors such as the Catholic church, multinational corporations, international scientific organizations, and activist groups (Keck & Sikkink, 1998, p. 29). However, Keck and Sikkink refined these groups in terms of networks which are "forms of organization characterized by voluntary, reciprocal, and horizontal patterns of communication and exchange" (Keck & Sikkink, 1998, p. 8) and categorized these transnational networks in three groups based on their motivations:

> (1) those with essentially *instrumental goals*, especially transnational corporations and banks, (2) those motivated primarily by *shared causal ideas*, such as scientific groups or epistemic communities; (3) those motivated primarily by *shared principled ideas or values* (transnational advocacy networks) (Keck & Sikkink, 1998, p. 30).

Advocacy networks are different from the other two categories as they are not motivated by any type of gain but rather motivated by shared values and norms. Major actors in advocacy networks can be all or some of the following with most central role given to the (I)NGOs:

> (1) international and domestic nongovernmental research and advocacy organizations; (2) local social movements; (3) foundations; (4) the media; (5)

> churches, trade unions, consumer organizations, and intellectuals; (6) parts of regional and international intergovernmental organizations; (7) parts of the executive and/or parliamentary branches of governments (Keck & Sikkink, 1998, p. 9).

Transnational advocacy networks most likely to emerge where (1) channels between domestic groups and governments do not exist or ineffective to resolve a conflict, in which "the boomerang pattern"[2] is set into motion, (2) networking is believed to further the mission and campaign and thus actively promoted, and (3) conferences and other forms of international contact create platforms for networks (Keck & Sikkink, 1998, p. 12).

What networks do is persuasion, socialization and pressure, that involves not only "reasoning with opponents, but also bringing pressure, arm-twisting, encouraging sanctions, and shaming" (Keck & Sikkink, 1998, p. 16). The tactics they use on governments, who are both the main guarantor and violator of rights, as well as other opponents are categorized in four groups:

> (1) *information politics*, or the ability to quickly and credibly generate politically usable information and move it to where it will have the most impact; (2) *symbolic politics*, or the ability to call upon symbols, actions or stories that make sense of a situation or claim for an audience that is frequently far away; (3) *leverage politics*, or the ability to call upon powerful actors to affect a situation where weaker members of a network are unlikely to have influence; and (4) *accountability politics*, or the effort to hold powerful actors to their previously stated policies or principles (Keck & Sikkink, 1998, p. 16).

Issue resonance, network density and target vulnerability affect the political outcomes and the effectiveness of transnational advocacy networks. Transnational advocacy networks have been found to be organized most effectively around issues that can be framed easily to resonate with policymakers and the public, which are issues; (a) involving bodily harm to vulnerable individuals, especially when the causal chain is short and clear, (b) involving legal equality of opportunity (Keck & Sikkink, 1998, p. 27). Network density is

[2] Boomerang pattern of influence occurs when channels between domestic actors and states are blocked, hence domestic NGOs bypass the state and search for international allies to pressure the state from outside (Keck & Sikkink, 1998, p. 12).

related to the number, power of leverage, and credibility of actors, and the level of connection, flow of reliable information among them (Keck & Sikkink, 1998, p. 28). Target state must be vulnerable to pressure too; either in terms of sensitivity to material incentives or to the international image it aspires to have by belonging to a normative community of nations (Keck & Sikkink, 1998, p. 29).

Within the broader term of transnational collective action, Khagram et al. (2002) make a categorization consisting of (1) transnational networks, (2) transnational coalitions, and (3) transnational movements, each with different levels of connection and mobilization (Khagram et al., 2002, p. 7). According to the categorization of Khagram et al. (2002), transnational advocacy networks are the most informal form of collective action and they are formed around information exchange with no formal ties between the actors in the network (p. 7). Transnational coalitions involve a greater transnational coordination where actors are "linked across country boundaries who coordinate shared strategies or sets of tactics to publicly influence social change" (Khagram et al., 2002, p. 7). These shared strategies are identified as *transnational campaigns* which require more formal level of contact and linkage "than a network because groups usually need to meet to identify and agree upon these shared tactics, to strategize about how to implement the campaign, and to report regularly to each other on campaign progress" (Khagram et al., 2002, p. 7). Transnational coalitions share not only information but also resources to achieve their aim of changing a particular unjust state (Şahin, 2006, p. 267). Lastly, transnational social movements, the rarest to form and hardest to maintain among the three, "are sets of actors with common purposes and solidarities linked across country boundaries that have the capacity to generate coordinated and sustained social mobilization in more than one country to publicly influence social change" (Khagram et al., 2002, p. 8). The distinctive feature of transnational social movements is that they use protests and/or disruptive actions (Şahin, 2006, p. 267) and they "have a higher level of collective identity" (Khagram et al., 2002, p. 8).

3.8.2 Influence of Transnational Activism and NGOs

With globalization, world politics increasingly started to include interactions of actors other than just nation states. These nonstate actors interact with each other, with states, and with international organizations and create networks. International and local NGOs are a significant part of transnational advocacy networks and transnational coalitions.

As transnational advocacy networks do not have power in the traditional sense, they use the power of information and share information, funds and use the power of frames to base their campaigns, shape perceptions and have influence. Keck and Sikkink identify 5 types or stages by which advocacy networks and NGOs have influence on policy processes with each step showing a higher level of influence; i) issue creation (framing) and agenda setting, ii) influence on discursive positions of states and international organizations, iii) influence on institutional procedures, iv) influence on policy change in "target actors", such as states, international organizations or private actors, v) influence on state behavior (Keck & Sikkink, 1998, p. 25). As an example of how a transnational campaign have influence on policy process Oxfam's "Cut the Cost" campaign on equitable access to essential medicines will be analyzed.

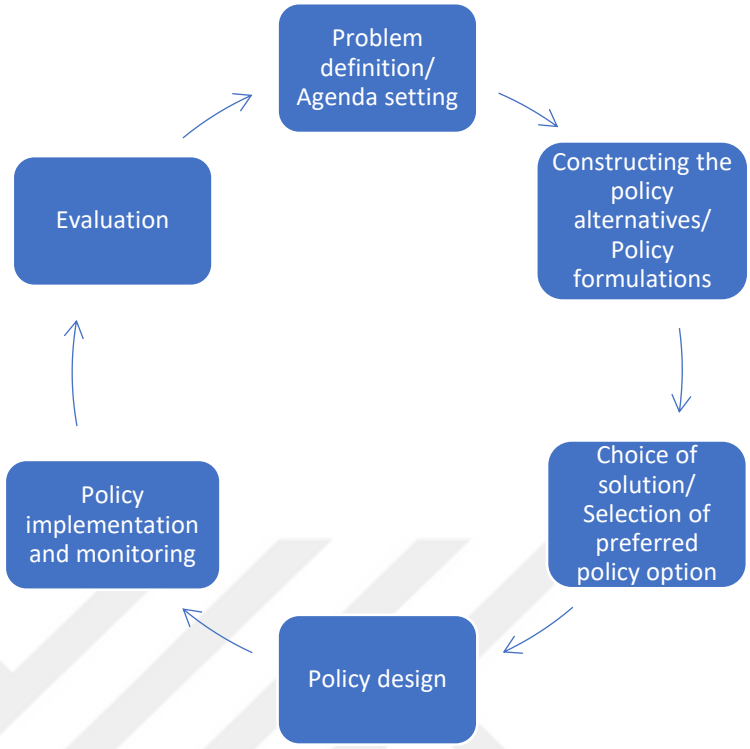


Figure 1. Policy processes, figure based on (Young and Quinn in Bebbington et al., 2008, p.135)

i. Framing and Agenda Setting

Although NGOs are not social movements, they have been involving in politics increasingly. Since it can be argued that they both aim for some kind of change in the existing order, I will borrow "framing" concept from the social movement literature and apply it to two INGO's statements to analyze their influence on different actors.

Framing simply is conceptualizing an issue comprehensible to a specific audience. Originating from the social movement literature which had viewed social movements as the unintentional products of existing structures or ideas until the mid-1980s, frames have changed the perception towards movement actors in the sociology literature and paved the way for them to be regarded as "signifying agents engaged in the production and maintenance of meaning for constituents, antagonists, and bystanders or observers" (Benford & Snow, 2000,

p. 613). That active character that has been associated with the social movement actors was conceptualized with the word “frame” which has primarily been denoted as “ ‘schemata of interpretation’ that enable individuals ‘to locate, perceive, identify, and label’ (Goffman, 1974, p. 21) occurrences within their life space and the world at large.” (Benford & Snow, 2000, p. 614) Frames have been used to change, expand, channel, and even construct our reality.

According to Goffman, primary frameworks are used for “rendering what would otherwise be a meaningless aspect of the scene into something that is meaningful”(Goffman, 1974, p. 21). Primary frameworks comprised of natural and social frameworks; “natural frameworks identify occurrences seen as undirected, unoriented, unanimated, unguided, ‘purely physical’ “, whereas social frameworks “provide background understanding for events that incorporate the will, aim, and controlling effort of an intelligence, a live agency, the chief one being the human being” (Goffman, 1974, p. 22). Asserting that “acts of daily living are understandable because of some primary framework (or frameworks) that informs them” (Goffman, 1974, p. 26), Goffman proposed that primary frameworks are needed for the individuals to understand the basics of any phenomena.

Entman argues that frames are used to “select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described” (Entman, 1993, p. 52). Since selection and salience are key concepts in Entman’s definition, he specifically conceptualized salience as “making a piece of information more noticeable, meaningful, or memorable to audiences” (Entman, 1993, p. 53) which in the end will increase the audience’s perception of the information concerned. According to Entman, frames define problems, diagnose causes, make moral judgments, and suggest remedies (Entman, 1993, p. 52).

Various groups, including NGOs “alter frames of individuals and groups in order to gather support or influence outcomes” (Tsetsura, 2013, p. 408). “NGOs have often succeeded spectacularly when they convince publics and governments that a new way of viewing problems opens up opportunities for resolution of those problems” (Shamima & Potter, 2006, p. 48). Issue framing is also a convenient way for NGOs to demonstrate that a problem exists at all to states and other actors. By choosing specific words and terminology, which is more than wordplay, NGOs in fact choose which aspects to highlight and which to by coining “ideas which have resonance within a particular social context”(Bebbington et al., 2008, p. 136). To achieve this, NGOs must convince the relevant policy actors that the problem is important and solvable (Bebbington et al., 2008, p. 135).

According to Betsill and Corell, to be able to claim that NGOs have an influence on issue framing, “a correlation between the frames used by NGOs and those used by negotiators in their statements and/or as reflected in the final agreement” should exist. Frames may occur before the negotiation phase of the policy process or may change over the course of negotiations (Betsill & Corell, 2007, p. 33). While analyzing NGO influence in terms of the framing indicator, an analyst should include evidences such as how the issue was understood before the start of the negotiation of the issue, how it was understood during and after, and what NGOs did to bring about this understanding (Betsill & Corell, 2007, p. 34).

Agenda setting is another potential impact of NGOs. Agenda setting occurs when “networks generate attention to new issues and help set agendas when they provoke media attention, debates, hearings, and meetings on issues that previously had not been a matter of public debate” (Keck & Sikkink, 1998, p. 25). NGOs can influence agendas during negotiation phase, yet they can also draw the international community’s attention to a problem in the first place(Betsill & Corell, 2007, p. 36). Therefore, analysts should consider evidences such as how an issue came to the attention of the international

community, whether there is a link between NGO activities and that, what NGOs did to shape the agenda, and what items or aspects were placed on and off the agenda, to analyze NGO influence on agenda setting process (Betsill & Corell, 2007, pp. 34–36).

It should be noted here that in political communication, framing, agenda-setting, and priming are related yet different approaches. As explained above, framing is a process of selection of certain terminology, themes, or concepts. Agenda setting, in a media context, is emphasizing certain issues and attributing more importance or salience to them (Scheufele, 2000, p. 302). Priming is, on the other hand, based on how an individual makes political evaluations regarding those certain issues highlighted through agenda setting processes, and thus related to public opinion (Scheufele, 2000, p. 297).

An example to that is Oxfam's "Cut the Cost" campaign against the "drug giants". 12 February 2001 marks the day when Oxfam started a campaign called "Cut the Cost" to force multinational pharmaceutical companies to cut the prices of their life-saving, essential drugs to poor countries. Oxfam, by especially concentrating on GlaxoSmithKline, the world's largest pharmaceutical company, "accused the companies and rich nations of 'waging an undeclared drugs war' against poor nations by keeping drug prices high and by using trade sanctions to protect the patent treaties that give companies 20-year monopolies on their drugs" (McNeil Jr, 2001). The campaign was not the first; "Doctors Without Borders, the Nobel Prize-winning charity; Act-Up, the American AIDS activism group; and others" had been conducting a similar one for more than a year (McNeil Jr, 2001). Oxfam produced three policy publications under the "Cut the Cost" campaign, and these will be analyzed in this section after a background information about the situation then, as well as about the controversial TRIPS Agreement.

As per the WTO's Agreement on Trade Related Intellectual Property Rights (TRIPS) signed in 1994, the minimum standards for intellectual property

protection includes the exclusive right to market a patented product for at least 20 years (Oxfam GB, 2001a). The *naming and shaming* campaign Oxfam started aimed at enabling poor countries to change their patent laws to be able to import generics of anti-AIDS drugs -ARVs-, antibiotics, as well as other life-saving medicines produced in India, Brazil, Canada, or Thailand without having to fight patent protection that the pharmaceutical companies enjoy under TRIPS Agreement.

Sophia Tickell, head of the *Cut the Cost* campaign stated, "our message to the big financial houses will be that unless the big drug companies do something dramatic soon, they run a serious reputation risk" (McNeil Jr, 2001). Despite the campaign, on 5 March 2001, "drug giants", as Oxfam articulated, "39 of the world's largest pharmaceutical companies took the South African government to court over the terms of its 1997 Medicines Act"(Oxfam GB, 2001c). South Africa had enacted an amendment to the South African Medicines and Related Substances Control Act a section which explicitly authorizes parallel imports[3] of patented drugs. With the amendment, South Africa could import the same drugs from the countries where the prices are lower. South Africa was having a public health crisis then, in March 2001, out of its 44.9 million population (Standing & Samson, 2003, p. 33), over 4.5 million were infected with the HIV (Oxfam, 2001). HIV/AIDS, a fatal, uncurable disease, could only be suppressed by the anti-retroviral drugs most of which are under patent and are priced for four to twelve times of the generic equivalents. HIV/AIDS was also just a fraction of the actual problem; "large numbers of people suffer from AIDS-related tuberculosis, and from sexually transmitted diseases, a growing proportion of which are multidrug resistant and require expensive new patented drugs for treatment" (Oxfam, 2001).

