

# Déjà Vu: A Fictional take on the Repeated History of Pandemics and IP Law

**Rafia Akram de Gama**

University of South Africa  
dgamar@unisa.ac.za

It all seemed like déjà vu as he had heard the same words, spoken exactly as he heard them now. The strange feeling persisted as the small crowd, masked and spread out surged forward to wave placards at the building; the empty building. The futility of the moment, flowed through his body, like a poison, constricting his breath as it dawned on him that he had been here before.

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She was energised, despite the heat, the crowd and the mask making it all hard to breathe. She remembered how she had marched when the HIV AIDS pandemic was taking a heavy toll around the world. She remembered how, then too, it had felt like a climbing a mountain. Then she had just started to study at university and had joined some friends, who insisted she be there; she carried her belief that caring for others was a form of worship.

Twenty years ago, he had been only 23, full of energy and hope. Walking to the pharmaceutical headquarters, was an easy walk, the chats were invigorating, and the feeling of power hung in the air. As he had looked around at the main road filled with people, he and they knew that this walk would make a difference for those in need of the Antiretrovirals. He could buy for himself as he had a well-paying job, but he knew so many who could not. He had felt powerless most days, but that day he was powerful.

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Twenty years ago, she had been a student, young enough to not know enough of the world to naively think, everyone would rally, companies would change their ways and people's lives would be saved, immediately. Now she knew through experience, that it was a fight every single day, being an activist meant that there were too many fires and too little water to douse them, yet she persisted. So many friends had perished before the change had occurred. With every cause, she had to keenly feel failure and fight the urge to give up.

Looking back at that moment, he thought back to that HIV AIDS march for access to Antiretrovirals and the mix of people in South Africa that came and supported it; some understood the issues, others did not, but everyone was profoundly aware of the power of big multi-national pharmaceutical companies that were keeping away lifesaving medicine from the people in countries across Africa. The inequality was palpably felt.

He had been raised disconnected from others, separated by race and class. As an adult, that march was the very first time, he felt connected to someone who looked nothing like him, connected by the need to acknowledge the dignity of every person.

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That march so many years ago had seemed like the miracle that was South Africa personified, the rainbow nation galvanised by the singular understanding that people, their lives, and their dignity mattered. She came from an area where it was easy to feel that no one mattered, hard work led to nothing, people suffered needlessly, and HIV AIDS was but another pain to her community.

A flurry of newspaper articles in the Global North wrote about the end of the HIV AIDS pandemic; that people were now safe, and marveling at the longer lifespans of those taking antiretrovirals. The articles commented on the fact that lessening stigma had led to great freedom for so many. At the same time, the HIV AIDS pandemic raged and still does in the Global South and in improvised areas of the Global North.

In 1999 pharmaceutical companies finally backed down against the wave of disapproval and civil society backlash and allowed South Africa to import generics into Southern Africa, but so did the government. The laws that had raised the might of the companies gathered dust in some backroom office and maybe that was the bargaining chip that the government has cashed in to get the lifesaving medicine. He realised that he too had become complacent, middle-aged with middle-class sensibilities.

He had retreated into the safety and prestige of academia, writing on the importance and value of words in law. For twenty years he thought he had focused on real issues, the wrong words could hurt people and their aspirations could stymie progress. This step forward had meant a relinquishing of voices of dissent or challenge and adding the familiarity of his past. If he were to be honest, he had allowed the cocoon of suburbia to be his whole world, white South African suburbia.

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She did not pay attention to the news stories in the Global North that dismissed HIV AIDS as something those living elsewhere had to deal with. As long as they had treatment for their citizens and tests to keep out those who had it, it was a non-issue. For her it was real, it was personal, a cousin shrank before her eyes as he had no way of getting Antiretrovirals. She celebrated when the government took steps to care for her

cousin and others and was enthralled by their courage. It cemented her decision to be an activist; to find cause after cause.

The momentum to change laws to ensure access to life-saving medicine died down. The laws protecting the intellectual property of pharmaceutical companies remained on the books. There were more pressing demands, in a country that remained highly unequal.

The world turned when big events involving banks occurred and bad decisions were made giving more money to the banks and taking away from the poor. Laws and policies talked about being pro-poor, everywhere, especially in South Africa, but the chasm only furthered between those who had everything and those who had nothing.

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She stayed in that energising space, her passion burning bright, and the winds that moved to extinguish it also flamed it more. They had victories; she and her compatriots were pitted against the very government that she had admired those twenty years ago. The very same government that had let their citizens down and the beautiful words that were written on the walls of the constitutional court ignored, effaced in action.

