

WIPO could serve as a mediator between governments and patent holders to streamline access to patents for essential medicines, most importantly in emergency situations. This issue needs to be considered more in the Doha Declaration and the other instruments of international law. Special regimes could be designed allowing free access to medicine, a reduction of costs, and the temporary exploitation of medical patents, all of which would help the right to health attain its appropriate status as a genuine human right. This would be particularly important for developing countries.

The development and defense of both intellectual property rights and human rights depend on a solid educational system. Furthermore, the development of each individual's capacities depends on the genuine enforcement of human rights. The right to health, in fact, precedes all other human rights, since no one can achieve their optimal realization if they are not healthy. Intellectual property rights have their origins in traditional property rights. Intellectual property creates value, which invigorates the economy at the micro and macro levels, as well as at the national and international levels. The pharmaceutical industry demonstrates the ever-expanding reach of intellectual property. However, to the degree it does expand, access to life-saving medicines for the most vulnerable people living in less developed countries needs to expand as well.

Pharmaceutical companies should contribute to the realization of the right to health and help to generate conditions that permit access to essential medicines, especially in emergency situations. The pharmaceutical industry could also work with governments to fashion rules defining the circumstances under which a reduction of costs or the donation of certain essential medicines are warranted. This could include the donation of medical patents, in accordance with national and international laws, in a way that would not affect their cost or create unfair competition with regard to other companies.

Despite its importance, COVAX does not resolve the issue of monopoly control of knowledge related to medicines and vaccine patents. Currently, only compulsory licenses permit using patents for generic medicines. Alternatives to this system are only limited by the negotiating capacity of governments regarding the treaties they sign. One example might include creating "TRIPS-plus" clauses that mutually benefit all states parties in emergency situations.

The goal of international law should be to find ways to promote the recognition and enforcement of human rights in a globalized system that continues to privilege economic rights over human rights. Failure to do so will result in a continuation of the problematic circumstances in which we currently find ourselves, circumstances that led Stephen Hawking to sarcastically announce, "We think we have solved the mystery of creation. Maybe we should patent the universe and charge everyone royalties for their existence".⁴⁷

⁴⁷ *Stephen Hawking: Questioning the Universe*. YouTube: TED (2008) (accessed Feb. 19th, 2023) available at: <https://www.youtube.com/watch?v=xjBIsP8mS-c>.