[3] According to WTO, "parallel or grey-market imports are not imports of counterfeit products or illegal copies. These are products marketed by the patent owner (or trademark- or copyright-owner, etc) or with the patent owner's permission in one country and imported into another country without the approval of the patent owner." "Compulsory licensing is when a government allows someone else to produce the patented product or process without the consent of the patent owner." (WTO, n.d.)

The first of the abovementioned three policy publication produced under the campaign is a briefing paper dated January 2001 “Dare to Lead: public health and company wealth” addressing GlaxoSmithKline and other pharmaceutical companies, second is “Cut the Cost, Patent Injustice: How World Trade Rules Threaten the Health of Poor People” dated February 2001 addressing governments and international organizations, and the last is “Fatal Side Effects: Medicine Patents under the Microscope” dated February 2001, again addressing governments and international organizations.

In “Dare to Lead: public health and company wealth” published on 1 January 2001, Oxfam challenges then newly formed pharmaceutical giant, GlaxoSmithKline, and analyses the impact of the company on human development, specifically on poor people’s access to medicines. Throughout the briefing paper in which the dichotomy between “rich and poor”, “developed and underdeveloped” with an injustice connotation was frequently emphasized under the inequality frame, Oxfam focuses on the actions pharmaceutical companies should take, in order to increase the poor’s access to medicines including, ensuring the IP rights do not increase prices in developing world, investing in R&D on diseases of the third world, and limiting marketing and lobbying activities where it is contrary to the public interest, unless the companies want to face “a serious reputation risk” (Dare to Lead: Public Health and Company Wealth, n.d., p. 9). Not only letting of with the warning, Oxfam provides recommendations to the management of GlaxoSmithKline and specifies the points their policy should include, and both of these actions of Oxfam indicate a clear effort for agenda setting alongside the “inequality frame” embraced.

In “Patent Injustice: How world trade rules threaten the health of poor people” published on 1 February 2001, Oxfam frames the implementation of the TRIPS rules by the first world’s companies as a threat to the health of poor people by further diminishing their access to vital medicines and underlines “the health gap between rich and poor countries is reinforcing wider inequalities in income and opportunity, and undermining efforts to meet internationally agreed human

development targets". Oxfam provides several recommendations to governments and international organizations that includes changing trade rules to ensure access to vital medicines as an effort for agenda-setting, changing policy and behavior of actors, while still using the "inequality frame".

In "Fatal Side Effects: Medicine Patents under the Microscope", a technical paper, Oxfam again explains how the WTO rules work, what the health crisis is like in the poor countries, how the patent rules affect the price of medicines, and what governments and companies can do by setting out specific policy recommendations. Stating that most developing countries are concerned about the TRIPS Agreement which "throws into relief the way that today's world trade rules, policed by the WTO, are loaded against poor people and poor countries", Oxfam highlights the "inequality frame" by saying that rich countries like the USA, the EU member states including the UK actually defended the Agreement (Oxfam GB, 2001d), which would indicate that they were not behaving in line with their previous commitments to human rights guaranteed by international agreements. The framing used here and the indication that the developed world is acting in hypocrisy by favoring IP rights instead of human rights is part of Oxfam's shaming efforts under accountability politics to gain influence.

In a parliamentary briefing paper Oxfam produced on 1 February 2001, "Cutting the Cost of Global Health", Oxfam stated "each year, 11 million people die from infectious diseases, many of them because they cannot afford basic medicines" (Oxfam GB, 2001b) signaling the injustice frame embraced for the campaign. While the campaign did not only advocate for an equitable access to HIV/AIDS medicines, ARVs were a significant part of it. Drawing attention to the legal challenge South African government was going to face in the next month, March 2001, by the powerful pharmaceutical corporations, Oxfam underlined that "in South Africa HIV/AIDS is projected to reduce life-expectancy by 20 years by 2010" and added "only ten per cent of global research and development is directed towards illnesses that account for 90 per cent of the world wide disease burden" (Oxfam GB, 2001b). Calling the UK and the EU into action "to ensure

that global patent laws do not further diminish the ability of poor people to access essential drugs and medicines", Oxfam demanded developing countries should be able to access generic medicines through production, marketing, importing, or exporting. In fact, in the same paper, to draw attention to the inequality, it can be seen that Oxfam repeatedly chose the words "developing countries", "the poor" or "the poorest". In fact, throughout the 4-page paper, Oxfam used "developing countries" 14 times and "poor" 13 times. The same framing was present in the "Recommendations" part, where Oxfam stated:

- The forthcoming review of the TRIPS agreement should include a comprehensive impact assessment of its effects on the affordability and availability of medicines in developing countries.
- Pharmaceutical companies should exercise social responsibility with respect to their patent claims. They should not seek to enforce patent claims in the poorest countries on drugs essential to public health.
- Pharmaceutical companies should reduce the price of key medicines in developing countries so that they are affordable to the poor.
- A US$5bn international fund should be set up to support a global network of public research institutions dedicated to developing new medicines and vaccines for diseases of the poor (Oxfam GB, 2001b).

The above-mentioned statements of Oxfam can be considered an effort to influence framing and agenda of target actors. The emphasis of "inequality" frame as a powerful concept is at the forefront. Since NGOs use frames to have influence on policy processes, selection of frames is also intentional and strategic.

The borrowing of "inequality frame" of the "Cut the Cost" campaign of Oxfam in 2001 to be used in equitable access to COVID-19 vaccines campaign of transnational coalition, the People's Vaccine Alliance, and its members like Oxfam and HRW can indicate that these NGOs made a strategic selection of

frames based on the previous success of a campaign, at least that they are inspired by previous campaigns. Social movement actors "do not have to reinvent the wheel at each place and in each conflict. Rather, they often find inspiration in the ideas and tactics espoused and practiced by other activists" (Soule, 2004, p. 300). Although there are many factors affecting NGOs' strategy choices, the fact that almost the same crisis in access to lifesaving treatment has been re-happening in COVID-19 pandemic more than 20 years after it had occurred in HIV/AIDS pandemic does seem to have created a link with the previous campaigns of NGOs, especially when considered the success of Cut the Cost campaign, leading the way to Doha Declaration and afterwards the significant decrease in the cost of ARV drugs. Despite the time period passed between two campaigns, it can be argued that Cut the Cost campaign has at least inspired the equitable access to COVID-19 vaccines campaign.

ii. Influence on Discursive Positions of States and International Organizations

Networks and NGOs can influence discursive positions of states and international organizations by persuading them to support international declarations or change existing domestic policy positions (Keck & Sikkink, 1998, p. 25). NGOs can influence formulation of policies from "inside" or "outside the tent", meaning that they may or may not actively participate in the process (Bebbington et al., 2008, pp. 138–139). Scholars, analyzing the NGO influence on positions of key actors may consider whether the initial positions have been shaped by NGOs or whether their positions have been changed as a result of NGO activities during the course of negotiations (Betsill & Corell, 2007, p. 36). In some cases, NGOs positions or specific texts proposed by them may be reflected in agreements (Betsill & Corell, 2007, p. 37).

The influence on discursive positions of states and international organizations can be observed as a result of the activism on access to essential medicines, led by Oxfam's "Cut the Cost" campaign and its advocacy activities even before.

Oxfam, for instance, had actively participated in the preparation of the White Paper as it had already made a submission to the White Paper in May 2000, where it recommended the UK government:

- Pushing for reform of the TRIPs agreement to reduce the length and scope of patent protection and create patent-free zones in least developed countries. Measures such as parallel imports, compulsory licensing and price control should be promoted in order to ensure that poor people have access to essential medicines (Oxfam GB, 2000).

The British Government's next White Paper on globalization in December 2000, named "Making Globalisation Work for the World's Poor" in which the British Government "announced that it would establish a commission to look at how IP rules could be reformed to better protect the interests of the poor" (Oxfam GB, 2001a, p. 35) and acknowledged the existing inequalities in line with Oxfam's articulation. Although it is very hard to "prove" influence without doubt, this may indicate the possible influence of Oxfam and collective action of advocacy groups on the discursive position of the UK government as the discourse of the White Paper resembles of the campaign materials and Oxfam's submission to the government mentioned above.

iii. Influence on Institutional Procedures

NGOs often demand changes in institutional procedures which may affect policies in the future as well (Keck & Sikkink, 1998, p. 25). Therefore, in the future, they may have an influence on how decisions will be made. NGOs seek to enhance opportunities for participation in decision making processes by creating new platforms, such as advisory boards, or securing their role in implementation (Betsill & Corell, 2007, p. 36). By way of this, NGOs can move from outside to inside.

iv. Influence on policy of "target actors"

NGO activities may induce policy change in several actors, not only in a target state. Other states and international institutions may also be influenced by the NGO activities (Keck & Sikkink, 1998, p. 26). An example of advocacy network impact on policy can be "cut-offs of military aid to repressive regimes, or a curtailment of repressive practices" (Keck & Sikkink, 1998, p. 26).

Following the widespread campaign on access to essential medicines, especially with regards to HIV/AIDS drugs in 2001, The Doha Declaration on the TRIPS Agreement and Public Health was adopted on 14 November 2001 at the WTO Ministerial Conference. The Declaration "was a significant achievement for developing countries" (UNDP, 2011, p. 8) to "confirm the right of any WTO Member, particularly developing countries, to use the TRIPS flexibilities as described above, to offset the adverse effects of higher prices resulting from the patenting of pharmaceutical products and to facilitate access to them" (UNDP, 2011, p. 18). Looking at the name, the Doha Declaration -a non-binding instrument- might be interpreted only as a change in discursive position of the signatory parties. However, it is argued that the Doha Declaration is more than just a reaffirmation of TRIPS flexibilities, but rather "should now be regarded as an interpretive element in the interpretation of the TRIPS agreement under customary international law" (Gathii, 2002, pp. 292–293), meaning that "it still constitutes soft law with substantial hortatory authority that puts political pressure on governments and international institutions to comply" (Gathii, 2002, p. 314). Taking these into consideration, labeling Doha Declaration just a mere declaration without any authority should not be acceptable. In fact, its implementation decreased the cost of ARV medicines from about US$ 14,000 per person per year in 1990s to under US$ 100 as of 2018 (*Big Drops in the Cost of Antiretroviral Medicines, but COVID-19 Threatens Further Reductions*, n.d.). At this point, the Declaration should be considered a policy change of the signatory states.

v. Influence on State Behavior

Change in policy does not guarantee change in state behavior. However, "without the activities of NGOs, states' behaviors might never be changed since the issues are sensitive to the interests of the governments"(Y. Kim, 2011, p. 25).

The influence on state and target actor behavior can be observed as a result of Oxfam's "Cut the Cost" campaign. Right after Oxfam's "Cut the Cost" campaign was launched, an article in *The New York Times* by Rachel L. Swarns, in February 2001, stated that the pressure on big pharma for South Africa lawsuit was increased (Swarns, 2001). The articled also stated that "the United States, once the industry's staunchest ally in the case, reiterated that it would not seek sanctions against poor countries ravaged by AIDS, even if American patent laws were broken, so long as the countries abided by international treaties governing intellectual property"(Swarns, 2001). As protests and civil demonstrations against the lawsuit continue in South Africa, in March 2001, several drug companies reduced prices of their AIDS medicines "to levels unimaginable even two months earlier". The same article highlighted that the CEOs of five of the world's biggest drug companies called Kofi Annan, then Secretary General of the UN who made HIV/AIDS one of his personal priorities during his term from 1997 to 2007 (Lisk, 2009, p. 39), to negotiate a deal with then President of the South Africa, Thabo Mvuyelwa Mbeki, while "the European Union, the World Health Organization and France's National AIDS Council, among many others" had publicly supported South Africa regarding the dispute in April (Swarns, 2001). Again, in April 2001, Kofi Annan, "who applauded the contributions from nongovernmental organizations 'who are our vital partners in this fight'", the Director-General of WHO, and the Executive Director of UNAIDS met with the leaders of six research-based pharmaceutical companies (Abbott Laboratories, Boehringer Ingelheim, Bristol-Myers Squibb, GlaxoSmithKline, Hoffman-La Roche and Pfizer) in Amsterdam, to discuss "what further steps can be taken by these companies to make care and treatment more accessible for people living with HIV/AIDS in developing countries"(Knight, 2008, p. 124).

Consequently, on 20 April 2001, the pharmaceutical industry dropped the lawsuit “bowing to mounting public pressure” (Swarns, 2001). The New York Times article included the CEO of GlaxoSmithKlein, J.P. Garnier’s words as follows; "we don't exist in a vacuum, we're a very major corporation. We're not insensitive to public opinion. That is a factor in our decision-making. We don't want the public to misunderstand the issues”. An industry analyst further commented, “this has been a public relations disaster for the companies. The probability of any drug company suing a developing country on a life-saving medicine is now extremely low based on what they learned in South Africa” (Swarns, 2001).

A very similar confrontation had occurred in Brazil, backed by an intense social movement, who had been on the frontlines of the international challenge against the Western pharmaceutical companies and their overly priced ARV medicines and who has “sharply cut its mortality rate from AIDS in recent years with an aggressive campaign to make drugs available cheaply and effectively” (Crossette, 2001). Brazil’s Industrial Property Law dated 1996 foresees that foreign companies lose their patent protection, unless they make the drug in Brazil or license a local company to make it within three years of securing a patent which also permitted government-run laboratories to copy any foreign drugs with patents that predate the 1996 law (Crossette, 2001). However, in January 2001, the US government lodged a patent complaint in WTO against Brazil on the grounds that its 1996 law violates international intellectual property rules. In response, Oxfam published a briefing paper earlier in May 2001, criticizing the US complaint against Brazil and called on “the US government and the international pharmaceutical companies to lift the pressure for changes in the country’s policies on medicines and patents” and recommended “the US government should drop the case against Brazil at the WTO” (*Drug Companies vs. Brazil: The Threat to Public Health*, n.d., p. 5). Oxfam had underlined that the existing TRIPS rules “are loaded against poor people and countries” -by reiterating the inequality frame it had been using- and “are in need of radical reform in order to put development and poverty reduction at their heart” (*Drug*

Companies vs. Brazil: The Threat to Public Health, n.d., p. 11). Indeed, on 26 June 2001, during the United Nations General Assembly Special Session (UNGASS) debate on HIV/AIDS, the US withdrew the complaint which shows a change in state behavior. The symbolic victory was commented by Oxfam's spokesperson Seth Amgott who stated, "Brazil has the most successful AIDS treatment program in the developing world, and this decision shows that the U.S. is no longer threatening its existence" (Crossette, 2001). The US trade representative stated "the United States has been supportive of Brazil's bold and effective program to combat the H.I.V.-AIDS crisis"; and the decision of the US has "added to the sense that pharmaceutical companies can no longer expect governments to protect them against a rising tide of concern about the denial of drugs to poor victims of AIDS" (Crossette, 2001).

