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# Critics worry Canada's approach to pandemic treaty marks continued gap between 'rhetoric' and 'reality' on vaccine equity

'In situations where lives are at risk ... humanity has to trump profit,' says NDP MP Heather McPherson.

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One of the authors of a major study in the British Medical Journal about Canada's pandemic response says that any evaluation of lessons learned should include reviewing not only the domestic response, but also the impact of Canada's approach on the world stage—especially in light of ongoing negotiations for a pandemic treaty.

Adam Houston, an adjunct professor at the University of Ottawa and the lead author on the paper "Canada's role in covid-19 global vaccine equity failures," told The Hill Times that it was important to look at how "decisions that are made in Canada ... have repercussions outside Canada's borders."

Houston's article was part of a recent series of in the British Medical Journal (BMJ) that assessed Canada's handling of the pandemic. His article looked at how Canada was "one of the most prominent hoarders of the limited global covid-19 vaccine supply."

"There is a gap between the rhetoric and the reality when it came to vaccine equity," Houston told The Hill Times.

Equitable global access to vaccines became an issue during the pandemic, with much of the discussion centring around whether the World Trade Organization's Agreement on Trade Related Aspects of Intellectual Property (TRIPS) should be temporarily waived. Tensions grew as vaccination rates for residents of high- and upper middle-income nations steadily rose, while vaccination rates for residents of lower middle-income and low-income nations lagged behind. As of Aug. 18, according to the website Our World in Data, 70.48 per cent of the world population has received at least one dose of a COVID-19 vaccine, but only 32.53 per cent of residents of low-income countries have received at least one dose.

On Oct. 2, 2020, two months before the first dose of the Pfizer vaccine was administered, South Africa and India formally filed a request at the WTO for a TRIPS waiver. For months, many

NDP foreign affairs critic Heather McPherson said 'the worry' is Canada will take a similar approach on the pandemic treaty as it did on the TRIPS waiver during COVID-19. The Hill Times photograph by Andrew Meade

wealthy nations—including Canada—expressed ambivalence about a waiver, a tactic that many critics have said was a way of avoiding a TRIPS waiver without having to openly oppose it. An eventual compromise waiver reached in June 2022 left both camps unhappy. Advocates of the waiver noted the length of time it took to be reached, as well as its limited scope. Opponents said even the compromised version was destabilizing to the global intellectual property (IP) regime, which they argue is vital to incentivizing innovation for future medical breakthroughs.

To address these issues, discussions have turned to the creation of a pandemic treaty through the World Health Organization (WHO), which would—among other things—seek to address how equitable vaccine access and IP rights would

be handled in a future pandemic.

However, Houston said Canada's current approach to the treaty marks a continuation of the policies it pursued during the pandemic that were detrimental to global vaccine access.

In a May 12 article in *Policy Options*, Houston wrote that Canada's stance on the pandemic treaty "would directly undermine equitable access to medical countermeasures such as drugs and vaccines. That would weaken the proposed treaty as a tool to respond to, and prepare for, future pandemics."

In the article, he pointed to a leaked version of proposed amendments to the pandemic treaty, which were first reported by *Politico* in April 2023. The document indicates that Canada supported an amendment on medical technology transfer that said it should take place on "mutually agreed terms."

Houston said the COVID-19 pandemic, as well past pandemics like HIV, shows that when technology transfer is voluntary, it does not occur.

"We've actually seen Canada being among the more extreme in terms of arguing that tech transfer, for example, as the legal baseline in the treaty, should be on voluntary and mutually agreed terms with pharmaceutical companies," he told *The Hill Times*. "We've often seen that happen that pharmaceutical companies don't necessarily enter into voluntary agreements."

The *Hill Times* reached out to the department of Global Affairs to ask about the position it was taking in the treaty negotiations, but did not receive a response by deadline.

NDP MP and foreign affairs critic Heather McPherson (Edmonton Strathcona, Alta.) told *The Hill Times* that "the worry" is Canada will take a similar approach on the pandemic treaty as it did on the TRIPS waiver.

"What we saw during COVID was Canada play a completely disruptive role in getting the TRIPS waiver passed," said McPherson. "As we look forward ... all of us should be thinking about where those clear failures were in the global pandemic response during COVID-19, and what we can do to make sure that doesn't happen again—and I don't get the sense from Canada that they have any interest in that."

She said the issue of mutually agreed on technology transfer is a concern for her.

"Pharmaceutical companies are never going to mutually agree to give up even just a portion of their profits," said McPherson. "That's why governments in the world need to stand up. And they need to say that in situations where lives are at risk, in situations where we have global health pandemics, the common good—humanity—has to trump profit."

Francisco Viegas, a lawyer and medical innovation policy advisor with *Médecins Sans Frontières (MSF)* based in Brazil, said if the treaty were to make technology transfer voluntary that would amount to "keeping the status quo, and nothing would be changed."

"What we're asking for is basically learning the lessons so that history doesn't repeat itself," said Viegas, who worked on the issue of vaccine access during the pandemic.

Viegas said the key issues for MSF are to have mandatory technology transfers,

a waiver of IP during pandemics, and ensuring publicly funded research comes with conditions that the innovations produced will be made publicly accessible. He also called for countries that have contributed to research by hosting clinical trials or providing information about pathogens identified within their borders to be credited as having contributed to vaccines.

"Basically, COVID was a case of success in terms of science—based on the back of a lot of public investment for the different technologies that were launched ... but no assurances were made after the fact" that these investments would be publicly and equitably accessible, said Viegas.

Andrew Casey, president and CEO of *BIOTECANADA*, which represents Canada's biotechnology industry, said he believes a pandemic treaty is a positive initiative to address many of the problems that nations had to solve on the fly during COVID-19. But he argued that waiving IP should not be part of that.

"That's always a bit problematic," said Casey. "It feels like the right thing to do. But I think everyone has to understand where do these innovations come from? How are they developed through investment? The amount of time it takes. And if you move to a place where it seems like the minute it becomes really useful you're just going to hand it over to others ... that's going to have a chilling effect on investment and innovation."

He said he is supportive of the language in the leaked amendments regarding "mutually agreed" technology transfer.

"That makes complete sense, because at that point the industry can say, 'Look, we understand the predicament we're

in,” said Casey.

Casey disagreed with the argument that pharmaceutical patent holders were resistant to technology sharing during the pandemic. He said one factor that should be considered is that sharing of IP is complicated because there is not always a single large company, such as Pfizer, that holds the IP rights. In many cases, a vaccine involves numerous pieces of intellectual property, some of which were developed by smaller companies that have spent years developing those technologies.

However, he was supportive of the idea of tying strings to public funding for research.

“If government’s going to be an investor in technology, then they have every right to—like every other investor—to sort of put their criteria down,” said Casey. “And if that’s one that they want to put down at the outset ... do that. I think that makes good sense.”

In its October 2022 report on vaccine equity, the House of Commons Foreign Affairs Committee recommended that such conditions should be placed on public funding, but—Houston notes—in the government’s official response to the report, it did not fully embrace that recommendation.

Houston said this is one of the reasons why the public inquiry the BMJ series called for must investigate both the domestic and global implications of Canada’s pandemic response.

“This is one of the reasons that we’d like to see a deeper dive into this is because, you know, Canada’s rejecting the idea of attaching strings—why?” asked Houston.

He said any inquiry “should also underscore the need to actually act on lessons learned.”

“We don’t just need another dusty inquiry on the shelf somewhere,” said Houston.

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