Getting Curious with Jonathan Van Ness & Priti Krishtel

JVN [00:00:00] Welcome to Getting Curious. I'm Jonathan Van Ness and every week I sit down for a gorgeous conversation with a brilliant expert to learn all about something that makes me curious. On today's episode, I'm joined by Priti Krishtel, where I ask her: How has our medicine system expired? Welcome to Getting Curious, this is Jonathan Van Ness. I'm so excited to welcome to our show Priti Krishtel. You are a health justice lawyer and you also co-founded I-MAK, which is a nonprofit building a more equitable medicines system. That is a big, hard job that you are doing.

PRITI KRISHTEL [00:00:38] So thanks for having me, Jonathan. It is a big job. It's a big job. And there's a lot of us doing it. The access to medicines movement, we're all over the world, and there are people in every continent who are fighting for a more just medicine system so that treatments and vaccines and testing reaches everybody who needs it.

JVN [00:01:00] OK, so here's the thing. I think that you are such an incredible person to talk to about this because you are a health justice lawyer. I didn't even know that health justice lawyers existed before I read about you and listened to some of the podcasts that you've done. I mean, we all have a stake in obvious access to medicine, I've lived it as someone who's living with HIV. That is, like, its whole own other podcast. And access to those drugs is a whole other series of podcasts. But most recently, with Covid, you know, we all do have a stake in this. We are all living through this pandemic together. And the misinformation and the vaccine hesitance has really crept into my life in such a way that I didn't realize that it was going to. I thought that it was something I was, like, going to read on the news. And in reality, it's in friends and family.

It's, I mean, every week there is more people coming out of the woodwork who I love and care for so much. And I am hearing just this heartbreaking stuff that is coming out of them. So I am really determined to figure out more about why this is like this. And I think that not only can we talk about misinformation and vaccine misinformation, which is a different podcast with a different person, I think we really need to understand: What are vaccines? Who owns vaccines? And more importantly, what I was thinking about is: why is, why is who owns and develops and regulates vaccines so important? Because that is, that's to me is, like, one of the million dollar questions, because it is just such a complicated, vast system that I think people are really overwhelmed by and they're scared. People are scared. And so I feel you are the person to demystify this. So to start off, at its most basic, that's just, you know, where I'm coming from: what is a dang patent?

PRITI KRISHTEL [00:02:56] So patents, the original intention behind patents was that they are a time-limited monopoly, so if you invent something, we want to motivate you to invent

your thing. And so we're going to reward you with a monopoly. That was the original intention. But today, big corporations hire lawyers, they hire lobbyists, they file as many patents as possible. And they're basically trying to hold on to their monopoly power so they can stay the only ones on the market who are in charge of selling their product. And we're seeing the results of that with America's prescription drug pricing crisis. We're seeing it with global Covid vaccine equity. When you give this much power to a handful of people or actors, it actually can be a problem if there's not checks and balances in the system.

JVN [00:03:50] Absolutely. And so you just said a monopoly. And it's like I thought that when someone had a monopoly on something, you had to not pass go and the Supreme Court would strike your monopoly down. Like, haven't we heard about these monopolies getting broken up before? But in the medical field, it's encouraged, or it's just what it is?

PRITI KRISHTEL [00:04:09] I think across the board today we have a monopoly problem. And there's amazing organizations doing work on this. Open Markets Institute, American Economic Liberties Project, from a racial justice perspective, Liberation In A Generation. There's all of these civil society actors who have come up to say, "Wait a second, whether you're talking about who we get our cable from or what airline we fly or whether people have cell phone access in prison, across the board we have a monopoly problem in America today." Because over the last 40 years, what you're talking about is essentially antitrust or the ability of the government to regulate monopolies. That has been eroded over time. And I think there is a new movement of actors, across, actually, the political spectrum saying, "Hold on a sec, big tech has too much power. Big pharma has too much power. So how are we all going to join together to really push back against that power?"

JVN [00:05:11] Yes, yes. OK. So how does, like, medical patents differ from, like, other, like, intellectual property? You know what I mean? Like trademarks and stuff.

PRITI KRISHTEL [00:05:24] So there's different kinds of intellectual property. The basic idea is the same, is that it's giving you a right to exclude everybody else from whatever it is. So with patents, it could be on things like your cell phone or your insulin. Trademarks can be about your brand. So if you get trademark protection and you're Nike, you can protect "Just do it." Or, you know, Coca-Cola, like, that term could be trademarked. And then there's copyright, which is, you know, for literature or music or nowadays for podcasts, it's a protection for you, for your creative work.

JVN [00:06:03] Oh, my God, do we need a copyright? Just kidding. But so there's that. So there's trademark copyright. Then there's a patent. Is that kind, does that cover them all?

PRITI KRISHTEL [00:06:15] There are more forms of IP, but I think those are the most commonly known and used forms. And patents are for things like the actual medicine or the actual device you take your medicine in. It's for the technical invention.

JVN [00:06:32] Because we definitely got to learn about a little bit on diabetes from Elizabeth Fiester, who we love so much.

PRITI KRISHTEL [00:06:38] She's amazing!

JVN [00:06:38] Ohmygod, you know her?

PRITI KRISHTEL [00:06:39] I know her! From T-1 International, the diabetes-, she's incredible. She's amazing.

