Research Paper

A Comparative Enquiry into the Relationship between Intellectual Property Rights Resulting from Pharmaceutical Inventions and the Right to Health from the Standpoints of Iran’s Laws and the TRIPS Agreement

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Abstract

Along with the expansion in human societies and technological advancement, new forms of disease, with high transmissibility rates, find chances to spread in societies. The attempts at controlling such diseases and protecting public health requires improving pharmaceutical industries and inventing new medicine. Nowadays, pharmaceutical inventions shape an inevitable portion of industrial productions. Accordingly, many companies tend to invest in such inventions, although the progress in pharmaceutical inventions has its obvious benefits for human communities, unconditional support and production of such inventions may put people’s health that is a fundamental human right in danger. In parallel, one of the major challenges facing legal systems is their dilemma over protecting the intellectual property rights arising from pharmaceutical inventions, or supporting the right to health in human societies. In order to resolve this conflict, it seems necessary to take a new approach to intellectual property rights that do not violate the right to health. Such a novel approach can simultaneously the rights of inventors and the right to health in societies. To do so, many governments have led attempts to adopt comprehensive legislative systems in order to protect not only pharmaceutical inventions, but also fundamental human rights. The internationally-accepted TRIPS Agreement, and diverse nationally-set agreements are the result of such attempts at resolving this conflict. However, these international and local agreements have not effectively contributed to the resolution of the given conflict yet. A more substantive approach is hence required to simultaneously protect the rights of inventors and the right to health. It is recommended that legal systems impose restrictions like exceptions on pharmaceutical products to maintain the public order of the society.

Keywords:
right to public health, right of access to medicine, pharmaceutical inventions, industrial property, TRIPS Agreement

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