

INTERNATIONAL CRIMINAL POLICE ORGANIZATION



BERKELEY MODEL UNITED NATIONS

Dear Delegates,

I would like to warmly welcome you to Berkeley Model United Nations' 67th session and to our committee, the International Criminal Police Organization, also known as Interpol. My name is Nikhil Pimpalkhare and I am the head chair for this committee this year. I am a current sophomore at UC Berkeley, majoring in Electrical Engineering and Computer Science with a minor in Logic. Last year, I was a vice chair for BMUN 66's Cybersecurity Crisis Committee. Outside of MUN, I enjoy playing chess poorly, participating in intramural sports of all kinds, and teaching computer science.

I chose to bring back Interpol for this iteration of our conference for many reasons. The main reason I am excited for this committee is because of the unique role you, the delegates, will take on. Over conference weekend, you will be representing not only your nations but your national police forces; in addition to being able to pass resolutions, you will have the ability to publish notices, described later in the synopsis, and the ability to pass directives pertinent to law enforcement initiatives. With varying ways to interact with the committee and your fellow delegates, the possibilities for political complications and diplomatic opportunities are endless. In addition, Interpol allows us to discuss complicated topics which are rarely covered in the mainstream media. This year, our two topics, pharmaceutical crime and red notice abuse, are issues which affect millions of lives and yet are rarely talked about. As you discover the nuances and intricacies of each topic, I hope you will share my excitement about having a committee centered around such interesting issues.

Allow me to introduce you to your vice chairs:

Hi, my name is Himaja Jangle and I am extremely excited to be serving as your Vice Char for Interpol this year! I am currently a fourth year Economics major at Berkeley and have been part of BMUN for 7 years now. Being from the Bay, I thoroughly enjoyed attending BMUN as a delegate in high school and was super excited when I got the opportunity to join BMUN and serve as part of the Secretariat in college. Outside of BMUN, I am involved in Project Smile, a mentoring organization with a local middle school as well as Voyager Consulting. When I'm not studying or participating in my extracurriculars, you can usually catch me enjoying boba or any of Berkeley's amazing food with my friends. Hope you guys are as excited for conference as I am, and good luck!

Hi everyone! I'm Cassidy and I'll be one of your vice-chairs! I did MUN all throughout high school and am continuing my passion for it here! As a first year, I'm an intended Legal Studies major and minor in Education, hoping to pursue future work in education policy! Since I've attended BMUN as a delegate, I can say without a doubt that it's a wonderful experience. With all that you learn this weekend, take the knowledge and run with it! The growth you achieve in just three days will surely surprise you.

I am Jessica Swar, a junior studying math at UC Berkeley. This is my third year chairing BMUN. In previous years, I have chaired UNHRC and AU. On my free time, I volunteer as a community healthcare worker at the Berkeley Free Clinic and ride Greyhound buses across the country. I hope you enjoy learning about these interesting topics and I cannot wait to meet you in committee!

I look forward to meeting each and every one of you in March, and can't wait to hear the solutions that you come up with. Enjoy the process of discovering each of these topics and writing your position papers!

Best,

Interpol Dais

A handwritten signature in black ink, appearing to read 'Nikhil', followed by a long, horizontal, wavy line extending to the right.

Nikhil Pimpalkhare

Head Chair, International Criminal Police Organization
Berkeley Model United Nations, Sixty-Seventh Session

TOPIC A: RED NOTICE ABUSE

INTRODUCTION TO INTERPOL

The International Criminal Police Organization, or Interpol, is the end product of a long process of evolution and refinement which began in 1923 in Vienna when the International Criminal Police Congress was established. Today, it is the world's preeminent international police organization with 192 member states, each with their own National Central Bureau (NCB), the central point of contact between Interpol's global network and national police structures. Its budget is funded by member dues which are apportioned based on economic output and totals roughly 145 million dollars annually (Overview).

Unlike what is commonly depicted in popular media, Interpol is not an international police force which conducts arrests around the world. Instead, it is a network of law enforcement agencies from nations around the world. As a body, Interpol passes treaties, runs awareness campaigns, creates police capacity building tools, provides technical and operational support to police agencies, and conducts research on various subfields of crime. Underlying all of these actions is Interpol's mission statement: "Preventing and fighting crime through enhanced cooperation and innovation on police and security matters, or to allow for international coordination between police forces" (Overview).

At the same time, Interpol has a commitment to maintain political neutrality in all of its actions. It aims to allow for total police communication and coordination, even when two member nations may not have diplomatic relations. As such, its Constitution explicitly prohibits "any intervention or activities of a political, military, religious or racial character." As a result, all actions taken by Interpol must remain free of political bias. Its Constitution also states that all cooperation and action should be conducted within the spirit of the Universal Declaration of Human Rights (The Constitution). This means that the organization has a fundamental commitment to protecting the rights of all people, cooperating with international courts and tribunals, and security regarding personal data.



Figure 1: Interpol's Strategic Goals and Objectives (Priorities)

Interpol operates on five fundamental strategic goals, as illustrated in the graphic above. Firstly, and most importantly, Interpol aims to share law enforcement intelligence; the vision behind this initiative is that police organizations, regardless of their locale, should have the same access to fundamental criminal data. This is accomplished through management of secure data transfer systems, reinforcement of technical infrastructure, and support of national initiatives to improve criminal data quality (Priorities).

Interpol also works to support police forces around the world, providing valuable forensics and trainings which ensure optimal operational outcomes. In addition, Interpol has two types of specialized response teams: Incident Response Teams and Major Event Support Teams. Incident Response Teams are deployed at the request of a member country in response to large-scale natural disasters, serious police issues, or any other situation requiring expert police assistance. Major Event Support Teams are specialized in minimizing risk to the public and data services, and are generally called in during the preparation and coordination of large conferences or sporting events (Response Teams).