At the conclusion of the 26th UNGASS on HIV/AIDS, the General Assembly adopted a Declaration of Commitment where governments recognized that "the availability and affordability of drugs and related technology should be reviewed, and the costs of such drugs and technology reduced in collaboration with the private sector and pharmaceutical companies" *(para.24)* and "countries should increase access to drugs through innovation and domestic industries consistent with international law, and the impact of international trade agreements on access to drugs should be further evaluated" *(para.26)* (Joint United Nations Programme on HIV/AIDS, 2002, p. 10). Then Prime Minister of Ireland commented that "people living with HIV/AIDS in poor countries must have access to effective support and treatment. The infected need our help to prolong their lives and to allow them to live in dignity and with the respect they deserve. The debate on access to medicine must be placed in the wider context of access to care. Governments, development agencies, the private sector and civil society organizations need to work together to overcome the obstacles to provision of care for the infected" (Joint United Nations Programme on HIV/AIDS, 2002, p. 10). This shows the impact of equitable access to medicines campaign during HIV/AIDS pandemic.

The equitable access to HIV/AIDS medicines had an impact on the private sector too. Now in 2022, GSK has a "Responsibility" tab on its website where it elaborates its pricing and access strategies to improve health globally. It states:

> Extending access to HIV treatment and care is a priority, particularly in low-income countries where nearly 90% of people affected by HIV live.
>
> ViiV Healthcare's voluntary licensing agreements with the Medicines Patent Pool and Aurobindo Pharma allow generic manufacturers to produce and sell low cost single or fixed dose combination products containing dolutegravir for adults and children in countries with the highest burden of HIV (*Pricing and Access Strategies | GSK*, n.d.).

This alone shows that the pharmaceutical giant had felt obliged to openly acknowledge its commitment and "responsibility" to improve global health and support the poor's access to medicines under its "access strategy", specifically those for HIV, which can be regarded as a success for the campaign.

CHAPTER 4

CASE AND APPLICATION OF ANALYTICAL FRAMEWORK

In this chapter, the influence of equitable access to COVID-19 vaccines campaign of Oxfam and HRW as major actors in transnational coalition - People's Vaccine Alliance- will be analyzed. The chapter will first provide a summary of the timeline of relevant events at the beginning of COVID-19 pandemic before analyzing the influence on different actors.

The SARS-CoV-2 virus, or COVID-19 as it goes by the name, has first been announced on 9 January 2020 by WHO as a "mysterious coronavirus-related pneumonia" in Wuhan, China (AJMC, 2021). Shortly after that, on 30 January 2020, WHO declared a Public Health Emergency of International Concern (World Health Organization, 2020a); and a pandemic on 11 March 2020 (World Health Organization, 2020b). After six months, in September 2020, there were more than 32 million people infected with COVID-19 worldwide, while the number of confirmed deaths were reaching up to 1 million (World Health Organization, 2020d).

Meanwhile, the efforts for a long-term solution, that is developing a vaccine for the disease, were underway. Right after the US declared COVID-19 a national emergency on March 13 (AJMC, 2020a), on 18 March 2020 the first human trial has begun in Seattle (Sas, 2020). When the calendar showed December 2020, FDA issued an emergency use authorization for Pfizer/BioNTech and Moderna, while the UK approved emergency authorization for the AstraZeneca and Oxford vaccines (AJMC, 2021).

Surely, the development of the new vaccines brought concerns over their distribution. As previous pandemics such as HIV/AIDS in the past showed, in

times of public health crises, poor and developing countries, as well as marginalized populations, take the hardest strike. The inextricable link between health and human rights has manifested itself once again with COVID-19 pandemic.

A transnational coalition was formed around the matter following an open letter published on 14 May 2020. The People's Vaccine Alliance, of which HRW and Oxfam a member to, was formed with over 100 organizations, scientists, Heads of States, activists, and Nobel Laureates to campaign for a People's Vaccine, accessible free of charge to everyone globally (The People's Vaccine Alliance, 2020). The coalition campaigned for making COVID-19 vaccines a global public good by removing patents. In this part, the impact of the transnational coalition's equitable access to COVID-19 vaccines campaign will be analyzed with process tracing method. As members of the coalition, statements of HRW and Oxfam will be analyzed to limit the scope. For the impact, framing and agenda-setting, change in discursive position, change in institutional procedures, policy change, and change in behavior of target actors, such as states and private corporations will be assessed.

HRW and Oxfam, as members of this coalition, framed the distribution of vaccines as a matter of inequality. The inequality frame, resembling what had been used for HIV/AIDS campaign of Oxfam, has been used repeatedly in their statements. This framing was reflected on the framing of target actors. The access to vaccine campaign of the transnational coalition had also impact on agenda-setting, discursive positions, and behavior of target actors which were covered in the research.

Vaccine inequality ringed alarm bells for civil society even before vaccines are on the market for use. On 15 June 2020, Oxfam published a blog post titled "People over profits: Make COVID-19 medicines and vaccines free and fair for all" in which it stated:

> to prevent the COVID pandemic from becoming an inequality pandemic, any medicines or vaccines that pharmaceutical companies develop must be made free to all, and they must be fairly and equitably available to all those people most in need throughout the world (Silverman & Lusiani, 2020).

A comprehensive report of HRW, titled "Whoever Finds the Vaccine Must Share It", was published on 29 October 2020, when there was no vaccine around but more than 40 were in clinical trials (Human Rights Watch, 2020a). In the some 60-page report, HRW highlights that between April and October 2020, it "had discussions with more than 15 renowned experts on access to medicines, IP, and human rights; analyzed international human rights law and relevant national legal good practices; and reviewed a vast array of publicly available documents and secondary sources" (Human Rights Watch, 2020a).

In the report, HRW refers to Oxfam International's findings, which showed that 51% of the doses of the five of the nine vaccine candidates that were in clinical trials in September 2020 were reserved for high income countries, although they represent only 13% of the world population (Human Rights Watch, 2020a, p. 8). Highlighting the enormous amount of public money used to fund vaccine research and development in the high-income countries, HRW has drawn attention to governments' human rights obligations, the barriers on access to vaccine faced by low- and middle-income countries, as well as the idea of "global public good" over profits. At time of the writing of HRW's report, India and South Africa had already submitted a proposal to WTO TRIPS Council in October 2020, recommending a waiver from some of the provisions of the Agreement "until widespread vaccination is in place globally, and the majority of the world's population has developed immunity"(Human Rights Watch, 2020a, p. 50). A possible waiver to the TRIPS agreement enables more manufacturers could produce the vaccines without legal repercussions; therefore, would ramp up vaccine supply needed by the world (The People's Vaccine Alliance, n.d.).

In the report, HRW called out to the following groups in order to support universal and equitable vaccine access to fight the COVID-19 pandemic: 1) all governments, to commit to share knowledge, IP rights, and data and to support India and South Africa's proposal at WTO regarding the implementation of TRIPS flexibilities; 2) governments on the boards of Gavi and CEPI[4], and those participating in the COVAX facility, to attach conditions to their funding related to technology transfers; open and non-exclusive licensing; and transparent and affordable pricing; 3) to governments funding COVID-19 vaccines, to commit to transparency for vaccine funding and pricing, and 4) to UN organizations, to create sustained civil society participation, to take measures to ensure the vaccine is made accessible to vulnerable populations, and to call on governments, companies, research institutes, and all stakeholders in vaccine research to endorse WHO's C-TAP (Human Rights Watch, 2020a, pp. 59–63).

We will use a categorization to explore HRW and Oxfam's impact as part of the transnational coalition with regards to the campaign on equitable access to COVID-19 vaccines. Their advocacy activities will be analyzed in groups by the targeted actors in global governance. First, the impact on governments like the US, Canada, Germany and the EU; and then the impact on private sector will be discussed. It will be argued that the level of impact has been different on different private sector actors. Regarding states, the impact of the campaign is significant as it has achieved to change the policy and behavior of the US first, who expressed its support for the Waiver Proposal. This development ignited a chain reaction and the Waiver Proposal was unanimously accepted on 17 June 2022, indicating the highest level of impact, that is change in behavior of the WTO member states. The table below shows the types of impact on different actors and contrary to what has been suggested by Keck and Sikkink, the increase in the level of impact is not incremental, or step-by-step. Instead, it seems to be random in this case. The campaign did have an influence on the

[4] According to the information on the official website "CEPI is an innovative global partnership working to accelerate the development of vaccines against epidemic and pandemic threats"(*CEPI | New Vaccines For A Safer World*, n.d.). GAVI, the Vaccine Alliance, is a public-private partnership supporting vaccine research and access to vaccination (see p.14).

policy and behavior of the US, but the behavioral change of Canada, Germany, and the EU -who are all members of the WTO- which led to the adoption of the Waiver Proposal seems to be affected by the US position, instead of the campaign of the transnational coalition. At this point, what could be argued for these actors is only an indirect impact. Similarly, no procedural change was observed for any of the governmental actors despite the behavior change. Therefore, the leveled approach to impact theory of Keck and Sikkink doesn't apply for this case.

Table 1. Type of impact on different actors

Impact/Actor	United States	Canada	European Union	Germany	Pfizer/Bio NTech	Moderna
Agenda Setting and/or Framing	x	x	x	x	x	x
Discursive Change	x	x	x		x	x
Procedural Change						
Policy Change	x					
Behavioral Change	x	x	x	x		

4.1. Impact on Governments and the EU

In this part, the impact of the transnational coalition's equitable access to COVID-19 vaccines campaign on the US, Canada, the European Union, and Germany will be analyzed consecutively.

4.1.1. The US

Looking back at the US in early 2020, we see that the US government declared a public health emergency (PHE)[5] on 3 February due to coronavirus outbreak, just three days after WHO's declaration of a Global Health Emergency (AJMC, 2021). Not long after, on 13 March, then-President Donald Trump declared COVID-19 a national emergency[6], following WHO's declaration of a pandemic on 11 March (AJMC, 2020a).

On 21 May 2020, while the number of deaths due to COVID-19 was around 100,000, the US government announced a collaboration with AstraZeneca, and on 22 July, another collaboration with Pfizer and BioNTech for a delivery of 100 million doses of their vaccine candidate (AJMC, 2021). The US also increased funding of Moderna vaccine by $472 million on 27 July, agreed to a $2.1 billion deal with GlaxoSmithKline and Sanofi on 3 August, and agreed to a $1.5 billion deal with Moderna for 100 million doses (AJMC, 2021).

Despite the enormous amount of money spent to fund COVID-19 vaccine, the US was pretty ungenerous when it comes to sharing the vaccine or taking part in international cooperation. In fact, the US government had notified the UN on 8 July 2020 that, effective from July 2021, it was going to withdraw from the WHO (AJMC, 2020b), which is a major indication to its reluctance to take part in international cooperation mechanisms. Moreover, on 1 September 2020, the US, led by President Trump, announced that it will not participate in the WHO's global COVAX initiative, with 172 countries participating, to develop, make, and equitably distribute a COVID-19 vaccine to poor and developing countries as well (AJMC, 2020c).

[5] "A PHE lasts for 90 days and must be renewed to continue"(Pollitz et al., 2022).

[6] "A national emergency declaration is in effect unless terminated by the President, or through a joint resolution of Congress, or if the President does not issue a continuation notice annually"(Pollitz et al., 2022).

The newly elected President Joe Biden announced in April 2021 that the US will donate its entire stock of 300 million doses of AstraZeneca COVID-19 vaccines; while the US had already vaccinated more than 53% of its population with at least one dose of its three authorized vaccines, Pfizer, Moderna and Johnson & Johnson (Miller, 2021). In fact, AstraZeneca vaccine wasn't even authorized for use by FDA in the US (Miller, 2021). However, the coalition's campaign was not about more donations; instead for sharing technology and know-how for sustainable fight with the pandemic. Making donations was an attempt of the US to "look good" in international arena, as if it has already fulfilled its human rights responsibilities by donating its hoard of non-authorized vaccines that will not be used in the US anyways.

Despite welcoming the donation, HRW highlighted that donation is not enough to address the inequities in global vaccine access, that "the US shouldn't use intellectual property claims to block vaccine access" and reminded that "Biden pledged to do things differently. We're waiting" (Kumar, 2021b) in a news piece published on 28 April 2021. In his first speech to Congress on 28 April 2021, Biden did not make a pledge in favor of the Waiver Proposal, he simply stated that the vaccine supply of the US "will become an arsenal of vaccines for other countries, just as America was the arsenal of democracy for the world" and "every American will have access before that occur" which in fact indicates vaccine nationalism (Full Transcript, 2021). In the daily brief of 29 April 2021, HRW indicated President Biden's first address to Congress during which he argued for health rights of Americans and asked "will he talk when it comes to waiving intellectual property rights for Covid vaccines" (Human Rights Watch, 2021c). He was even mentioned on Twitter by Akshaya Kumar, Crisis Advocacy Director of HRW, who tweeted "keep your word & let's share the recipe for lifesaving vaccines so that we can stop talking about rationing better & make enough to ration less" (Human Rights Watch, 2021c) to demand for a #TRIPSwaiver[7]. On 5 May 2021, the US pledged that it "would support the

[7] #TRIPSwaiver and #PeoplesVaccine has been frequently used on Twitter to draw attention to the campaign.

waiver for Covid-19 vaccines in discussions at the World Trade Organization" as "pressure on the Biden Administration to change course has been building for months" (Kumar et al., 2021). HRW celebrated the development and stated "it could be a breakthrough for human rights; advocates and organizations around the world have worked hard for this" (Kumar et al., 2021). In another communication, HRW reminded this announcement and urged the US government "to work with other governments for the swift adoption of a TRIPS waiver at the World Trade Organization covering vaccines and other health products" (Kumar, 2021c). Oxfam shared the People's Vaccine Alliance's press release lauding the decision of Biden Administration:

> the Administration has shown it can listen to the voices of over 100 countries, the World Health Organization, former leaders, public health experts, Nobel Laureates and activists around the world - and countered the shameful behavior of big pharmaceutical monopolies which are placing profits over the right to health of billions of people (Oxfam, 2021b).