JVN [00:06:48] Small world. I love her so much. But I learned about some things about, like, the-, you guys, I'm making a face, cause I'm trying not to cuss in front of a lawyer a million times, but I'm trying to keep it professional. But yeah, she told me some of the things about it, and it is such a nightmare. So earlier you said that, like, you know, these companies will file patent after patent after patent. So let's talk about vaccines. We got the Pfizer slash BioNTech, whatever. Yes. Then we got our Moderna, then you got your J&J, of course. Then over there in Europe, you've got your AstraZeneca, honey. And then also, of course, you've got that Sputnik one. So, would Sputnik and AstraZeneca even be patented in the United States because they're not available here, or would those companies have already applied for a patent on those exact ones, here?

PRITI KRISHTEL [00:07:41] So it takes time for patent applications to be public, to be published so that the public can see them. But in general, companies do patent in multiple countries, because even if you're an American company who mainly wants to supply America, you still want to make sure nobody else anywhere is making your product, unless you've licensed to them. So usually the major pharmaceutical companies will apply for their patents all over the world because they're national rights. They don't, you don't just get a global one when you apply.

JVN [00:08:14] So, but, like, every country, do, do they have their own patent system?

PRITI KRISHTEL [00:08:19] Most countries do.

JVN [00:08:20] OK, so then so and then. So in the US who grants patents?

PRITI KRISHTEL [00:08:28] There's an agency that nobody's ever heard of called the Patent and Trademark Office. And it always, you know, I think about it all the time how nobody knows about this agency because everything from your phone to your prescription drugs to Velcro to if you want to get a DNA test, everything is patented. And so it touches every part of your life. And yet people don't know about the PTO. This agency, it's small but mighty. They are managing millions of patents over there. And it's the place that makes the decisions. It's the place that's got a lot of power, you know, that affects people's health and lives.

JVN [00:09:11] So, OK, because I think this is, like, where my brain starts to, like, it reminds me of when I walked into college astronomy and thought I was going to learn about, like, Zodiac stuff. And then it was all this, like, three-dimensional math. And I was like, "Holy shit," my brain just, like, like, like started like short circuits. So it's, like, the company has the scientists, they get there, they get their idea for their medicine, they file a patent. Then do they go to the FDA or the CDC to organize trials?

PRITI KRISHTEL [00:09:44] Yeah, it's a great question. So. If you are inventing a medicine or vaccine, you go to different places much earlier on, usually, you would go to the patent office and apply for your patent. That's the first thing you'd do, because you'd want to protect it.

JVN [00:10:01] Even before you know what it is.

PRITI KRISHTEL [00:10:02] Even before you know what it is. That's the key. And early on and what companies actually do and we're seeing this more and more in our research, you actually file a ton of patents because you want to make sure nobody's even-, you put up a fence. You don't want anybody getting even anywhere close to figuring out what you figured out. And then you keep developing it, you keep building that fence higher and higher, and then you go to the FDA and do what you need to prove to the government that your drug or your vaccine is safe, that it's efficacious or effective, and then they give you your protection. And then what we see through our research is that after they get that approval from the FDA, they start filing tons of patents because now what they want to do is they want to block competition off the market for as long as possible.

JVN [00:10:48] I don't know if you ever, like, listen to this podcast. I have an annoying habit of comparing everything to Erin Brockovich, and talking too much, generally. So I was going to tell you that, straight up. OK? So what happens? The, the fierce lawyers go, maybe now it's all virtual, but, like, when you, you, you get the gorgeous, like, packet of papers to do your patent, you write it or something, and then you go file it at this PTO, the Patent and Trademark Office?

PRITI KRISHTEL [00:11:14] So it depends on who you are. If you're a major corporation or university, you've got whole law firms and your own in-house department of lawyers who's going to do all of this for you. If you're an individual who has an idea or a small business or a startup, it's a more onerous task, right. You've got to figure out what the paperwork is. You probably have to hire a lawyer. There are a lot of costs associated with it. And so it takes time. And that's why it's a little bit unfair, the whole way the whole system works, because it's definitely harder for the little guy. But the PTO does a pretty good job, like they have a pro bono program that most people haven't heard of that helps, you know, individuals or small businesses apply. And Congress did something really good, which is that they actually, in 2011, they made it cheaper. If you're small, it's cheaper for you than if you're a giant corporation.

JVN [00:12:08] Oh, I love a sliding scale.

PRITI KRISHTEL [00:12:09] Yeah. You know, We're. So here's my whole thing. Where we don't have a sliding scale is if you want to challenge a patent. So my organization and many people in the access to medicines movement, like, we did this a lot for HIV: if a medication has too many patents filed on it and they're just trying to hold on to their monopoly and make sure drugs can't get cheaper, we used to go in and we used to challenge those patents. But here in the US, it's really hard to do that because they don't have a sliding scale. So if you want to challenge, let's say, ten patents on an HIV drug, just to file the cases would cost you something around three hundred thousand dollars.

JVN [00:12:48] What do all those different little patents look like, as, as your building your big ass, like, you know, that business is, like, 80 feet thick and a hundred feet tall. Yeah. It was, like, bricks that go horizontally that make it so thick. What do all those patents look like that are, like, different, like, one's like to a particular molecule that's like a part of...