Next, Interpol aims to be a leader in policing innovation. The Global Complex for Innovation, based out of Singapore, is "a cutting-edge research and development facility for the identification of crimes and criminals, innovative training, operational support and partnerships." It aims to be the future of policing by championing a proactive law enforcement model, boosting digital security and forensics, and providing operational

trainings through National Central Bureau (The INTERPOL Global Complex for Innovation).

The final two strategic goals are more oriented towards logistics. Interpol wants to increase and secure its own place within the Global Policing Architecture. Essentially, it wants to ensure that it continues to be useful in serving national police forces. It accomplishes this goal through expanding its support deeper into countries, and advocating for the organization in national and international forums. Lastly, Interpol wants to optimize its own structure. Currently, Interpol is focused on developing a sustainable funding model, addressing organizational risks, and assessing its own system of checks and balances (Priorities).





Interpol's Database and Notice System

Interpol needs to use cutting-edge technology in order to ensure secure and rapid information exchange between national law enforcement forces. Interpol uses an I-24/7 database system, which essentially allows international, near-instant access of urgent police information to authorized users. This system is connected to Interpol's wide range of databases, which contain information on DNA profiles, stolen or counterfeit travel documents, motor vehicles, firearms, and much more. Each NCB is already connected to this data network, and Interpol is working on extending its services further into domestic police stations, specifically reaching out to departments such as immigration and customs. This underlying system is the basis for all of Interpol's activities.

This system is made functional by I-link, a web application which allows officers to access I-24/7, enables member countries to manage their own data, and standardizes all incoming data into a universal format. This system can be thought of as an extremely sophisticated survey form which allows NCBs to put notices directly into the database. The internationality of this system allows the seamless transfer of relevant police data between nations, as well as the elimination of processing time when entering data into the system. This application is also encrypted to a high degree, as any sort of security breach could ruin Interpol's ability to share important data (Data Exchange).

Using this combination of technologies, member nations are able to publish notices, which are international alerts or requests for assistance. Notices are published at the request

of a National Central Bureau after a majority vote by the General Secretariat; they can only be published if they are deemed valid under Interpol's Constitution, namely under Article 3 which holds Interpol to strict political neutrality. Interpol's notice system is color-coded and is internationally standardized. Similar to a notice but less formal is a diffusion, which is directly submitted to I-24/7 by an NCB, and can be circulated either to the entire Interpol membership or a subset (Notices). The meanings of the various colors are described in the figure below.

	<p>Red Notice</p> <p>To seek the location and arrest of wanted persons with a view to extradition or similar lawful action.</p>		<p>Yellow Notice</p> <p>To help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.</p>
	<p>Blue Notice</p> <p>To collect additional information about a person's identity, location or activities in relation to a crime.</p>		<p>Black Notice</p> <p>To seek information on unidentified bodies.</p>





	<p>Green Notice</p> <p>To provide warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.</p>		<p>Orange Notice</p> <p>To warn of an event, a person, an object or a process representing a serious and imminent threat to public safety.</p>
	<p>INTERPOL–United Nations Security Council Special Notice</p> <p>Issued for groups and individuals who are the targets of UN Security Council Sanctions Committees.</p>		<p>Purple Notice</p> <p>To seek or provide information on modus operandi, objects, devices and concealment methods used by criminals.</p>

Figure 2: Interpol Notice Descriptions (Notices)

Understanding Red Notices

As defined on the Interpol website, a Red Notice is “a request to locate and provisionally arrest an individual pending extradition.” Essentially, they are international calls for the arrest of individuals. Police forces can request the publishing of red notices through their National Central Bureau, and the notice will be published to Interpol’s database pending approval by the General Secretariat (Red Notices).

Notably, there are no legally binding strings behind the Red Notice. Interpol cannot compel its member states to respond to a notice in any particular way. Even if a nation acknowledges the existence of a notice targeting an individual, they are not legally obligated to extradite or even arrest that person. (Red Notices)




KOSTOVSKI, SLOBODAN
 WANTED BY THE JUDICIAL AUTHORITIES OF BRAZIL

IDENTITY PARTICULARS

Present family name: **KOSTOVSKI**
 Forename: **SLOBODAN**
 Sex: **Male**
 Date of birth: **04/12/1953 (64 years old)**
 Place of birth: **Serbia**
 Language spoken:
 Nationality: **Serbia**

CHARGES Published as provided by requesting entity

Charges: **International Drug Trafficking**

Figure 3: Publicly released example of a Red Notice, purged of sensitive information

Red Notices have already proved themselves extremely valuable to international policing, drawing international attention to certain criminals and making it very difficult for these people to travel. One significant example is Romano Piscioti, who had a warrant released for his arrest in the United States for breaches of criminal antitrust law. As an Italian national, it would have been extremely difficult for the US Department of Justice to locate and retrieve Piscioti, especially because of Italy's limited antitrust laws which would not view Piscioti's actions as criminal. However, after a red notice was published to the I-24/7 database in his name, Piscioti was detained in Germany during a business trip and was extradited back to the United States for trial (Cherry). This incident highlights the effectiveness of the red notice system in allowing national police forces to pursue criminals who may be located outside of their jurisdiction; such cases occur often and prove that an international Red Notice system adds value to the state of law enforcement.

Flaws in the Red Notice System

The most basic form of abuse occurs when countries request notices before garnering sufficient evidence against a person. This can seriously impair a person's human rights, especially their right to liberty, security, employment, and even the right to a fair trial. When innocent people find themselves on an Interpol Red Notice, their quality of life can quickly deteriorate. Traveling becomes a huge risk as a mere layover in the wrong country can result

in extradition and arrest. An example is Dogan Akhanli, a Turkish-German writer who was detained while on vacation by Spanish Police due to a Red Notice issued by Turkey. In the past, the author had written extensively about the mass killings of Armenians in Turkey in 1915, an event that is considered a genocide nearly everywhere except Turkey. Akhanli was a Turkish-born writer who resided in Germany with a full citizenship, but was unable to travel through Spain without immediate detention. Though Turkey has made no significant press release concerning Akhanli, it is quite clear that this Red Notice was politically motivated, thus violating Interpol's Constitution. Spain responded to international pressure nearly instantly, releasing the writer within a few days; they did, however, confine him to Madrid for two weeks while assessing Turkey's extradition request and Germany's contestation (Press). Though the situation resolved rapidly, this case study is indicative of the vast issues in the notice system. Remember that Akhanli was a public figure and, as such, those who are unable to garner international support may find themselves unable to escape detention and extradition.

