



**FEMINISTS
FOR A PEOPLE'S
VACCINE**

FEMINISTS 4 A PEOPLE'S VACCINE PODCAST EP13 Transcript



A human rights-based approach to COVID-19

With Constanza Pauchulo, Camila Maia, Meena Jagannath and Vanita Nayak Mukherjee

Vanita Mukherjee [00:00:03] Welcome to the Feminists for a People's Vaccine podcast, a space for imaginations, discussion and feminist analysis from the Global South. In this creative journey, we approach the tough questions brought to light by the pandemic. Join us to look at this once in a lifetime event as a passageway to imagine a fair and just world for all.

Constanza [00:00:34] Hello, this is the Feminist for a People's Vaccine podcast and, on this episode, for the first time, the campaign is having a three-way conversation rather than a one-on-one interview. I am Constanza Pauchulo from the International Women's Rights Action Watch Asia-Pacific. I am delighted to be joined by my colleagues and partners of the FPV campaign, Meena Jagannath from Movement Law Lab and Camila Maia from Centro de Estudios, Legales y Sociales, Centre for Legal and Social Studies. We thought we'd start with a brief introduction, a little bit of background on your personal histories, when and why you joined activism or human rights advocacy, and then to get a little bit of information on the organisations you're from and how they came to a kind of this moment in time to be doing the kind of work that we are all doing for the campaign. So I'll start with Camila, if that's okay.

Camila [00:01:36] Thank you, Connie. So, yes, I studied International Relations at the University of Brasilia, in Brazil. I think while most of my colleagues dreamt of being diplomats or work for an international organisation, I was increasingly aware of how conservative these institutions sometimes are and how the world was extremely unequal and violent. So, after I graduated, I came to Buenos Aires for an internship at CELS. CELS is a 40-year-old organisation with a couple of different milestones, but it was originally founded by parents of people who are

victims of enforced disappearances during the last dictatorship and while litigating against hundreds of military personnel at that time and to 2010, they were also expanding their agenda and renewing their staff with younger people. When I arrived, they were structuring an international programme and they can see this work as profoundly Latin American and refusing to automatically reproduce concepts, practices and agendas imposed by Northern States, NGOs or academics. For example, we didn't just go to the UN unless there was an evaluation that it could transform something being part of a broader strategy and we were really conscious of the limits of those tools. So it was work that I say was located in time and space, and I found a way to put use to my studies that was more connected to my urge to tackle injustice in favor of the oppressed.

Constanza [00:03:11] Thank you so much, Camila. That's fantastic. I'll pass it over to Meena. And we're hoping that this will be a fluid, casual conversation, so please feel free to also pass to each other.

Meena [00:03:22] Thank you for having me. For myself, I've always been inspired by the women in my life. First and foremost, my mother and my grandmother, in particular. They were strong women who made the most of the cards that they were dealt and so they really shaped just how I saw the world and I've been involved in activism ever since I was very young. I've sort of more methodically got involved in student activism and the WTO protests in 1999, and all the debates that arose from that around US imperialism, its interventionism in different parts of the world, as well as globalisation that arose out of that. I think as a child of Indian immigrants in the U.S., I never really felt like I was from the U.S. or really from India, so that really made me kind of locate my work in lots of different struggles around the world. At Movement Law Lab, I coordinate a global network of movement lawyers of which CELS is a part and this grew out of a convening that Movement Law Lab helped hold in 2019 in response to rising authoritarianism and compounding crises globally climate change, war, migration crises which made it clear those who work on the front lines with social movements in different parts of the world had to be connected and find ways to coordinate our support of global movements for justice around the world.

