

Friend of Foe: CIPLA and Health Care in the Age of Intellectual Property Rights.

- Yusuf Hamied: CEO of CIPLA, a leading generic pharmaceutical company headquartered in India
 - Argues that multinational companies (MNCs) in USA and Europe are “arch villains” as they control the WTO, which in turn controls the developing nations into submitting to laws that are only beneficial to the MNCs
 - Formation of monopolies
 - He is against the revision of the patent laws that would increase the emphasis on protecting intellectual property rights
 - Due to the influence of MNCs like GE and Microsoft
 - Argues that patent laws are national laws, not international as they stem from a need that is specific to that country
 - India has its own patent law: process patent → as long as the procedure to create the drugs is not replicated, the companies are allowed to arrive at the same product.
 - Act was passed in 1972 by PM Indira Gandhi aiming for India to be self-reliant and self-sufficient in the realms of food and medicine.
- CIPLA produced the AIDS antiretroviral (ARV) cocktail Triomune that was approved by WHO.
 - Combination of three drugs from USA, Germany and UK.
 - Because of the process patent law, CIPLA could combine the three drugs into one tablet legally that the three MNCs could not do.
 - Price dropped from \$12,000 per patient annually to only \$300 per patient annually.
- DOHA declaration in 2001 was a victory for developing countries’ pharma companies to seek exceptions to trade related intellectual property rights (TRIPS).
- However, in 2005: new Indian product patent law was passed (under the influence of big MNCs like GE and Microsoft):
 - Stricter laws to create generic drugs → slower process to make them → increase in price → less affordable.
 - Have to obey the Product patent protection that lasts 20 years, however, it has been seen that many MNCs alter the drug only a little and patent it for 20 more years again.
- Is CIPLA a friend or foe?
 - Economic perspective: taking advantage of the years of research, hard work, experiments, clinical testing done by the Western pharmas and implementing the product for cheap in their country → leads to a loss for the Western pharmas → raising the drug prices here.

- Humanity perspective: ARV drugs along with drugs for TB, malaria could not have become this cheap if it was not for CIPLA. In India most of the people do not have health insurance, so the cheap generic drugs are a necessity

Human Rights and Global Health: A Research Program by Thomas W. Pogge

- Urgent necessity to reform the current global-health system to avoid unnecessary and premature deaths in developing nations.
 - 18 million human beings die/year from curable medical conditions → economic strain on the developing countries → cycle of poverty (Women and children under five most affected by mortality and morbidity)
- How should the change come about?
 - Improved access to healthcare and medicines → reformation of the current patent regime (TRIPS), which solves the market failure problem, but leads to big monopolies.
 - Pogge asks us to create a moral standard rather than an economic one
 - The reform needs to be able to support itself economically (feasible) and it needs to be realistic → moral and prudential appeal to the government, pharma companies and the general citizens.
- Two reform strategies:
 - Differential pricing strategy: two variants
 - Inventor firms offer their drugs at different prices to different customers → gain a higher profit from affluent customers and sell to poorer buyers at a lower margin → net profit.
 - Government has the right to invoke compulsory licenses for drugs that are urgently needed for an emergency → government has the authority to decrease the price of the drug.
 - Differential pricing can work theoretically, however, many times if one buyer is getting a drug for a lower price, the other buyers can find loopholes and bypass the inventor firms to buy the drugs for cheap.
 - Public-good strategy: two components
 - The results of successful efforts to create a new drug should be considered public goods that ALL pharma companies can utilize free of charge
 - But the incentive to research and develop new drugs will drop
 - Solution: The companies will be allowed to patent their new drugs and for the lifetime of that patent, they will be paid based on the impact of their new drug on the global disease burden → increase in incentive.
 - The companies will actually benefit from generic producers as the overall global health would improve → more money flowing in to the inventors.

- Under the present regime → no incentive to produce drugs for orphan diseases/poor populations
- Under public-good strategy → rewarding companies on how the drug benefits the poor leads to more incentives.
- But, what about the incentives for diseases that are not necessarily part of the global disease burden?
 - The reform will apply only to essential drugs → for diseases that can kill humans. Other drugs (like acne, hair loss) are under the old regime. So incentive to create new drugs will not change.
- Who gets to decide which drug is essential and which is non-essential?
 - The inventor company decides because both ways they have profit and incentive.
- Why should the citizens of the affluent and rich countries support a reform that benefits only the poor in developing nations?
 - Essential drugs would be cheaper for them as well.
 - Morally right
 - Better human health around the world means less threat of communicable, invasive diseases → betterment of the overall global health.
- Pogge urges that healthcare is indeed a human right and it is an investment.

Thoughts:

Pogge outlines a plausible strategy for reform, however just like he mentions in the end, the fact that the citizens are emotionally/geographically detached from the hard-hit countries and global disease is not a major problem on our soil, it is hard for many to invest in this cause. Another major barrier is the economic point of view → the reform requires a general surplus of capital so it could roll into action, which the government and MNCs are probably not going to invest in.