Cases like Dogan Akhanli's inspire fear amongst people with Red Notices, particularly those without a cogent reason to be on a notice. The same reasons that make Red Notices effective for pursuing and limiting criminals make them particularly destructive when applied to people who lack a legitimate criminal history. For such people, having one's name inside of Interpol's database system can have debilitating results on their ability to travel (Editorial Board). In addition, the existence of a red notice in a particular person's name can seriously damage their societal reputation, preventing them from obtaining employment due to bias against alleged criminal behavior, and can impair their sense of security as they may be ostracized or harassed by those who agree with the issuers of the Red Notice (Palestine). Red Notices have serious consequences for those who are wrongly put into the database, and Interpol must hold itself responsible for these false positives. In the past, Interpol did not have this issue - all red notices passed strict review from the General Secretariat before publishing, and were scrubbed of violations of the Constitution. However, with the modern boom in quantity of notices, Red and otherwise, the quality of this review has decreased (Strengthening INTERPOL).

There is no existing procedure within Interpol for an individual to contest a Red Notice

in their name. This is especially concerning in light of the fact that 30% of all member nations treat red notices as a de facto arrest warrant; in short, a country may respond to the issuing of a red notice by immediately pursuing the person involved within their own nation without any sort of legal process(Audit Report). In order to contest a notice, one must either engage in legal argument with their member states' NCB, or submit a complaint to the Commission for the Control of Files (CCF), the body responsible for compliance checks upon notices within the database system. Not only is this process inefficient, Interpol has not published any clear guidelines to go through this process (Strengthening INTERPOL).

Most modern court systems operate under an appellate model; at each level, defendants can request appeal after receiving an unfavorable judgement. If approved, the case will be reassessed at a higher court. The utility of such a system is that defendants are given greater agency against their prosecutors; without the system, the accused could be condemned to prison despite a potentially biased court (Staff). Without a robust appeals mechanism in Interpol's notice system, false positives have become increasingly likely. Interpol has a lack of transparency in its complaint system, and its internal CCF has been heavily criticized in the past for its inability to handle the growing number of complaints, as well as their increasing complexity. The roles and duties of the CCF are increasing year by year due to Interpol's expanding initiatives, developing services, and, above all, exponentially increasing quantity of notices. Over the past two decades, as Interpol has stepped into the modern age, member nations are far more active in their use of Interpol's data sharing system. The entire system has a troubling lack of transparency, although some level of opacity is necessary to maintain security (Strengthening Respect).

At its core, the entire notice system is based on the assumption that it will be used by member states in good faith, or with the spirit of Interpol's Constitution in mind. Article 2 specifically states that all cooperation occurs within the "spirit of the Universal Declaration of Human Rights", and, perhaps even more importantly, Article 3 states "It is strictly forbidden for the Organization to undertake any intervention or activities of a political, military, religious or racial character" (The Constitution).

However, this is not always the case, and Red Notices have grown increasingly political. When nations are attempting to discredit political dissidents or activists, Red Notices

have been used to tarnish their names. A case like this occurred in Russia in 2001, where authorities successfully published Red Notices against the exiled Chechen opposition leader Akhmed Zakayev, who was residing at that time in Britain. Zakayev was accused of murder and terrorism, charges he described as "absurd" (Telegraph). By internationally branding the leader of the separatist opposition as "criminal", Russia was able to effectively eliminate their political influence within their nation and generally discredit their opposition (Clark). Red Notices against the opposition are propaganda that writes itself. Nations may also politically abuse the Red Notice system by issuing notices against journalists, political dissidents, and, in extreme cases, even refugees fleeing from persecution. Vincent Cochetel, a Deputy Director of the United Nations High Commissioner for Refugees, made the following statement in 2008 regarding UNHCR's experience with refugees being placed upon Red Notices.

"UNHCR is also confronted to situations whereby refugees recognized under the 1951 Refugee Convention, when traveling outside their country of asylum holding Travel Documents issued under the terms of the Refugee Convention, are apprehended or detained, due to politically-motivated requests made by their countries of origin which are abusing of Interpol's "red notice system". Such persons are often left without access to due process of law, and may be at risk of refoulement or find themselves in 'limbo' if they are unable to return to their country of asylum" (Cochetel).

Such actions fundamentally violate Articles 2 and 3 but continue to slip through Interpol's oversight measures and into the database (Fabritius).

Another troubling form of abuse is corruption, which occurs when individuals use their financial resources or political leverage to pressure the government into requesting notices against certain people. Business leaders can, in some nations, pressure their host governments to publish Red Notices against their competitors, giving them a competitive edge in the market. Such was the case with Wadih Saghie, a Lebanese jewelry merchant

based out of Thailand, who found himself on a Red Notice after a business deal went south. A well-connected figure in Abu Dhabi paid for a prosecution and Red Notice against him, and it resulted in his expulsion from Thailand, the loss of his visa, and loss of business due to an inability to travel (Strengthening, 2013).

Although it may not exactly qualify as abuse, the Red Notice system has another downfall with regards to what happens a host nation refuses to extradite a criminal within their borders. Critics of Interpol insist that arrest warrants are provisioned in cases in which Red Notices or diffusions are completely factual. When nations harbor people who are criminals in other countries, it hurts the development of an international standard for justice. Since there is not a well-defined complaint system, and the CCF is quite inefficient with regards to dealing with abnormal complaints; this issue has no existing solutions. Addressing it is imperative to restoring Interpol's reputation as a global forerunner of justice (Strengthening, 2013).

