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Transformative Policies to Realise Universal Access to Medicines

- ***Why we Need Knowledge Commons and Public Options for Pharmaceuticals to Realise the Rights to Health and Science.***
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- Rossella De Falco, Ph.D.

Programme Officer on the Right to Health at the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)

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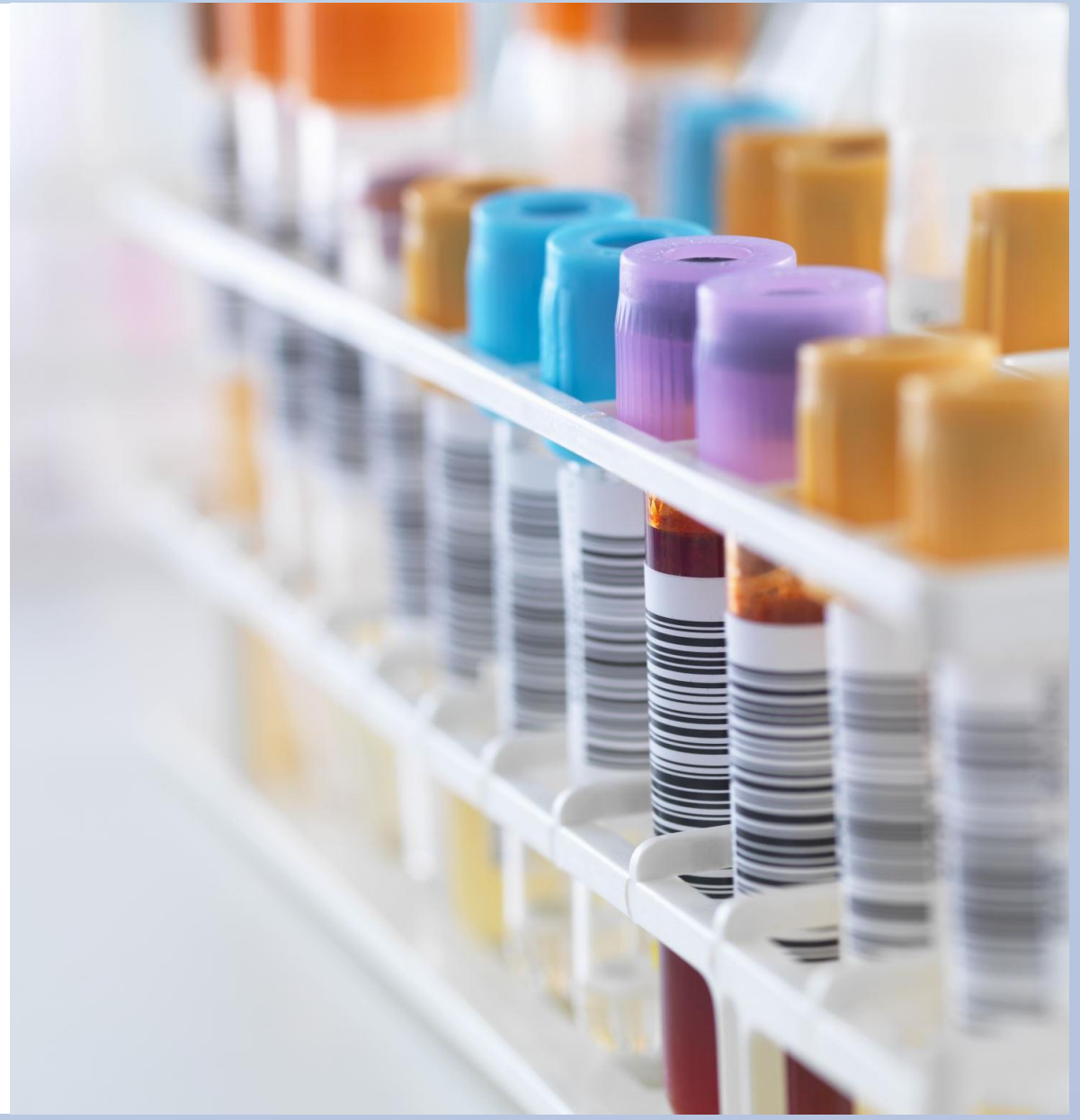
Access to Medicines is grounded in International Human Rights Law

Universal access to medicines is a fundamental component of several human rights, including the rights to life, health and science.