Constanza [00:04:38] Thank you, Meena. So, for myself, my connection to human rights advocacy and movements started at an early age. I was born in Argentina at the end of a military dictatorship, which Camila also referenced as part of her organization's work. While my family itself immigrated to Canada when I was quite young, my parents made sure that I was aware of my history and instilled a commitment to the protection of human rights and resisting impunity in both me and my sister. This connection really deepened and grew as I began to understand my place more as a diasporic settler in the colonial project that is Canada. IRAW Asia Pacific itself started almost 30 years ago, and from the beginning, it recognized the potential of the Convention on the Elimination of All Forms of Discrimination against Women or CEDAW to act as a powerful tool for women to claim, assert and define their own human rights, as well as a mobilizing space for the women's rights movement at the national and global level. So we're quite privileged to hold a facilitative role with the CEDAW Secretariat and the CEDAW Committee, which means that we coordinate all NGO involvement in CEDAW country review processes and through that get to connect with women's rights activists from all over the world. My work at IRAW-AP builds on a long interest in the way systems and powerful actors like corporations or international financial institutions work hand in hand with states and elites not only to repress and oppress but to obfuscate or blur the politics at play. For example, whose interests are being protected, who's being

excluded, and what decisions are being taken out of the democratic realm and into closed rooms, all under the guise of these issues being too complicated for us to understand and get involved in. So, in particular, we'll be talking about this in the context of vaccine equity and the recent World Trade Organisation decision on the Agreement of Trade-Related Aspects of Intellectual Property Rights that took place at the 12th Ministerial Conference in June 2022. This decision relates to the TRIPS waiver, which was a measure tabled at the WTO by India and South Africa, and gathered the co-sponsorship of 64 countries with the purpose of relaxing intellectual property rules over COVID-related health resources during the pandemic so that Global South countries could manufacture these technologies at affordable prices. But after two years of stalling on the part of the Global North and much activism from the Global South, especially civil society, which we'll hear so much more about from Camila and Meena, the decision that was adopted at this Ministerial Conference is very narrow compared to what was originally proposed, despite some political gains. So there is actually a previous podcast, the one right before this, that talks about the outcome of this Ministerial Conference and the TRIPS waiver decision. And we'd really recommend that you go and check that out.

[Previous episode snippet \[00:07:46\]](#) So they were very coordinated, the developed countries. They may have their own competition, their own issues, but when it comes to not wanting the South to gain, something that they see as detrimental to their corporate interests, they will work together.

[Constanza \[00:08:00\]](#) We're hoping that this conversation will complement the analysis there by focusing on the role of UN rights mechanisms in this struggle.

[Camila \[00:08:10\]](#) So, Meena and Connie, we were all, all three of us, and our organisations and networks engaged in processes regarding this issue of the TRIPS waiver and the vaccine equality at Human Rights System, such as the Committee on the Elimination of Discrimination Against Women and the Committee on the Elimination of Racial Discrimination that inquired States on their extraterritorial duties regarding human rights and how the pandemic had disproportionate effects regarding gender, color, race, class, and other social determinants. Could you please share how we got there and tell these stories?

[Meena \[00:08:48\]](#) Sure. Around April and May of 2021, when the Delta variant was ravaging, India had come to various networks, the Global Network of Movement Lawyers, which I coordinate, but also ESCR-Net and INCLO, asked us what we were doing as a human rights community. And, as a result, we decided it was important for us to at least come together and figure out what mechanisms and what tools we could leverage in support of the access to medicines movement and really deploy the legal tools that we had to unlock access to critical COVID-19 health care technologies, that intellectual property barriers were locking away from the vast majority of the world. But, in the beginning, folks who were already involved in this, the People's Vaccine Alliance, many of the people that had been involved in the access to medicines movement for a long time, they primarily would communicate through the language of intellectual property. And it was hard for people to get the moral outrage of vaccine inequity or healthcare inequity because of the highly technical, intellectual property language. And so part of what they asked us to do is to see how we, as a human rights community, could change or complement the intellectual property frame by using a human rights frame and explain the injustices in human terms and in starker terms. So

we explored multiple human rights forums to do this, including advocating before the U.N. Treaty Bodies that Camila had mentioned earlier. We not only worked through these treaty bodies, but we also worked with UN Special Procedures, and various Special Rapporteurs and we even explored whether to pursue avenues in the European Court of Human Rights or perhaps advance domestic litigation in the countries that were opposing the TRIPS waiver, in particular in Germany, United Kingdom, Canada, and Norway. And part of the idea there was that since Global South countries were being impacted by the policy decisions taken by powerful countries in the Global North, where the pharmaceutical industry was most deeply rooted. Global North lawyers needed to stand up to push against their governments and hold them accountable under the human rights treaties that they had ratified. So we brought lawyers from across the Global North, as well as the Global South to work and coordinate with each other. And, in addition to the various petitions that we filed before the treaty bodies, we also had lawyers in the UK, Canada, and Germany who took steps to alert their governments and to put additional pressure on them to change their position vis-a-vis the TRIPS waiver.

