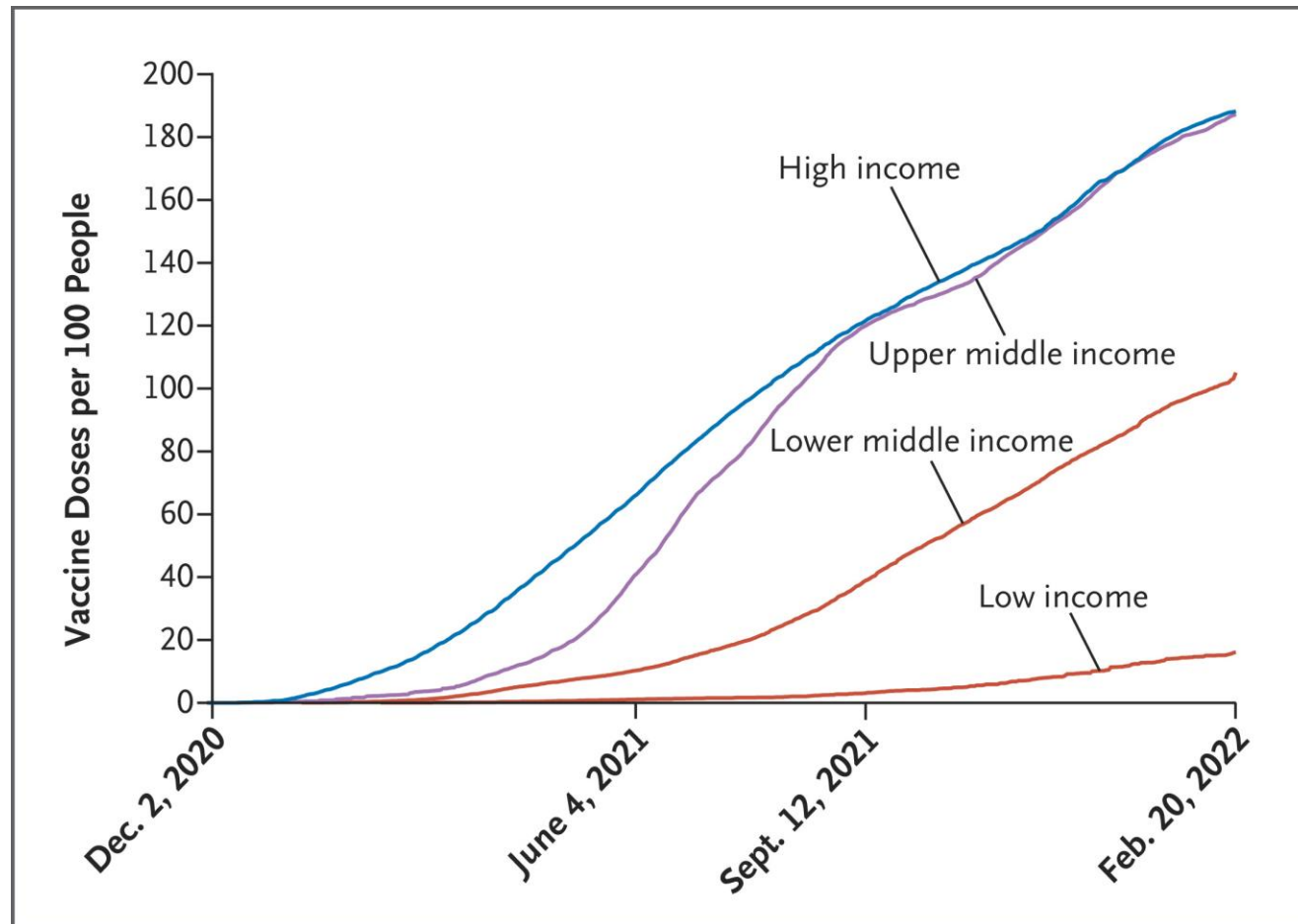


# An Ethical Defense of the Pathogen Access and Benefit- Sharing System in the Accord

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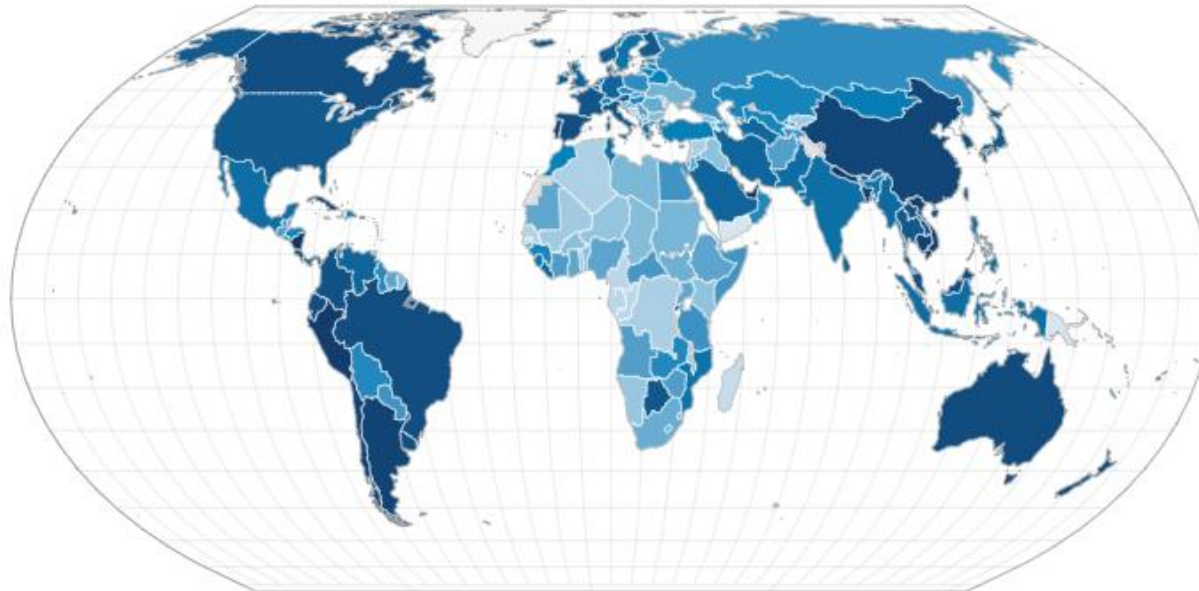
# THE PROBLEM: VACCINE INEQUITY