PRITI KRISHTEL [00:13:10] Yeah, that's great. That's it. So early on. No, I told you they want to make sure nobody else is researching in their space. So there we see a lot of the compound or the molecule like you called it. There's a lot of that kind of activity. But then what we've been able to see as we've gone through and played the patent detective role is that after they get FDA approval and the government says, "OK, your drug is safe and it's effective, you can start putting it on the market and treating people," then the patent applications, it just becomes a lot more clear they're doing it to block the competition and just hold on to the market. There's things in there like the method of how you treat people, or a different form, like a syrup instead of a tablet, or they say, "Here's a new patent because it's 50 milligrams in dosage instead of 20." It's a lot more, it becomes a lot more frivolous later on.

JVN [00:14:03] I was going to ask that. So it's like so it could even be as simple as like, "Oh, we're changing, like, the part of this vaccine from, like, a, like, a synthetic goat serum to synthetic goat-, like, what-" You know, because like there's, like, the, like, I've read there has to-, whatever, focus! But basically just like things that are, like, relatively, like, not that important to the end product of what you're patenting is just like your whole entire process. And that's why you had to be a detective and a lawyer?

PRITI KRISHTEL [00:14:32] The main barrier is that there are so many, like, right now on the ten best selling drugs in America. There are over a hundred and thirty patents being filed on one drug, right? And then they're probably getting about 60 of those, like, they're actually getting that level of protection. So when you have 60 patents on one drug, who's going to look through those? A patent can be hundreds of pages of just chemistry to read through. You know, really who's looking through those? So we've done it, and it's, it's a big job. But at the end of the day, when you read through the ones that are filed later, they really are, they're just being filed as placeholders because that's what our corporations are incentivized to do. Right. They're supposed to maximize revenue for their shareholders.

JVN [00:15:20] So which is why, which is why we shouldn't, like, that's why health care shouldn't be for profit. When you have a pandemic, it's like, you know, it's not getting your hair done. You know, it's a right. This is a right. It's a human right with health care. Get it together now. You honey, like the public, you know, I'm saying. Yeah, yeah. So OK, wait, so do you know off the top of your head, like how many patents are on any of the vaccines or are they all too new to know how many patents there are?

PRITI KRISHTEL [00:15:48] They are too new right now, we're slowly starting to get information, but I think in the coming months we're going to get a lot more information.

JVN [00:15:58] So also one more question, have you seen Erin Brockovich?

PRITI KRISHTEL [00:16:03] feel like a long time ago.

JVN [00:16:06] I almost feel like your type of law is like if Ed Masry had meant to get into, like, health care law, like, he did it by accident, but, like, you did on purpose from the get go because you have vision. Yes. Obsessed. So the Patent and Trademark Office, I just wanted to ask really quick, is that like a postmaster thing where it's, like, ten years that a president appoints the leader to or something? Like, who leads it? Or is it just, like, some random person that we don't know about?

PRITI KRISHTEL [00:16:35] No, that's a great question. The president does pick who they want. And this is a big conversation actually that's happening, which is so many of our agencies are appointees where the president actually picks them, but they have so much power over our lives. So when we pick our president, it actually has all of these implications. Like, in this moment, whoever is heading the Patent and Trademark Office is going to have the power to do so many things like look over the IP for our Covid vaccines or think about what's happening with this pharmaceutical trend of filing hundreds of patents on one drug. So it's a really important position. And we're waiting right now, actually, for the president to pick who's going to head the Patent and Trademark Office for the next few years.

JVN [00:17:24] So what about when you said earlier about that you when you, so I-MAK has, like, knocked out patents before, or challenged them? Yes. So what? So if that's successful and you're able to, like, knock out like or take out enough of those little baby bricks, like, does the whole patent crumble, and then you can get like a generic drug on the market or something?

PRITI KRISHTEL [00:17:44] That's right. And we do, we don't go after all the patents we go after. Remember I told you at the very end, after FDA approval, you know, when they want no competition, we go, we look at those and we're like, "These aren't really inventive. This is just some business gaming strategy a bunch of lawyers came up with." So we go after those and then it shortens the life of their monopoly. So then you can get other people on the market, other generics. And when you have generics, you know, the data shows that prices come down by up to 80 percent. So that's the goal, is that more people should be able to get the drug. It should be cheaper.

JVN [00:18:20] And then you said that they do have a sliding scale for how much a patent costs, but not a sliding scale to challenge one. So how much does filing a patent cost, like, ballpark for like an individual versus like a corporation?

PRITI KRISHTEL [00:18:33] I can tell you that it costs on average. It's really confusing and complicated, but on average, it costs 10 to 30 thousand dollars to file and maintain your patent, which means you've got to figure out how to do the paperwork. You've got to hire a lawyer. And then to keep your patent alive, you have to pay maintenance fees. So it's not clear, actually, but that's roughly in the ballpark for one patent, how much it would cost.

JVN [00:18:58] And then how long does a patent last?

PRITI KRISHTEL [00:19:03] It's supposed to be 20 years. That was the original intention, when the law was amended in recent years. When we first got a patent system in this

country, shortly after the Constitution, it was much shorter. And then slowly over the years, we worked our way up to 20 years. What companies are doing, though, and universities, like I'm saying, they're building these patent walls around one product. So that's why you see things like insulin that are still patented or things that are really old are still getting more and more patents filed on them. And some, you know, it's going to cost us a lot, too. This is the other problem, like, the drug, the cancer drug that's about to be the top selling drug in the world. It's called KEYTRUDA. I think they've already filed one hundred patents on it. And in the extra years of Monopoly over the 20 years that they're going to get, it's going to cost America a hundred and thirty seven billion dollars for that one drug in those eight years. So this is the point of building patent walls. It means you can make even more money later on.