Abuses of the Red Notice system can happen in a number of ways. Whenever these occurrences take place, they tarnish the international reputation of Interpol and hamper its ability to effectively promote justice. While the number of red notices published annually has skyrocketed in recent years from merely 1,277 in 2002 to 10,712 in 2017, Interpol's budget has not, remaining at roughly 80 million euros (~90.5 million USD) per year (Gray). Interpol cannot be expected to improve the quality of its oversight over its notice system without some kind of augmentation or redistribution of funds. Remember, the budget is supplied by member dues, and therefore cannot be randomly expanded without specific nations accepting a larger financial burden. The overall result of this discrepancy between Interpol's financial input and output is a system that is increasingly unable to manage its own faults.

PAST AND CURRENT ACTIONS

As this is an internal issue, Interpol itself is the only organization that has taken action on the issue of Red Notice abuse and is the only organization which can absolve the matter. Since the explosion of complaints in the early 2010s, this organization has taken many steps to alleviate concerns and address fundamental organizational flaws. However, abuse remains widespread, and many loopholes remain to be closed.

One of the earliest concerns with Interpol's organizational structure was the lack of transparency of the ways in which it handled personal data and about violations of privacy. In 2016, Interpol enacted several measures in order to ensure that personal data was properly processed. The CCF was restructured into two chambers, one tasked with overseeing all data transfer and ensuring that it is done in compliance with Interpol's guidelines. The other chamber is a requests chamber, which has responsibility for all requests for access to I-24/7 or any of Interpol's other resources. The CCF's decisions were also made binding over Interpol's General Secretariat, which gives them complete authority over the data member states can access (New Measures). Despite the definite progress, this issue is far from fully solved; though these two bodies would be well positioned to deal with abuses of personal data, a lack of funding and personnel has resulted in continued inefficiency and slips. With its current resources, the CCF simply cannot verify that every single data transfer is within Interpol's legal guidelines.

Around 2010, there was significant public outcry about incidents in which refugees ended up on an Interpol Red Notice. In 2015, Interpol announced a new refugee policy which allowed internationally recognized refugees to submit specialized complaints to the CCF in order to get their names removed from the database. Because the qualifying factors are so precisely defined, the CCF has thus far been extremely efficient in managing complaints from refugees in a timely manner. Through consultation with the United Nations High Commission for Refugees, the CCF is able to immediately remove a person from the I-24/7 database if they qualify as an international refugee under the 1951 Refugee Convention (Strengthening).

However, it is not clear if this policy is ideal or not. The primary international criticism is that this approach is retroactive, rather than proactive. Rather than attempting to stop refugees from ever being placed on a Red Notice, it pardons them after they have already been temporarily oppressed by the notice system. Critics call for increased oversight to confirm that all potential Red Notices strictly adhere to Interpol's Constitution. In addition, though the policy grants relief to all who own a refugee status document, it is unclear what happens to refugees without any documentation. Such cases also are not clearly visible to the public due to a lack of publicly available data and a systemic lack of transparency across Interpol's services. Finally, Interpol has not posted the policy in a clear and easily accessible

portion of its website; given that the persecution of a refugee is a serious transgression of justice, Interpol should be especially forthcoming with information about the refugee policy. Though many third-party organizations currently work to publicize the policy, the responsibility should not be on external parties, but on Interpol itself.

CASE STUDY: WILLIAM BROWDER

Bill Browder is the CEO and co-founder of Hermitage Capital, an investment fund which, in the early 2000's, was one of the largest foreign portfolio investors in Russia. This company is based out of London, and was instrumental in exposing corporate corruption in Russian companies such as Gazprom, a natural gas supplier, in 2002 (McMillan). However, on November 13 2005, Bill Browder was detained at the Sheremetyevo Airport, and deported for "national security concerns". Hermitage Capital was expelled from the nation as well. Browder decided to retain a Moscow-based lawyer, Sergei Magnitsky, who went on to expose a 230\$ million USD corruption scandal within the Russian government. Magnitsky was arrested in Moscow and later was found beaten to death in prison in 2009 (Browder).

Since then, Bill Browder has been involved in a global campaign for human rights as well as the implementation of sanctions against nations which commit abuses. In the United States, he was instrumental in pushing for the adoption of the Magnitsky Act, a law which allows the United States Government to freeze the assets and ban the visas of those who violate human rights (Lattman).

In 2013, the Russian court system tried Bill Browder and Sergei Magnitsky in absentia. They convicted both of numerous serious criminal charges, including financial fraud, treason, and murder (Browder). Especially pertinent to this committee is the fact that a Red Notice was sent to Interpol at the same time, calling for the arrest of Bill Browder. Interpol's review system was able to isolate this notice, identify it as politically motivated, and refuse to enter it into the I-24/7 system. Russia proceeded tried again in 2017 to release a Red Notice in Browder's name, but it again failed. In 2018, Russia successfully released a diffusion, or informal notice, which notified all Interpol member states of Browder's alleged crimes. In June 2018, Browder was arrested while on a work trip to Spain although he was released shortly afterward (Malnick).

Both sides of this issue were displeased at its results. The United Kingdom, in particular called for the removal of Russia from Interpol's systems due to its abuses. In June 2018, Richard Benyon, a Conservative in Parliament, said ""Interpol should suspend Russia's access to databases whilst Russia continues to abuse the Interpol red notice and warranty system... Russia are abusing this system in pursuit of Bill Browder. He is a British citizen and it is time the British Government held Interpol to account for failures such as were exposed in Spain last week" (Malnick).