Then one day, while at work he was told everything had changed, the viral infection was not just in some countries but was now here, in South Africa. COVID-19 had upturned his world and that of everyone. He had cleaned out his office and tried to take everything he needed to work on for the next couple of weeks. But he never came back to his office. Work had to continue from what he had always thought of as his sanctuary. Both issues arose as false scarcity, created due to patents and copyright being used by pharmaceutical companies as a way to have a monopoly over treatment.

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Then she was asked to take work online, just for a while; she could drive out to the communities that needed her. She hoped, against hope that it would be temporary while she paid attention to the news, her worry around her work, her family paramount in her mind. She saw, delayed action elsewhere and initially once again was filled with hope as the government talked about science and its reliance on it.

When he ran out of readings to surreptitiously read while he was at yet another online meeting, he started cleaning his computer, and there nestled in, amongst his articles in a writing folder where there was research to push for changes to the law, to allow for easier access to medicine. Other more pressing, or sadly more fascinating research had put it on the back burner in his work.

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She felt alone, her work continued but she missed people. She started to connect more and more online with like-minded individuals and saw that a gap had occurred between her very first march and now. The companies had stepped back from taking the government to court to stop them from providing medical care to people. However, the government too has stopped any promised changes to laws to continue to take care of their citizens. It was as if the move forward had been frozen in time.

What had been a mere missed opportunity for him, to publish and to push for a greater legal and economic framework, now seemed urgent and necessary. The years between the march then, and now had been a whirl of ups and downs in South Africa, with regards to the stigma and treatment of HIV/AIDS. Society still needed to come to grips with millions of those living with the disease and this process as he had witnessed, was ongoing and only partially successful.

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She finally recognised a place where she could see the end of the action that started so many years ago. She had merely been one of the people who had joined the march, now she would lead, she would raise her voice, and make herself be heard. She started to reach out, link up and build knowledge. This second pandemic had a different nature; scientists were still learning and so was she. She made sure to share information to counter the misinformation.

COVID-19 was inadequately prepared for medically, pharmaceutically, and legally. The response to this new pandemic took the usual tones; finger-pointing, blame, delayed action, and of course not listening to experts. This happened across the world and in South Africa. Then, the second pandemic hit, and the misinformation created monsters out of everyone that believed it was real and a threat, and those that believed everything but that.

On his beloved continent, brave souls offered themselves to be his first test subjects for medicine and vaccines. But of course, their poverty and lack of resources across the villages, towns, and cities that made them good subjects, meant they waited in vain to buy that same medicine and vaccines.

We were good enough to be lab rats, but not worthy to get the vaccines. It's not that there were too few even though that was true in part but, the bigger obstacle was that the rich countries had bought up, in advance, more than they needed and more than their share. The same companies that had happily pocketed money from governments to take research from universities, and health institutes that set up the 'ford car line' manufacturing process, now felt the need to ask for more and more profits, not caring for lives outside their big markets.

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She started to write, asking newspapers to publish her pieces and editors already liked her thoughtful writing. She set up groups of people and energised those willing to work with her. She set out to make herself heard and social media aided her. Her deep knowledge and non-judgmental initial writings slowly turned into righteous anger aimed at the stupid, illogical actions of the Global North that decided to react the way they have always done in the past, keeping knowledge, medicines, and vaccines for themselves at the expense of the rest of the world. It almost seemed like they were willing for Africa to suffer and be effaced, acting surprised when the pandemic did not exact a heavy enough toll.

It was a somber walk, they snaked their way right up the Department of Trade and Industry, where languishing for a decade were amendments to pre-democracy laws dealing with patents and copyright. These amendments have been seen as unimportant and fodder for debates on language use but now, when everything had stalled, there was no way to ensure that lives mattered more than profits. We were asleep far too long; I was asleep far too long. He bit the inside of his mouth, he who used his writing as a tool could have done more to push for the changes so desperately needed.

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She had slowly realised that it was not only a march reaching out to those who support the Global North, but one against the governments' inaction, the greed of the Global North and the lack of systems to provide healthcare to all who live on this planet. She wished people paid more attention to this march than to billionaires going to space. This march, she had hoped, was for everyone not just those in South Africa; a change here would replicate elsewhere in the global South.

It was one of the companies asserting that the COVID-19 pandemic was over, that spurred him today to join the march. The pandemic was not over, not here, not in Africa not anywhere where people had not been given their first shot of vaccines. He walked grimly, but firmly. Today the march was not only against these avaricious companies, but it was also against the government that had ring-fenced health away from them, and against himself, lost in his cocoon of middle age, middle-class life. He had been rudely awakened to his own failure, his own futile life. Now was the time to set a new path.