The influence of the transnational campaign on equitable access to COVID-19 vaccines on the US has been significant. Although the reason behind the change in discursive position, policy and behavior of the US can be argued to be the result of the change of administration; it should be noted that Biden has officially come into office in January 2021, which is 4 months before the official announcement in favor of the Waiver Proposal. During his presidential campaign, Biden had promised to strengthen relations with the world and backed the Waiver (Shalal et al., 2021). However, he didn't support the Waiver Proposal right away when he came into office, and certainly not before resorting to other mild solutions, such as donating vaccines that the US wasn't going to use anyways. After the elections, he could have changed his position, or settled for donations. He also cannot have any other motivations such as gaining votes as he had just come into office. Moreover, he got pressure not only from the civil society but from the pharmaceutical companies too. On 5 March 2021, Pharmaceutical Research and Manufacturers of America (PhRMA) sent a letter signed by the CEOs of major pharmaceutical companies, including those of the vaccine manufacturers like Pfizer, Johnson & Johnson, and AstraZeneca, to

President Biden to urge him to keep its standing to oppose the IP Waiver Proposal (Pharmaceutical Research and Manufacturers of America, 2021, p. 2). This opposition was only because the pharma giants had so much to lose. As the People's Vaccine Alliance reported in November 2021, Pfizer, BioNTech and Moderna, producers of the two most successful COVID-19 vaccines, was making astronomical profits, more than $1,000 every second (Oxfam, 2021e).

During those 4 months passed between Biden's coming into the office and making the official announcement in favor of the Waiver Proposal, pressure from the transnational coalition -and HRW as part of it- were also underway. President Biden has been addressed and demanded for a change in the US' position. Therefore, despite the pressure also coming from the giant pharmaceutical sector, the pressure from the equitable access to COVID-19 vaccine campaign generated the impact on the agenda, discursive position, policy and behavior of the US. The reversal on the US' stance was so significant and sharp that the head of the WTO, called Biden's decision "a 'MONUMENTAL MOMENT IN THE FIGHT AGAINST #COVID19' on Twitter, and said it reflected 'the wisdom and moral leadership of the United States.'" (Shalal et al., 2021).

4.1.2. Canada

The impact of the campaign of transnational coalition on Canada, as a G7 country, will be discussed in this part. On 10 December 2020, HRW stated in a piece of news that there were over 100 countries most of which are LMICs but "all countries should support the waiver to facilitate universal and fair access to these potentially life-saving interventions" (Human Rights Watch, 2020b), just ahead of the meeting of TRIPS Council at the WTO on 10 December 2020, in which members agreed to continue discussion on the Waiver Proposal (World Trade Organization, 2020).

The Waiver Proposal received some opposition from some high-income countries and their trading partners including Brazil, the European Union, Canada, the United States, Japan, and the United Kingdom (Human Rights Watch, 2020b). In a piece of news published on 3 February 2021, HRW openly shamed Canada's booking of doses for five times its population (Kumar, 2021a). Stating that donations that were promised to people in the developing countries by Prime Minister Trudeau, U.S. President Joe Biden, and policy makers from the European Union are not enough, HRW underlined that "ignoring the vaccine needs of the world's poor wouldn't just be a public health failure, it's the type of inequity that we should deem intolerable" and called on Canada to support the TRIPS Waiver Proposal alongside the over 100 countries and scores of civil society organizations (Kumar, 2021a).

Although Canada didn't support the waiver at first, in its intervention at the WTO meeting in February, it stated that it has not rejected the waiver proposal (Canada, 2021a). In fact, right after the US statement supporting the Waiver Proposal, in a separate statement on 7 May 2021 by Mary Ng, Canada's Minister of International Trade, Export Promotion, Small Business and Economic Development, it was stated that "Canada is ready to discuss proposals on a waiver for intellectual property (IP) protection, in particular for COVID-19 vaccines, under the WTO Agreement on TRIPS" and that,

> Canada has always been, and remains, a strong advocate for equitable access to vaccines and medical supplies around the world through our support for the Access to COVID-19 Tools (ACT) Accelerator and the COVAX Facility. To date, we have announced $940 million to support low- and middle-income countries to access COVID-19 vaccines, tests, and treatments because we understand that the pandemic isn't over anywhere, until it is over everywhere (Canada, 2021b).

The framing impact of the campaign of HRW as well as of the transnational coalition formed around access to COVID-19 vaccines in which the inequality frame is at the forefront, can be observed in Canada's statement above where it highlights its commitment to "equitable access" to vaccines "everywhere". As it

is very likely that the matter has been discussed at governmental level before the Minister's statement, it can be argued that the campaign had an agenda setting impact. The statement of Minister Ng came just after the US declared its support to the Waiver Proposal indicating a last-minute change in their discursive positions to follow the US policy. Canada, alongside all other members of the WTO, approved the Waiver Proposal on 17 June 2022. Therefore, it is possible to say the campaign has had an impact on Canada's agenda-setting and framing, discursive position, and behavior.

4.1.3. The European Union

On 19 November 2020, HRW and Oxfam, alongside more than 100 civil society organizations including Médecins Sans Frontières, Amnesty International, as members of the transnational coalition -the People's Vaccine Alliance-, sent a letter to the Trade, Health and Development Committees of the European Parliament and to National Parliaments of European Union member states on supporting the proposal for a temporary waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19, submitted by India and South Africa at the TRIPS Council of the WTO (*Civil Society Letter on Supporting the Proposal to a Waiver from Certain Provisions under the TRIPS Agreement during the COVID-19 Pandemic*, 2020). The letter requested the members of parliament "to demand the EC and your national government reconsider the EU's position on the Waiver Proposal and demand support for the proposal" (*Civil Society Letter on Supporting the Proposal to a Waiver from Certain Provisions under the TRIPS Agreement during the COVID-19 Pandemic*, 2020).

The response was not late. HRW reported on 21 April 2021 that nearly 400 Members of the European Parliament (MEPs) and of European national Parliaments (MPs) signed a joint appeal to the EU Commission and the EU leaders in support of the Waiver Proposal "to protect peoples' rights to life, health, and adequate standard of living" by "wider sharing of proprietary

technology and know-how, data and resources, especially with low- and middle-income countries"(*Joint Appeal by Members of the European Parliament and of European National Parliaments Urging the EU and Its Member States to Support a TRIPS Waiver*, 2021). The signatory MEPs and MPs further stated that:

> We stand with the Director-General of the World Health Organization, over 100 national governments, hundreds of civil society organizations, and trade unions, and join them in urging the European Commission and EU member states to discuss at the highest levels and support the temporary waiver of certain obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (*Joint Appeal by Members of the European Parliament and of European National Parliaments Urging the EU and Its Member States to Support a TRIPS Waiver*, 2021).

The joint appeal is strong evidence showing the impact of the campaign on framing of the issue due to the inequality frame used in the joint appeal. It shows an agenda-setting impact, not directly on that of the EU Commission, but on the members of the European Parliament and of the national Parliaments, each of whom are significant political figures. Strikingly, it shows an influence on the discursive position of each of these key actors as well.

With regards to the European Commission, a change in discursive position can also be observed. On 5 May 2021, the US announced that it supports the TRIPS Waiver proposal of India and South Africa for COVID-19 vaccines. This announcement was a sharp turn for the US policy, which has come after a significant campaign towards the US with details and impact discussed above. Following this announcement, on 6 May 2021, the European Commission expressed "willingness to explore a waiver"(Blenkinsop & O'donnell, 2021). This announcement may be interpreted as a direct result of the reversal of the US position. However, the US, in the first place, was influenced by the campaign by getting huge pressure from the civil society and democrats in the US to support the Waiver, despite the pressure from the pharmaceutical industry.

Another significant development is the issuance of two communications of the EU sent to the Council for TRIPS. The first communication titled "Urgent Trade Policy Responses to the COVID-19 Crisis: Intellectual Property" was sent on 4 June 2021 in which the EU neither rejects nor supports the Waiver Proposal. Although being very diplomatic in terms of the vague position it embraced, the Communication still indicates the impact of the campaign in terms of framing, agenda-setting and discursive position as there were references to Doha Declaration, TRIPS flexibilities, and it even included statements like:

> Global equitable access to safe and effective COVID-19 vaccines and therapeutics is a common objective of all WTO Members. As a matter of urgency, the production of COVID-19 vaccines must be ramped up as soon as possible and their equitable and global distribution at affordable prices must be ensured (The EU Commission, 2021a).

The second communication sent by the EU Commission on 18 June 2021 includes a draft declaration text annexed to it and is titled "Declaration on the TRIPS Agreement and Public Health in the Circumstances of a Pandemic" in which the EU suggests the adoption of the declaration with the following statements:

> The General Council,
>
> …
>
> *Recognizing* that pandemics affect all countries and therefore require concerted global efforts to ensure that all people in all countries have access to safe and effective vaccines and medicines as soon as possible,
>
> …
>
> *Recognizing* that pandemics pose specific challenges for developing and least-developed countries,
>
> …
>
> *Declares that:*
>
> We, the WTO Members, reaffirm the content of the Doha Declaration on the TRIPS Agreement and Public Health.

> We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to vaccines and medicines for all (The EU Commission, 2021b).

These two communications[8] were criticized by civil society organizations, including HRW and Oxfam, for being "devoid of any useful solutions" and being "pseudo-proposals" (Global Health Advocates, 2021) that is doing nothing but create confusion by stating the obvious, in a letter to the EU Commission sent on 29 June 2021. The signatory organizations demanded in the letter that the EU reconsider its communications to the TRIPS Council and does not disrupt the discussions on the Waiver Proposal by "ensuring the will of European citizens and billions of people around the world is heard and realized"(Global Health Advocates, 2021). Despite the fact that the communications did not indicate an impact on the EU's behavior, it shows a framing impact as the EU reflected the inequality frame that was being used; an agenda-setting impact as the matter occupied the EU Commission's agenda; and an impact on the discursive position of the EU as it had to reaffirm its commitment to everyone's right to health by highlighting the equitable access to vaccine, and to the provisions of the agreements that it had previously signed.

The impact of the transnational coalition's access to COVID-19 vaccine campaign on the EU can be observed in another example as well. 243 civil society organizations, that includes Oxfam International, sent a letter to the TRIPS Council of the WTO on 13 April 2021 to address the inequitable access to COVID-19 vaccines, demanding the vaccine to be treated a global public good by temporarily waiving intellectual property rights and voluntary licensing instead of relying on corporations' voluntary actions (Médecins Sans Frontières, 2021). Not long after, the "European Parliament resolution of 10 June 2021 on meeting the global COVID-19 challenge: effects of the waiver of the WTO

[8]IP/C/W/680
IP/C/W/681

TRIPS Agreement on COVID-19 vaccines, treatment, equipment and increasing production and manufacturing capacity in developing countries"[9] was enacted. The resolution openly addresses the letter as it states "having regard to the open letter from 243 civil society organisations to the WTO Director-General of 13 April 2021 on addressing the global challenges of inadequate supply and inequitable access to COVID-19 medical products, especially vaccines" (Resolution on Meeting the Global COVID-19 Challenge: Effects of the Waiver of the WTO TRIPS Agreement on COVID-19 Vaccines, Treatment, Equipment and Increasing Production and Manufacturing Capacity in Developing Countries, 2021). This resolution is another evidence of the impact the campaign had on the EU with regards to framing, agenda-setting and discursive position of the EU. The EU eventually voted in favor of the Waiver Proposal at the WTO on 17 June 2022 which shows an impact on the EU's behavior.

It should be noted that, transnational coalition was not the only actor trying to influence the EU's policy making processes. On 1 June 2021, HRW had reported that "the European Union will in the coming weeks face massive lobbying pressure from pharmaceutical corporations to continue to oppose any easing of patent rules for COVID-19 vaccines and treatment" (Human Rights Watch, 2021d) due to the upcoming negotiations at the WTO's TRIPS Council meeting in Geneva on 9-10 June. While evaluating the impact of the transnational coalition on the EU, it should be remembered that "Big Pharma is among the most powerful industry sector in Brussels", spending more than €36 million per year to influence the EU with more than 290 lobbyists in Brussels (Corporate Europe Observatory, 2021). What must be remembered that whatever impact that has been achieved has been achieved despite this powerful industry.

[9] 2021/2692(RSP)

4.1.4. Germany

The impact on the EU as discussed above does not reflect on each EU member state. While, “French President Emmanuel Macron said he was ‘very much in favour’ of opening up intellectual property” (Blenkinsop & O’donnell, 2021), Germany, for example, has been a hard case for the campaign.

As an EU member state and as home to one of the companies developing COVID-19 vaccine candidates, BioNTech, Germany has been reluctant to change its position. As part of transnational coalition, People’s Vaccine Alliance, HRW and Oxfam have certainly pressured Germany. On 15 June 2020, Oxfam called on “governments around the world - especially wealthier countries home to top pharma companies” to ensure vaccines are “available to all, especially those most in need”, since they “have a duty” to do so (Silverman & Lusiani, 2020). On 10 March 2021, Oxfam named and shamed the US, UK and the EU countries for blocking the discussions on the Waiver Proposal at the WTO (Oxfam, 2021c). Oxfam, also criticized the rich countries’ claim that they have done their part by donating doses to COVAX, because it is “massively failing” and “has delivered less than a third of the doses it promised to by the end of May and the People’s Vaccine Alliance warned that at the current rate, it is likely to reach only 10 per cent of people at best in developing countries by the end of the year” (Oxfam, 2021a). On 6 May 2021, Germany revealed its position against the US, who had declared its support for the Waiver the day before (Delfs & Martin, 2021). A spokeswoman stated ”the protection of intellectual property is a source of innovation and must remain so in the future” (Reuters, 2021). This statement shows an impact on the agenda-setting of Germany.