At the same time, the Russian government was extremely frustrated at Interpol's refusal to accept their Red Notice. In August 2017, in response to the General Assembly's second refusal of a Red Notice in Bill Browder's name, the Russian Prosecutor-General's Office raised objections to the way Interpol was handling the situation. There still exists an arrest warrant associated with a sentence of 9 years in prison for Browder; Russia continues to apply international pressure in order to arrest him (RFE/RL). Remember, Russian foreign policy dictates that Browder was tried and convicted, making him a criminal; Russia views this case as Interpol refusing to serve its purpose, not as a case of abuse.

This case study highlights the ways in which the red notice system continues to fail today, and how a legal system like Russia's in which the politics of the government dictate the results of a trial affects the sanctity of Interpol. This issue is ultimately about how different nations within the ICPO can verify other nations' judicial systems, and about restoring trust between governments. The challenge is to find a nuanced solution which accurately identifies and addresses abuse without hampering Interpol's ability to aid in the apprehension of criminals.

QUESTIONS TO CONSIDER:

Question 1:

How should Interpol ensure that its decisions are desired by all member states and not fall prey to the tyranny of the majority?

Question 2:

What should Interpol do to enable innocent people to remove themselves from a red notice? Does such a solution already exist? (Hint: what is a diffusion removal request) If so, what are the issues with it?

Question 3:

What level of transparency should Interpol's systems have? How does transparency both help and hinder the law enforcement process?

Question 4:

How should Interpol ensure efficiency despite oversight, especially in light of their relatively small budget?

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TOPIC B: PHARMACEUTICAL CRIME

DEFINING THE ISSUE

The counterfeiting of medicine has grown increasingly sophisticated over the last few decades, leading to a recent boom in pharmaceutical crime, defined as “[the] manufacturing and distribution of counterfeit or falsified (spurious/fake/falsely labeled) pharmaceuticals or medical devices, through licit and illicit supply chains”(Pharmaceutical Crime). The substances which are most frequently imitated are erectile dysfunction medication, steroids, HIV medication, and opiates such as oxycodone and tramadol. Such crime is incredibly destructive to public health, impacting the most vulnerable sects of society: the sick and medically dependent. The World Health Organization (WHO) estimates that roughly 10% of the world’s supply of medicine is counterfeit or falsified - in some developing nations, the proportion can spike to nearly 50% (“1 In 10”).

The issue stems from rising medical costs, caused by increasing development costs in the pharmaceutical industry and increasing crackdowns against cheap generics (Buckley). One can understand the global situation through supply and demand, an economic model that will be key to understanding the nuances of this committee.

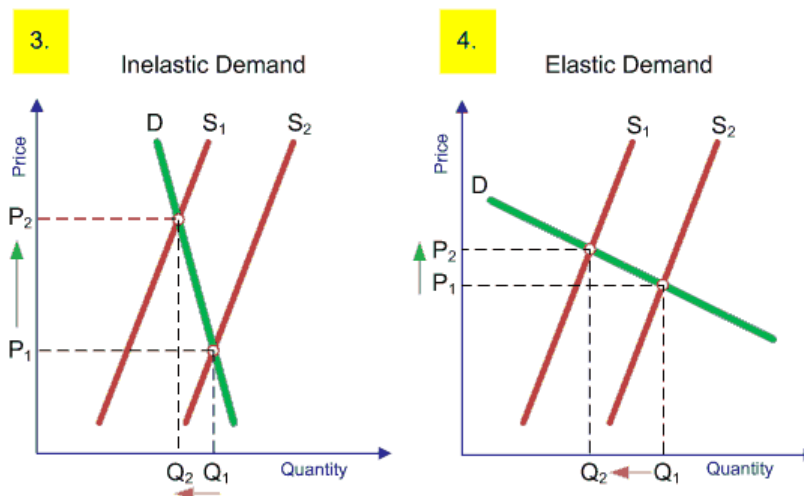


Figure 4: Graphs of Inelastic and Elastic Demand (Hayes)

Though this graph may look complex, the fundamental principles behind it are not. Demand refers to the amount of a particular product that will be bought by customers at

a particular price. We can visualize in the graph above as a downwards sloping line, since higher prices will cause interest to drop, and overall quantity desired to lower. Likewise, supply is the amount of product that will be produced by manufacturers if they can sell it at a particular price. We visualize it as an upwards sloping line because manufacturers will produce more of their product if it has a higher price. The key thing to understand is that the true price and true quantity, often termed the "equilibrium point", should be the intersection of the lines of supply and demand, since customers will be willing to buy that quantity at that price, and the manufacturers will be willing to produce. (Hayes, Law Of)

The other economic principle which is key to understand the modern pharmaceutical market is elasticity, which refers to "degree to which demand or supply reacts to a change in price". In the graphic, on the left, we have a demand line which is not elastic; from S2 to S1, we can see that supply is getting more expensive, since manufacturers require significantly higher prices in order to produce the same amount. However, because the demand line is quite steep, the intersection point does not lower significantly; in other words, despite a significantly higher price from P1 to P2, only slightly less quantity was desired, from Q1 to Q2. On the right side though, the demand line is not very steep, which indicates that it is elastic. As supply becomes more expensive, even a slight increase in price leads to a significant decrease in quantity demanded (Hayes, Elasticity).

The important factor to understand about the market for pharmaceuticals is that it has an extremely inelastic demand. Medicines can mean the difference between life and death for customers; even if the pharmaceutical industry increases prices, customers will still need to buy a similar amount of medicine. Because of this fact, a tremendous amount of power is given to large pharmaceutical companies; if they are able to use the patent system of their nation to secure the rights to a key medicine, they can set the prices for that drug as high as they want, since their customers are dependent. In other words, if we were to plot the demand line for medicine, we would be drawing a very steep line, because quantity demanded would not fall significantly if the price was to rise. The salient point from this whole section on economics is that the market for pharmaceuticals exists in a way that makes it particularly easy for pharmaceutical companies to increase the prices of their products without any repercussions.