JVN [00:20:11] One hundred and thirty seven billion dollars in eight years.

PRITI KRISHTEL [00:20:19] It's a good life.

JVN [00:20:22] Whoa. Yeah, you guys, that is so much money.

PRITI KRISHTEL [00:20:30] It's a lot of money.

JVN [00:20:32] That is so fucked up. Obviously, I don't need to tell you that, but, like, fuck, OK, I'm sorry. I just have to, like, that just I'm sorry, it just took me off guard, it wasn't ready for me, I was thinking maybe one thirty seven billion over like 50, but it's just so much worse than 50. Oh my God. So not true. And I wasn't even trying to talk about cancer drugs. So, so overwhelming sense of defeat washes over host. Host is going to push through because one of the saviors, honey, is right here on the podcast because that's what you're doing to help fight all this stuff. OK, so let's go into, let's go deeper. When will we know if, like Sputnik or AstraZeneca, I'm sure AstraZeneca has applied for a patent here...

PRITI KRISHTEL [00:21:29] Usually patents are published 18 months after they file for it. So we should start seeing now a lot of the early Covid invention pipeline. And so with a company like Pfizer, from what we've seen in the past, they're so big, they want to make sure they are claiming every market for themselves. So usually they do file their patents everywhere, and they have also, like, so for pneumonia, right. Pneumonia is the leading killer for children under the age of five. And Pfizer's the one who actually owns that vaccine, too. It's called pneumococcal. What we saw, about, I think it was about 10 years ago is that Pfizer started to bring suit, you know, against other manufacturers in Korea, for example, or India, to basically block them from using the patents to basically enforce their patents so that nobody else could bring the vaccine on the market.

And the problem with that is they're not making the vaccine available affordably everywhere. And so we still have a pneumonia problem. And so this is why in the context of Covid, so many of us are advocating and saying, "Look, Pfizer, you're not going to supply everybody. This is about to be your most lucrative product of all time. You're going where the money is. So you're going to the Europeans, you're coming to America. Of course, that's who's going to pay the most. But why don't you let people in other countries make the vaccine, too?" It's just, they're not incentivized by the market to do it. And it's a real, that's the failure of our system today.

JVN [00:23:03] And I think in order for us to understand how we got here, we do need to know a little bit more about our past. And what is kind of some of the history of medical patents in the US and globally. Like, where do they get their origins? I think you said right after the Constitution?

PRITI KRISHTEL [00:23:19] Yeah, America set up its patent system in 1790, but it had a very different feel to it, I think early on, you know, for the first hundred and fifty years or so of patenting in America, I think the patent office gave out, in total, five million patents. And then in the last 30 years, they've given out six million patents. So you see that what patents used to be in our country was very different. You know, I think it started out being a way to reward inventors for coming up with something. And in the last thirty years, it's become a business strategy. It's lost its original integrity.

JVN [00:24:02] And when it comes to health care, it's, like, people are literally paying with their lives. And so is this could this be this like-. Is that why there's some-. Is that one of the engines of disinformation and why there's so much out there? Because it's all about protecting the money and like creating buzz around money? I don't know. I feel like it's like I literally I literally actually don't know. I'm just literally processing in real time. So I think-

PRITI KRISHTEL [00:24:28] Can I answer that? I think that the companies have incentive to get people vaccinated. But what I don't think we talk about enough is that our whole, like, in America, we talk about the health care system all the time. Right. Because of the fights for, like, affordable care, we all understand at a vague level what insurance is, what hospitals are. But the lesser known counterpart of the health care system is the medicine system. So like you said, from drug development, through patenting, through FDA, how does it get to people? Who gets it? How much do they pay? That whole system, nobody talks about it. It's kind of invisible. And that system has really been a source of mistrust for a lot of Americans, and a lot of working Americans. It's not a system to be trusted. And so I think that's a lot of what our work is now is: how do you make this invisible system very

visible to people so people start to get it and we can start to make it better? Because right now, as we're seeing in real time, it's not working as well as it should be.

JVN [00:25:35] And that's true of, I mean, access to HIV medicine, insulin. It's true of everything. And literally access to every single medication. It's, it's true in every single place. But it does affect Black and brown people, the Global South, it affects low income people much worse because, and we've learned from other episodes of Getting Curious around the economy about how all of these systems are really rigged to punch down. Very seldom do they, like, punch up to the people who have money because you can typically buy your way out of it, especially if you got that, like, fucking Pfizer money, for crying out loud. That's wow.

But so, let's, can you help us make it a little bit more visible, because I think I'm starting to see, it's, like, the medical system, our health care system. It's not like it's that alone. Doctors need medicine to prescribe to help heal people. Hospitals need the medicine, they need the equipment. And then there is, it's, like, there's the patent system, and then there is the FDA, CDC, like, the governmental regulation, which I guess they're both governmental regulation, but they're, just, but they're very bureaucratic and so layered. And I think one thing that I've learned about becoming a really forward facing public figure is in this short amount of time is that sometimes, you're you're building something as you're learning about it at the same time, and so when you're switching an administration like every four years and actually for so many of those administrations, they probably didn't have the best intentions because this is like literally a country that, like, you know, made all of its money off of these systems that like literally off of the enslavement of people and like literal genocides. So this is like a very intense thing.

