

2016

Patients or Patents? The Role of Intellectual Property Rights and Pharmacology in Northern India

Valentina Marginean

Follow this and additional works at: <http://digitalcommons.owu.edu/student-symposium>

Recommended Citation

Marginean, Valentina, "Patients or Patents? The Role of Intellectual Property Rights and Pharmacology in Northern India" (2016). *Student Symposium*. 12.
<http://digitalcommons.owu.edu/student-symposium/12>

This Article is brought to you for free and open access by Digital Commons @ OWU. It has been accepted for inclusion in Student Symposium by an authorized administrator of Digital Commons @ OWU. For more information, please contact earutigl@owu.edu.

Patients or Patents?

Intellectual property rights and access to medicine in Northern India

Marginean, Valentina
Ohio Wesleyan University

School for International Training (SIT), New Delhi, India: Public Health, Policy Advocacy, and Community Engagement

Introduction

The Indian public healthcare system's health inequities, perpetuated by institutionalized stratification, racism and elitism, impedes the average Indian's access to healthcare. To compensate for these inequities, India utilizes its generic drug industry to supply medicine at free or reduced costs through central and state government schemes. However, certain medicines still cost more than the average monthly salary can afford¹. The role of this study is to examine the influence of intellectual property rights in the Indian pharmaceutical market. This study provides qualitative data that supports a direct relationship between intellectual property rights and price-control mechanisms, which influence pharmaceutical companies' profit margin and therefore inhibit access to medicine by making drugs more costly.

Background

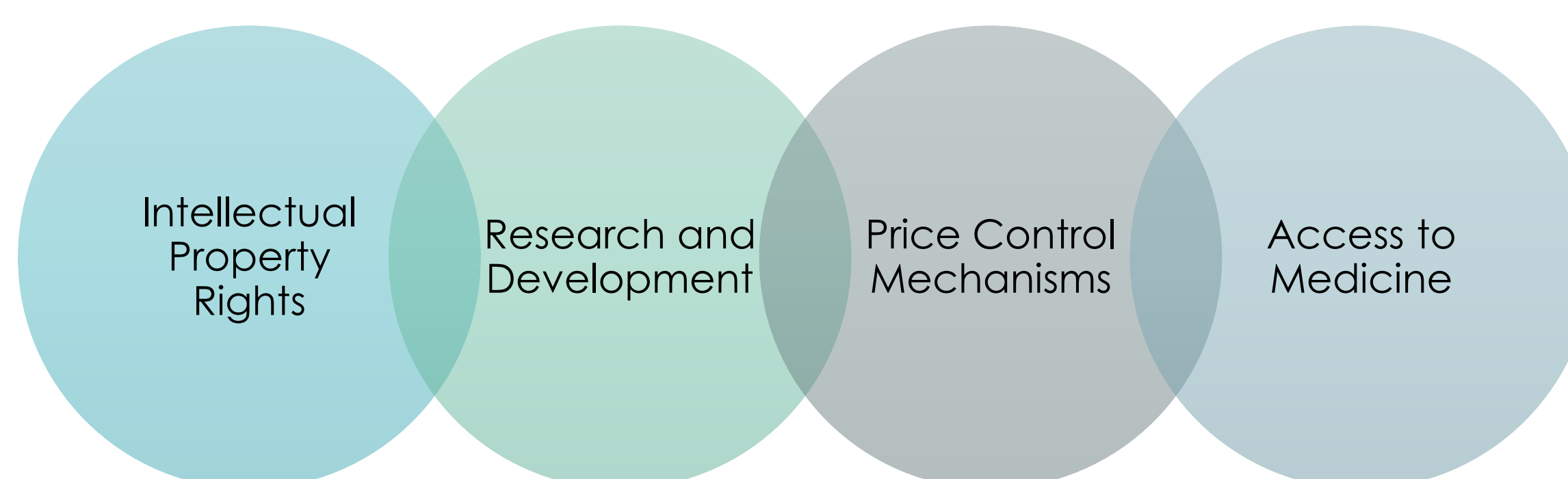


Figure 1. It has been well-studied in human rights discourse and access to medicine issues that intellectual property rights post-1995 have played a role in the global pharmaceutical market. This is because loose intellectual property rights have the ability to stifle growth in the generic market.

Methods

The data was collected through secondary literature review, interviews, and observation through shadowing pertinent stakeholders such as legislatures, nongovernment organizations (NGOs) and pharmaceutical representatives:

- Questionnaire and personal interviews.
- Group discussions and intertwining data analysis.
- Relate data back to current domestic legislation and trade agreements.
- Data collection of various drug costs across various Northern states

Results

Patent Law

In response to the 1995 Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, India was one of the first countries to apply public health safeguards².

