Patent Games in the Global South: Pharmaceutical Patent Law-Making in Brazil, India and Nigeria (Oxford: Hart, 2020) ISBN, HB: 9781509927395, 240 pp.

By:

Amaka Vanni

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I am thrilled to introduce the symposium on my new book Patent Games in the Global South: Pharmaceutical Patent Law-Making in Brazil, India and Nigeria (Hart, 2020). In light of the current global health crisis caused by COVID-19 pandemic and the attendant discussions on the importance of pharmaceutical patents to our daily existence, the analyses in this book (and the symposium) performs an important function in documenting the role of different sets of actors and their influences on the domestic implementation of global patent rules, access to medicines, and how these (in)actions led us to where we are today.

Of course, this book was written before COVID ‘zoomed’ into our lives, and decimating everything in its path. Yet, the book remains relevant in critically unpacking the politics and games of pharmaceutical patent law-making globally and specifically in three emerging markets: Brazil, India, and Nigeria. To do this, it adopts a combination of Third World Approach to International Law (TWAIL) and nodal governance theory to explore how the confluence of various actors frame the way(s) pharmaceutical patents are adopted and implemented in a given locale within the confines of World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The over fifty interviews conducted in the countries under study with C-suite pharmaceutical executives, academics, government officials, and civil society actors provides comprehensive empirical data, enriches the theoretical analyses and highlights the complex nature of pharmaceutical patent system.

Third World Approach to International Law (TWAIL) employed this book helps in contextualising international patent law within modern history whilst also historicising international law discourse. It provides an important tool in understanding the interactions between different interests, discourses and politics within the case study countries, and shows how these actors contribute in various ways to domestic patent law-making. In this vein, TWAIL highlights distinct shifts and specific historical conjunctures in European imperialism from territorial conquest to the establishment of global legal regimes to serve the interests of profit-seeking corporations. Despite the shape-shifting nature of international patent law, TWAIL understands the end result remains the same - the marginalization and domination of the peoples of the third world. However, the interrogation does not end here. TWAIL scholars appreciate the decolonising power of this critical legal lens, which lies in its emancipatory potential and its ability to bring from the margins to the centre the evolving scholarly movements and legal reforms happening outside European/western/occidental legal systems. These reforms, the book argues, are widening the aperture on norms governing pharmaceutical patent law and access to medicines discourses. Seen this way, we begin to appreciate how the various legal and social reforms on pharmaceutical patent law happening in the countries under study reflexively appear unrelated to the international but may be understood hermeneutically as expressions of resistance against, and reform of global patent regime.

While TWAIL performs a historicising function, nodal governance is deployed in this book to generate awareness into the dynamic power and influence of certain non-state actors to relentlessly expand global IP systems by exerting influence on the state structure to achieve their objectives. Here, nodal governance provides insight especially in our understanding of the nuts-and-bolts patent ecosystem in local forums of Brazil, India and Nigeria. Importantly, in analysing the role of different sets of actors - states, transnational business corporations or civil society groups - and their influence on both local and international structures, nodal governance illustrates the power dynamics between actors, how these actors channel available resources and employ a wide array of tactics to push a particular agenda within the spaces where they operate.

This Symposium, therefore, brings together the reflections of four scholars on the book and explores some of the issues arising therefrom. Each contributor in this symposium has offered their unique perspectives on various aspects of the book. Vitor Ido (Researcher, South Centre, Geneva) focuses on the Brazilian chapter and provides a rich analysis on role of politics and social mobilization with regards to patent law and access to medicines in Brazil. Swaraj Barooah (Editor in Chief, Spicy IP) continues the discussion with his analysis of the Indian chapter delivering a noteworthy breakdown of the varied frictions and politics at the centre of IP and public-health conflicts in India. Dr Desmond Oriakhogba (lecturer at the University of Benin and postdoctoral researcher at the University of Cape Town) concludes the country-focus considerations with a thought-provoking, reflective piece on the Nigerian chapter, especially in the light of the current COVID-19 pandemic. Adéráyọ̀ Sànúsí, (PhD Candidate, Princeton University) wraps up the symposium with a brilliant reflection on the trajectory of patent law-making and the increasing importance of utilizing multidisciplinary outlooks and analytics in global studies of intellectual property.

I am thankful to Afronomicslaw.org for hosting this book symposium and to the contributors for providing a rich and varied analyses to this hugely important topic.

Contributors

Vitor Henrique Pinto Ido: 'Brazil: The Juridical State' - Review of Amaka Vanni's Patent Games in the Global South

Swaraj Barooah: Review of Chapter 5 on India - From Little Acorns to Mighty Oaks

Desmond Oriakhogba: Patent Games in the Global South and the Race for COVID-19 Vaccine: Why Nigerian is Lagging Behind and What Needs to be Done

Adéráyọ̀ Sànúsí: Patent Law Making in Context and the Value of Socio-Legal Approaches to Studying Intellectual Property in Global South Countries

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