But when you get into the later, like the patent, our medical modern medical system, this is built on a lot of really shifty bureaucracy that was like shifting literally every couple of years, changing wildly. And it's like no one ever deals with, like, all of that leftover stuff. I feel like. And it's why you have these like hundred page patents filed at a hundred a time. Lawmakers aren't reading these. Like, there's these very specific agencies that are all run by appointees from, like, a federal appointee that really does, like you said, affect our lives. And that's why it is so important, why we all know who owns these vaccines, who owns these patents. And it's just such a intersectional, multifaceted issue to really pull apart and understand.

So developed and tested. Can we talk about that a little bit? Who are the players in development and testing for vaccines? I mean, obviously there's all drugs, but let's stick with vaccines.

PRITI KRISHTEL [00:28:14] Yeah. No, the Covid vaccine, for example, there are governments around the world that put in over a hundred billion dollars so that we could get vaccines coming out of the pipeline. But those public funds, that taxpayer, we paid for that research, was basically handed over to private companies. So if you take a vaccine like Moderna, America put in two point six billion dollars in taxpayer money to pay for that vaccine and handed it over to Moderna essentially. So now today, Moderna has all the power to decide who gets that vaccine and who doesn't. So that's one of the things our movement has really been trying to lift up, is that this is really unfair, because not only is Moderna just raking it in right now, they're going to take that technology platform and they are going to use it for all kinds of other diseases and applications.

But they don't have an incentive, like, in the system to say, "Let me go make sure that Indian companies or Korean companies or folks in Brazil can also make this vaccine. Let me share the technology and the know how." They have no incentive. Why would they do that then? Other people would know the secret sauce. So that's where the whole IP system and where the idea of monopoly really comes in for the vaccine is: we're in between a rock and a hard place right now. You know, people are advocating that the president should use some serious powers that he has under the law to just go in there and grab that technology back. Why did we hand over the rights in the first place when we paid for it?

JVN [00:29:49] So let's talk about that for a second. I think this is another thing that I think personally from the research I've done and please correct me if I'm wrong, because I know that you have worked in this field around Covid vaccination. I know that you know a lot about this. I've read your stuff. I've listened to your stuff. So I know that you have, you know about these things, but: this research that we paid two point six billion dollars to create, I think a lot of times we heard people say, like, "Oh, this is so new. How did it get done so fast?" But wasn't this research being developed that developed mRNA vaccines being done in response to the MERS and SARS outbreaks in two thousand and four and six? So in reality, hasn't this research been going on for, like, 15 years?

PRITI KRISHTEL [00:30:31] Yeah, so there's been publicly funded research that's been happening and being built upon and built upon and built upon that allowed us to have this moment where things actually moved forward as quickly as they did. That's a great observation. And again, it goes to the question of so much of our scientific development today is publicly funded, not just the Covid vaccine, but so many treatments. And yet so many of those drugs, the therapies, the vaccines go into private ownership and are left to the forces of the market.

JVN [00:30:06] So let's break this down a little bit more. I feel like I read that someone had hypothesized that this type of vaccine, which is an mRNA vaccine, is different than, like, a

classic, like, you know, you take some the deactivated cell, like, the cowpox, you put it in your little cut and, you know, whatever research, original origins of vaccines, if you have done that already, for fuck's sake. But anyway. So people hypothesized that this could be possible hundreds of years ago or a hundred years ago, but this is the first time that we've ever actually found a form that works. But really, this development kicked into high research and development gear in response to MERS and SARS, which was in the early 2000s, like, it was, and it was the Bush administration. And they are the ones that were like, "Oh, this, like, respiratory situation, like, this could really, we should really get a vaccine prepared if there's, like, a literal novel coronavirus," which is what this was. Right.

PRITI KRISHTEL [00:31:59] So this, again, goes back to the point of its building blocks. Right. They get us here. We didn't actually have the vaccine ready to go and deploy. That's what pharma would argue. There was work that was required, even in this moment. But you're absolutely right. When it's been the government and universities, through publicly funded research, that have been laying all the groundwork and getting the building blocks ready so that somebody else can, you know...

JVN [00:32:27] So let's break that down a little bit more, even! So these MERS and SARS outbreaks happen, the Bush administration's like, "Fuck, we don't want to get caught with our pants down." So then they, do they give grants to say, like, I'm just guessing here, but, like, a Duke, a Harvard, a UNC, a Texas or whoever, whatever universities, those scientists at those universities will develop the research to give, like, the foundation of the literal technology. So it's, like, the literal technology that makes the vaccine. And then you hand it to this private company. Doesn't there have to be an exchange of money there? Doesn't Moderna need to pay, like, University of Whoever the Fuck to be, like, "Let's just take-." No? It's just, like, "We did this because of capitalism. Like, this is what we do in exchange for getting all this tuition or something?" Like, what's that about?

PRITI KRISHTEL [00:33:15] I think it's more that we're in an emergency. So we actually pay them both for the development of the vaccine and through advanced purchase commitment. So they were guaranteed a market. We paid them two point six billion dollars.

JVN [00:33:28] But was that before Covid?

PRITI KRISHTEL [00:33:30] I actually haven't checked those contracts. But from what I know from the groups that worked on that piece, that happened when the pandemic hit.

JVN [00:33:39] So but basically, no matter what the thing is, whether it's a Covid vaccine, whatever the vaccine or medicine, universities will typically develop it or, like, a company

will, their scientists will develop it, and then their law firm will deal with it. Are those kind of the two main avenues in which new medicines and equipment are arriving from?