Constanza [00:11:18] So I think what Meena has described about using international human rights as a tool for shifting our understanding of COVID-19 vaccines, particularly talking about the human impact and what these highly technical conversations have to do with our daily lives and our rights and our responsibilities to each other is hugely important and really points to the potential of human rights and the International Treaty Bodies, you know? Why to keep it in our purview or on our radar as a space for these kinds of narrative-shifting activities. The issue of accountability that Meena also raised is equally important, particularly for Global North countries, and it was central to the idea to use CEDAW as a way to support the Feminist for a People's Vaccine campaign. So together with friends at DAWN and the Third World Network, we decided to target Sweden because it's a member of the EU and it was scheduled to be reviewed by the CEDAW Committee in October 2021, and the EU was and still strongly opposes the TRIPS waiver. So for those that are not familiar with CEDAW or haven't used the country review process before, I'll give a little bit of a background.

Constanza [00:12:31] 189 countries have all signed on to this international human rights treaty, agreeing to eliminate all forms of discrimination against women and advance substantially equality by following certain obligations, including things like addressing historical inequalities, gender stereotypes, and harmful practices and protecting rights relating to all aspects of women's lives, including political, economic, health, education, freedom from violence, and many, many other areas are covered by the treaty. And these obligations or the convention itself also requires countries to meet with the CEDAW Committee, which is a body of twenty-three Independent Experts from around the world about every four years to report on the progress that they're making to meet what's required of them under the treaty. And one important aspect of the treaty and international human rights law, in general, is that these rights and obligations don't only apply to women within a country's territorial border, but also to women living in other countries. And this is referred to as extraterritorial obligations, which is a crucial legal standard within the human rights field, especially given that, you know, the crises and challenges that we're facing today are not confined to one country. The pandemic has shown us that, but also the climate emergency, the historical and ongoing legacies of colonialism, the transatlantic slave trade, and devastation by so-called free trade, globalization, have all shown us that these issues cross borders, and so must our accountability mechanisms and advocacy. NGOs can also participate in CEDAW country reviews and one of the

main ways to do this is by submitting a shadow report, which is meant to analyze and criticize and really fill in the gaps on information provided by the State to the Committee. So we decided to submit a shadow report for Sweden's review with the aim of bringing some pressure to countries in the EU of the position that they were taking at the WTO to oppose the TRIPS waiver, which was prolonging the pandemic and having devastating effects in the Global South, particularly for women, and particularly those that are multiply burdened by intersecting forms of discrimination. And I'll stop there at the decision to submit a shadow report, which is available online.

Camila [00:14:55] Thanks, Connie. For CELS, as an Argentinian NGO, during the pandemic we were seeing these devastating effects, I mean, really close to us. The movements and the neighborhoods that we worked on were really struggling, especially migrants, women, informal workers, sex workers, and community organizations. We had to help some of them. They were also at the forefront of protecting each other. They were building community kitchens and facing the pandemic without any protection and soon, pretty soon, the death rates and the contagion rates were considerably higher in those poor areas and informal settings with limited water supply and sanitation, and crowded homes. And there was certainly not enough data on that. So it was clear to us that this was a pandemic of inequalities. And once we heard about vaccine development, we knew that it would be one of the biggest problems for us to ensure access to those vaccines. So just to say that when we accepted to be part of this global initiative, to go to the treaty bodies with Meena's and other networks, this was completely connected to what we were seeing and working on on the ground. So this was where we came from. And then we started thinking strategically and creatively about what we could do, because the legal strategy is not an end in itself, right? So, the idea was to have something moving so that we could keep the human rights narrative on, or a case admitted or a committee sending some questions to the States or Special Procedures sending questions and then using those letters or small developments to push the narrative forward, right?

Meena [00:16:46] Thank you, Camila. And thank you so much for mentioning that context. What were the substantive demands and arguments in these processes and what was the novelty?