Though the pharmaceutical industry remains very lucrative, it continues to become more expensive to develop new drugs for the market. Whether it is accommodating research costs, or merely increasing profit margins, pharmaceutical companies are able to utilize the inelastic nature of the medical market in order to raise the price of their products. At the same time, such companies are able to use political lobbying to push for anti-generic legislation. Generics are a broad term for medicines which are chemically identical to brand-name drugs; they tend to sell for a significantly cheaper price and generally spring up after a pharmaceutical company's patent expires (Buckley). Crackdowns against such products, generally prompted by legal pressure by large pharmaceutical companies, force customers to pay higher prices for the brand-name equivalent.

As the number of people who are unable to pay for medicine through licit venues increases, the black market for pharmaceuticals has swelled to 200 billion US dollars, attracting the attention of Organized Criminal Groups (OCGs) seeking to take advantage of the opportunity. Because there are differences between medicine prices and regulations across borders, such as the price difference of medicines between Canada and the United States, OCGs have found a lucrative niche in trafficking counterfeit medicines. Internationally feared organizations such as al Qaeda, Colombian drug cartels, and the Russian mafia all have strong links to the production and trafficking of counterfeit drugs. The BRIC nations, or Brazil, Russia, India, and China, who have been dubbed the "pharmerging companies", have had significant increases in organized criminal activity. Backroom laboratories, black markets for falsified medicine, and trafficking-related violence have all become increasingly common, just as each of these nations' legal pharmaceutical markets have taken off (Pharmaceutical Crime).

Organized Crime

Due to the high potential profits of selling medicine, organized crime groups are heavily involved in global pharmaceutical crime throughout the supply chain.

Traditionally, in-person groups tend to be quite small, ranging from three to ten people, and their overall effect remains limited. Such groups typically sell to dealers, street hawkers, and gyms with doping problems. Unlike groups which deal with explicitly illegal substances like

cocaine or heroin, counterfeiters have little need to resort to violence, and thus are able to stay under the radar of policing authorities (Pharmaceutical).

More concerning is the rising number of highly sophisticated, online networks which utilize the unregulated side of the Internet, also known as the Dark Web, in order to peddle their goods. Because of the ease with which such networks can move and establish new websites, the anonymity of the internet, and the difficulty of counteracting decentralized criminal networks, targeting these criminals remains a challenge for law enforcement (Jardine).

According to a 2014 report by Interpol's Pharmaceutical Crime Sub-Directorate, three primary barriers exist to effectively police pharmaceutical crime. The first is corruption; criminal groups, with excess money to spare, are able to bribe pharmacists in order to obtain prescriptions and thus are the sources of counterfeit medicine. Individual pharmacists can also turn to crime, stealing and selling through the internet (Pharmaceutical).

In some cases, this noted corruption has spread all the way to the government. Specifically, this has been seen in Pakistan in 2010, where officials were involved in the embezzlement of medication. The local district health coordinator raided Muhammad Ashfaq Sulehri, a low-level government official's privately owned medical store and discovered massive stores of used and unused government medicines. Official records of the shipment had been tampered with, and Sulehri, along with several other health officials, were convicted for fraud. Essentially, they were involved in a conspiracy to divert government-funded medicines towards the more profitable black market. Cases like this highlight how corruption can lead to pharmaceutical crime (Stocking).

The second main obstacle is a lack of law enforcement. Though some nations may have dedicated pharmaceutical crime-fighting units, most simply utilize non-dedicated officers from other units. Without specialization, such forces are often inadequate when dealing with sophisticated crime networks. This problem is made worse by a general lack of information technology crime units, who specialize in handling cybercrime. Without fundamental organizational changes, today's police forces are ill-equipped to deal with the rapidly evolving pharmaceutical crime front.

The final issue is that most countries do not have legislation that specifically targets

pharmaceutical crime; instead, they prosecute criminals under violations of intellectual property, fraud, or drug crimes. The lack of specifically defined regulation and punishment makes it difficult for law enforcement to accurately attack such crime. Some countries even claim that the penalties for such crime do not pose a significant deterrent to criminals given the lucrative possibilities of counterfeiting. For example, Indonesia has fallen prey to pharmaceutical criminals due to a combination of high payoffs and low punishments. While forging medicines such as Viagra can be up to twice as profitable as dealing heroin, criminals "get light punishments because Indonesian authorities only apply trademark law when prosecuting them" (Editorial).

Internet

When you type in "Google.com" into the search bar of your favorite web browser, your computer makes a direct request for web content to a remote server. Because this connection has no intermediate obfuscating steps, the website which you navigate to receives your unique Internet Protocol or IP address. This key piece of information is often law enforcement's only link to crimes committed over the internet and allows them to pursue those responsible (Jardine). The "Dark Net" is similar to the surface-level internet, except that your computer's request is bounced around dozens of other computers around the world, completely hiding your IP address and allowing total anonymity. This process has ensured that this underbelly of the internet has become a cesspool of criminal activity, with hitmen, identity theft, and, most importantly for this committee, pharmaceutical crime.

Another instance in which the internet has aided pharmaceutical crime is the rise of online pharmacies, such as Rx-Promotion and GlavMed, which are very lucrative and have massive stores of data on their users. The World Health Organization estimates that nearly 50% of all medicines sold through online pharmacies are counterfeit or falsified. Though such pharmacies operate primarily through the Dark Web, they heavily use third-party advertisers which exist on the legal portions of the internet. These advertisers tend to use abrasive methods such as targeted advertisements, search engine manipulation, and social media spam in order to spread the word of low medicine prices. Even some online pharmacies which exist legally partake in pharmaceutical crime, attracted by the extremely high potential

profits (Samuelson).

Technology-wise, there is little that can be done because connections to such networks are more or less impossible for governments to prevent. Firewalls, technological systems designed to prevent unauthorized access to or from a protected network, typically allow governments to block most areas of the internet; however, they are completely ineffective in limiting access to the Dark Web (What). Instead of looking for a way to destroy the Dark Web, law enforcement must learn to effectively police it. Anonymity can cut both ways: just as it can prevent criminals from having their identities immediately known, it can also allow agents of the law to infiltrate criminal networks.