Before the G7 Summit on 11-13 June 2021, HRW underlined “all eyes will be on Chancellor Angela Merkel” who “has stood in the way of the waiver” in a news piece captioned “Merkel Should Steer EU on Covid-19 Intellectual Property Waiver” (Michalski & Kashyap, 2021). To keep Germany and the EU accountable, HRW stated “whether Merkel pushes the European Commission to

vote in favor of the TRIPS waiver proposal and commits to technology transfers will be an acid test for Germany and EU's commitment to rights" (Michalski & Kashyap, 2021). Similarly, in the daily brief published on 25 November 2021, HRW named Angela Merkel for being against the TRIPS Waiver by using "inequality frame":

> Angela Merkel, has stood in the way of the 'TRIPS waiver' proposal at the World Trade Organization that would lift some intellectual property rules for Covid-19 vaccines and other health products. This has made it harder for the world's poor to swiftly get vaccines, treatments, and testing kits (Human Rights Watch, 2021e).

A tweet posted by Andrew Stroehlein, European Media Director of HRW, was also included in the same daily brief addressing the new government of Germany to change the ongoing policy. The tweet also used the hashtags created for the campaign: "we need the #TRIPSwaiver & a #PeoplesVaccine" (Human Rights Watch, 2021e). On the following day, 26 November 2021, HRW published its annual world report. In the chapter for Germany, HRW acknowledged Germany's donation support for COVAX; however, their lack of support for the Waiver was also noted: "the German government was one of the main opponents of waiving some intellectual property and trade rules to speed up the production of Covid-19 vaccines and other health products" (Human Rights Watch, 2021f). On 16 November 2021, Oxfam named and shamed Germany by stating "other rich nations, including the UK and Germany, are still blocking the proposal, putting the interest of pharmaceutical companies over what's best for the world" (Oxfam, 2021e). On 15 December 2021, HRW wrote to the new Chancellor, Olaf Scholz, reminded Germany's human rights obligations, urge German government to drop its opposition to the Waiver proposal, and stated that the new administration of Germany "should act now to ensure the lifesaving innovations developed by German companies can be shared more broadly, especially with low- and middle-income countries" (Human Rights Watch, 2021g) by emphasizing the "inequality" between the rich and poor countries in line with the previous framing of the matter. However, no response could be received. Eventually, Germany, like all other members of the WTO, voted in

favor of the Waiver Proposal on 17 June 2022 which shows a change in state behavior.

4.2. Discussion on the Adoption of the Waiver

Despite all the hardship, on 17 June 2022, 164 member states of the WTO agreed on a TRIPS waiver in the 12th WTO Ministerial Conference in Geneva. After almost 2 years from the date when India and South Africa first proposed the Waiver in October 2020, the final deal has been transformed a lot during the negotiations due to the "utterly shameful" conduct of the rich countries (Oxfam, 2022b). It was stated that

> the EU has blocked anything that resembles a meaningful intellectual property waiver. The UK and Switzerland have used negotiations to twist the knife and make any text even worse. And the US has sat silently in negotiations with red lines designed to limit the impact of any agreement (Oxfam, 2022b).

The waiver was not applauded by the civil society due to its limitations. The original proposal was a much broader intellectual property waiver, covering all medical tools including tests and therapeutics, and all countries. The agreed text, on the other hand, is much weaker in the sense that it covers certain intellectual property only on COVID-19 vaccines, not on treatments and diagnostics. Moreover, the waiver "contains a potentially harmful set of clarifications of existing public health safeguards and a limited exception for the procedure of using compulsory licensing for export of COVID-19 vaccines by eligible countries for a duration of five years" (Médecins Sans Frontières, 2022a). The agreed waiver was highly criticized by civil society and labeled as a "disappointing failure" (Médecins Sans Frontières, 2022b); a "so-called compromise" and "a technocratic fudge aimed at saving reputations, not lives" by Max Lawson, Co-Chair of the People's Vaccine Alliance and Head of Inequality Policy at Oxfam (Oxfam, 2022b).

However, the harsh reaction of civil society might just be the result of a negotiation tactic as well. NGOs are known to campaign for more radical outcomes to "trick" and convince the targeted states or institutions to settle for solutions that are relatively less undesirable. It is of course not expected that NGOs admit using this tactic. Even after the targeted actors reached to a milder solution, NGOs should stick to the discourse of their original campaign to ensure their accountability. Therefore, the reaction of NGOs to the agreed TRIPS Waiver should be no surprise. What should be focused here is that the states actually agreed upon a waiver, even if it is less comprehensive and reformist than the original. The fact that all member states backed and voted for the waiver may indicate the impact of transnational coalition's equitable access campaign on the states' behavior as they voted for it.

4.3. Impact on Private Sector

The campaign addressed private sector long before the vaccines are available on the market. In a blog post published on 15 June 2020, Oxfam named and shamed "Big Pharma" by highlighting the inequality frame and stated that "we cannot allow Big Pharma to further exacerbate the inequality crisis that COVID-19 has laid bare. This pandemic feeds on inequality, killing the poor and the historically disadvantaged at higher rates than the rich and privileged" (Silverman & Lusiani, 2020).

Oxfam referred back to the HIV/AIDS pandemic, and access to treatment campaign in which Oxfam had greatly contributed to with its "Cut the Cost" campaign. On 17 September 2020, Oxfam shared the words of Winnie Byanyima, Executive Director of UNAIDS and Under-Secretary General, who stated:

> We in the AIDS movement have seen in the past how corporations use monopolies to artificially restrict supplies of life-saving medicines and inflate their prices. UNAIDS and other members of the People's Vaccine Alliance are calling for a new approach that puts public health first by sharing knowledge

> and maximising supply. Anything short of that will lead to more deaths and economic chaos, forcing millions into destitution (Oxfam, 2020a).

Still during the development phase, on 9 November 2020, Oxfam responded to Pfizer and BioNTech's interim report about the effectiveness of their COVID-19 vaccine; underlined "the vaccine will be 0% effective to the people who can't access or afford it"; and added:

> in a global pandemic of this magnitude, we must pursue a new path—a people's vaccine that prioritizes public health over private profits. No one should have access to a life-saving vaccine only if they live in the right country or have enough money. Governments and corporations must work together to make all COVID-19 treatments and vaccines global public goods (Oxfam, 2020b).

On 16 November 2021, Oxfam wrote the claim of Pfizer's CEO Albert Bourla, who described the campaign on sharing vaccine technology a "dangerous nonsense" as "developing countries have the capacity and expertise"(Oxfam, 2021e). Oxfam's Health Policy Manager refuted the claim by stating

> the real nonsense is claiming the experience and expertise to develop and manufacture life-saving medicines and vaccines does not exist in developing countries. This is just a false excuse that pharmaceutical companies are hiding behind to protect their astronomical profits (Oxfam, 2021e).

Pfizer and BioNTech were not the only vaccine manufacturers targeted by Oxfam. Oxfam shared similar responses to other manufacturers' announcements about the effectiveness of their vaccines. On 16 November 2020, Oxfam shared a press release titled "Moderna can be a genuine game-changer —if it shares COVID-19 vaccine" (Oxfam, 2020c). On 23 November 2020, Oxfam stated regarding AstraZeneca/Oxford vaccine:

> No one company is equipped to produce enough doses to meet the unprecedented global demand on their own. All pharmaceutical companies should work together for a people's vaccine by urgently transferring their technology and know-how, in order for everyone in the world to have access to a safe and effective vaccine (Oxfam, 2020d).

Later on, on 29 January 2021, by emphasizing the public funds provided for Johnson & Johnson vaccine, Oxfam demanded that "it must be a public good" as "no one company alone can produce enough vaccines to bend the curve completely. That's why every COVID-19 vaccine must be a People's Vaccine"(Oxfam, 2021a). Oxfam also indicated the public funding of over $8 billion Moderna, Pfizer, and BioNTech received (Oxfam, 2021e). The foreseeable risk of inequality in access to vaccine, therefore, has been emphasized by Oxfam's campaign and the vaccine manufacturers were asked to share their technologies and know-how to contribute to a People's Vaccine.

Table 2. Distribution and funding data of four vaccine candidates as of the end of 2021, based on data published by Oxfam (Oxfam, 2020e)

Vaccine Candidate	**Distribution as of the End of 2021**	**Public Funding Received**
Pfizer/BioNTech	Total doses under contract: 1.128 billion Rich countries: 96% Poorer countries: 4%	$546 million to BioNTech from EU and German governments and $2 billion contract with the US government
Moderna	Total doses under contract: 777 million Rich countries: 100% Poorer countries: 0%	$2.48 billion from US government

Table 2. (continued)

AstraZeneca/Oxford[10]	Total doses under contract: 2.731 billion Rich countries: 36% Poorer countries: 64%	Over $1.9 billion from US and UK governments, CEPI AND GAVI
Johnson and Johnson	Total doses under contract: 1.268 billion Rich countries: 61% Poorer countries: 39%	$1.5 billion from US government

Moreover, a large group of organizations, including HRW and Oxfam, wrote to the CEO's of 13 vaccine companies on 14 December 2020 to call on the companies to "share technology, know how, biological material and intellectual property with other qualified producers and to do so quickly" and inquired about the companies' plans for equitable access to the vaccines they had been developing at that time (*Civil Society Letter to Pharmaceutical Corporations Making COVID-19 Vaccines*, 2020). HRW published a piece of news on 11 February 2021 with a Q&A part answering questions about companies' human rights responsibilities and what companies can do to advance equitable access principles (Human Rights Watch, 2021a). HRW reminded that all companies have human rights responsibilities, and that they should not "stop, prevent, and mitigate any corporate actions that impede governments' ability to exercise TRIPS flexibilities in their Covid-19 health responses" (Human Rights Watch, 2021a). Despite this reminder, Pfizer, together with other companies and the Pharmaceutical Research and Manufacturers of America (PhRMA) wrote to President Biden on 5 March 2021 to "urge your Administration to maintain this longstanding support for innovation and American jobs by continuing to oppose

[10] AstraZeneca/Oxford's pledge to provide 64% of their vaccines to poorer countries was welcomed by Oxfam, yet Oxfam reminded that most of their deals have been made with the big developing countries like China and India (Oxfam, 2020e).

the TRIPS IP waiver" (Pharmaceutical Research and Manufacturers of America, 2021).

To remind their human rights responsibilities more specifically, HRW wrote to the CEOs of vaccine manufacturer companies separately. In the letter dated 12 April 2021 sent to Pfizer, HRW asked about their human rights policies and practices, specifically about the steps they have taken to ensure the availability of their vaccine (Human Rights Watch, 2021b, p. 2). In this letter, HRW requested additional information about "(A) Overall policies and human rights approach to human rights due diligence; (B) Global allocation and delivery; (C) Supply; (D) Technology transfers; (E) Affordable pricing strategy; (F) Indemnification; (G) Contracts to supply vaccines; (H) Licensing agreements; and (I) TRIPS waiver, TRIPS flexibility, and patents" which includes questions like "whether Pfizer will support the TRIPS waiver proposal in light of so many other relevant stakeholders', including the WHO's, views in support of the waiver", and set a 2 week deadline for the pharma giant (Human Rights Watch, 2021b, p. 3). In its response to HRW, Pfizer emphasized the donations it has made and stated that "we see an equitable and rights-based approach to the vaccine as a paramount consideration and have taken several steps to meet this objective", that their COVID-19 response "is guided by our responsibility to respect the right to health", and answered HRW's questions diligently highlighting that they are setting a lower price for middle-income countries and providing vaccine to "low-income and lower middle-income countries at a not-for-profit price" (Human Rights Watch, 2021b, p. 12). Regarding the Waiver Proposal, Pfizer acknowledged that it supports the implementation of Doha Declaration considering that IP protection is important for innovation (Human Rights Watch, 2021b, p. 21), which is actually a very diplomatic answer to such a direct question like HRW had posed. In fact, in the follow-up letter HRW drew attention to that and stated that;

> We are concerned about the public health impacts of Pfizer's stated approach to intellectual property (IP), pricing, and transparency. Pfizer has not publicly

> disclosed, or disclosed to Human Rights Watch, enough information to show that it is meeting the company's commitment to an 'equitable and rights-based approach to the vaccine' (Human Rights Watch, 2021b, p. 22).

In its response to the follow-up letter of HRW, Pfizer once again reiterated its commitment to human rights and equity, as one of the company's four values (Human Rights Watch, 2021b, p. 26).

When looking at the impact of HRW's correspondence on Pfizer as an actor of private sector, framing and agenda setting are seem to be at the forefront. Regarding the impact on framing, what is significant is first of all the word choice of Pfizer. Instead of using a more careful language and not directly making statements about their responsibility to respect right to health of all, the pharmaceutical giant has used the phrases "equity" and "right to health" frequently; acknowledged "Doha Declaration" openly; and made a distinction between "high income" and "low-income and lowermiddle-income" countries, by reflecting the representation of "rich and poor" by HRW and Oxfam, as part of the transnational coalition. This shows the "inequality" frame of HRW and Oxfam had an impact of the framing of access to COVID-19 vaccines. In addition, the fact that Pfizer has responded to HRW's letter indicates the campaign's impact on agenda-setting, since the company had to discuss and prepare its official response by taking it into its agenda in the first place.

Pfizer is not the only vaccine manufacturer HRW has gotten in contact with. HRW also wrote to Moderna on 10 June 2021 asking for information on the same subjects, as it was "contacting companies producing Covid-19 vaccines, starting with those that have received World Health Organization (WHO) Emergency Use Listing" (Human Rights Watch, 2021b, p. 34). Moderna had been in the area of research and development of mRNA medicines, including vaccines for a decade. For this reason, on 6 October 2020, Moderna announced that it will not enforce its COVID-19 related patent rights against those making vaccines while the pandemic is ongoing and will allow licensing intellectual property for COVID-19 vaccines in the post pandemic phase (STAT, 2020).

However, HRW blamed Moderna in the correspondence by stating that "trade groups that Moderna is a member of, such as the Biotechnology Innovation Organization, have reportedly lobbied against the TRIPS waiver" (Human Rights Watch, 2021b, p. 41). In its response to HRW, Moderna stated that it has fulfilled its human rights responsibilities to increase access to vaccines "meaningfully" in other ways, such as supplying doses to COVAX, forming partnerships or by pledging not to enforce IP- than supporting the Waiver or sharing its intellectual property with the WHO's COVID-19 Technology Access Pool (C-TAP) (Human Rights Watch, 2021b, p. 45). Although Moderna underlined that it has taken steps to ensure that IP rights do not pose a barrier on global vaccine access, it openly stated that:

> We do not believe that waiving TRIPS protections will help increase the global supply of mRNA vaccines in 2021 or 2022. We are not aware of idle mRNA manufacturing capacity. Nor are we aware of companies who have developed manufacturing, purification, and medical processes that would allow them to rapidly run clinical trials and then produce a meaningful supply of mRNA vaccine. As a result, we are focused on the efforts described above to expand global vaccine access, as well as the development of vaccine boosters targeting emerging variants (Human Rights Watch, 2021b, p. 48).