Upcoming Policy Brief

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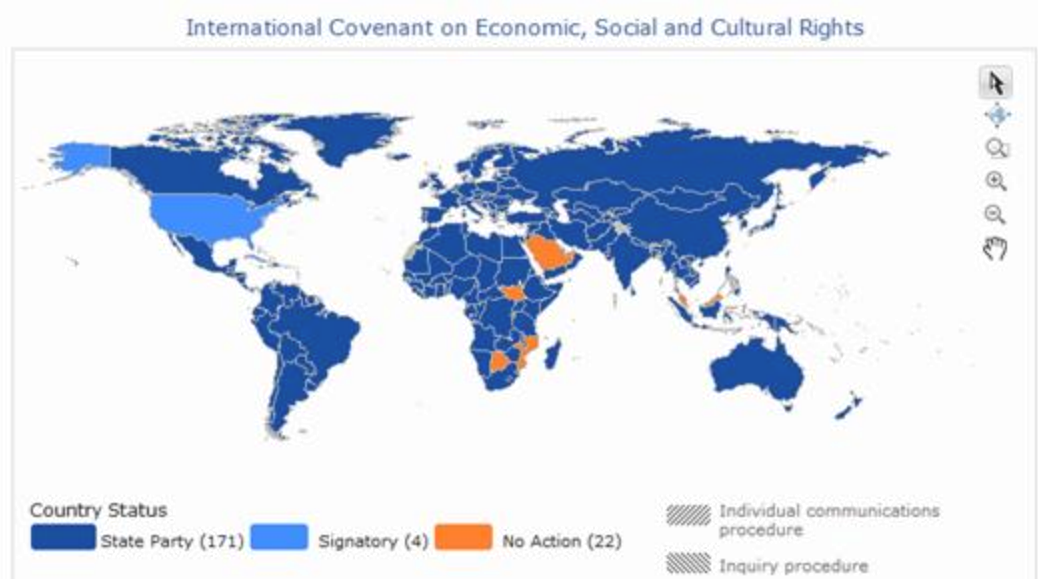
Economic, Social and Cultural Rights

- Economic, Social and Cultural Rights are protected under several human rights instruments, most prominently the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966). The ICESCR imposes biding obligations in 171 States which have ratified it.

Image Source: 'Status of Ratification, Interactive Board', https://indicators.ohchr.org/.



The Right to Health

Medicines save lives and protect health by preventing and treating medical conditions.

In its General Comment 14, the Committee on Economic, Social and Cultural Rights (CESCR), which monitors the implementation of the Covenant, noted that in its General Comment 14, CESCR noted that 'the provision of essential drugs as defined in the World Health Organisation (WHO) Action Programme on Essential Drugs and Vaccines' is an obligation of immediate effect (a core obligation).

They are a fudamental for the enjoyment of the right to the highest attainable standard of physical and mental health (art. 12 ICESCR).

In 2013, the United Nations (UN) Human Rights Council (HRC), adopted a resolution emphasising that States have a duty to make sure that all persons, without discrimination, have access to medicines, especially essential medicines, and that medicines should be affordable, safe, effective and of good quality