Camila [00:16:54] So, since we could not tackle the whole problem of structural inequality, we decided to tackle the issue of discriminatory impacts of the pandemic on the most affected groups or sectors. So at CERD, we filed in 2021 an urgent action appeal in which we argued that the divide in vaccine access caused by intellectual property barriers fell disproportionately along racialized lines. This divide happened within countries and was clearly reflected in death rates, also in poverty indicators, and other indicators, but also between countries reproducing a colonial kind of divide in which people, for example, in the African continent were just not being vaccinated at all, while in the North, people were getting booster shots already. So the main argument was that States have an extraterritorial obligation toward the elimination of racial discrimination. And while they prioritized a couple of companies' profits over the lives and dignity of the Global South and also communities within their own countries, because one part of the world is not vaccinated, then you have new variants emerging. You can't really end the pandemic itself.

Camila [00:18:16] I think the way you've described the disproportionate impacts on women and how CEDAW could be used as a tool to address those impacts, to seek accountability and the role of human rights mechanisms, is a really excellent segway into explaining the shadow report that

we created on behalf of the Feminist for a People's Vaccine. And, in terms of the shadow report, specifically, we started by focusing on the impacts of the TRIPS Agreement and how the opposition to the waiver of that agreement was prolonging the pandemic and, therefore, violating the human rights of women, particularly in the Global South, and particularly the communities and groups that you've already described. So our main concerns were in trying to connect Sweden's obligations under the Convention to its role as a member of the EU and how the EU was conducting itself within the World Trade Organization. Because of this implicit opposition on the part of Sweden, it was violating its extraterritorial obligations under CEDAW, including its duty to meet the standards of substantive equality and non-discrimination when operating within the multilateral system as a member of the EU. These duties also include a duty of international cooperation and assistance, which means that Sweden had to refrain from infringing on the ability of other States to fulfill their own human rights obligations. So by making it difficult for other States or making it impossible for other States to manufacture vaccines, medicines, and treatments for COVID-19 and to export those resources to other countries in need, they were making it impossible, for example, countries in the Global South to fulfill their own human rights obligations. And we also pointed to their feminist foreign policy and commitments they've made there to advance human rights and, in particular, gender equality and obligations under CEDAW, when they're engaging in the foreign policy realm, which includes trade policy and their conduct at the WTO. So hooking it to the feminist foreign policy helped us make a connection to Sweden's national legislation and their conduct at the WTO, which is important because of how treaty body country reviews operate and the way that countries are examined under these reviews. So with the shadow report that we submitted, we were asking the Committee to consider the impact of the EU's opposition to the TRIPS waiver on women's human rights and how that impact could be linked to Sweden by virtue of its membership in the EU. So it's not the usual way that these issues are framed. We were trying to get to Sweden's obligations through various levels of multilateral organizations and regional blocs. And I think that would be a potential important strategy in the treaty bodies because it's a reality of how these decisions are made at the global level and shouldn't be used to obfuscate or allow States to defer their human rights obligations by hiding behind these kinds of institutions and blocs. And so ultimately, we did not get the kind of recommendation that we were looking for in the final outcome document. But, during the constructive dialogue, which is when States delegates from Sweden were in Geneva, sitting in front of the Committee at the UN and answering questions about their obligations under the Convention, we did have Committee member Lia Nadaraja ask a question based on the submissions that we had made, and this question recognized that, through its membership in the EU, Sweden had effectively opposed the TRIPS waiver, recognized that the TRIPS waiver would have increased the availability of vaccines for countries that couldn't afford them, and, most importantly, recognized that Sweden's implicit opposition might constitute a violation of the CEDAW Convention. So, while this language might not actually seem that exciting when we break it down like that, it is an important stepping stone for closing the accountability gap.

