

ACCESS TO ESSENTIAL MEDICINES AND INTERNATIONAL HEALTH LAW: TOWARDS A NEW PARADIGM?

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ABSTRACT

Newly independent countries always expressed the need for an equal access to essential medicines based on international human rights treaties. The right to access essential medicines was officially expressed in 2001 during the World Trade Organization's (hereinafter "WTO") Doha Conference. However, is it possible to consider that the World Health Organization (hereinafter "WHO") has today the prerogatives to coordinate an international response to a pandemic, facilitate research and development of vaccines and above all allow fair and equitable access to new treatments? The recent tensions between the United States and China for instance demonstrate the structural inertia of both the WHO and the WTO, and this is all the truer as these key international organizations have binding rules for States Parties: the International Health Regulations (2005) adopted by WHO members and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) adopted by WTO members. The devastating effects of the COVID-19 pandemic must encourage the international community to a change of paradigm by adopting a legally binding arsenal aimed at facilitating access to essential medicines. Cooperation with the WHO must be in full conformity with the purposes and the principles of the Charter of the United Nations

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which provides that States Parties have a general obligation of cooperation, including health matters. It is, therefore, essential to provide the WHO with coercive legal means to ensure compliance with international treaties and the International Health Regulations.

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