PRITI KRISHTEL [00:34:00] Oftentimes you'll see universities do a lot of research and then small and medium enterprises, you know, smaller pharma companies, basically, will do a lot of research, too. And then the bigger companies come along and acquire the knowledge and get the IP around it, and then they commercialize it. They take it through trials. It's very expensive, right? So they're the ones that take it through that process. But in that moment, it's the biggest companies. It's those with the deepest pockets who also get most of the material benefit at that point.

JVN [00:34:37] So 2.6 billion for the development. What is the relationship between the development a university or like a scientist at a university and then handing that over to a private company?

PRITI KRISHTEL [00:34:53] Yeah, most universities now have tech transfer offices who negotiate these deals with the big pharmaceutical companies. And there's a bunch of student organizers actually all over the country and the world. They have an organization called Universities Allied for Essential Medicines. And they go in, students, and they advocate to the tech transfer offices, the TTOs, to say, "What are you doing? You're just handing this over to the pharmaceutical industry. When we know that, you know, this drug, let's say, for this disease actually affects low income Black and brown people or affects people in Latin America, why aren't you negotiating to make sure that those communities will actually get the drug?" Because what we see time and time again is once the universities hand it over, it doesn't reach the people who need them. I don't know if you remember this from, oh, I want to say it was the late 90s, with the HIV drug d4T. That's where the student organizers first got involved because they knew how much power they had to really shut the universities', like, freedom down in this way when the universities are just doing this with complete disregard to what's actually going to happen to the invention once it leaves their hands.

JVN [00:36:10] But they must, so, but the universities must get paid for these inventions.

PRITI KRISHTEL [00:36:12] Yes, it's a huge revenue source. So this is the cycle now, right, is at every point in the system, somebody is making a lot of money. Somebody is making a lot of money, and it's the patients and the consumers and the communities who are either lacking access completely or who can't afford their drugs.

JVN [00:36:35] So the university gets the technology or the company through small and medium companies. Then we get to the arrival of a drug that they want to test and they

want to, they want to test it. So, and that's really expensive. And then by this point, it's the pharmaceutical company who has the technology, so the university is, like, not really in the driver's seat anymore. And then how does that testing situation work?

PRITI KRISHTEL [00:37:02] So that's when they start doing clinical trials and they go through the whole FDA process and that, the costs of that are disputed. One of the arguments that the pharmaceutical industry has advanced over the years is it's such a huge and costly process. That's why they need to charge so much for their drugs. And over the years, what we've argued is there's not transparency. So, yes, we realize it's expensive. But you're overstating how expensive it is because there is no transparency. And then more importantly now, we think that it doesn't justify the increase in costs that's happening, right. America pays two and a half times more than any other high income country for our drugs. In 2019, I want to say that the overall spend in America was three hundred and seventy billion dollars for prescription drugs. But by 2028, that number is going to be five hundred and sixty billion dollars. So every 10 years, we're doubling what we spend. It doesn't mean we're getting more innovation. It doesn't mean that things got so much more expensive.

JVN [00:38:12] Yeah. When I was doing hair full time, honey, I raised my hair cut prices five dollars a year. They don't go from 125 to to 250 and then from 250 to 500. Like, these are, this is, like, insane. How much Fenty did Rihanna have to sell before she got one billion honey. Like, oh my God y'all. This is like major huge corruption. When you think to yourself, "Why don't I have access to health care? Why don't I have access to medicines that would change my life? Why don't I trust these fucking vaccines?" Hello, there's a lot of money there, honey, like, let's peel back these layers. So what does the testing process look like? Then, so then, like, the FDA, at least in the US, the FDA gets involved?

PRITI KRISHTEL [00:38:56] Yeah, they go through the three phases of clinical trials. They put their stamp of approval on it. And then the drug or whatever it is, enters the market and it starts going through all the normal channels to get drugs to people. So more manufacturers start to produce it. It reaches hospitals or other health care delivery sites, and ultimately, hopefully, it reaches people. That's kind of the entire medicine system. The reason that we say that patents are so important, though, is that at every stage of this system, patents are becoming a roadblock, like, we just have too many patents getting granted. And then the industry is getting really strategic about how they use every tactic in the book to get-.

For example, they get doctors to switch out their product. They tell them, "Oh, that we have this newer product now, it's better. And then they use that to get the old one off the market and put a newer version." I told you that they keep getting patents on newer

versions. And so there's just a hundred and one ways, like, tricks that they have in their toolbox that they have figured out how to make sure there's no competition and we're the ones who are suffering for it. You know, people are burying their children because they can't get insulin. People are saying they can't afford their PrEP. People are saying that, you know, their grandparents are filing for bankruptcy because all of the most expensive drugs in America are for seniors, like, the whole situation, is about to implode. And so that's why we're trying to really draw attention to the system and what needs to be fixed.

JVN [00:40:38] One thing that I learned from Erin Brockovich (not the movie, like, the person), cause I also got to interview her like I got to interview her twice. But she says, you know, like, "Superman's outcoming, don't trust any of these agencies, like they're all about money. They're not, like, out to protect you. Like, they're all literally built to cover their own ass. They don't give a fuck about, like, the individual." I mean, I'm kind of paraphrasing here, but that's kind of the gist of it. So, you know, for me, you know, a lot of times people are, like, with Covid vaccines, they're, like, "It was rushed. It was too fast. I don't trust that."