On 30 July 2021, HRW sent a follow-up letter to Moderna with recommendations similar to those given to Pfizer. Moderna has not responded to it.

The impact on Moderna as an actor of private sector is mostly on agenda-setting. The fact that Moderna has responded to HRW's letter shows the impact on agenda-setting as the company had to take a letter coming from a civil society actor into its agenda to be able to respond to it.

Regarding the impact on framing, compared to the letter of Pfizer, the letter of Moderna shows a difference in terms of the terms, tone, and language used. The letter does not highlight Moderna's commitment to human rights and equity as much as Pfizer did throughout its own letter, instead simply emphasizes that Moderna has done what it could have possibly done. The tone and language are

not the same either. For instance, unlike Pfizer, Moderna does not make any statements that its priority is "fair and equitable distribution of our COVID-19 vaccine" (Human Rights Watch, 2021b, p. 26) or mention Doha Declaration in any way. While it doesn't show that Pfizer is actually more committed to human rights, there seems to be a difference in terms of the campaign's impact on these companies. The difference might be simply because of Moderna's inexperience in dealing with civil society actors regarding matters that affect its reputation as the company was only founded in 2010. Pfizer, on the other hand, was founded in 1849 and faced similar crises due to access campaigns before, i.e., Oxfam's "Cut the Cost" campaign in 2001. Just back in 2016, Médecins Sans Frontières delivered a petition signed by 400,000 people demanding the price of pneumonia vaccine to be reduced to 5 USD per child in all developing countries and for humanitarian organizations; while volunteers placed 2,500 flowers at the company's door, representing the number of children lost to pneumonia each day (Médecins Sans Frontières, 2016). Therefore, Pfizer, as a pharma giant that it is, might have just "handled" civil society better compared to Moderna. Moreover, Pfizer has been always more in the spotlight throughout the campaign. These factors might have affected the way Pfizer and Moderna responded differently.

HRW has also sent a letter to Johnson & Johnson on 10 June 2021, yet the company has not responded.

Despite not changing the current position of vaccine manufacturers, and contrary to what Moderna argued, vaccine experts identified more than 100 pharmaceutical companies across Asia, Africa and Latin America, technically capable of manufacturing mRNA vaccines (Prabhala & Alsalhani, 2021). Moreover, the New York Times identified 10 strong candidates in six countries on three continents and Indian civil society organizations wrote to the US government about 34 potential manufacturers in 20 countries who may manufacture Johnson & Johnson vaccine (Kumar, 2021c). After all, it was not that there were no companies in the world capable of manufacturing these vaccines. The enormous amount of public money donated by the high-income

countries to pharmaceutical companies in these high-income countries had the advantage to develop and produce COVID-19 vaccines from the beginning to gain more and more. In fact, Oxfam reported on 20 May 2021 that COVID-19 vaccines created 9 new billionaires, whose combined net wealth amounts to $19.3 billion, “enough to fully vaccinate all people in low-income countries 1.3 times” (Oxfam, 2021d). Campaigners from People’s Vaccine Alliance, the transnational coalition of which Oxfam and HRW is a member, also stated that “eight existing billionaires –who have extensive portfolios in the COVID-19 vaccine pharma corporations– have seen their combined wealth increase by $32.2 billion, enough to fully vaccinate everyone in India” (Oxfam, 2021d). Oxfam published a policy paper on 3 March 2022 titled “Pandemic of greed” in which the pharmaceutical companies were said to “have been given free rein to prioritize profits ahead of vaccine equality” (Oxfam, 2022a).

The campaign might have an impact on private sector to a degree, particularly on framing and agenda-setting, but the profit is too big for the companies to give up. That might explain why the campaign had more impact on states while the vaccine manufacturers have stood their ground for more than 2 years, until June 2022.

However, 17 June 2022 is a turning point. On that date, members of the WTO agreed on a TRIPS Waiver, although it is different than what was originally suggested. One month later, on 19 July 2022, the International Federation of Pharmaceutical Manufacturers & Associations (IFPMA) launched the “Berlin Declaration – Biopharmaceutical Industry Vision for Equitable Access in Pandemics” as they are willing to reserve an allocation of real-time production of vaccines, treatments and diagnostics for priority populations in lower income countries and take measures to make them available and affordable” (International Federation of Pharmaceutical Manufacturers & Associations, 2022).

The transnational coalition, therefore had impact on framing and agenda-setting of Pfizer, on agenda-setting of Moderna, while having no previous impact on Johnson and Johnson and AstraZeneca until the Berlin Declaration on 19 July 2022. After the adoption of TRIPS Waiver on 17 June 2022, pharmaceutical industry followed the way. Considering that Pfizer, Moderna, AstraZeneca, and Johnson and Johnson are all members of IFPMA, the campaign can be argued to have impacted these four pharma giants' framing, agenda-setting, and discursive positions. The Berlin Declaration shows the impact on framing, by its emphasis on "equity" and "priority populations"; the impact on agenda-setting as the IFPMA had taken the matter into its agenda before the final declaration; and the impact on discursive position of the industry as the Declaration shows their support for equitable access in pandemics and acknowledge the shortcomings in COVID-19.

CHAPTER 5

CONCLUSION

31 December 2019 is a significant date in history, since the first COVID-19 case has been reported in Wuhan, China. With increased international movement, the virus has spread quickly and declared to be a worldwide pandemic by the WHO on 11 March 2020. While the world is trying to cope with the virus, the big pharma companies raced with each other to be the first one developing a vaccine in an attempt to generate unprecedented profits over these vaccines. High-income countries funded pharmaceutical companies from public funds coming from taxpayers to support the development process of these vaccines to guarantee their citizens' access to the vaccines. The vaccines were developed in record time and approved for public use at the end of 2020.

Despite the extremely rapid development of vaccines, equal access to vaccine globally has not been ensured. In no time, the situation evolved into vaccine nationalism. When vaccines became available, high-income countries stockpiled excess amounts of doses "that millions expired and were discarded before they could be used" (Open Society Foundations, 2022). Vaccine inequity had in fact alarmed civil society even before the vaccines were available.

The activities of civil society were organically transformed into a transnational coalition on May 2020. On 14 May 2020, an open letter was published with around 100 signatures of Health Ministers, academics, and political and diplomatic figures to call for a "People's Vaccine" and stated that "only a people's vaccine –with equality and solidarity at its core- can protect all of humanity"(Oxfam International, 2020). This letter was the foundation of the transnational coalition to be formed, the People's Vaccine Alliance. The aim of the coalition's campaign was to make the vaccine a global public good, by

enabling technology share, instead of donations of excess doses. In fact, South Africa and India submitted a Waiver Proposal at the WTO for waiving some provisions of the TRIPS Agreement in October 2020. The People's Vaccine Alliance and its members have supported the Waiver from that point on in their campaign by indicating that sharing technology is the only way to end the "inequality" pandemic, not the donations.

The thesis focuses on the impact of this equitable access to COVID-19 vaccines campaign on different actors, with a focus on the statements of HRW and Oxfam, two influential INGOs which are members of the transnational coalition formed around the campaign, the People's Vaccine Alliance. With process tracing method, the thesis analyzed the statements of these two INGOs to observe the impact of the campaign on states, on the European Union, as a supranational union, and on the private sector, namely the vaccine manufacturer companies. The impact on framing and agenda-setting, discursive position, institutional procedures, policy process, and behavior of target actors were assessed in this regard.

An impact on framing of access to COVID-19 vaccines have been observed in statements of the European Union, as well as states, such as the US and Canada, and some private companies, such as Pfizer. The frame that was used by the transnational coalition, and HRW and Oxfam, was an "inequality frame" highlighting the imbalance between the "rich and poor" countries with regards to access to COVID-19 vaccines. This frame had a natural connotation to "human rights" which underlines that the huge imbalance in access is unacceptable, and creates global injustice. This frame was similar to what had been used in the "Cut the Cost" campaign of Oxfam in 2001, for access to lifesaving medicines, especially HIV/AIDS drugs. The "Cut the Cost" campaign had used an inequality frame too and had great success, leading the way to the Doha Declaration later in that year. I also argued that a frame diffusion has occurred between these two campaigns and used the "Cut the Cost" campaign as an example while explaining types of impact to elaborate the analytical framework

before analyzing the case at hand. Although it might not be sufficient to show the occurrence of a frame diffusion between the two campaigns, further research might look deeper in how NGOs select their frames and whether previous success of a frame is a factor in determining which frame to be used in a similar campaign.

Agenda-setting impact have been found on all the actors that were involved in the research. The campaigns of HRW and Oxfam have openly named and shamed developed countries, i.e., “the rich ones, as well as the vaccine manufacturers. The heads of states, such as the US President Biden, were mentioned on social media while several statements were addressing the countries and letters were sending to them. HRW has also published correspondences with vaccine manufacturers. These activities created the pressure on target actors to answer civil society and therefore had an impact on the agendas of all these actors.

The impact on discursive positions of actors were observed with regards to the changes in the discursive positions of the EU organs, Canada and in the US as well as the pharmaceutical companies. No change in institutional procedures were observed regarding the researched actors. Most importantly, change in behavior and policy was observed, most strikingly on the US as it started supporting the TRIPS Waiver at the WTO which would enable equitable access to COVID-19 vaccines. The support of the US, alongside the campaign of transnational coalition members such as HRW and Oxfam, ignited a change in behavior of other states. In fact, the TRIPS Waiver was approved by all 164 member states, as all proposals at the WTO should be accepted unanimously on 17 June 2022.

The main limitations of the study -difficulty of showing NGO impact and specific challenges of process-tracing- have been addressed and should be kept in mind for further research on the impact of equitable access to COVID-19 vaccines campaign. Since I argue that HRW and Oxfam made a strategic

selection to use inequality frame that was borrowed from Cut the Cost campaign, further research could look into how NGOs select their frames and whether previous success of a frame is a factor in determining which frame to be used in a similar campaign. This study, as summarized above, also found out that influence may occur at the highest level without prior levels have been fulfilled and level of influence on the analyzed actors was random instead of a step-by-step increase as suggested by Keck & Sikkink (1998). Therefore, another possible further research topic could be how the level of influence increases.

Despite the influence found out within the scope of this study, vaccine inequality did not come to an end. As of 5 August 2022, the total administered doses of vaccine have increased to 12.308.330.588, while most of the African countries were still on the lowest end of the bar showing the relevant data (*WHO Coronavirus (COVID-19) Dashboard*, 2022). The inequality in access to treatment is also not limited to COVID-19. Alongside COVID-19, HIV continues to be a major global health threat which claimed 680,000 lives in 2020 (*WHO HIV/AIDS Fact Sheet*, 2021). Estimations show that there are around 38 million people living with HIV while more than 25 million is in the WHO African Region. According to WHO, "12 million people living with HIV still do not have access to treatment, especially in Africa, and that these 12 million people are prevented from accessing treatment owing to inequalities, multiple and intersecting forms of discrimination and structural barriers" (*Political Declaration on HIV and AIDS: Ending Inequalities and Getting on Track to End AIDS by 2030*, n.d.).

In my opinion, the connection between access to HIV/AIDS and COVID-19 treatment/vaccines is striking. The world had witnessed a similar pandemic bringing similar problems in access to treatment, yet again after 40 years, the systemic inequality persists. According to UNAIDS data,

> In sub-Saharan Africa, where two thirds (67%) of people living with HIV resided in 2020, the highest rates of one-dose COVID-19 vaccination coverage

> in June 2021 were in Equatorial Guinea (19%), Botswana and Zimbabwe (9% each), and Namibia (6%). No other countries in the region exceeded 5% (UNAIDS, 2021).

The same people who had been denied their right to health in HIV/AIDS pandemic, unable to access to lifesaving medicines, were once again left behind in the response to COVID-19 pandemic. Despite the TRIPS Waiver which came too little too late, despite the campaigns and all the effort, the inequality and the approach putting profits over people prevailed. Right to health is a human right; in fact, it is the sister of the most fundamental human right; right to life. The inability to access to medicines, vaccines, or any type of healthcare, in certain parts of the world, over and over again in different time periods, is however, merely discrimination.

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APPENDICES

A. TURKISH SUMMARY / TÜRKÇE ÖZET

Dünya, COVID-19'un neredeyse üçüncü yıldönümüne tanıklık etmek üzere olmasına ve hastalık için güvenli ve etkili aşılar eşi benzeri görülmemiş bir hızla geliştirilmesine rağmen, COVID-19 aşılarına erişim bir sorun olmaya devam etmektedir.

19 Aralık 2021 itibariyle dünya çapında toplam 8.387.658.165 dozu COVID-19 aşısı uygulanmasına rağmen düşük ve orta gelirli ülkeler (LMIC) aşıya erişim ayrıcalığının dışında kalıyor gibi görünmektedir (WHO Coronavirus (COVID-19) Dashboard, 2021). 30 Haziran 2022 tarihi itibariyle Dünya Sağlık Örgütü Afrika Bölgesi'ndeki 47 ülkeden 46'sı toplamda 679.261.687 doz aşılanmış olup bu da Afrika Bölgesi nüfusunun yalnızca %22,7'sinin en az bir doz aşılanmış olduğu anlamına gelmektedir (WHO, 2022). ABD'de ayni tarih itibariyle uygulanan aşı sayısı neredeyse tüm Afrika ülkelerindekinin toplamına eşittir. Bu da aşıya adil olmayan erişimin aslında bir tedarik sorunundan çok bir paylaştırma sorunu olduğunu göstermektedir.

