books & ideas

The Scourge of Counterfeit Medicines

Mathieu Quet, *Impostures pharmaceutiques. Médicaments illicites et luttes pour l'accès à la santé*, La Découverte

By Étienne Nouguez

Counterfeit medicines are supposed to number in the hundreds of millions and to wreak havoc on people's lives. How to interpret the fact that NGOs, governments and activist movements oppose the fight against this scourge?

Since the beginning of the 2000s, the fight against counterfeit and illegal medicines has become an international cause, mobilizing the World Health Organization and the World Customs Organization. Numbers and harrowing facts are regularly cited in justification of the international agenda: one in 10 drugs in circulation in developing countries is apparently illegal, and customs intercepted 550 million doses of counterfeit medicines in 2013; these medicines have also caused many deaths, the most striking example being the 2500 deaths in Niger in 1995 after a fake vaccine was administered (pp. 7-10). In this context, the international fight that was organized from the 2000s to counter this scourge of "pharmaceutical fraud" appears not only perfectly justified, but even somewhat belated. How, then, can one explain the fact that NGOs, governments and activist movements have protested against this fight? Based on two ethnographic field works conducted in Kenya and India, and on an analysis of the press and of reports published by the World Health Organization, Mathieu Quet's book highlights the controversies surrounding this

"pharmaceutical fraud", which involve public health, economic interests, the securing of quality medicines and the monitoring of their global circulation.

Fifty Shades of Pharmaceutical Fraud

The first major contribution of this book is its revisiting, in continuation of the research done in economic sociology and history (Chauveau, 2006; Stanziani, 2007), of the mixed issues of public health and trade raised by the categorization of medicines. "Substandard, spurious, falsified, falsely labelled, counterfeit": this juxtaposition of adjectives, which gave its name to a working group created in 2010 by the World Health Organization, highlights the semantic ambiguities in the categorization of pharmaceutical fraud (p.44). Whereas "sub-standard", "spurious" and "falsified" indicate quality defects, or even outright deceptions, jeopardizing the health of those who consume the medicines, "falsely labelled" and "counterfeit" describe violations of transparency of information and trademark and patent law that primarily damage the economic interests of manufacturers. However, the mere juxtaposition of these adjectives in a single category (and thus in the missions of the working group) places all these drugs on the same level, disqualified as various forms of pharmaceutical fraud and all requiring withdrawal from the market.

> "The shared characteristic of medicines that are considered illegal is that they have not been controlled as such by the competent regulatory system within the territory and are sold without respecting national or international pharmaceutical standards" (p.16).

The book's primary aim is to retrace the process by which manufacturers have managed to convince international organizations and States (especially in the South) of a vision and a practice of the "pharmaceutical safety" that does not draw a distinction between those forms of "pharmaceutical fraud" that pose a threat to public health (counterfeit medicines) and those that pose a threat to economic interests (counterfeit medicines and generic medicines). In the 1990s, and even more so in the 2000s, pharmaceutical companies set up working groups within the WHO with the aim of promoting a very broad definition of illicit medicines and a policy of "pharmaceutical safety" that sanctions all these offences indiscriminately. These groups launched morbidity-mortality studies linked to the consumption of these medicines, but also estimated the market share of these imitations. They also developed and made available to customs officials technologies that are supposed to distinguish "real" from "fake" medicine and which rely on a database filled in by the large pharmaceutical companies (and therefore incomplete). Thanks to this effort to qualify and orchestrate "pharmaceutical safety", manufacturers succeeded in pushing the fight against all forms of "pharmaceutical fraud" onto the agenda not only of the WHO, but also of many States, turning public health into an argument used to protect economic interests.

The Various Worlds of Medicine

By tracking this "pharmaceutical fraud" from Kenya to India and from the WTO to the WHO, Mathieu Quet also provides a stimulating reflection on pharmaceutical globalization. Globalization is first and foremost about markets: although Western countries (especially the United States) account for the bulk of global pharmaceutical turnover and are home to almost all Big Pharma companies, most of the active ingredients are now produced in developing countries, particularly India (the "pharmacy of the third world"), China, Brazil and, for the African continent, Kenya. These countries have also developed large generic drug industries, first for their local populations and increasingly for export.

> "Pharmaceutical globalization results in the coexistence of heterogeneous market segments, from the multinationals of the richest countries, the powerful and internationalized Indian industry for generic medicines, to the national and even regional coverage of countries like Kenya" (p.78).