[Meena \[00:22:38\]](#) Sounds exciting to me. I have a few reflections on the challenges and also opportunities. I think all the stories that we've told thus far have just shown how, at the behest of the movement, we tried to be as creative as possible to fit these claims into structures that were not necessarily designed for claims of this shape. But even in doing so, we did log a few interesting wins. In terms of limitations, I think one of my big reflections is that the WTO is simply not the right forum in which we should be negotiating issues of public health. And itself and the decision and the way that the process of how the decision was arrived at, it just showed how the

WTO is really a tool of powerful, wealthy countries, namely the US and European countries, as well as their corporations to protect their commercial and economic interests to the detriment of the majority of the world. Not that we didn't know that before, but you know, it was just exposed even further. And just the marginalization of other institutions that should be playing a bigger role in this, like the WHO. That just showed that the sort of multilateralism that we have today is not working for the vast majority of the world's population, as Connie was mentioning earlier. Multilateralism has been deployed as a way for States to skirt their obligations, you know? We see this also with the WTO itself, which has noted that its actions do not fall under the purview of the human rights framework. And States themselves I think, through the process of consensus, decision making, and other structural issues at the WTO, kind of also found a way to sidestep their human rights obligations. As my colleagues were mentioning, even these treaty bodies weren't the ideal mechanisms. And, you know, early on, as we were trying to figure out a way to do something, we struggled to find the jurisprudence in these forums to make the claims that we wanted to make. As Camila was mentioning earlier, when we looked at the treaty body mechanisms, we knew that submissions to these bodies are usually about violations by the State towards its own people, with only a few exceptional circumstances in which the Treaty applied to the extraterritorial context. And it was also novel to have the Global South and people within the name countries in our various petitions to file a joint petition addressing the problem at a global level and not just country-specific things, because of the pandemic, much like climate change and many other crises that we see, it doesn't fit with any one country's borders. But we didn't want to shape the argument to fit what had been done before, to just kind of follow the jurisprudence for the sake of admissibility. We knew that we needed to tell it like it is. Really lay out the story as we saw it in its most stark and honest terms, which is that the inequity that we saw is a product of structural, racial, and gender discrimination, as well as long-standing colonial hierarchies that have given rise to a Global North and a Global South. And we also wanted to highlight that a handful of powerful States, driven by their pharmaceutical industries, were choosing to ignore their human rights obligations under the treaties that they ratified and instead privilege the rights of pharma companies over the rights of all of us around the world.

[Camila \[00:25:51\]](#) Yeah, I agree with you. I think it was a really interesting exercise to also look at the future, right? Because we had a couple of urgent goals there, which were pressuring States on the WTO, but also sort of medium term, long term goal, which is changing the narrative on the right to health. And I think this concentration of the pharmaceutical industry that showed itself so well during the pandemic was already there and is still there and it still has a lot of structural impacts on health, on access to medicines and there are many other diseases going on and there will be still. So I think our challenge now is to not let this die, right? Just keep focused on what we built with the cases that we followed, but also with the arguments we made, what became visible during the pandemic. And there will be in the future the Pandemic Treaty being discussed at the World Health Organisation, which is not clear, that it will be participative and so on. So we have to be really aware of that, but also to keep the discussion on how the world market is structured because a lot of the inequalities come from this really, really deep neoliberalism that we are living and with States that are each time weaker to regulate their companies and even more to regulate transnational companies. And I think this is the big issue that we'll face in the next decades. And there's still no solution. I mean, no global joint, multilateral, legitimate place where you can go and discuss how this is currently organized to the detriment of human rights. So this is the big topic of our times, I guess.

Constanza [00:27:35] Thank you both. I think those were incredibly powerful ways to tie up the discussion. This conversation reminded me of the Campaign of Campaigns, which I'm sure you're both aware of. It was created by the Women's Working Group on Financing for Development and the Civil Society Working Group on Financing for Development. One of their key demands is for a summit under the auspices of the UN that deals with the transformation of the economic and development system. So this is all to say that there is a push to have the kinds of multilateral systems that do serve people and do serve human rights as opposed to serving corporate interests and the interests of powerful countries and elites. So I'm really happy to be in these spaces with all of you and to contribute in whatever small way is possible and to have had this conversation with you all and learn from your experiences. Thank you so much.

Camila [00:28:30] Thank you, Connie. It was a pleasure.

Camila [00:28:32] Thank you. This is great.

Vanita [00:28:38] The Feminists for a People's Vaccine podcast is produced by DAWN - Development Alternatives with Women for a New Era and TWN - the Third World Network. Today's episode was edited by Alice Furtado and engineered by Ernesto Sena. Thank you for joining us today. I'm Vanita Nayak Mukherjee. See you on the next episode.