

The Politics of Pharmaceutical Policy:
A Critical Discourse Analysis of Intellectual Property Rights within NAFTA
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In the year 1993, the Canadian federal government ratified the North American Free Trade Agreement (NAFTA), with the ostensible goal of improving trade relations and promoting economic prosperity. Prior to ratification, significant changes were made to Canada's Patent Act -- compulsory licensing was eliminated and intellectual property rights (IPRs) were significantly strengthened. Compulsory licensing allows competitors to produce drugs under patent without the consent of the patent holder for reasons of public interest – i.e., a public health emergency – challenging drug monopolies, and lowering prices. Conversely, intellectual property rights lengthen patent protections, shielding patent holders from competition, and increasing prices.

In this project we perform a critical discourse analysis on relevant key provisions in Chapter 17 of NAFTA against the background of industry claims that pharmaceutical innovation involves important investments in research and development (R&D), thus justifies high drug prices, noting that since NAFTA, spending in R&D, in Canada and elsewhere, has all but *decreased*, and drug prices have all but *increased*, becoming a major barrier, for an increasing number of Canadians, to equitable access to critically necessary medications.

We argue that by modifying the law, the federal government has wronged the Canadian people by discursively appropriating the language of protecting the *public* good while in practice legitimizing and consolidating *private* drug development and production as the only possible alternatives. In so doing the government legalized exorbitant profits and excluded well-tested publicly financed approaches. This paper is part of a larger project on the political economy of global pharmaceutical policy.

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