Source: Hunter et al. 2022, <https://www.nejm.org/doi/full/10.1056/NEJMe2202547>

# Percentage of total population vaccinated with at least one dose of a COVID-19 vaccine

World, 31 December 2023



**% of total population**



Source: WHO, <https://data.who.int/dashboards/covid19/vaccines?n=0>

# WHAT WENT WRONG?

## COVAX

**With a fast-moving pandemic, no one is safe, unless everyone is safe**

COVAX is co-led by [CEPI](#), [Gavi](#) and WHO, alongside key delivery partner [UNICEF](#). In the Americas, the PAHO Revolving Fund is the recognized procurement agent for COVAX.

CEPI



unicef



- COVAX initially designed as a cooperative central hub for all vax distribution (HIC+LMIC)
- But HICs quickly discovered bilateral deals can secure more and quicker doses for own populations than COVAX
- ‘Vaccine nationalism’ – prioritizing acquisition and distribution of vaccines in one’s own country over distribution internationally
- Cf ‘vaccine cosmopolitanism’ – do not privilege one’s own country in contributing to the acquisition and distribution of vaccines internationally

# WHAT IS PABS?

- PABS: Pathogen Access and Benefit-Sharing system
  - Quotes from: A/INB/9/3 Rev.1, April 2024; see esp Art. 12
- Two main functions
  - “to ensure the rapid, systematic and timely sharing of PABS material and information for, inter alia, public health risk assessment”
  - “timely, effective, predictable and equitable access to pandemic-related health products and other benefits, both monetary and non-monetary, arising from such sharing”

# ADDRESSING INEQUITY

- “the fair, equitable and timely sharing of benefits, both monetary and non-monetary, arising from access to PABS material and information, in accordance with modalities, terms and conditions to be determined and agreed, which shall include, at a minimum, the following:
  - (i) in the event of a pandemic, real-time access by WHO to 20% (10% as a donation and 10% at affordable prices to WHO) of the production of safe, efficacious and effective pandemic-related health products”

# ETHICS IN THE ACCORD

- Key pandemic accord principles:
  - “equity as a goal and outcome of pandemic prevention, preparedness and response, striving for the absence of unfair, avoidable or remediable differences among and between individuals, communities and countries”
  - “solidarity with all people and countries in the context of health emergencies, inclusivity, transparency and accountability to achieve the common interest of a more equitable and better prepared world to prevent, respond to and recover from pandemics, recognizing different levels of capacities and capabilities”

# ETHICS IN THE ACCORD

- But accord also recognizes...

“the sovereign right of States to adopt, legislate and implement legislation, within their jurisdiction, in accordance with the Charter of the United Nations, the WHO Constitution and the principles of international law, and their sovereign rights over their biological resources”



# AN ETHICAL BALANCE: NATIONALISM VS COSMOPOLITANISM

- Nationalism has some justifications
  - Associative ties
  - Realization of rights
  - Reciprocal duties
- So does cosmopolitanism
  - Fundamental equality of humanity
  - Impartial
  - Best outcomes globally

# ACHIEVING A BALANCE

- 10+10 Accord model in line with notion of ‘tithe’ as appropriate ethical balance
  - Cf Yamey 2021, “Rich countries should tithe their vaccines,” Nature 590: 529
- Recognizes priority to own citizens, compatible with distinct global obligations

...but isn't 10+10 inadequate to meet global need?

# PRACTICAL BALANCING

- Vaccine distribution provisions in any treaty require HIC buy-in to be effective
  - Wealth disparity → purchasing power differential
- Too extreme a standard → HICs won't sign → ineffective (COVAX 2.0)
- So should be asking: how close to the ideal can we get without torpedoing plan?

# ENFORCEMENT?

- “The modalities, terms and conditions, and operational dimensions of the PABS System shall be further defined in a legally binding instrument that will be operational no later than 31 May 2026.”

# MODEL 1: SIGNATORY COMMITMENT

- Accord signatories could be directly bound by 10+10 commitment
- Unconditional, ethically straightforward (direct obligation)
- Practical danger: non-Accord signature → won't be bound to 10+10
  - PABS remains one of Accord's most contentious clauses

# MODEL 2: MATERIALS/DATA TRANSFER AGREEMENT

- Alternate model from earlier drafts: countries receiving PABS materials must sign agreement for 10+10 'tithe'
- Advantage: can bind even non-signatories, who need to access PABS materials/data
- Disadvantage: Equity becomes contingent on PABS use, over-emphasizes reciprocity (not an Accord principle) over equity
  - Cf recent critiques by Hampton et al.,  
<https://pmc.ncbi.nlm.nih.gov/articles/PMC10209987/>

# CONCLUSIONS

- PABS is an ethically robust component of the Accord, adequately balancing competing ethical principles/values
- However, practical enforcement remains to be negotiated
  - Ultimately, realpolitik rather than ethics may determine fate of PABS
  - Still, ethicists have role to play in supporting normative case for PABS

# THANK YOU