From smoke-free temples to technology trusts

Scholar sees impact of IP issues on global health emergencies

Dr. Anthony So, newly appointed senior fellow in Health and Science Policy at the Center for the Study of the Public Domain, is telling a story about his years at the Rockefeller Foundation, where he worked on global health issues ranging from improving access to medicines to enabling developing countries to respond to the challenges of tobacco use. His work to stem the epidemic of tobacco had taken him to Cambodia, a country where over half the men smoke.

“I had not been back in Phnom Penh in several years—not since the mid-’90s as part of a White House Fellows delegation. Then you could hear gunfire on the streets, and our visit coincided with news of renegade Khmer Rouge units capturing foreigners in Siem Reap. The genocide had robbed the country of its public health infrastructure. Now the streets of Phnom Penh were noticeably different. Tobacco promotions were everywhere. The Health Minister said that even the nation’s flags along one avenue had been replaced by Davidoff cigarette promotions for an upcoming concert.”

Dr. So was in Phnom Penh funding grassroots programs to work on tobacco control, building capacity at the community level. “We had started to work with the Adventist Development Relief Agency (ADRA) on their ‘Smoke-Free Buddhist Monks’ project. After several workshops, the Buddhist monks at the leading teaching temple in Phnom Penh—all two hundred of them—collectively decided to quit smoking. A year later, over 90 percent remained off cigarettes. The monks declared the temple grounds smoke-free, refused cigarettes as offerings, and when finished with their training, started to spread this message in their home provinces. I remember joining an ADRA outreach team as they set out to one of these temples. An hour and a half outside of Phnom Penh, where the roads were no longer paved, I could still see roadside cigarette stands. Not even Coca Cola had vendors along these rural roads. My only consolation—at the end of this road, there would be…a smoke-free temple.”

His tone is upbeat, but it becomes somber when So turns to some of the current tragedies that global health policy has to deal with, tragedies that are epitomized, but not limited to, the HIV/AIDS epidemic.
“We read about the plague, or the black death—about the depopulation of whole areas, about children left as orphans—and it seems safely removed in history. But we are living through such a period. In 50 years, people will look back and say ‘you had the drugs. Why couldn’t you figure out an affordable and effective way to get them to the people who were dying?’”

His commitment to these issues is sufficiently obvious that one wonders at first why he is at Duke working with a group of intellectual property scholars, rather than continuing his distinguished career at Rockefeller. His answer is that the difficulties in global health are not just medical or scientific. “Think of AIDS as an example. To race against this epidemic, we are going to have to solve legal problems as well as medical ones.”

The idea of legal scholars saving lives seems strange. But as So talks it becomes clear that the legal problems to be solved are complex. Again, he uses the example of AIDS drugs. “If we had a single combination drug pill dosed twice a day as opposed to a handful of drugs taken separately several times a day, we would be in a very different position in terms of patient compliance. In the area of HIV/AIDS this is crucial.” But assembling a single combination pill at an affordable price is not so easy. “Multiple manufacturers may hold patents on drugs needed for combination therapy—such as for AIDS, but also for tuberculosis and malaria—and cross-licensing these patents must happen if the combination therapy is to go to market.”

How can that cross-licensing be achieved quickly and cheaply?

One possible answer, on which So is working, is a “technology trust,” an institution that would pool essential intellectual property assets in order to streamline development and contain costs. It is a concept that is still in its early stages, he says.

“Pooling of intellectual property raises all sorts of questions: How do you regulate availability of intellectual property in the trust for those who have joined and those who remain outside,” So says. “How do you handle the antitrust issues that arise, what are the penalties for those who leave the pool? There’s a lot to be worked out.”

Dr. So emphasizes that protecting the economic structures of the developed world is important in considering proposals like the technology trust. “We have to get the right incentives for continued research and innovation.” But he believes that the importance of the technology trust may not be limited to distributing the fruits of pharmaceutical research, it may play a role in helping to ease barriers to research in the first place. “Science is a cumulative and sequential process. Patents can help drive that process, but if they are granted too broadly or in the wrong areas they can also help to block it. It’s easy to see how not having access to a basic building block of knowledge would make follow-on innovation difficult.”

Facilitating that deeper understanding of innovation is one of So’s research goals—a necessarily interdisciplinary goal that helps to explain the multiple appointments he holds. Apart from his position as a senior fellow at the CSPD, So has also been appointed as director of the new Program on Global Health and Technology Access at the Sanford Institute and serves on the Steering Committee of the Center for Genome Ethics, Law and Policy.

Dr. So says that Duke is one of the best places imaginable to tackle these crucial questions of intellectual property and global health, and he looks forward to working with colleagues such as Jerome Reichman, Arti Rai, James Boyle, Tracy Lewis, Wesley Cohen, and Robert Cook-Deegan. “At any international gathering about intellectual property rights, someone from Duke always seems to be there,” he observes. “Duke has become a real incubator of cutting-edge ideas. That makes it an exciting place.”

James Boyle, William Neal Reynolds Professor of Law, is frankly exultant about luring Dr. So to Duke, away from the other elite academic institutions that pursued him. “It is a great coup. It is not simply that he is a physician with unique policy expertise, or one of the most admired professional philanthropists in international health care, or that he is an inventive scholar whose ‘technology trust’ idea holds real promise. It is that Anthony is a final piece in the puzzle in work we are doing here. He really helps to bring our interdiscipliary efforts together. We are delighted he has joined us.”