

THE MORAL DIMENSION OF CORPORATE RESPONSIBILITY: AIDS AND THE DEVELOPMENT OF GLOBAL HUMAN RESOURCES; THE CASE OF SOUTH AFRICA

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The scale and impact of AIDS in Southern Africa and particularly South Africa has raised fundamental questions regarding relations between industrialized economies and developing economies. Recent press commentary, for example, has used titles like, "Evil Triumphs in a Sick Society" (Guardian), "At the Mercy of Drug Giants" (Guardian), "West Waging Drug War Against Africa" (East African), and an article by John Le Carre (author of the recent novel, "Constant Gardener"; a thinly veiled attack on pharmaceutical companies), "A Lot of Very Greedy People."

These titles capture a sense of global outrage at the role of pharmaceutical companies in not alleviating suffering and death from AIDS in South Africa by providing low cost medication. A report by UNAIDS in June 2000 referred to the fact that "in African countries that have had long, severe epidemics, AIDS is generating orphans so quickly that family structures can no longer cope. Traditional safety nets are unraveling as more young adults die from this disease. Families and communities can barely fend for themselves, let alone take care of orphans." Typically, half of all people with HIV become infected before they turn 25, acquiring AIDS and dying by the time they turn 35, leaving behind a generation of children to be raised by their grandparents or left on their own in child-headed households.

The implications of this for education and health infrastructures necessary for development in a globalized economy are considered in this paper. Also considered is the growing crisis of legitimacy over the pharmaceutical industry's opposition to patent infringement by countries and organizations seeking to provide AIDS related pharmaceuticals cheaply. The economy of the global AIDS crisis, and particularly AIDS in South Africa, is considered as a test of the willingness of the wealthiest countries to commit themselves to the alleviation of poverty and disease in the developing world and to recognize the extent of global inequities in human resource development which are being amplified by the AIDS crisis. The recent ministerial statement adopted in November 2001, which was an outcome of the recent Doha WTO meeting, is examined in this paper.

From a business perspective, the AIDS crisis in South Africa raises fundamental and important questions that are critical to changing views on corporate responsibility. Although debate has continued to examine corporate goals of profitability and the maximized shareholder wealth, not least since Milton Friedman's radical attack on the concept of corporate responsibility, perhaps no other global event has placed the issues so centrally and, in many ways, in such a clear-cut manner as the African AIDS crisis. The stark contrast between what are viewed as the concerns of protecting intellectual property rights and the devastation of a continent has initiated global debate on the responsibility of corporations that will not disappear and may very well fundamentally alter the social context of corporate operations.

The first part of this paper provides an overview of the AIDS crisis in South Africa and its implications for development and the reduction of the enormous disparity in income and wealth reported by the UNDP Report in 1999. Next, the corporate protection of intellectual property rights is considered, together with the recent Doha declaration on the TRIPS Agreement. Both of these issues are integrated into a discussion of the changing global definition of corporate social responsibility, which has emerged as a result of the crisis in South Africa.

AIDS and South Africa

"We have a noble task ahead of us--reconstruction of our country. We cannot afford to allow the AIDS epidemic to ruin the realization of our dreams." Chris Hani 1991 (cited in Van der Vliet 2001).

When annual antenatal HIV surveys began in state clinics in South Africa in 1990, the incidence of HIV in the population was estimated at 1 per cent. By 1999, the prevalence had risen to 22.4 per cent and 4.2 million South Africans (19.9 per cent) of the adult population) were estimated to be affected according to the 2000 UNAIDS reported (Van der Vliet 2001). Van der Vliet (2001) estimated in 2001 that there were more people living with HIV/AIDS in South Africa than in any other country of the world.