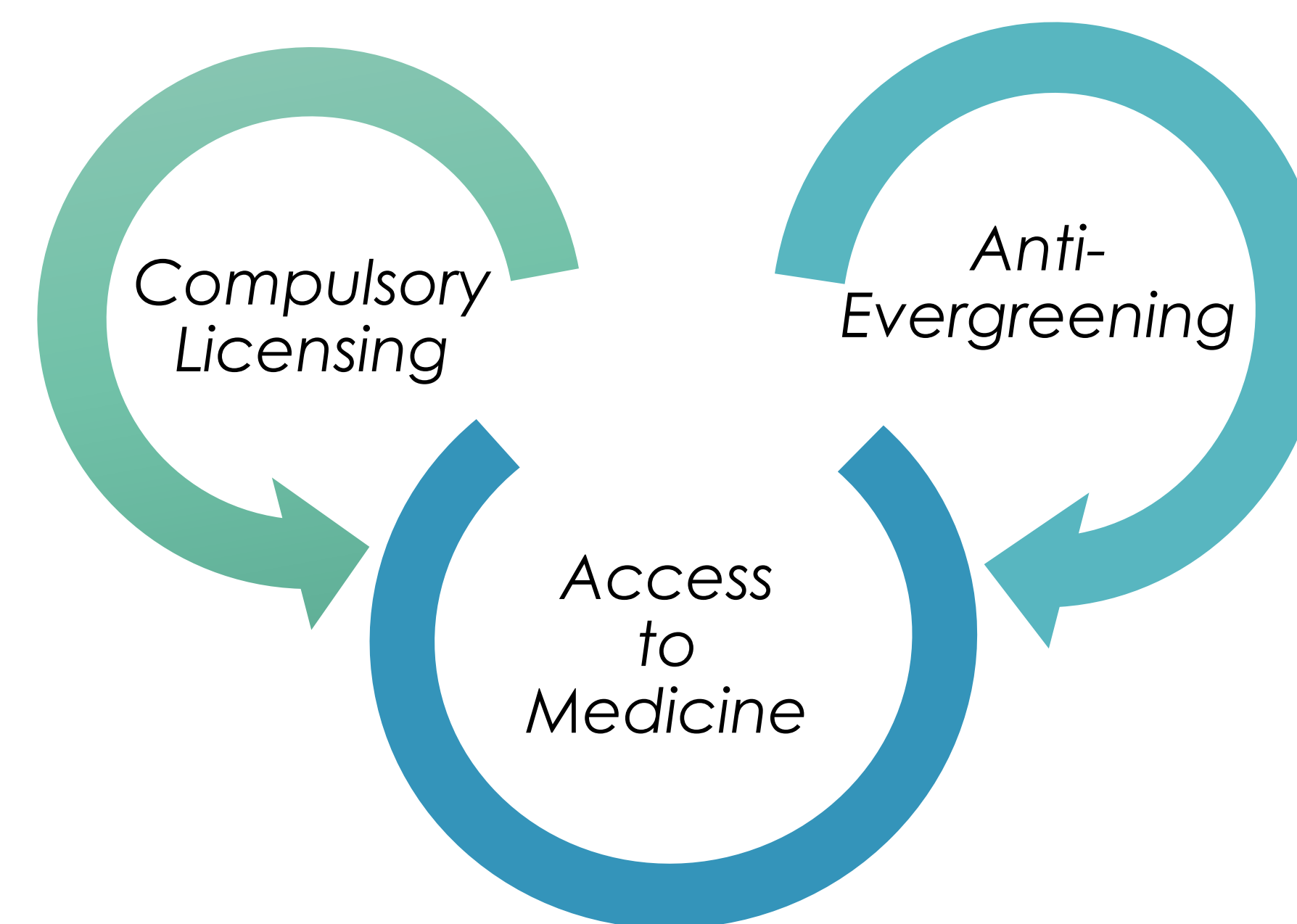


Figure 2. Compulsory licensing and anti-evergreening clauses in India's Patent Act of 2005 have been a significant method of facilitating access to medicine for millions of Indians and foreigners.

