

## **AIDS & Biocapitalisation**

### **The ambiguities of a "world without aids"**

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**The end of the AIDS epidemic is not only a public health objective, it is also a project that involves the extension of medications market and an investment in infected bodies. This essay examines the politics of this medicalisation and its risks, through the concept of biocapitalisation.**

While recent advances in the fight against HIV / AIDS are celebrated, and the scientific community assures promises that a "world without AIDS" is within our reach, the reports from the Global Fund to fight against AIDS, Tuberculosis and Malaria (GF) are rather disturbing. All the more that providing antiretroviral treatment to uninfected persons raises considerable economic and political issues. New strategies based on treatment indeed opens a huge potential market for the pharmaceutical industry. But it also raises major ethical challenges. It appears increasingly important to identify the logic behind the consensus slogan of an "AIDS-free generation".

This essay pertains to the discussion about pharmaceutical policies at the Global Fund to fight against AIDS, Tuberculosis and Malaria (GF). The multilateral institution, founded in 2002 (Hanefeld, 2014), reviews the strategies of "differentiated pricing" for access to antiretroviral treatments. The choice of prioritizing the population's health or pharmaceutical profits is at stake. The new strategy marks a significant rupture from the competition between generic manufacturers that had prevailed until then and which had allowed two-thirds of the treatments worldwide to be financed in 2012. Put in perspective with new scientific strategies such as «treatment as prevention» (Montaner et al., 2014) or «pre-exposure prophylaxis» and new objects of knowledge such as "community viral load" (Gagnon and Guta, 2012), the analysis of these developments enables to account for the specific process of medicalization in the field of HIV/aids and beyond (Aggleton and Parker, 2015). The concept of biocapitalisation, usually discussed in relation to advanced biotechnologies (Rajan, 2006; Cooper, 2008), is then discussed in the long term regarding social and biomedical treatment of the HIV/aids epidemic.

"Biocapitalisation" is defined as the process transforming biological material in product for commercial purposes and profit. Stem cells and reproductive technologies are prominent examples of ways in which the links are forged between capitalism and biotechnology (Rajan, 2006; Cooper, 2008) and the human body becomes a market (Lafontaine, 2014). The risks of a downturn of the right to treatment to a capitalization of human life is precisely what is at stake behind the consensual

call for a technical fix to the HIV epidemic. The history of the last years of the fight against HIV is indicative of potential new forms of biocapitalisation generated by a new and exceptional power over life. While recent advances in the fight against HIV / AIDS are celebrated, and the scientific community assures promises that a "world without AIDS" is within our reach, the last reports from the Global Fund are rather disturbing.

### **What is at stake with drug procurement new policies?**

While it is still under discussion at the highest levels of multilateral agencies involved in the international fight against HIV / AIDS, the new philosophy of the Global Fund raises concerns<sup>1</sup>. Indeed, the pharmaceutical industry seems to be (particularly) well placed in this redefinition of roles, and this at the expense of a more transparent process involving the countries. In this new context, the pro-generic strategies, which have been used to treat millions of people in the South, are being seriously challenged. Furthermore, the achievements of past political and social mobilization for the rights of the sick, and for the management of intellectual property rights, are directly threatened.

Officially, the Executive Department of the GF is seeking a new approach to price differentiation in order to facilitate access to treatment. The institution had left the United Nations in 2009, among others reasons, to benefit from more flexibility in awarding contracts, particularly in relation to health products including drugs, which represent more than 40% of the total expenses of the Fund. But the first strategic realignment proposals, which assign a large portion of the funds to the pharmaceutical industry, have aroused the concern of civil society<sup>2</sup>.

The price differentiation system *oriented by industry* is based, as in other areas, on the specificity of the demands and specific negotiations between "clients" and "providers". While international institutions have had precisely this intermediary role limiting the influence of the market, the new approach seems to reinforce a direct commercial relationship. In theory, this system would work on a voluntary basis for the pharmaceutical industries involved. By its very nature, « economic modelling, whereby an individual or infected population, whose treatment is critical, becomes a « client », reflects a problematic shift. In practice, the differential pricing policy could have the following consequences:

- The end of the generic competition that has so far led to substantial savings (\$ 10,000 / year / patient in 2003 vs. \$ 140 / year / patient today)
- The inclusion of the issue of access in an arbitrary logic of price differentiation
- Limitation of the liability of governments who are not invited to the discussion
- A given carte blanche to industry to regain margins lost since the financial crisis

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<sup>1</sup> <http://infojustice.org/wp-content/uploads/2014/05/GF-tier-pricing-letter-Final-May13.pdf>, accessed March 5th 2015. Letter sent to the GF Executive Director and signed by more than 200 NGOs on May 14th 2014.