The publication of the UNAIDS Report in June 2000 made the point that since the early 1990's it had been clear that HIV would help undermine development in countries badly affected by the virus. According to this report, these effects were increasingly visible in the hardest-hit region of all, Sub-Saharan Africa, where in 1998 more than two million people died of AIDS and AIDS had become a "full blown development crisis" (p. 21). The report estimated that the population structures of badly affected countries would be radically altered by HIV and the demographic analyses reported were described as "truly shocking" (p. 22). According to UNAIDS, the premature death of half of the adult population typically at ages when they have already started to form their own families and have become economically productive could be expected to have a radical effect on "virtually every aspect of social and economic life" (p. 26). Before AIDS, it is estimated that about 2 per cent of all children in developing countries were orphans. By 1997, it was estimated that the proportion of children with one or both parents dead had reached an "astounding" 11 per cent (ibid, p. 28). The report stated that in African countries that have had long, severe epidemics, AIDS is generating orphans so quickly that family structures can no longer cope. Traditional safety nets are "unraveling" as more young adults die of the disease. Typically, half of all people with HIV become infected before they turn 25, acquiring AIDS and dying by the time they turn 35, leaving behind a generation of children to be raised by their grandparents or left on their own in child-headed households.

The Impact of AIDS on Development

Education has always been considered an essential building block in a country's development, and according to UNAIDS, HIV related illness is taking its toll on education in a number of ways. First, it is eroding the supply of teachers and thus increasing class sizes, which is likely to dent the quality of education. Second, it eats into family budgets, reducing the money available for school fees and increasing the pressure on children to drop out of school and marry or enter the workforce. Thirdly, it is adding to the pool of children who are growing up without the support of parents, which may affect their ability to stay in school. A leaked study commissioned by the South African Government and reported by the BBC (Barrow 2001) showed that in KwaZulu-Natal Province alone at least one in five teachers was infected with HIV and countrywide a quarter of all undergraduates are HIV positive. AIDS was expected to be the leading cause of death among teachers. The report commented that although the impact on the education system was obvious,

there are wider implications regarding the future level of skills and education in South Africa if anything up to a quarter of its students and teachers are infected with HIV.

According to a UNICEF report (Harvey 2001), the problem is that in a number of countries, including South Africa, public spending is being shifted away from education in line with microeconomic policies necessary to remain in line with the forces of a globalization. The result is "less funding to hire and train teachers to replace those who have died" (p. 2). Projections by the I.L.O. in 2000 (I.L.O. 00/48) estimated that the size of the labor force in some African countries could be up to 35% smaller by the year 2020 than it would have been without HIV/AIDS and concluded "Africa today is losing its prime labor force to HIV/AIDS." According to the I.L.O. Report, "the concern is not only with the size of the labor force but also its quality... Many of those infected with HIV are experienced and skilled workers in both blue-collar and white-collar jobs. The loss of these workers, together with the entry into the labor market of orphaned children who have to support themselves" is likely to lower both the average age of many workers and their average level of skills and experience" (p. 1). The report said that workers at special risk included miners, transport workers, security personnel, teachers, health workers and research or migrant workers. It noted that AIDS was having an especially severe impact on agriculture in Africa, in particular on women who perform most principal tasks in farming and produce between 60% and 80% of the continent's food.

The Windhoek Platform for action referred explicitly to the "catastrophic toll" taken by HIV/AIDS in Africa "decimating its population, tearing apart the very social fabric of its society and threatening its economies" (World of Work 1999, p. 7). The meeting referred to the AIDS pandemic as, "The most serious social, labor and humanitarian challenge of our time, AIDS and HIV have taken a catastrophic toll in Africa. Its toll of debilitating illness, widespread and indiscriminate death, deteriorating quality of life and life expectancy threatens to reverse the hard won social and economic gains of African countries" (p. 8). According to the report, HIV/AIDS has "wreaked havoc" on both the formal and informal sectors, among women at work and in the home, the elderly and children. In the case of the formal sector, HIV/AIDS has led to skyrocketing illness and death among employees at all levels, absences due to illness, the need to care for ill family members or attend funerals, increased costs for insurance, retraining and disability. The report added, "It decimates management and the skilled labor force. Finding qualified top management and skilled line workers to replace those who die or can no longer work can be extremely difficult. Productivity suffers; it takes time to replace workers, particularly skilled or senior workers (p. 9).

The impact of HIV/AIDS detailed above became all the more catastrophic when viewed in the context of the growing disparity of income and wealth, and many indicators of social health reported by the United Nations Development Agency in 1999 estimated that African countries were worse off economically than ten years previously and that purchasing power had dropped by 20% during this period (UNDP 1999).