The first challenge to policing the internet is that police forces around the world lack the technical training and resources in order to pursue such criminals. Because cybersecurity is a relatively new field, cyber training has not yet become a mainstream part of most national police training programs. Additionally, since decentralized networks such as the Dark Web rarely store data for long periods of time, it is difficult to gather information and evidence without ample technology. The second main obstacle police face is that Dark Web-based criminal networks tend to be global, causing police to be hampered by a lack of international jurisdiction. Interpol has helped to coordinate digital security resources through its Global Complex for Innovation, but it has never directly helped with the trans-national nature of cybercrime; increasing coordination amongst police forces would greatly magnify their ability to respond to pharmaceutical crime conducted over the internet. Handling the internet is the most important modern complication for this committee to address.

Intellectual Property

With regards to pharmaceutical crime, intellectual property (IP) refers to exclusive rights granted by a nation to a company over a certain medical device or compound. Intellectual property laws are widely used in the pharmaceutical industry because such companies need to ensure that they are able to reap the profits of the compound after they have invested significant time and resources in research and development. On a practical level, IP crime involves acts which violate trademarks, copyrights, or patents (Attaran). The process of developing a new medicine is considerably lengthy. Between discovering

the compound, fully researching its side effects, meeting national safety protocols, and legally securing a patent, the procedure often takes 7 to 15 years, with more developed nations typically having longer development cycles. Additionally, most medicines never see daylight; in the United States, merely 1 out of every 5,000 potential medicines make it through the development cycle and to market (Redpath). Drugs may have severe side effects, be ineffective in the human body, or may simply be beaten to market by a more effective alternative. Pharmaceutical development is an experimental science, not an exact one; failures are to be expected. With that said, it is clear that pharmaceutical companies must invest a high amount of financial resources and time into their products before they have any chance to reap profits, and intellectual property and patent laws are fundamentally necessary in order to protect medicinal innovation and research.

At the same time, generic medicines are incredibly useful in making health care widely available. Particularly in developing nations, where the general populace may not be able to afford high international prices for medicines which they desperately need, generics enable people to access treatment without having to turn to the black market, where they may be exposed to dangerous falsified medicines. Critics of the pharmaceutical industry often push for limitations on intellectual property, as hastening the introduction of generic substitutes to the market acts as a price control against overly expensive medicines (Redpath).

Unfortunately, legislation around the world often allows massive pharmaceutical companies to price gouge its own customers. In 2015, Martin Shkreli, sometimes dubbed "the most hated man on the internet", gained notoriety for increasing the price for a rare anti-parasite medicine for HIV patients by over 5,000 percent. (Mangan) This type of price spike occurs is not an infrequent occurrence; in 2016, Marathon Pharmaceuticals, a company based out of Illinois acquired deflazacort, a medicine for treating children with serious genetic conditions. Though this medicine was offered as a generic throughout Europe, Marathon exploited certain rules by the Federal Drug Administration in order to raise the price by 6,000 percent. Though widely condemned, this move by Marathon was completely legal. (Herper) In many cases, legislation surrounding the pharmaceutical industry not only fails to protect the sick and frail, but actively enables companies to price gouge.

Part of this issue is the lack of international definitions of terms like counterfeit,

falsified, and substandard specifically referring to pharmaceuticals. Counterfeit has a specific intellectual property law definition, referring to willful trademark violation; however, in a medical sense, it can also refer to medicines which are mislabeled, claim to have substances which they do not, falsely assert that they have been manufactured under specific safety protocols, or are otherwise substandard. Different nations use different terms for different purposes: some use “falsified” as an equivalent to counterfeit, while others do not use it for intellectual property violations. There is also ambiguity over what words like substandard and spurious are defined to mean (Kuhlik).

The discrepancies between nations on these defining words for pharmaceutical crime can have serious consequences for the international community. In 2008, several shipments of generic medicine from India to other developing markets was intercepted throughout the European Union under claims of violating EU pharmaceutical patents. India, along with several other nations and NGOs, expressed concern that legitimate generic medicines were being wrongfully detained, depriving developing markets of medical supplies. This controversy was resolved through the World Trade Organization, but in the process, IMPACT, the World Health organization’s intellectual property task force, was strongly discredited because it was unable to handle this situation despite the fact that it was created specifically to resolve such incidents (Buckley).

The lack of accord regarding such definitions prevents the international community from pursuing true perpetrators of pharmaceutical crime, instead bogging them down with internal squabbles. As a forum of national police forces, Interpol occupies a unique niche which allows it to work towards a solution on this matter. The Interpol Intellectual Property Crime Action Group (IIPCAG), founded in 2002, has had success as a place for various public sectors and private groups to deliberate the nuances of international IP law (Paun). Such public-private partnerships are crucial for this body to form a nuanced approach which finds balance between hampering pharmaceutical drug development and allowing price gouging of the sick.

PAST RESPONSES

Interpol currently has several ongoing campaigns attempting to address growing

pharmaceutical crime. Operations Mamba and Storm, targeting Eastern African and Southeast Asia respectively, are essentially systematic police raids over a specific region and with a high level of international coordination. They have been very successful targeting hundreds of sites and seizing thousands of pills. In both cases, Interpol conducted multi-day police trainings in order to maximize preparation, and helped to coordinate day-to-day operations of the raids between nations. These operations have been imitated by other operations such as Cobra, Giboia, and Porcupine; future regional operations designed to model successful missions such as these would be highly beneficial to the international community (Strengthening the Global).

In response to the growing presence of pharmaceutical crime over the internet, Interpol has launched Operation Pangea, which is an annual week-long affair in which police, health regulators, and various members of the private sector meet in order to take action and raise awareness. Specifically, Pangea targets the three main tools which cyber criminals use to engage in pharmaceutical crime: Internet Service Providers, payments systems, and delivery systems (Operation). In Pangea X, which occurred in September of 2017, over 50 million dollars worth of medicine was seized (Strengthening the Global).