Bu tez, yukarıda belirtilen durumla ilgili olarak bir ulusötesi koalisyonun -the People’s Vaccine Alliance- tarafından gerçekleştirilen COVID-19 aşılarına adil erişim kampanyasının farklı aktörler üzerindeki etki analizine odaklanmaktadır. Yüzden fazla üyesi olan bu ulusötesi koalisyonun kampanyasının etkilerinin analiz edilebilmesi için bazı üye uluslararası STK'lar -İnsan Hakları İzleme Örgütü (HRW) ve Oxfam- seçilmiş; böylece çalışmanın sınırları daraltılmıştır. Bu nedenle STK’ların uluslararası siyasetteki rolünü anlamak araştırma sorusu bakımından önemlidir. STK'lar uluslararası siyasetin dönüştürücüleri olabilir. Uluslararası siyasetin nasıl işlediği ve meşru aktörlerinin kimler olduğu açısından uluslararası sistemin devlet merkezli anlayışına bir alternatif

oluştururlar. Fakat STK'lar, hala ağırlıklı olarak devletler üzerine odaklanan çok sayıda uluslararası ilişkiler teorisyeninin ilgisini çeken bir konu değildir. Zira STK'lar ne geleneksel devlet merkezli anlamda siyasi güce sahiptir ne de çokuluslu şirketler gibi bazı devlet dışı aktörlerle karşılaştırılabilecek büyük ekonomik imkanlara sahiptir. Yine de bugün pek çok akademisyen, STK'ların da bir çeşit güce sahip olduğunu ve bu gücün çeşitli konularda devlet aktörlerini "ikna etme gücü" olduğunu savunmaktadır (Shamima & Potter, 2006, s. 15). Bu nedenle, COVID-19 aşılarına adil erişimi savunan zorlu bir kampanyaya dahil olmaları sürpriz değildir.

Tedaviye erişimdeki eşitsizlik ne yazık ki yeni bir olgu değildir. Hatta tedaviye erişimle ilgili en son küresel kriz, HIV/AIDS salgınının dünya çapında korku yaydığı 1990'larda yaşanmıştı. HIV/AIDS'i kontrol altına almak için tasarlanan antiretroviral (ARV) ilaçların yüksek piyasa fiyatı, tedaviye erişimde büyük bir eşitsizlik yaratmıştı; bu da HIV/AIDS'in en yaygın olduğu dünyanın en az gelişmiş bölgelerinde kesin bir ölüm anlamına geliyordu. Bu yüksek fiyat ise aslında fikri mülkiyet (IP) haklarından kaynaklanıyordu. Konuyla ilgili küresel aktivizmin yanı sıra Oxfam liderliğindeki bir başka kampanya olan "Cut the Cost", fikri mülkiyet haklarından feragat edilmesini ve düşük ve orta gelirli ülkelerde özellikle HIV/AIDS ilaçları olmak üzere hayat kurtaran tedavilere erişimi sağlamak için paralel ithalata olanak sağlanmasını savunuyordu. Kasım 2001'de küresel aktivizm semeresini verdi ve hayat kurtaran ilaçlara erişimi kolaylaştırmak için yorumlayıcı bir metin olarak Doha Deklarasyonu kabul edildi.

STK'ların -ve oluşan ulusötesi koalisyonun- COVID-19 aşılarına adil erişim kampanyası da benzer bir şeyi, yani aşılarla ilgili olarak fikri mülkiyet haklarından geçici olarak feragat edilmesini talep etmektedir. "Cut the Cost" kampanyasından sonra geçen 20 yıldan fazla sürenin ardından, dünyanın benzer bölgeleri aslında hiç var olmaması gereken aynı sorunla tekrar karşı karşıya kalmıştır. Hatta, zamanında HIV/AIDS salgınında hayat kurtaran ilaçlara erişim için mücadele eden aktivistler, kârı insan hayatının önüne koyan anlayış

nedeniyle ölmektedirler (Oxfam, 2021c). Temel sağlık hizmetlerine erişimdeki küresel eşitsizlik, yalnızca sağlık hakkının ihlali değil, aynı zamanda ayrımcılık yasağının ihlalidir. Bu nedenle bu araştırmanın konusu, yani STK'ların böylesi bir ölüm kalım meselesi üzerinde etkisinin olup olmadığı ve varsa bunun nasıl olduğu, oldukça önemlidir.

Bu etkiyi değerlendirebilmek için ise süreç izleme yöntemine başvurulmuştur. Beach ve Pederson (2019), sosyal bilimlerde üç tür süreç izleme yöntemi olduğunu belirtmiştir: teori test etme, teori oluşturma ve sonuç açıklama yöntemi. Araştırma sorusuna uygunluğu bakımından sonuç açıklama yöntemi tercih edilmiştir. Süreç izleme yönteminin kendine has bazı kendi zorlukları olup dört ana sorun; “kaynak sorunu, uygunluk ölçüsü sorunu, hikâye anlatma sorunu ve genelleme sorunu”dur (Bennett & Checkel, 2014, s. 102). Ulusötesi koalisyonun COVID-19 aşılarına adil erişim kampanyasının etkisi incelenirken karşı olgusal gözlemleri de analiz edilerek ve çalışma yalnızca iki STK ile sınırlandırılarak bu problemlerin önüne geçilmeye çalışılmıştır. Araştırma ile ilgili belirtilmesi ve akılda tutulması gereken bir diğer zorluk da STK etkisini şüphenin ötesinde göstermenin oldukça zorlu olduğudur.

Etki analizi, COVID-19 aşılarını üreten ilaç şirketleri ile devletler gibi farklı aktör-ler üzerinde ortaya çıkan çerçeveleme ve gündem belirleme, söylemsel konumlarda değişiklik, politikadaki değişiklik, kurumsal prosedürlerdeki değişiklik ve davranış-lardaki değişiklikleri değerlendirecek ve tartışacaktır. HRW ve Oxfam'ın bir "eşitsizlik" çerçevesi kullanan çerçeveleme üzerine etkisinin, "zengin ve fakir", "gelişmiş ülkeler ve gelişmekte olan ülkeler" vurgusuyla olduğu tartışılacaktır.

COVID-19 aşılarına adil erişim konusu etrafında oluşturulan ulusötesi koalisyonun etkisini analiz etmek için öncelikle küresel sağlık yönetişimi literatürü tartışılmıştır. Oluşturulan ulusötesi koalisyonun COVID-19 aşı kampanyasına adil erişimin etkisini anlamak için ayrıca insan haklarına daha yakından bakmak gerekmektedir. İlaçlara ve tedaviye eşit erişim iki bakımdan

bir insan hakkıdır. İlk olarak, her insan, sağlık hakkı kapsamında tedaviye erişim hakkına sahiptir. İkinci olarak ise, “eşit erişim” aynı zamanda bir ayrımcılık yapmama meselesidir; bu, insan haklarından yararlanırken hiç kimsenin ırkı, etnik kökeni, siyasi görüşü, ekonomik veya sosyal durumu nedeniyle ayrımcılığa uğramaması anlamına gelmektedir. 1945'te Birleşmiş Milletler, uluslararası barış ve güvenliği korumak ve "ırk, cinsiyet, dil veya din ayrımı yapılmaksızın herkesin insan haklarına ve temel özgürlüklerine saygıyı" teşvik etmek ve teşvik etmek için kurulmuştur (United Nations Charter (Full Text), n.d.). Bunu takiben, insan hakları açısından öncü belgelerden biri olan ve yaygın olarak uluslararası Magna Carta olarak anılan İnsan Hakları Evrensel Beyannamesi, 1948 yılında BM Genel Kurulu tarafından “ortak bir standart” getirmek üzere oybirliğiyle kabul edilmiş ve bu kapsamda “üye Devletler, Birleşmiş Milletler ile işbirliği içinde, insan haklarına ve temel özgürlüklere evrensel saygı gösterilmesini ve bunlara uyulmasını sağlamayı taahhüt etmişlerdir” (Universal Declaration of Human Rights, n.d.). Bildirge, yükümlülükler ortaya koyan hukuki olarak bağlayıcı bir belge olmamasına rağmen, uluslararası teamül hukuku statüsü kazanmıştır (A Short History of Human Rights, t.y.). Zaman içinde, hepsi birbirine bağlı ve eşit düzeyde olan "üç kuşak" insan hakları, özellikle Uluslararası Ekonomik, Sosyal ve Kültürel Haklar Sözleşmesi (ICESCR) ve Uluslararası Medeni ve Siyasi Haklar Sözleşmesi'nin (ICCPR) kabul edilmesiyle ortaya çıkmıştır ki bunlar medeni ve siyasi haklar; ekonomik, sosyal ve kültürel haklar ve dayanışma haklarıdır. “Evrensel Beyanname ile birlikte, bu anlaşmalardan genellikle Uluslararası İnsan Hakları Beyannamesi olarak bahsedilir” (A Short History of Human Rights, t.y.).

ICCPR'nin 23. maddesinde belirtilen medeni ve siyasi haklar, yaşam hakkı, işkence yasağı, ayrımcılık yasağı, adil yargılanma hakkı, oy kullanma hakkı ve ifade özgürlüğü gibi temel hakları içerir. Bu haklar, kişinin "kişiliğini" ve "kamu işlerine ve devlet işlerine dahil olmasını" garanti eder (Landman, t.y., s.4). Sosyal ve ekonomik haklar ise en genel anlamda yeterli bir standardı garanti eden haklardır; sağlık hakkı, çalışma ve adil ücret hakkı, eğitim hakkı, kendi dilini konuşma hakkı ve sosyal güvenlik hakkı gibi. BM tarafından önceki

kategori kadar önemli olduğu belirtilse de, ICESCR "genel olarak yalnızca taraf devletlerin sözleşmede tanınan hakları elde etmeye yönelik adımlar atmasını şart koşmaktadır" (Keith, 1999). Son hak grubu olan dayanışma hakları, gelişme hakkı ve sağlıklı bir çevre hakkı gibi bireylerin ve grupların haklarını içerir. "Üç hak grubu içinde bu son grup, en yeni ve en ilerici olanıdır ve küreselleşmenin en kötü etkilerine karşı belirli bir tepkiyi ve 'yeşil' siyasi ideolojinin göreli etkinliğini ve gezegenin sağlığına yönelik kaygılar etrafında oluşan toplumsal seferberliği yansıtır" (Landman, t.y., s.5).

Bununla birlikte, ekonomik, sosyal ve kültürel hakların varlığı, liberal görüş tarafından reddedilmiştir. Bu anlayış sosyoekonomik hakların yalnızca erişilmesi için çabalanması gereken amaçlar olabileceğini; hak olamayacağını iddia etmektedir. Sosyoekonomik hakların gerçekten insan hakkı mı yoksa bir noktada ulaşılması gereken bazı uzak idealler mi olduğu elbette bu araştırmanın merkezinde yer almaktadır. Bununla birlikte, bu tartışmanın cevabı ne olursa olsun, dünyanın belirli bir bölümünün -ya ilaç gibi tedavi şeklinde ya da aşı gibi önleme şeklinde- hayat kurtaran sağlık hizmetlerinden mahrum bırakılması bir ayrımcılık biçimi olarak da değerlendirilebilecektir.

Sağlık hakkının muğlaklığı ve sağlığın tanımı konusunda fikir birliğinin olmaması tartışmaları daha da karmaşık hale getirmiştir. Medeni ve siyasi haklar ile sosyal, ekonomik ve kültürel haklar arasındaki sözde hiyerarşi ve hatta ikincisinin varlığına ilişkin tartışmaların ışığında, ağır basan liberal görüş, sosyoekonomik iddiaların asla medeni ve siyasi haklarla aynı statüde olamayacağını savunmaktadır. Bu görüşe göre biricik hak türü medeni ve siyasi haklar, yani devletlerin ihlal etmekten kaçınması gereken negatif yükümlülüklerdir. Buna karşılık, temel haklar yaklaşımını benimseyen bazı bilim insanları, negatif ve pozitif haklar arasında net bir ayrım olmadığını ve devletin görevlerinin de tamamen pozitif veya negatif olamayacağını savunmuşlardır (Evans, 2002, s.203-204). Bu bakımdan sağlık hakkı, özellikle yaşam hakkının kardeşi olan sağlık hakkı, sosyoekonomik bir hak olarak, medeni ve siyasi haklardan ayrılmaz bir insan hakkı olarak değerlendirilebilir.

Sağlık ve insan hakları arasındaki ayrılmaz bağ, üç şekilde ortaya konulmuştur. Sağlık ve insan hakları arasındaki ilk ilişki, sağlık uygulamalarının, politikalarının ve programlarının insan hakları üzerindeki etkisinden doğar. Örneğin; sağlık ihtiyaçlarının ve sorunlarının değerlendirilmesi ve sağlık politikaları ve programları geliştirmek için bunlara ilişkin veri toplanması gibi uygulamalar, HIV ile yaşayanlar gibi halihazırda marjinalize edilmiş grupları kasıtlı veya kasıtsız olarak dışlayarak bazılarının insan hakları üzerinde yük oluşturabilmektedir (Mann ve diğerleri, 1994 s. 13–17). İkinci ilişkinin insan hakları ihlallerinin fiziksel, zihinsel ve sosyal iyilik hali, diğer bir deyişle "sağlık" üzerine olan etkileri ile ilgili olduğu belirtilmiştir (Mann ve diğerleri, 1994, s. 17–19). Üçüncü ilişki, sağlık ve insan haklarının, insan haklarını tanımlama ve savunmaya yönelik birbirini tamamlayıcı yaklaşımlar olduğu iddiasıdır (Mann ve diğerleri, 1994, s. 19). Modern sağlık kavramları, sosyoekonomik koşulları, özellikle de yoksulluk ve sağlık ilişkisini tanıyarak, bütüncül bir anlamda kişinin refahının temelini atıyor olsa da sağlık araştırmalarında bunların kesin olarak tanımlanmasına ve anlaşılmasına ne kadar az öncelik verildiği dikkat çekicidir.

Uluslararası kuruluşlardan "küresel yönetişime" geçişle birlikte, insan hakları, çevre gibi konularda STK'lar giderek küresel politikaya dahil olmaya başlamışlardır. STK'lar toplumsal hareketler olmamakla birlikte, var olan düzende bir değişiklik yaratmayı hedeflemektedirler. Tıpkı araştırmada yer alan iki uluslararası STK, HRW ve Oxfam örneğinde olduğu gibi, STK'lar ulusötesi savunuculuk ağlarının veya ulusötesi koalisyonların parçası olabilirler. Bu nedenle araştırma, ulusötesi savunuculuk ağlarının ve ulusötesi koalisyonların ne olduğunu ve hedeflenen aktörler üzerinde ne tür bir etkiye sahip olabileceklerini inceleyecektir. Burada, bu araştırmanın amacı uyarınca, geleneksel olarak oldukça devlet merkezli ve kökleri rasyonalizme dayanan uluslararası rejim teorisi yerine küresel yönetişim literatürünün tercih edildiğine dikkat edilmelidir. Devlet dışı aktörlerin eylem ve katkılarını da dikkate alan küresel yönetişim kavramları çalışmanın bağlamı için daha uygun görülmüştür.