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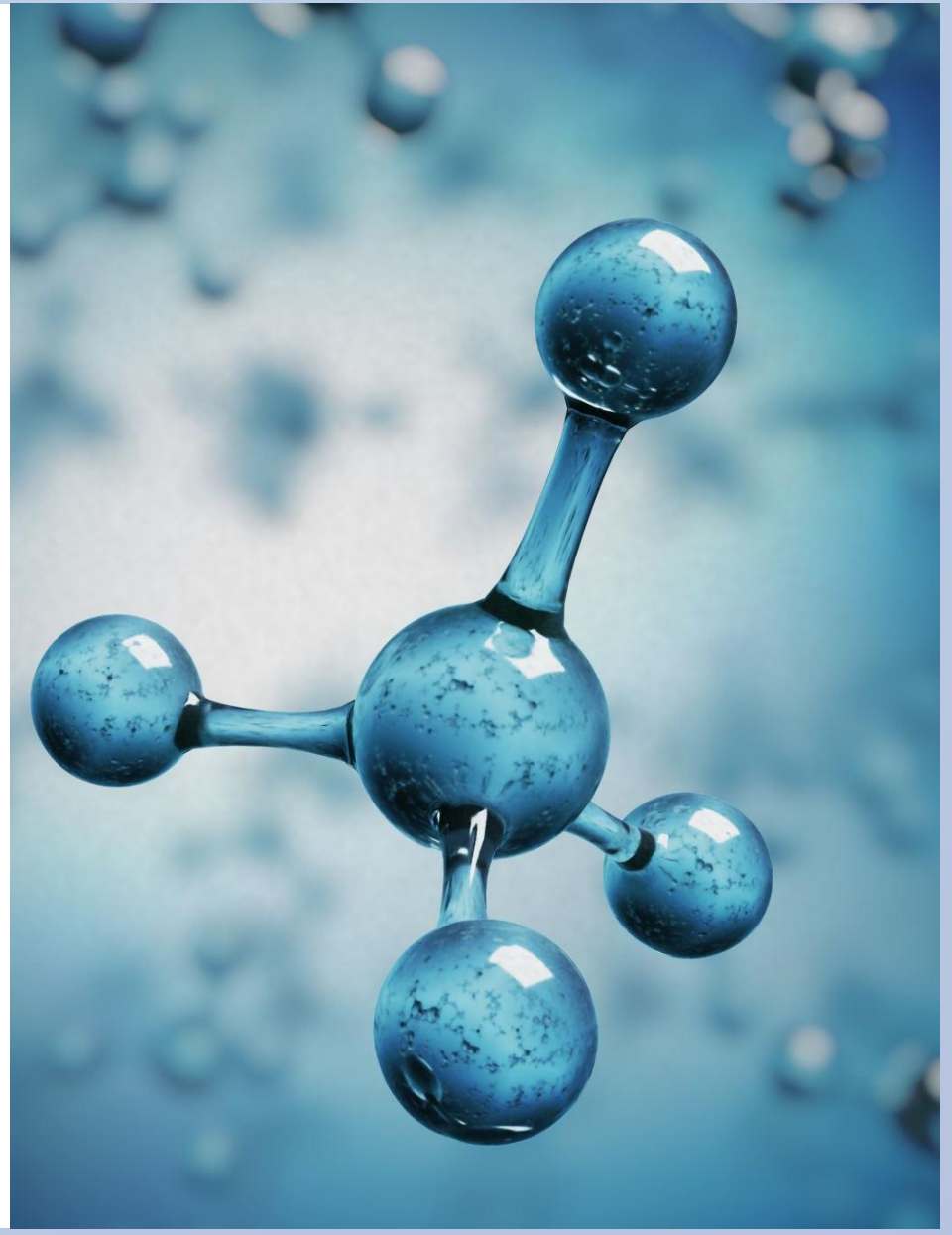
The Right to Science

- International human rights law affirms **the right to enjoy the benefits of scientific progress and its applications** (the right to science). Article 27(1) of the **1948 Universal Declaration of Human Rights** states that 'everyone has a right in scientific advancement and its benefits'. Article 15(b) of the **ICESCR**, recognises that every person has the right 'to enjoy the benefits of scientific progress and its applications'.

- In its **General Comment 25** (2020), the CESCR noted that the terms 'scientific advancement' and 'scientific progress' underline the capacity of science to improve human wellbeing, implying that States should use science to advance human rights. It further observed that the 'benefits' of science may include material outputs, such as vaccinations and other pharmaceuticals, as well as immaterial ones, such as knowledge and information; and that the term 'applications' refers to technology, such as health software, appliances, or materials. State parties have an obligation to *respect, protect* and *fulfil* the right to benefit from scientific progress.