With intellectual property crime, Interpol co-hosts an annual International Law Enforcement IP Crime Conference along with the International Anti-Counterfeiting Coalition. As IACC President Bob Barchiesi said, "Counterfeiters do not operate within the confines of country borders and neither should we" (Strengthening the Global). This conference has allowed for some level of discussion on international IP crime, and has led to the creation of multiple training tools, including online and in-person seminars, practical simulations, and publicly available educational resources which are used by law enforcement units around the world.

Some of Interpol's main partners for this issue are the World Health Organization (WHO), the Permanent Forum on International Pharmaceutical Crime (PFIPC), and the World Intellectual Property Organization (WIPO). WHO has conducted many studies into the extent of pharmaceutical crime around the world, and continues to work closely with Interpol to identify impending crises and threats. PFIPC is also an enforcement body, though it specifically deals with pharmaceutical crime. Importantly, it hosts the International

Laboratory Forum on Counterfeit Medicines, which provides most of the scientific analysis behind Interpol's operations and develops tools for the detection of counterfeits (About). The World Intellectual Property Organization works to standardize definitions and IP law across nations, especially in cases in which discrepancies are opening opportunities for pharmaceutical crime (Inside).

CASE STUDY: KENYA AND NIGERIA

At one point up to 40% of drugs circulating Nigeria were counterfeit (Counterfeit). This statistic is common across third world countries due to both protective and harmful policies. Nigeria and Kenya, for example, illustrate the difficulty of designing effective policy that ensures the safety of a country's civilians without restricting access to medical care. It is important to first explore the terms used to describe illegal pharmaceuticals, such as "fake drugs" and "counterfeit drugs", in order to understand the legislation and services surrounding pharmaceutical access. Fake drugs might be interpreted to encompass drugs with incorrect concentration of active ingredients, incorrect active ingredients, or in some cases, with no active ingredients at all. The terminology elicits imagery of deceptive packaging forged potentially by someone money hungry. In no uncertain terms, fake drugs are drugs which do not meet regulatory standards and approvals. Some of these regulatory standards include unrealistic expectations from pharmaceutical companies in developing in the first place. For example, the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) instated by the World Trade Organization (WTO) required all WTO members to adopt a minimum standard of intellectual property protection in their domestic laws. This included practices such as a 20-year patent terms for medicines when many undeveloped nations had yet to even establish a patent system. Keeping this in mind, some standards are necessary to protect the wellbeing of civilians.

In Nigeria, fake drugs have a mostly negative impact. One doctor's patient woke up in the middle of surgery because the anesthesia was not actually anesthesia (Nigeria). Medical treatment failures, organ dysfunction/damage, worsening of chronic disease conditions and the deaths of many Nigerians have been linked to fake drugs. When patients were treated

with genuine antibiotics, they no longer responded positively. Their immune systems had grown resistant to the genuine antibiotics because of a reaction with the fake antibiotics that they had previously taken (Raufu). In response, Nigerian legislators are considering the National Drug Control Bill which seeks to eradicate illicit production, importation and trafficking of controlled substances by clarifying the role and capacity of National Drug Law Enforcement Agency (NDLEA) and National Agency for Food and Drug Administration and Control (NAFDAC), as well as other relevant law enforcement bodies (National). Nigeria has already initiated policies that have reduced the circulation of fake drugs significantly in the last five years. For example, TruScan is an inexpensive hand-held spectroscope that allows officials to spot fakes at the point of import as well as a scratch-off label system. With this, users text the revealed code from their phones to verify the product's genuinity before consumption. Products like TruScan have seriously reduced counterfeit drugs getting into the hands of the general populous within Nigeria (Counterfeit).

In Kenya, the efforts to control fake drugs backfired. In 2008, Kenya's Parliament passed the Anti-Counterfeit Act. This act included essential medicines in the definition of "counterfeit" goods, making it an offense to sell or purchase generic medicines, and allowing the intellectual property owner to request the commissioner to seize and detain all suspected counterfeit goods. This definition of counterfeit goods was extremely vague, causing it to include 90% of HIV medications used (Right). Generic brands can be up to 90% cheaper than the name brand version of medicines so more people tend to use those brands especially in regards to HIV medications (Mwendwa). This act threatened the availability of necessary medications to poorer populations since generic medicines are what they depend on. Luckily, petitioners formed to rebuttal this act and drafted a case to fight against the ban on generic medications. In 2012, the High Court of Kenya decided that the act violated key rights of Kenyans and should be reconsidered (Right). The petitioners' argument relied heavily on the ambiguity of the term "counterfeit" and the use of intellectual property rights to control medicine. The practice of using anti-counterfeit laws to control standards of medicines was also addressed in a 2012 United Nations Development Programme (UNDP) paper, "Anti-Counterfeit Laws and Public Health: What to look out for" in which the authors concluded that the use of anti-counterfeit laws as a policy measure for curtailing the spread

of substandard and falsified medicines is inappropriate (Anti-Counterfeit).

The crux of this issue is to find a balance in legislation that protects civilian health, but does not jeopardize their choice of medicine. Pharmaceutical intellectual property requires protection to ensure that research and development of new and more powerful medicines continues into the future, but overprotection allows the pharmaceutical industry to gouge its own customers using increasing prices. During committee, your role will be to explore these nuances and to craft a solution which finds this balance.

QUESTIONS TO CONSIDER

Question 1:

What are the implications of the use of the internet in global pharmaceutical crime? What role can your nation play in addressing such activity over the internet?

Question 2:

How does your nation balance access to cheap generics and enabling profitable pharmaceutical development? How does this help/hinder the state of health care in your nation?

Question 3:

What are the consequences of varying IP law across the globe? How can Interpol address such issues?

Question 4:

How can this forum, as leaders of police forces, counteract the forces of organized crime with regards to falsified or counterfeit medicines?

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