

# **Access to Medicines for the Developing World: International Facilitation or Hindrance?**

Wisconsin International Law Journal  
Conference: March 9-10, 2002

Access to medicine has increasingly become a major public policy issue, in both the domestic and international realms. Consequently, U.S. policymakers have been confronted with questions that have surfaced in many developing countries. A cumbersome as well as perplexing dilemma arises in regards to how governments can effectively ensure adequate and affordable drugs within an international trade regime while simultaneously safeguarding patents held by pharmaceutical companies.

Protecting intellectual property in the global marketplace has become a major concern of nations and international organizations. Tensions over the scope, implications, and consequences of extending intellectual property protections under the agreement on Trade Related Aspects of Intellectual Property (TRIPS) has arisen most dramatically in the context of pharmaceuticals. Currently, a few large multinational pharmaceutical corporations control the distribution of medicine into developing countries. As a result of this stranglehold over medicinal distribution, the World Health Organization (WHO) has expressed concern that the TRIPS agreement may reduce the availability of essential medicines in many developing countries, with negative consequences for the promotion of public health in the global arena. On the other hand, the United States and other developed countries are concerned that a failure to protect the intellectual property rights of pharmaceutical companies could ultimately reduce expenditure on pharmaceutical research, which is considered essential for the battle against diseases.

In general, developing countries do not have the capacity to locally produce pharmaceuticals, and subsequently they must pay large sums of money to purchase imported medicines. The international HIV/AIDS pandemic has dramatically increased the need for access to drugs while the disparities between underdeveloped and developed countries continues to deepen. South African Judge Edwin Cameron noted that, "290 million Africans survive on less than one US dollar a day, while the necessary medication for an HIV-positive person costs approximately \$400 per month." Essentially, Cameron argued that these drugs have become "unaffordably expensive."

The pharmaceutical industry has vigorously denied the existence of any valid connection between the question of access to medicines and the protection of pharmaceutical patents. However, it has been precisely this link that has attracted intensive worldwide scrutiny. The need for compulsory licenses, agreeing upon an appropriate standard for protecting patent rights, and accessing vital pharmaceuticals are all issues in need of resolution.

In hopes of arriving a few steps closer to such resolutions, the Wisconsin International Law Journal will be hosting a conference focusing on the role of law and international institutions in facilitating or inhibiting access to medicines in developing countries. The conference will bring together academics and participants from the areas of law, politics, economics, and medicine as well as members of industry and NGOs.