<sup>2</sup> Global Fund: Proposed shake-up to drug pricing framework risks middle-income countries paying more (Dec. 2, 2013) <http://www.msf.org/article/global-fund-proposed-shake-drug-pricing-framework-risks-middle-income-countries-paying-more>, accessed March 5th 2015.

In this perspective, a reform of the intellectual property system, particularly vis-à-vis public health emergencies would not be on the agenda anymore. In the past, the debates about access to drugs have emphasized the primacy of the interests of the people against economic profits, and important battles have been won. But in a context of the subprime economic crisis, concessions on patent law become a luxury that the industry can no longer afford. More specifically, the process of "price discrimination" itself, as largely *oriented by industry* (through public / private partnerships), is problematic for global social justice, as the countries (low or middle income) are excluded from discussions. Therefore, the concerns are legitimate, as the changes rely upon the achievements of the mobilizations of patients. Beyond the Global Fund, these changes reflect a broader historical movement of interests in the fight against HIV / AIDS.

### **A new rationality and market opportunity: treatment as prevention**

The new strategy that would promote the pharmaceutical drug industry comes at an important moment in the history of the fight against AIDS, in which we have the technical means to stop the spread of HIV. Since their introduction in 1996, antiretroviral treatments have proven to be highly effective, both in the North and in the South. So much so, that in recent years they have contributed to the reduction of the number of new cases, and to reversing the prevalence curves; that is, the cumulative number of people living with the disease, in many countries. At the individual level, the effectiveness of these treatments virtually suppresses the risk of its transmission, as demonstrated by several studies since 2008. As a result, a broad scientific and political consensus has moved toward "treatment as prevention" strategies. In other words: treating individuals to collectively prevent the disease. This new paradigm emerged as a great opportunity to stop HIV transmission in the medium term. The UNAIDS has now set the goal of having "a world without AIDS" on the horizon in the 2050s (Granich et al., 2009). However, concerns about the "remedicalisation" of the epidemic have arisen (Nguyen et al., 2011) which question promises to eradicate new infections in contexts of economic and material deprivation.

The preventive role of treatment is not the prerogative of those already infected. For several years, research has been conducted on pre-exposure prophylaxis (PrEP), that is to say the drug taken by HIV-negative people before taking a risk. The concept of PrEP assumes that condom use is no longer the gold standard, and that alternative or complementary tools should be proposed for people who may be infected at one time or another in their lives. The approach, whose effectiveness has been scientifically proven (Ndase et al., 2014), is already proposed in the United States for the most exposed groups. Again, the promise of PrEP raises many challenges, particularly in terms of social acceptability. In gay communities, discussions are already numerous: some believe that this new preventive option could lead to an uncontrolled decline in condom use, and therefore an increase in infections. Scientists and activists are split between excitement and anxiety on the subject, especially as evidence to measure the epidemiological effects of preventive treatment are only partial. Still, for the moment, interest in PrEP seems confined to a minority of people who are very concerned about the risk and does not seem to increase (Holt et al, 2014).

But more broadly, providing antiretroviral treatment to uninfected persons raises considerable economic and political issues. PrEP indeed opens a huge potential market for the pharmaceutical industry. But it also raises major ethical challenges. In a context of reduced health budgets, access to this new strategy remains uncertain; ultimately, only the most fortunate might

have access. Furthermore, providing antiretrovirals to HIV-negative individuals in the North cruelly highlights the fact that millions of HIV infected people in the South still do not have access to such drugs or experience major stockouts (David, 2014). Thus, when the treatment uses expand to include prevention, the price differentiation approach oriented by industry and discussed by the GF for access to medicines proves to be more than problematic. The GF funds the treatment of more than 5 of the 8 million people in the South. Therapeutic rationality and economic strategies are closely linked since the completion of the transition to larger scale treatment with generic competition has been achieved. Against the backdrop of the economic crisis, the pharmaceutical industry seeks to regain influence in middle-income countries.