Recently I heard on news that Congress released the Afghanistan war funds to fight Ebola. Only when the situation gets worse, does the government spend money on global health. War causes poverty and poverty causes sickness, so instead of fueling more wars, we should be investing in more research for healthcare purposes.

Srikanth Class Discussion:

- ❖ Pricing and the Pharmaceutical Industry: Important to ask three questions - What's realistic, what's smart, what's right
 - Two visions: Gain reward for investing capital, and make drugs affordable to poor
 - With India one of largest manufacturers of generic drugs, trade dispute started between India and USA in March 2014 (problem highlighted in CIPLA article- can't afford manufactured drugs)

- India labeled “priority foreign country” < negative title; US accuses India of ignoring patent laws but if they do, it is to help poor desperate for medication
 - Aim is to use trade sanctions to pressure India into obeying the patent laws.
- ❖ Intellectual Property Rights - you can put restrictions on what you invent because there is a right to compensation
 - Western Pharmaceuticals: they think they are entitled to Intellectual Property (US, UK, Germany)
 - Invest 846 million dollars in creating drugs; money total includes all failures, testing, and marketing of drugs
 - Claim drugs need to be patented for at least 20 years to recoup costs of investments
- ❖ Trade related aspects of Intellectual Property Rights
 - Compulsory licensing- country can say because of medical occupancy they are allowed to make generics to help the people
 - Parallel Importation/differential pricing - import drug from secondary country because it is being sold cheaper there (good for countries without manufacturing facilities)
 - India fought against TRIPS since 2005 because TRIPS wants to reduce two trade rights by 2015 (India’s generic drug business is huge and it would be economically devastating if lost)
- ❖ Complaints by struggling countries that patent examinations too strict
 - Patents produced on drugs that are only minor changes to existing drugs
 - For generic products, cannot use same process as original drug while manufacturing
 - Complaints India profiting off of researchers in West, but only 5% of Indian population has health insurance
 - Like Pogge’s article, conflict focuses on human motivation and morality: is there a duty to world or a duty to country?
- ❖ Complex Terrain
 - Is healthcare a human right?
 - Should we help poor countries even if they mismanage their resources...i.e. corrupt officials using health money on themselves
 - Is it wrong to steal someone’s intellectual property?
- ❖ Thomas Pogge recommends giving incentives to “do good”...profit from morality
 - Now, citizens caught in global capitalist system> inadvertently doing harm to others>we do not challenge our capitalist system

Thoughts from discussion

Srikanth asked us, is healthcare a human right? In my opinion, it is. Isn’t it the country’s duty to have health care available no matter the individuals decisions on health? If we really think about it, everyone has their right to do what they want with their bodies. That is what freedom is all about. The

United States boasts about freedom, but should be prepared for individuals to misuse their freedom. As a country, the most important idea is to care about the wellbeing of its citizens. Maybe people continue to abuse drugs and alcohol because they do not have the means to go to rehabilitation. If we want to get controversial, who is actually pushing drugs and alcohol? Businesses. Stepha mentioned during the discussion that healthcare should be looked at as an investment to the future of humanity. Think about this: If people are not provided with the necessary rights to life, liberty, and the pursuit of happiness, outlined in the Declaration of Independence by the way, they will go to any means in order to survive. People living in extreme poverty care about saving themselves and have far less interest in issues like preserving the world around them. Ideas like recycling, gardening, and more are not serious for people who need to survive. Therefore, in the long run, poverty leads to carelessness for protecting the environment and thus, a higher chance of environmental destruction.

Another big question in my mind is, what is the point of making a drug if its not being used to provide help to the majority of the population. The truth is the only other reason a company would make a drug if not to help is to make money for themselves, which is selfish. This medical war reminds me of the struggle with Chinese laborers and the US profiting from people living in severe working conditions. How ironic that the tables can be turned from India stealing, to this instance, where the US is stealing. Lastly, another big problem in the medical field is the sexual health conflicts in the countries themselves. Many countries, including the US push for abstinence, especially in young adults. However, abstinence also makes people afraid to use protection because they do not want to be judged by society. Oh, that 19 year old bought condoms, therefore he is not abstinent and a sinner. Some countries even make abortion illegal. This leads to young parents who cannot afford a baby and who then become poor in their struggles to raise the child. This expands the population of the poor, and without proper sexual education the cycle continues. Moreover, poor conditions lead to higher health issues, so in the grand scheme, the country is placing the health burden on itself by pushing for abstinence while also not providing healthcare to everyone. Chantel mentioned that in some places, people believe condoms have HIV in them and that they actually spread the disease. She asked, “ Are people spreading lies about sexual health because they believe it or do they have malicious reasons?” This issue won’t be solved until a balance is discovered between creators and distribution to the poor. The world is interconnected and every citizen should be equal. Governments do not worry until the country’s health and economics get so bad that they collapse. Then, they worry because they know one country’s financial collapse can affect another. The world is run by corporations, not by governments. We need to collectively organize to take on these corporations before they destroy our livelihoods and we need to start question our systems. My favorite quote from the discussion was Louise Penner’s idea: This isn’t your practice life. We have one life and we need to use it to preserve the future for future lives.