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Progress is Staggering

- *As exemplified by stark inequalities in accessing the COVID-19 vaccine, however, progress towards the realisation of the right to science is still staggering.*
- The first COVID-19 vaccines were administered in December 2020, at early stages of the pandemic, access to these essential drugs has been deeply unequal. As of November 2023, 80% of people living in high-income countries received at least one dose of the COVID-19 vaccine, against 33% in low- and middle-income countries.
- In 2023, the committee on the Elimination of Racial Discrimination (CERD) observed that:

'the current challenges of inequality can be significantly mitigated by sharing access to intellectual property rights to life-preserving patents to vaccines, treatments and related technologies which are currently reserved by a few countries in the global North'

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The limits of commercial approaches to pharmaceutical innovation and delivery

- The commercialisation of science is a relatively new phenomenon. In the 1970s, sociologist Merton defined science as 'a public enterprise advancing fundamental knowledge about the world'.
- Increasingly, however, commercial motives have dominated the development of new medicines, at the expenses of human rights priorities.
  - *'Scientific advances in medicine have helped to cure more diseases and enhance the quality of life. However, these advances are driven primarily by market considerations that often do not correspond to the health needs of the world's population as a whole, thus affecting the right to health.' (Venice Statement on the Right to Enjoy the Benefits of Scientific Progress and its Applications, 2009)*

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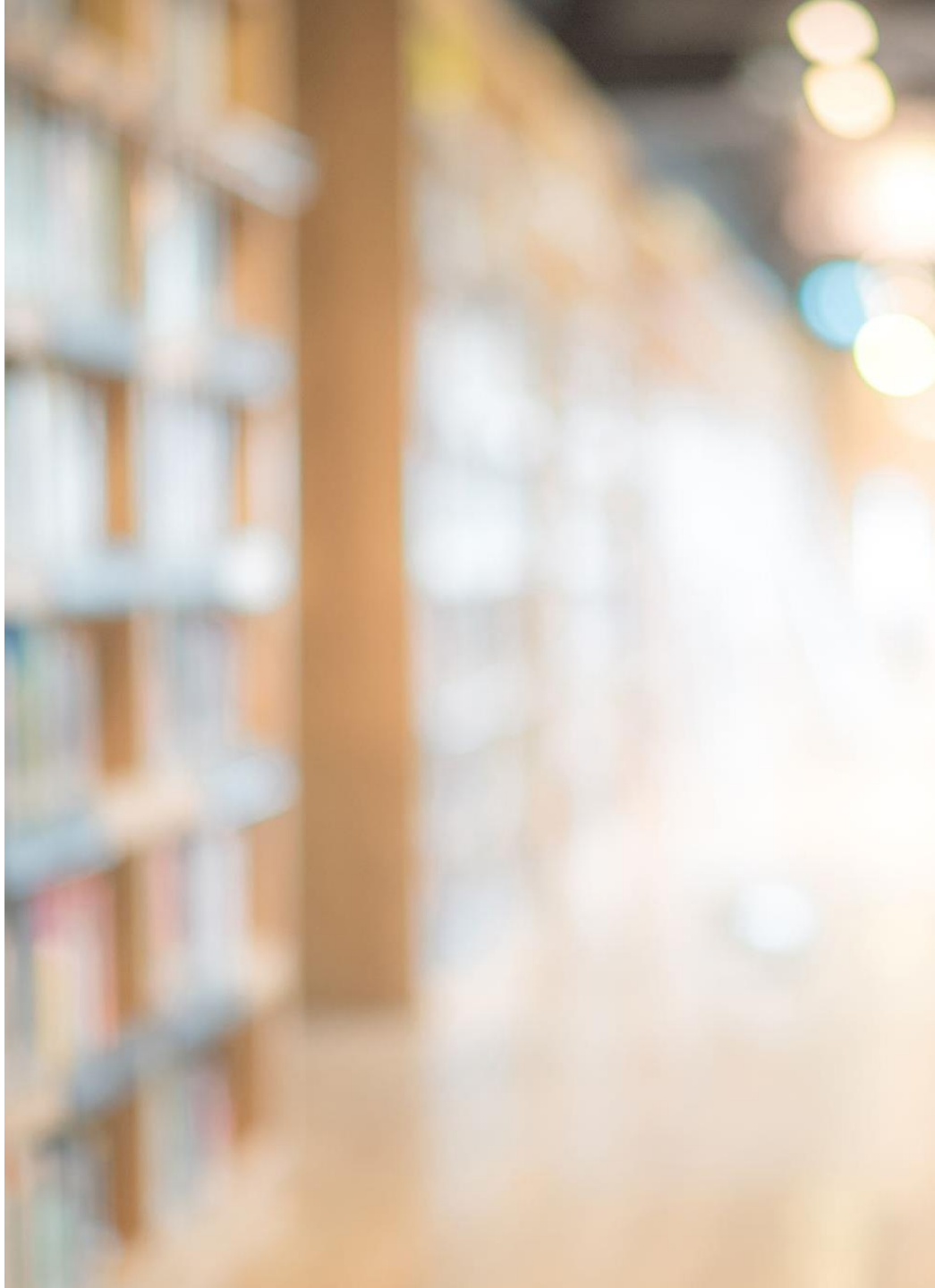
Mainstreaming Human Rights in Health Policy