Whatever. I'm HIV positive. I'm literally like, I have HIV. I'm a queer person. Like, I have every reason to not trust this government. Like, we were, like, I mean, through like, you know, decades and decades of, like, oppressing non-binary, queer people like to the way that the administration was in power during the HIV, the beginning of the HIV AIDS epidemic, like, just so many systems, did fail us. So I get not trusting. However, now we're in a respiratory pandemic that's killed more people in the US in one year than HIV AIDS has killed, ever. Like, HIV AIDS in the US has killed seven hundred thousand people since it got here. Covid has killed more than that or six hundred thousand, whatever we're at now in, like, a year and a half, like, this is a really deadly virus. So I guess my question for you is, like, for you being in this, in this industry, like, do-, you trust the vaccines, right?

PRITI KRISHTEL [00:42:01] So I do trust it. I did take it. And at the same time, I really understand why people don't trust the system. I don't think the system has been trustworthy over time. And so I work in the HIV movement. Back in the late 90s, early 2000s, it was all predicated on people's rights and we've moved away from that language. Nobody talks about human rights anymore. It's really not sexy. But you have to start with people and their rights. And what does it mean to actually understand what your medicines and your vaccines are? How do you give people as much information as possible so they understand what they're putting into their body? How do you have a long term presence in communities who are historically very hesitant to get health care because of the, you know, mistreatment that they receive? I think this is long term work. I don't think now we're going to flip the people who don't want it. I don't think all the pressure in the

world is going to flip folks who have a real deep aversion and reluctance. I think we have to start doing that long game work so that we make the system trustworthy.

JVN [00:43:11] Dang! So it's almost hard for us to know how we, how we have seen how patents have come into play with Covid vaccines because we don't even know what when they were filed and what they were filed for, like, when they, because they're not out yet. Right?

PRITI KRISHTEL [00:43:28] Right. OK, so that's true. But what we do know is how patents have been leveraged and used in every other epidemic and pandemic. We know it from HIV. We know with hepatitis C, we know it from the other vaccines I told you about. So what we know is that intellectual property, including patents, is used to block competition and make sure that an individual company holds all the power. And based on all of our experiences, advocating litigating for twenty five years, making sure that people get access to the lifesaving medicines and vaccines that they need as soon as this pandemic hit.

That's why people started to push for a waiver on IP at the World Trade Organization, because if you don't have that, you don't have as many manufacturers as possible going, because the entire point of patents and intellectual property is to block competition. And if we don't get dozens of manufacturers going across the board, across the globe, we're going to be in the situation we're in right now, where in lower income countries, people aren't getting it. Africa, the entire African continent and India make up a third of humanity. People there aren't getting it. Less than four percent of people have gotten vaccinated. So we're going to stay in this loop, too, of variants emerging, and some of them are going to end up being vaccine resistant. And so we need a system where we get this vaccine right now to as many people as possible because we don't want to be in this pandemic longer than we have to be. It's not safe.

JVN [00:45:01] Do we still have the IP waiver or has it been put back?

PRITI KRISHTEL [00:45:05] There's no waiver. What we got, the win that we got that was pretty historic, is that the Biden-Harris administration said, "We're going to support it at the World Trade Organization." Because India, South Africa and 100 other lower income countries said, "We need this so we can start making the vaccine, too." But the Europeans are still opposing it. The pharmaceutical industry is still opposing it. So even though it was really amazing that the president came out and said, "Alright, we're going to support it," we're a long way from done, the negotiations are still going on about whether we're even going to get this waiver. But that's one of the things we're fighting for.

JVN [00:45:44] So what will it, what will it take to make vaccines accessible globally?

PRITI KRISHTEL [00:45:48] We need to get the waiver passed. We need IP not to be an issue. This isn't a moment for people to be protecting their corner of the market and their profits. So we need the waiver. On top of that, we need a strategy and we need a plan for manufacturing all over the world. And there are great organizations like Prep for All and Public Citizen here in the US who are fighting for that. And then we need investment. We need more funds put in to build the capacity to retrofit the factories, to do all, whatever it takes to make sure that medical products reach people all over the world.

JVN [00:46:22] It feels like we are so far away. I know that you're, I know that I-MAK is doing such important work. You mentioned Prep For All. How can people get involved in advocacy efforts and, and what could a more equitable future look like?

PRITI KRISHTEL [00:46:38] I think we are not as far from an equitable future as it seems right now. It seems pretty stark right now. People in other countries are losing hope. I think that's why those of us in America and in Europe have to fight for people across the globe right now because they're not getting the vaccine. Can you imagine still being on lockdown two years into this and that for the-, there's no strategy. There's no plan. And so pushing our government, we need a global strategy now. We need a plan. We need to waive IP. That's kind of the core thing that needs to happen next. And in the coming months, we need to keep the heat up. So you can definitely follow us.

You can follow me at @PritiKristhel or @IMAKglobal on Twitter. And we keep putting out information about access to the vaccine and lifting up other organizations who are doing work on different pieces of the medicine system. And I would definitely, in this moment, follow Prep For All. What Prep For All is doing is they're not only launching a campaign on the Covid vaccine, they're also launching one on PrEP and the HIV medications. And so having both of those tracks going at the same time is something that we're going to be a part of and join. And I hope others will, too.