This globalization of markets has been both a cause and a consequence of the globalization of regulation through the rules enacted by the WTO and the WHO, making these institutions key arenas of confrontation between manufacturers and the States that shelter them. Finally, globalization has also involved social movements through the formation of international networks of activists specialized in patent law who try – by sharing information and organizing various events (such as those held in Vienna, Brussels and Dehli in 2010 against seizures of medicines) or awareness-raising activities (as in Nairobi, where Health Action International organized a meeting in the presence of Indian activists and lawyers) – to counter Big Pharma's ownership strategies with regard to intellectual property (pp. 41-47). These networks, which had been established to counter the patent claims of pharmaceutical companies, had a harder time taking control of the fight against "counterfeit medicines" because they did not immediately perceive the threat that this fight posed to generic drugs and access to health.

The originality of this book lies in its abandonment of the traditional North/South opposition to focus on "globalization from the South" as demonstrated by the relations between India and Kenya. These relations, which date back to antiquity, were strengthened by the British Empire and maintained after Kenya's independence. The Indian population in Kenya, or the number of people of Indian descent, is estimated at 100,000 and was recognized in 2017 as the "44th tribe of Kenya". They hold an important position in the Kenyan pharmaceutical industry where they play an intermediary role with the Indian industry. However, these relations between India and Kenya are not without their problems, as they combine cooperation and competition: Kenyan producers and distributors therefore not only face competition from Western Big Pharma who assert the superior quality of their products, but also from parallel imports of generic Indian medicines sold at competitive prices and of a quality deemed to be superior. In this context, the condemnation of "pharmaceutical fraud" and the implementation of a "pharmaceutical safety" policy constitute a major challenge for

"disciplining the competition" (Stanziani, 2013), by favouring industrial players who have invested in traceability devices for their products.

A Policy of Flows

In the last part of his book, Mathieu Quet connects the two previous reflections around what he terms the "pharmaceutical logistical system" and its flaws.

> "A logistical system is not just a system for organizing the movement [of goods or people]; it corresponds to a political regime by supporting a conception of the distribution of powers, the constitution of the public and of political subjects, justice and the common good" (p.162).

WTO agreements on intellectual property rights and the fight against illegal medicines (whether sub-standard or counterfeit) have thus established a tight barrier between drugs that have the right to circulate and those that must be withdrawn from circulation, between the legitimate flows that must be organized and the "pirate" flows that must be stopped, and finally between well-off populations who need to be treated with medicines (sometimes by "disease mongering" to increase demand; cf. Angell, 2005 and Blech, 2006) and poor populations who will be deprived of their access to legitimate flows. For the author, the current global pharmaceutical logistical system is merely another form of neo-colonialism whose "domination does not result from territorial control, the exploitation of the resources of a subjugated nation or cultural hegemony [but rather] from a combination of regulations, standards, transport techniques and facilities offered by export zones." (p. 184).

In the last chapter, however, Mathieu Quet makes a dent in the perfection of this pharmaceutical logistical system, by evoking three ways of disturbing "official" flows. First, he cites the "connection of flows" when "entrepreneurs" use their links with distributors, doctors or pharmacists to divert some legal medicines onto the black market (pp. 189-196). Next, he mentions the "diversion of flows", when Australian or American consumers who are unable to access their Hepatitis C medicines (the well-known sofosbuvir or Sovaldi®) in their country on account of their being overpriced or banned by the health authorities, organize buyers' clubs that use their contacts in countries where the medicines are available at a lower cost in order to import them illicitly (cf. the film *Dallas Buyers Club* for similar practices regarding triple therapies) (pp. 196-201). Finally, there is a "disruption of flows", when pharmacists and patients mobilize to sell and "self-consume" medicines (such as treatments for tuberculosis) outside of the recommended and authorized uses (pages 202-206). It is precisely these different types of arguments that policies focused on illegal medicines attempt to counter, if not eliminate altogether. Although "these diversions of flows" constitute only a tiny fraction of the volumes of drugs circulating around the world, they nonetheless stand as alternatives (and threats) to the pharmaceutical logistical system established in the 1990s and 2000s.

Mathieu Quet, *Impostures pharmaceutiques. Médicaments illicites et luttes pour l'accès à la santé*, La Découverte. 248 pp., €18.

Further reading

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