

CAFTA will Hurt People with HIV

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IF CONGRESS wants to get serious about promoting a culture of life, its members might start by saving 275,000 lives in Central America.

That's the number of people infected with HIV in the countries party to the Central American Free Trade Agreement, or CAFTA. The agreement, which may be ratified by the end of the month, will force its signatories to strengthen protections on patents owned by multinational pharmaceutical companies, thus preventing the manufacture and importation of many cheap generic drugs.

In the countries bound by the agreement -- Costa Rica, the Dominican Republic, Guatemala, Honduras, Nicaragua, and El Salvador -- generic competition has allowed for widespread access to life-saving medicines. In Guatemala, some AIDS drugs are as much as 98 percent cheaper than their name-brand alternatives. The antiretroviral cocktail that costs \$4,818 per year when marketed by GlaxoSmithKline as Combivir can be purchased by Guatemalans for \$216 in generic form.

Given the financial strain many Americans experience when purchasing drugs like Combivir, it's not difficult to imagine how devastating similarly elevated prices would be for the farmers and impoverished city dwellers who make up the bulk of AIDS cases in Central America.

In addition to increases in patent protection, CAFTA mandates that these governments protect regulatory data on medicines -- an unprecedented step that could effectively extend patents by a decade without any form of reprieve, even in a public health emergency. Data protection for medicines means that if a drug is not patented, or if a country can somehow maneuver around the patent, generic manufacturers would still be prohibited from selling the medicine unless they repeat costly clinical trials. Since few generic manufacturers in Central America have the resources to conduct clinical trials, data protection will function as another obstacle to generic competition.

The theory behind patents is straightforward. By allowing pharmaceutical companies to recoup development costs along with a sizeable profit, they provide an incentive for future innovation. The problem is that innovation, as an end in itself, can be a hollow accomplishment. Drugs must also be within reach of the people who need them most. Without cheap access to the fruits of innovation, many poor patients will die unnecessarily.

The nations of the World Trade Organization recognized this dilemma, when, as part of the 2001 Doha Declaration, they unanimously resolved that public health emergencies

like HIV/AIDS may require circumventing patent rules. CAFTA flouts this global consensus and is widely understood to be part of the Bush administration's larger systematic effort to undermine the WTO process -- that is, to use bilateral trade agreements to bully small developing countries into waiving their rights under the WTO's intellectual property rules. The WTO's rules allow developing countries to implement patent laws that meet their individual needs.

The office of the US trade representative maintains that nothing in the agreement prevents governments from producing generic drugs and that it will result in increased access to life-saving drugs as stringent patent protection encourages innovation in drug development.

The first of these claims is, unfortunately, false. CAFTA's protection for drug test data ensures that while countries may be able to produce generic drugs, they won't be able to use them. The second statement is partially true but so disingenuous that it verges on outright deception. Increased protection for patent rights will certainly give drug companies larger profits, and this could theoretically lead to more innovation. However, the pharmaceutical market in Central America is so small that any increase in earnings will be negligible relative to the overall profits of the pharmaceutical giants. Patients in Central America will most likely end up getting nothing in return for the higher prices.

Congress will decide whether CAFTA goes into effect when it votes to ratify the agreement. Many lives ride on the outcome of this vote. Most of the 275,000 HIV-positive people in Central America will die needlessly without access to cheap antiretroviral drugs. Congress can save these lives by voting down CAFTA and telling the Bush administration to renegotiate the agreement's intellectual-property provisions. Could there be any better way to demonstrate our dedication to the culture of life?

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