Ulusötesi koalisyonlar, aktörlerin “toplumsal değişimi alenen etkilemek için paylaşılan stratejileri veya taktikleri koordine eden ülke sınırları ötesinde birbirine bağlanan” daha büyük bir ulusötesi koordinasyonu içermektedir (Khagram ve diğerleri, 2002, s. 7). Bu paylaşılan stratejiler, bir ulusötesi savunuculuk ağından daha resmi temas ve bağlantı düzeyi gerektiren ulusötesi kampanyalar olarak tanımlanır çünkü grupların genellikle bu ortak taktikleri belirlemek ve üzerinde anlaşmak, kampanyanın nasıl uygulanacağı konusunda strateji belirlemek ve düzenli olarak rapor vermek için bir araya gelmeleri gerekmektedir” (Khagram ve diğerleri, 2002, s. 7). Küreselleşmeyle birlikte, dünya siyaseti giderek artan bir şekilde sadece ulus devletler dışındaki aktörlerin etkileşimlerini içermeye başlamıştır. Bu devlet dışı aktörler birbirleriyle, devletlerle ve uluslararası kuruluşlarla etkileşime girmekte ve ağlar oluşturmaktadır. Uluslararası ve yerel STK'lar da ulusötesi savunuculuk ağlarının ve ulusötesi koalisyonların önemli bir parçasıdır.

Ulusötesi savunuculuk ağları geleneksel anlamda güce sahip olmadığından, kampanyalarını temellendirmek, algıları şekillendirmek ve etki sahibi olmak için bilginin gücünü kullanmakta; bilgi ve fon paylaşmakta ve kullandıkları çerçevelerin gücünü kullanmaktadırlar. Keck ve Sikkink, savunuculuk ağlarının ve STK'ların politika süreçleri üzerinde etkiye sahip olduğu 5 tür veya bir diğer deyişle aşamayı tanımlar; i) konu oluşturma (çerçeveleme) ve gündem belirleme, ii) devletlerin ve uluslararası kuruluşların söylemsel konumları üzerindeki etki, iii) kurumsal prosedürler üzerindeki etki, iv) devletler, uluslararası örgütler veya özel sektör aktörleri gibi "hedef aktörler" deki politika değişikliği üzerindeki etki, v) devlet davranışı üzerindeki etki (Keck & Sikkink, 1998, s. 25).

Çin'in Wuhan kentinde ilk COVID-19 vakasının bildirildiği 31 Aralık 2019, tarihte önemli bir gündür. Günümüzde artmış olan uluslararası hareketlilikle birlikte virüs hızla yayılmış ve 11 Mart 2020'de DSÖ tarafından dünya çapında bir pandemi ilan edilmiştir. Dünya virüsle baş etmeye çalışırken, büyük ilaç şirketleri bu aşılar üzerinden benzeri görülmemiş kârlar elde etme gayesiyle aşıyı ilk geliştiren firma olmak için birbirleriyle yarışmıştır. Yüksek gelirli ülkeler,

vatandaşlarının aşılara erişimini garanti altına almak için bu aşıların geliştirme sürecini desteklemek için ilaç şirketlerini kamu fonlarıyla finanse etmiştir. Sonuçta aşılar rekor sürede geliştirilmiş ve 2020'nin sonunda halkın kullanımı için aşılara onay verilmiştir.

Aşıların son derece hızlı geliştirilmiş olmasına rağmen, küresel olarak aşıya eşit erişim sağlanamamış ve durum kısa sürede aşı milliyetçiliğine dönüşmüştür. Aşılar kullanıma sunulduğunda, yüksek gelirli ülkeler aşıları stoklamış ve milyonlarca doz aşı son kullanma tarihinden önce kullanılamayıp atılmıştır (Open Society Foundations, 2022).

Aşı eşitsizliği aslında daha aşılar bulunmadan önce sivil toplumu alarma geçirmişti. Mayıs 2020'de sivil toplumun faaliyetleri organik olarak ulusötesi bir koalisyona dönüştü. 14 Mayıs 2020'de çeşitli ülkelerin Sağlık Bakanları, akademisyenler, siyasi ve diplomatik figürlerin yaklaşık 100 imzacıyla "Herkesin Aşısı" (a People's Vaccine) çağrısı yapan bir açık mektup yayınlandı ve yalnızca böyle bir girişimin tüm insanlığı koruyabileceği belirtildi (Oxfam International, 2020). Bu mektup, kurulacak ulusötesi koalisyonun, temeliydi. Koalisyon kampanyasının amacı, doz bağışları yerine teknoloji paylaşımını mümkün kılarak aşıyı küresel bir hale getirmekti. Aslında Güney Afrika ve Hindistan, Ekim 2020'de TRIPS Anlaşmasının bazı hükümlerinden geçici olarak feragat edilmesi için DTÖ'ye bir teklif sunmuştu. Ulusötesi koalisyon ve üyeleri, kampanyalarında o andan itibaren teknoloji paylaşımını belirterek, bu teklifini destekledi ve eşitsizlik salgınını bitirmenin tek yolunun bağışlar değil; teknoloji paylaşımı olduğunu savundular.

Bu araştırma, COVID-19 aşılarına adil erişim kampanyasının farklı aktörler üzerindeki etkisine ve oluşturulan ulusötesi koalisyonun üyeleri olan iki etkili uluslararası STK olarak HRW ve Oxfam'ın açıklamalarına odaklanmaktadır. Araştırma, süreç izleme yöntemiyle, kampanyanın devletler, uluslarüstü bir birlik olarak Avrupa Birliği ve özel sektör yani aşı üreticisi şirketler üzerindeki etkisini gözlemlemek için bu iki STK'nın açıklamalarını analiz etmiştir. Çerçeveleme ve

gündem belirleme, çerçeveleme ve gündem belirleme, söylemsel konumlarda değişiklik, politikadaki değişiklik, kurumsal prosedürlerdeki değişiklik ve hedef aktörlerin davranışlarındaki değişiklikler etki bağlamında değerlendirilmiştir.

HRW'nin "Aşıyı Bulan Paylaşmalı" başlıklı kapsamlı raporu, 29 Ekim 2020'de henüz ortalıkta bir aşı yokken, 40'tan fazla aşı adayı klinik deneme aşamasındayken yayımlanmıştır (Human Rights Watch, 2020a). Yaklaşık 60 sayfalık raporda HRW, Nisan ve Ekim 2020 arasında ilaçlara erişim, fikri mülkiyet ve insan hakları konularında 15'ten fazla tanınmış uzmanla görüşmelerde bulunduğunu belirtmiş; uluslararası insan hakları hukukunu ve ilgili ulusal yasal iyi uygulamaları analiz etmiş ve halka açık çok sayıda belgeyi ve ikincil kaynakları incelediğini belirtmiştir (Human Rights Watch, 2020a). Etki düzeyinin farklı özel sektör aktörleri üzerinde farklı olduğu tartışılmıştır. Devletler açısından, Feragat Teklifini desteklediğini ifade eden ABD'nin davranışını değiştirmeyi başardığı için kampanyanın etkisi önemlidir. Bu gelişme zincirleme bir tepkiyi ateşlemiş ve 17 Haziran 2022'de oybirliğiyle kabul edilen Feragat Teklifi, en yüksek etki düzeyi olan davranış değişikliğine varmıştır. Farklı aktörler üzerindeki etki türleri çeşitlilik göstermiştir ve Keck ve Sikkink tarafından önerilenin aksine, etki seviyesindeki artış kademeli değil rastgele görünmektedir.

Avrupa Birliği'nin yanı sıra ABD ve Kanada gibi devletlerin ve Pfizer gibi bazı özel şirketlerin açıklamalarında COVID-19 aşılarına erişimin çerçevelenmesi üzerinde bir etki gözlemlenmiştir. Ulusötesi koalisyon ile HRW ve Oxfam tarafından kullanılan çerçeve, COVID-19 aşılarına erişim açısından "zengin ve fakir" ülkeler arasındaki dengesizliği vurgulayan bir "eşitsizlik çerçevesi" idi. Bu çerçeve, erişimdeki büyük dengesizliğin kabul edilemez olduğunun ve küresel adaletsizlik yarattığının altını çizen “insan hakları” ile doğal bir çağrışıma sahip olup 2001 yılında Oxfam'ın hayat kurtaran ilaçlara, özellikle HIV/AIDS ilaçlarına erişim için yürüttüğü “Cut the Cost” kampanyasında kullanılan çerçeveye benzemekteydi. "Cut the Cost " kampanyası da bir eşitsizlik çerçevesi kullanmış ve büyük bir başarı elde ederek, o yıl Doha Deklarasyonu'nun yolunu

açmıştı. Ayrıca araştırmada, bu iki kampanya arasında bir çerçeve difüzyonunun meydana geldiği öne sürülmüş ve eldeki vakayı analiz etmeden önce analitik çerçeveyi detaylandırmak için etki türlerini açıklarken örnek olarak "Cut the Cost" kampanyası kullanılmıştır. İki kampanya arasında bir çerçeve difüzyonunun meydana geldiğini göstermek yeterli olmasa da ileri araştırmalar, STK'ların çerçevelerini nasıl seçtikleri ve önceki bir çerçevenin başarısının benzer bir kampanyada hangi çerçevenin kullanılacağını belirlemede bir faktör olup olmadığı konusunu inceleyebilir.

Araştırmaya dahil edilen tüm aktörler üzerinde gündem belirleme etkisi bulunmuştur. HRW ve Oxfam'ın kampanyaları, gelişmiş ülkeleri, yani "zenginleri ve aşı üreticilerini" açıkça hedef göstermiş ve eleştirmiştir. Kampanya kapsamında ülkelere yönelik çeşitli açıklamalar yapılmış, mektuplar gönderilmiş, sosyal medyada ABD Başkanı Biden gibi devlet başkanlarına bizzat hitap edilmiştir. HRW ayrıca aşı üreticileriyle yazışmalarını yayımlamıştır. Bu faaliyetler, hedef aktörler üzerinde sivil topluma cevap verme baskısı yaratmış ve dolayısıyla tüm bu aktörlerin gündemlerini etkilemiştir.

Söylemsel konumları üzerindeki etki, AB organları, Kanada, ABD ve ilaç şirketleri bakımından gözlemlenmiştir. Araştırılan aktörler bakımından kurumsal prosedürlerde herhangi bir değişiklik gözlemlenmemiştir. En çarpıcı değişiklik ise, DTÖ'de COVID-19 aşılarına adil erişim sağlama amacı güden TRIPS Feragat Teklifini desteklemeye başlayan ABD'de davranış ve politika değişikliği olarak gözlemlenmiştir. HRW ve Oxfam gibi ulusötesi koalisyon üyelerinin kampanyasının yanı sıra ABD'nin desteği, diğer devletlerin davranışlarında bir değişikliğin fitilini ateşlemiştir. Neticede, DTÖ'deki tüm tekliflerin oybirliğiyle kabul edilmesi gerektiğinden, 17 Haziran 2022'de, TRIPS Feragat Teklifinin 164 üye devletin tamamı tarafından onaylanması bütün devletler bakımından bir davranış değişikliğinin gerçekleştiğine işaret etmektedir.

Bu çalışma kapsamında tespit edilen etkiye rağmen aşı eşitsizliği sona ermemiştir. 5 Ağustos 2022 itibariyle, uygulanan toplam aşı dozu

12.308.330.588'e yükselirken, Afrika ülkelerinin çoğu hala ilgili verileri gösteren göstergenin en alt ucundadır (WHO Coronavirus (COVID-19) Dashboard, 2022). Tedaviye erişimdeki eşitsizlik de sadece COVID-19 ile sınırlı değildir. COVID-19'un yanı sıra HIV, 2020'de 680.000 kişinin hayatına mal olan önemli bir küresel sağlık tehdidi olmaya devam etmektedir (WHO HIV/AIDS Fact Sheet, 2021). Tahminler, HIV ile yaşayan yaklaşık 38 milyon insan olduğunu, 25 milyondan fazlasının ise DSÖ Afrika Bölgesi'nde olduğunu göstermektedir. DSÖ'ye göre, "HIV ile yaşayan 12 milyon insan, özellikle Afrika'da hala tedaviye erişemiyor ve bu 12 milyon insanın eşitsizlikler, çoklu ve kesişen ayrımcılık biçimleri ve yapısal engeller nedeniyle tedaviye erişimi engelleniyor" (Political Declaration on HIV and AIDS: Ending Inequalities and Getting on Track to End AIDS by 2030, n.d.).

HIV/AIDS ilaçları ile COVID-19 aşılarına erişim arasındaki bağlantı dikkat çekicidir. Dünya, tedaviye erişimde benzer sorunları beraberinde getiren benzer bir pandemiye tanık olmuş olmasına rağmen, neredeyse 40 yıl sonra yine sistematik eşitsizlik devam etmektedir. UNAIDS verilerine göre,

> 2020'de HIV ile yaşayan insanların üçte ikisinin (%67) ikamet ettiği Sahra altı Afrika'da, Haziran 2021'de en yüksek tek doz COVID-19 aşı oranları Ekvator Ginesi (%19), Botsvana ve Zimbabwe (her biri %9) ve Namibya'daydı (%6). Bölgedeki başka hiçbir ülkede oran %5'i geçmedi (UNAIDS, 2021).

HIV/AIDS salgınında sağlık hakları ellerinden alınan, hayat kurtaran ilaçlara ulaşamayan aynı insanlar, COVID-19 salgınıyla mücadelede bir kez daha geride kalmıştır. Çok geç gelen TRIPS Feragatine, kampanyalara ve onca çabaya rağmen eşitsizlik ve kârı insan yaşamından üstün tutan yaklaşım galip gelmiştir. Sağlık hakkı başlı başına bir insan hakkı olmanın ötesinde aslında en temel insan hakkı olan yaşam hakkının kardeşidir. Dünyanın belirli yerlerinde, farklı zaman dilimlerinde tekrar tekrar ilaca, aşıya veya herhangi bir sağlık hizmetine erişememek gelinen noktada sadece ayrımcılıktır.

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TEZİN ADI / TITLE OF THE THESIS (**İngilizce** / English): LIVES OVER PROFITS: AN ANALYSIS OF THE IMPACT OF THE TRANSNATIONAL COALITION'S EQUITABLE ACCESS TO COVID-19 VACCINES CAMPAIGN

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