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## **Avian Flu and the International Debate on Public Health, Innovation and Intellectual Property**

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24 December 2007

*The avian flu virus is a bomb waiting to explode, in the same way that the HIV virus decimated millions. As the world's new growth engine and the hotbed of the avian flu virus, Asian countries should display a greater sense of urgency in favour of worldwide cooperation, coupled with better coordination within each country and among themselves.*

IN THE PAST few weeks, the spectre of an avian flu pandemic has raised its ugly head again, with reports of new deaths in China, Indonesia and Vietnam. The first dead victims in South Asia were also reported. As nations, particularly in Asia, grapple with national logistical pressures, there have been parallel international discussions on the larger, longer-term implications for public health, innovation and intellectual property protection from issues arising from the pandemic threat, including new vaccines and cures.

### **The issues**

These talks are held mainly in three intergovernmental fora: the World Health Organisation (WHO) and the World Intellectual Property Organisation (WIPO), both of which are part of the United Nations, and the World Trade Organisation (WTO). The outcome of the talks would have an impact on future international action in combating widespread endemic sickness and deaths through better access to affordable drugs. They would also influence action in two other main areas: The first is government strategies on supporting costly efforts by the private sector to develop new effective drugs. The second is on some rethinking of the intellectual protection system which currently protects original R&D results so that the owners can recoup their investments and generate revenue.

Illness and death wait for no child, woman or man. Yet, despite the urgency and heavy socio-economic stakes, governments are taking their time to establish an international cooperation programme to frame the three issues of public health, innovation and the intellectual property system. One reason is the intersection of three highly technical subjects. These have traditionally been handled by specialists in separate government agencies which are generally inward-looking. Those agencies are still struggling to deal with the internationalisation of their subjects.

Another reason is that it is hard to question established beliefs and practices. For over a hundred years, it was axiomatic that important innovation work flourished because of the protection guaranteed by national intellectual property laws. In other words, having exclusive rights for a limited period of time was a basic requirement for investment of human talent and financial resources in R&D, transforming the results into finished products and bringing them into the market place. Today, some people are calling on governments to reform the international intellectual property protection system on which

national systems are based. The advocates argue for placing the public good ahead of the private profit motive, especially with regard to health as well as access to information and knowledge.

### **Slow pace and confused debate**

At WHO, the two relevant bodies where such talks are held have long names: the Intergovernmental Meeting on Pandemic Influenza Preparedness (for sharing of influenza viruses and access to vaccines and other viruses); and the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property. It is hard, even in acronym-prone Singapore, to create suitable ones for these two bodies! Despite the urgency, each body has met only once in each of the last two years, and each is expected to meet again only once next year. In short, three meetings each in three years, with consultations in the intervening periods.

The slow pace is not helped by the fact that participation by developing countries -- the ones most affected by the issues -- has been sporadic and scant at best. The lack of attention is exacerbated by the fact that participating countries send different negotiators to the two bodies and treat the two bodies' work as independent of each other, notwithstanding the many overlapping issues.

The Intergovernmental Meeting is mostly attended by health experts and diplomats, while the Committee is mostly attended by diplomats, without any health or research experts accompanying. Although intellectual property is central to the debate in each body, barely a handful of intellectual property experts were present in the discussions so far. Such a pattern of government representation has the effect of generating confused debate on technical issues. It also introduces the diplomatic practice of holding progress hostage to negotiations in other international fora, notably work in WIPO and WTO.

### **Time for Strategic Thinking**

A health pandemic would wreak havoc across the society and economy of any afflicted country. Thousands of sick and dying people will not only overload the public health services, but also deplete the labour market, disrupt families and population patterns and destroy business confidence, leading to economic recession. Before such a scenario, the value of strategic thinking on the appropriate linkage between public health, innovation and intellectual property becomes imperative.

Asia may be the world's new growth engine but it is also the cradle of the avian flu virus. Asia therefore has most at stake should there be any devastating outbreak. In the circumstances, the challenge for Asian countries, known in UN circles for its pragmatic, non-ideological approach to negotiations, is to give greater weight to the debates in WHO, WIPO and WTO on health and intellectual property -- as they have done for climate change. They should buckle down to first, formulating national positions; second, mobilising effective delegations in those international bodies comprising specialists in health, intellectual property, R&D, trade and diplomacy; and third, framing credible and achievable international outcomes.

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