JVN [00:47:49] And Moderna is also, I was reading, has just launched their trials for an mRNA HIV vaccine. So, like, Moderna is going to be doing, like, they have, like they are literally going to take this technology from the Covid vaccine and repurpose it for all of these other ailments and price it out of reach for so many people. So let me just make sure I understand this right. University slash companies who within companies that, like, you know, small and moderate, other companies that they get squabbled up, they all get paid off. They're like, “We got our money.” And of course, someone's always sick somewhere. So we'll just keep developing more stuff. They sell it. And then they’re, like, “Bye!” Then the company they're developing, they take that info, they develop, they develop, then they

submit it for testing. Once testing is done, then it's on to market and then the whole process keeps going again. And patents really come in there...

PRITI KRISHTEL [00:48:41] It's early on. Whoever's first looking into this and doing research is patenting up front.

JVN [00:48:47] So even the university would even do it. So and then they sell it. So then they will they will, they sometimes sell their patents along with the technology to the company?

PRITI KRISHTEL [00:48:58] Yeah, it depends on the structure of the arrangement. Like licensing or-

JVN [00:49:02] It can be either or. Yeah, it's, like, "We want 5% but this upfront," or whatever it is.

PRITI KRISHTEL [00:49:06] Yeah. There's a negotiation that happens and they make a lot of money. It's a big revenue source for universities.

JVN [00:49:12] So essentially like that's what that, that thing is. And then the other thing that I wanted to ask about, and this is kind of, like, a, you know, just well is your work and your work on kind of learning about Covid vaccines. And I know that your, your line is really in transparency and advocating for more access to health care. Have you, what-, do you know about, like, the pneumonia vaccine versus, like, the Covid vaccine, like now in light of the FDA approval on Pfizer, like, has the Covid vaccine really been tested so much less than another one? Or, like, it seems like it has?

PRITI KRISHTEL [00:49:49] usually takes a lot longer. So here they did get accelerated approval. That being said, most of the leading scientists we've talked to, including on our own staff, people who used to be in the pharmaceutical industry, at the World Health Organization, most of the leading scientists in the world do find that the results are very, very good. And so I am heartened by that. I think it's good. I don't, I don't love the idea of having future drug and vaccine approvals expedited. I think there's a reason that we have these processes in place. But I think in the case of an emergency like this, it's served us, you know, and we're seeing if we can get those vaccines out there so everybody can get them and we can stop surges happening, you know, right now across the African continent, we saw surges this year in Brazil and Indonesia. We got to stop those. So the variants stop emerging. And so we're saving a lot more lives.

JVN [00:50:50] So at I-MAK, there will be, like, people who used to work for, like, Moderna, or used to, like, work for, like, someone and then they're like, "I don't want to be a part of this fucking capitalistic cog, like, I don't want to do that." They come over and they work with you guys?

PRITI KRISHTEL [00:51:03] Yeah. Most of our team came over from the private sector, so either as IP lawyers, working for the law firms and the big corporations or on the scientific side from leadership and pharma or in business.

JVN [00:51:14] So then I have like three more questions. So then, like, sometimes, but they're fast. So then just think more rapid fire because my brain, just at the moment. So they sometimes didn't like the like in, like, patent wars. We'll like, well, like someone go try to, like, get the IP technology or someone else like while they're trying to do the same thing and then like me and then and then, like, do they, like, try to sue each other over, like...

PRITI KRISHTEL [00:51:37] Oh, that happens all the time. That's the reason to file all these patents. You're building your walls so you can block everybody out. And if anybody tries to come near your wall, you sue them. So it's a constant litigation, it's this huge industry.

JVN [00:51:49] And because we're talking about so much money, and I watch too much Netflix drama series, is there like, like, do we need to get, like, anybody, like, security? Like, are we scared? Is it fine? Everything's fine. Right. Like you're not going to, like, go after, like, the wrong, like, Pfizer people and they're going to be like, no, it's OK because they have some really good security people because I'm scared sometimes, honey. And so if you ever need like just but are really fierce and I like them.

PRITI KRISHTEL [00:52:20] I'll call you.

JVN [00:52:21] Yeah. Well, not, we'll just give you their number, queen. We'll get you there. You don't want me honey. I mean I do have like this, I got a lot of heels. Sometimes I have this like a midget like if I'm wearing a mule I could kick them. You will off in like like run with my pad and like get away from me. I feel like I learned a lot. I feel like this is like such a great foundational episode for us to, like, go off on our Getting Curious podcast and learn even more. Is there anything I missed that we need? I know we need to follow, must follow I-MAK, must follow Priti Krishtel on Twitter, on Instagram. We'll put all those links on this episode description, just so you know. Is there like a gorgeous moment at the end that you feel like you, like would you just be remiss if I didn't like that you didn't say or that I didn't ask. Do we miss anything?

PRITI KRISHTEL [00:53:06] I don't think so. I just think it's so great that you're entering the fight for vaccine equity and to make sure people get it, we need more people like you getting out there and convincing their listeners for this. So it just means a lot.

JVN [00:53:19] Thank you so much for coming on the show. We love you so much. Thank you for your fight. Thank you for everything you're doing. We're such thank you for coming on Getting Curious.

PRITI KRISHTEL [00:53:26] Thank you for having me.

JVN [00:53:30] You've been listening to Getting Curious with me, Jonathan Van Ness. My guest this week was Priti Krishtel.

You'll find links to her work in the episode description of whatever you're listening to the show on.

Our theme music is "Freak" by Quiñ - thank you so much to her for letting us use it. If you enjoyed our show, introduce a friend, and show them how to subscribe. We really appreciate it when you do that, honey! Please! I'm sorry I said honey twice, but it's just so important, what am I supposed to do!

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