- The main problem created by commercial approaches to medical innovation is the high prices of medicines. This is largely a consequence of patents, a form of intellectual property protected under the World Trade Organisation (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
- Patents contribute to increasing the price of medicines because, from a legal point of view, only the pharmaceutical company that holds the patent is allowed to manufacture and sell the drug.
- At the same time, from an economic point of view, patents grant certain companies a monopoly that allow them to increase the price of their medical products without competition from other firms. In other words, patents tend to increase prices of medicines because they delay the production of generic drugs, a crucial step in expanding availability and accessibility of pharma.

Open Science and Knowledge Commons

- Open science is an approach to scientific discovery that prioritises knowledge sharing and collaboration among researchers. It has been central to the dissemination of intangible information since the study of knowledge commons emerged in the mid-1990s.
- The premise is that scientific discovery is a **social collaboration** and that its products belong **to the community.**
- Open science can contribute to the realisation of human rights, including the rights to health and science. Open science initiatives are common in areas with comparatively lower profit prospects, like rare and tropical diseases, including malaria.



Open Science in Medical Innovation

Positive Examples during COVID-19:

- Platforms like Nextstrain and GISAID made it possible to track the spread of genetic mutations.
- In 2022, a team of researchers at Texas Children Hospital and Baylor College of Medicine developed a patent-free COVID-19 vaccine (CORBEVAX), a protein-based vaccine that is comparatively cheaper to manufacture and easier to storage than mRNA vaccines.
- The WHO's Global Influenza Surveillance and Response System (GISRS), created in 1952, is an international network comprising research institutions and laboratories in 129 WHO member States.

Public Options for Pharmaceutical Research and Development

Public Options for Pharmaceutical Research and Development

- In Sweden, the *Apotek Produktion & Laboratorium* is one of the largest manufacturers of medicines in Europe. In Cuba, the biotechnology and pharmaceutical organisation.
- *BioCubaFarma* undertakes research, development, manufacturing and distribution of medicines.
- In Brazil, public pharmaceutical laboratories have historically played a central role in the large-scale production of essential medicines and drugs, including anti-retroviral drugs.
- Crucial advantage of publicly owned pharmaceutical institutions is that, because they are not owned by shareholders or driven by commercial motives, they can prioritise public health, human rights, and scientific innovation

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Human Rights Obligations can Make a Difference

- States must investigate the best policy options to realise universal access to medicines, and invest their maximum available resources towards the fulfilment of the rights to health and science.
- States also need to strictly monitor and regulate private pharmaceutical companies, in line with the United Nations Guiding Principles on Business and Human Rights, unanimously endorsed by the Human Rights Council in 2011.
- At the same time, States need to use TRIPS flexibilities.

Conclusions

- Commodification of pharmaceuticals increases economic inequalities within countries and pushes poorer countries into debt, reinforcing colonial legacies in global health.
- Commercial models for researching, developing, manufacturing, and delivering medicines have failed to meet human rights goals. While TRIPS flexibilities can be useful to address some problems, they alone cannot achieve the long-term project of realising the rights to health and science. States need to comply with their human rights obligations through transformative and progressive policy solutions.

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Through a human rights perspective, we can reconceptualise the products of medical innovation as knowledge commons and reclaim public ownership of pharmaceutical research and delivery.

Thank You!

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