Price-Control Mechanisms

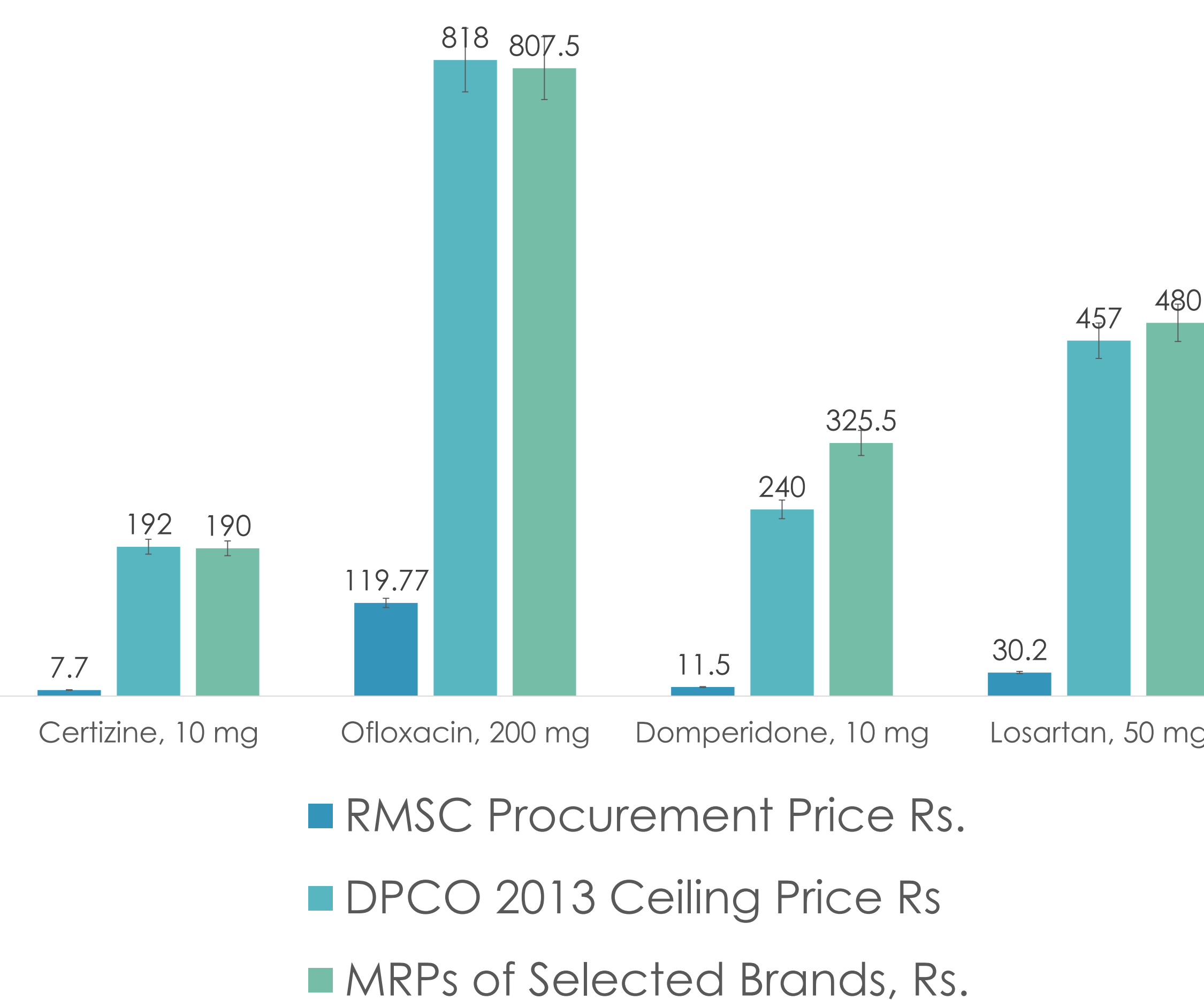


Figure 3. Procurement/tender price comparison of selected few generic medicines procured by the Rajasthan Medical Services Corporation (RMSC) with their corresponding branded drugs in 2014. At the time of the data, profit margin control occurred directly through the Drug Price Control Order (DPCO) which compartmentalized drugs and specified a maximum allowable post-manufacturing expense for each category^{3,1}. This figure demonstrates that private dispensaries are not abiding by DPCO policy.

Conclusion

Given India's role as a rising economic powerhouse, intellectual property rights could become a determinant in India's status as a developing versus developed country. There are several domestic and international barriers that affect health delivery of generic medicines, such as economic pressures and intellectual property rights. Some issues this field study addresses are price control mechanisms and research and development. Other issues include India's high poverty rate and lack of everyday access to medicines. The central government has several schemes in place for free delivery of essential medicines. Despite these schemes, price-control mechanisms remain a challenge to accessing medicine in Northern India.

References

1. Ragavan, Srividhya. *Patent and Trade Disparities in Developing Countries*. New York: Oxford UP, 2012. Print.
2. Sampat, B., & Amin, T. How Do Public Health Safeguards in Indian Patent Law Affect Pharmaceutical Patenting in Practice? *Jour Health Politics, Policy, and Law*. (2013): 38(4).
3. Gurbani, N. Access to Quality Medicine: Rajasthan Model "Reaching the Unreached". *Pharma Times*. (2015). 47(2):18-25.

Acknowledgement

The author would like to acknowledge the contributions made by SIT staff, Dr. Azim Khan and Abid Siraj, for efforts towards field study preparation. The author would also like to thank the Hindi course faculty (Archna and Goutam Merh and Bhavna Singh) for their patience, sense of humor, and pedagogical techniques.

The author would also like to thank the interviewees for this field study. Thank you to Dr. D. Gurbani of the Indian Institute of Health Management for his contributions to the author's investigation of price-control mechanisms.