### **Treatment as a Right: a Past that is Forgotten**

Before being a prevention issue, treatment was defined as a right. The social, political and legal struggles helped to establish a special regime for these treatments helping to build new standards for law and patent rights. At the trial in Pretoria in 2001 the mobilization of civil society led 39 pharmaceutical companies to withdraw their complaint against the government of Mandela. The new development of international patent law was then adopted the possibility for countries to overrule the rights of intellectual property if they felt that a public health issue was not warranted. The "generic competition," which is at the heart of the ability to provide access to treatment, is the product of such mobilizations. Currently, international trade law seems to be reaffirmed, and public health issues challenged. With new ARV generation "the framework that allowed mass access to treatment at low cost is rapidly disintegrating" (Coriat and Orsenigo, 2014). At the same time, to access treatment, millions of people depend on the wisdom of international institutions dealing with the impact of an economic crisis affecting all contributor countries.

Drawing upon Foucauldian theory, treatment programs, enact a "biopower" to "make part of a population live" which is to think in relation to new capital interests. Indeed, next to the power to "kill", a new power unfolds that can "make target populations live" biologically, and reimagine communities (Nguyen, 2010; Chabrol, 2015; Brives and Le Marcis 2015). The humanitarian approach is a good illustration of such a biopower in the contemporary geopolitical sphere. As part of the fight against HIV / AIDS, after having relied on progressive and activist movements for rights beyond national borders, individuals have gained access to drugs that they were previously denied, often for racist or culturalist reasons. Such a global movement based on human rights has allowed for the generalization of treatment, a "scaling up of a treatment ". In 2015, about 15 million people had access to antiretroviral drugs and its related services (UNAIDS, 2015).

The GF and many institutions have incorporated some criticisms, especially vis-à-vis their too often vertical programs (Biesma et al., 2009). Although concrete results are debatable (Kapilashrami and Hanefeld, 2014), culture change seemed to occur. Leaving a large place to the pharmaceutical industry, the Fund's new strategy reveals unprecedented reconfigurations at the heart of the fight against AIDS.

### **Biocapitalizing on Infected Bodies**

30 years of public research and activism have resulted in HIV infection no longer implying a death sentence. Moreover, millions of people in developing countries receive treatment at reasonable prices (largely funded by northern countries subsidies) which keep them healthy. The redefinition

of procurement rules for vital medications from a multilateral organization such as the Global fund and the central role taken by industry in this redefinition could result in a process akin to a hostage-taking, that of the infected people who are made captives of programs that keep them alive with uncertain solidarity mechanisms. One could speak of a biocapitalisation of these lives, made available to generate profits for the industry. Globalization opens various paths to biocapital (Gaudilliere, 2014). What is specific in the sequence reported here are these two steps: 1) medicalise and 2) biocapitalise. This form of biocapitalism is based on the dependence of people infected with global multilateral funds and the negotiation of these funds with the pharmaceutical industry according to rules of segmented markets.

In this regard a capitalization of these lives is the current issue at stake in the GF discussions and more widely in the support policies on HIV / AIDS. The risks involved in a move from the 'right to treatment' to a 'capitalization of human life', caused by an unprecedented and exceptional power over life, should really be taken seriously. Moreover, the example of Pre-Exposure Prophylaxis, mentioned above, reflects an unexpected extension of forms of biocapitalisation for the management of a health risk. In this case, non-infected people on treatment are a testing ground as well as an investment for the future.

## Conclusion

Finally, it would be disturbing if fifteen years of activism to get access to treatment would lead to such a biocapitalist project. The spotlight on the irrationality of patients, sometimes considered culturally inappropriate for treatment, has too often been put forward. In regard to current developments, it is the scientific rationality and its unexpected bounds to the market that have to be better examined and discussed. It is indeed important to worry about the negative effects of such a globalized logic. Therefore, as important as "treatment for all" or "treatment as prevention" may be – as discourses of mobilization –, they must not make us forget the achievements of past struggles nor the identities endangered as people spoke up against symbolic and structural violence that remain major determinants of the epidemic. The promise of "a world without AIDS" cannot be built on a world without memory. It appears more and more important to identify and denounce the capitalist logic behind the consensus slogan of an "AIDS-free generation"<sup>3</sup> and remember that a common world, through treatment and social justice, remains to be thought and materialized.

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<sup>3</sup> "As we continue to drive down the number of new infections and drive up the number of people on treatment, we will get ahead of the pandemic and an AIDS-free generation will be in sight". Hillary Clinton, 2012

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