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India and the patent wars: pharmaceuticals in the new intellectual property regime.

Murphy Halliburton. Ithaca: Cornell University Press, 2017, 187 pp.

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India and the Patent Wars is a timely examination of a critical issue in global health: the recent transformation of global property regimes governing the ownership and manufacture of pharmaceuticals. Its key guiding question is how a diverse set of actors including national governments, drug corporations across the United States and India, health activists, and Ayurvedic practitioners grapple with a confusing tangle of new regulations regarding the right to knowledge about drugs. The choice of India as a site to examine these changes is not accidental. In recent decades, the country has witnessed some of the most fraught battles over the ownership of pharmaceutical knowledge. Halliburton analyzes some of issues that have emerged in the aftermath of these battles, such as the effects of new WTO patent agreements on the ability of Indian manufacturers to produce cheap generic medicine, the “biopiracy” of indigenous knowledge by global corporations, efforts such as the Indian government’s Traditional Knowledge Digital Library to combat such biopiracy, and the consequences (or lack thereof) of global changes on the everyday practice of Ayurvedic medicine. In exploring these issues Halliburton is forced to “study up” and consider the perspective of powerful actors such as people working at multinational pharmaceutical corporations. These proves no easy task, as such actors live up to their reputation of being notoriously opaque. What emerges through the book, then, is not traditional face-to-face ethnography, but rather a ‘polymorphous’ engagement with institutions, actors and practitioners at various scales and over a long period of time.

It is remarkable, then, that even while negotiating many competing perspectives—some

frustratingly difficult to elicit while others more forthcoming—Halliburton is able to carefully evaluate the real stakes beneath the layers of obfuscation. Much of the writing about the changing global patent regimes has been polemical, glossing over the complexity of how large-scale global events unfold in particular contexts and slowly over time. On the one hand, drug-access activists claim a staggering rise in drug prices in the aftermath of the WTO agreement, painting Euro-American corporations as the villains battling heroic Indian generic manufacturers who want to produce cheap drugs for the global poor. On the other hand, advocates for stringent intellectual property regimes claim that Indian corporations have been “stealing” Western biomedical ideas, ignoring that for the most part generic manufacturing in the region has been perfectly compliant with national and international law. Halliburton puts aside these stories of easy heroes and villains. Even as he in his own earlier work predicted a trajectory of increasing inequality in drug prices in the aftermath of the WTO, in this book Halliburton adopts a more cautious approach, suggesting that this may be just one trajectory that might not even come to pass. Indeed, it is this caution about prediction and generalization that is the book’s strength. Halliburton argues persuasively that global agreements remake our socioeconomic worlds in such complex ways that they resist the efforts of activists and researchers to decipher their effects.

The nuanced position Halliburton develops is that while the principle of intellectual property has merit—giving an innovator temporary monopoly, balancing individual and public interests—it has come to be “over-extended” in recent years. If the WTO agreement of the late twentieth century is a key turning point, this is because it has led to a shrinking of the public domain, determining the terms on which manufactures, governments and activists wage battles over intellectual property. This is Halliburton’s key insight: that the prevailing narrow focus on

drug prices and regulatory esoterica risks losing sight of what really is at stake: our fundamental assumptions of property ownership regarding intellectual knowledge. To elaborate, the institutionalization of the WTO has helped globally proliferate the idea that medical insights can and should be owned. Both that seek to extend corporate ownership of medical knowledge *and* those that seek to resist such encroachments do so by mounting property claims. The question is no longer whether medical knowledge should be owned, but rather who should own it and on what terms. Even if this does not lead to short-term explosions of drug prices, this erosion of the knowledge commons will have troubling implications that we can only dimly begin to discern from the vantage of the present.

My few concerns with the book are minor and do not challenge its broad argument. Halliburton argues that concerns in the aftermath of the WTO about big global pharma outright acquiring and taking over Indian drug manufactures have proved unfounded. My own work shows a multifold increase in foreign direct investment in the pharmaceutical sector in India in the last decade, leading to mergers and acquisitions and larger manufacturers swallowing smaller ones. I find this to be an important concern as such oligopolic market structures—where fewer corporations own larger chunks of the market share—are well known to contribute to decreased competition and rising prices over the long term, as they have in the United States and Europe. Halliburton’s intent in downplaying the importance of such market restructurings is to rightly show that the dichotomy between domestic Indian generic manufacturers and large foreign-based companies is not empirically founded. Many Indian firms that were taken over were themselves already multinational. Further, Haliburton is careful to demonstrate that Indian drug manufacturers are as driven by profit-incentives as corporations elsewhere in the world. Haliburton’s point is well taken: Indian drug manufacturers are hardly heroic victims of the evil

forces of globalization. At the same time, while its implications are still unclear, the effects of such a radical overhauling of market structures perhaps requires our steady concern.

The second minor desire I have for the book is for it to have paid more attention to a landmark case that the book gives only the space of a single line, in which Indian regulators issued a compulsory license to an Indian manufacturer to make and sell an immensely profitable anticancer drug patented by Bayer. T Halliburton pays closer attention to more well-known efforts by Euro-American corporations to extend already existing patents and to the growing phenomenon of voluntary licensing – arrangements between a patent-holding corporation and generic manufacturers that allow the latter to manufacture a drug for royalty. Unlike these efforts to curtail the excesses of patent-extension while maintaining goodwill with global pharma, compulsory licenses are a far more aggressive demonstration of the sovereign right of a government to over-ride still current patent claims in the interest of public health. Halliburton's emphasis on voluntary rather than compulsory licensing is perhaps guided by the fact that compulsory licensing never became a dominant response to the WTO, with Indian manufacturers choosing to go the route of voluntary licensing and avoid lengthy legal battles. I only bring up the issue of compulsory licensing because it might have helped further evidence and advance Halliburton's broader claim – that in the complex system of patent power the nature and scope of activist mobilizations often emerge from *within* the terms set by the WTO, rather than through more radical acts.

In sum, Halliburton is able to describe cogently the arcana of patent law while at the same time keeping his sights on the daunting, critical stakes of the issue: the continued accessibility of therapeutic knowledge for global public health. For this achievement, *India and the Patent Wars* is a crucial read for anyone interested in the global politics of health.