In South Africa, the major alliance partners who were to form the new government were slow to react to the HIV/AIDS emergency. Van der Vliet (2001) reports that the Congress of South African Trade Union (COSATU) did not develop an AIDS program until 1991 and that since then the political and labor climate in the context of AIDS has been "patchy and sporadic" (p. 158). AIDS in the context of the South African labor movement competed as a political priority with issues such as housing, unemployment, poverty and violence.

The crisis of HIV/AIDS in South Africa and in economic implications brought to the forefront of discussions the costs of addressing this crisis, particularly the costs of retroviral drugs the patents to which were help by western pharmaceutical companies. This issue is considered in the next section of the paper.

Pharmaceutical Companies and the Question of Intellectual Property

There are several drugs that specifically target HIV at different points in the life cycle. Using them in combination has proven much more effective than prescribing them one at a time. In Europe and the U.S., combination therapy has resulted in a huge drop in AIDS deaths and in some people the drugs have reduced the virus to undetectable levels (AIDS Drugs Factfile 2000). The cost of these antiretroviral drugs in combination therapy is estimated to cost around \$1,000 per month and clearly is not affordable by either the majority of South Africans or the South African Government. The pharmaceutical companies producing these drugs had lobbied hard during the Uruguay round of the World Trade Organization for tougher rules protecting intellectual property that provided patent protection for a minimum of twenty years under the Trade Related Intellectual Property Rights Agreement (TRIPS). Although the agreement provided loopholes where countries could cite a national emergency or use compulsory license, the U.S. Government supported the major pharmaceutical companies in their bid to close these options, and in March of 2001, a lawsuit brought by more than 40 pharmaceutical companies came before the Pretoria High Court. The lawsuit sought to invalidate the South African Medicines and Related Substances Control Amendment Act of 1997 that would have permitted the South African Government to import or produce cheap, generic versions of patented drugs. The outcry to this lawsuit was enormous and global in nature. The non-governmental agencies (NGO's) Oxfam and Medecins sans Frontiere, for example, issued a joint statement that read:

"There will be demonstrations today across the world against the callousness and bullying of those drug giants. People no longer accept that profits are protected at any cost to human life. (Oxfam and Medecins sans Frontiere's joint press release March 5, 2001.

Larry Elliott (2001) of the *Guardian Weekly* began an article titled "Evil Triumphs in a Disease-ridden World" with the following paragraph:

"Let me tell you a story about life, death and profit. It involves some of the poorest countries in the world and some of the richest companies. It goes to the heart of how the modern world is to be run and whether the institutions set up to police the global economy are up to the job." (p. 1).

The legal battle between leading drug companies and South Africa's proposed legislation in 1997 that would have allowed the import of generic AIDS drugs raised some fundamental questions about the role of corporations.

The extent of public outcry over the pharmaceutical companies' lawsuit against the South African Government to prevent the import of generics lead to the companies involved unconditionally dropping the case in April 2001.

Conclusion

The global nature of the debate on the AIDS crisis in Africa and the stark contrast between, on one hand, the devastating mortality from AIDS in South Africa, and on the other hand, the mobilization of huge resources by western pharmaceutical companies to prevent the spread of generic drug imports raised some fundamental questions of corporate moral responsibility and of the role of international institutions in negotiating trade rules that advantaged wealthy countries' protection of intellectual property to the disadvantage of poorer countries.

Article 27.1 of the WTO Agreement on TRIPS provides patent protection for at least 20 years, and although there were provisions for exclusion on health grounds, it was also clear that the political power of pharmaceutical companies pressed poorer countries to maintain patent protection. However, the global attention to the crisis in South Africa not only resulted in the withdrawal of the pharmaceutical companies' law suit but also produced a new declaration on TRIPS at the DOHA WTO ministerial in November 2001 in Article 4, which stated:

"We agree that the TRIPS Agreement does not and should not prevent members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to promote access to medicines for all."

However, for South Africa, the AIDS crisis leaves enormous structural questions for the labor force, for the development of human resources and for teaching and education. A recent report in the *Journal of the American Medical Association* (Stevenson 2000) notes that according to projections by USAID, South Africa will be experiencing a negative population growth by 2003. The same report noted that AIDS is the number one cause of death in Africa, with life expectancies expected to drop to 30 in Southern Africa by 2010. Further reductions in population are predicted due to high infection rates among 15-19 year-old females and consequent impact on fertility. By 2010, Africa is estimated to have 40 million orphans. A report leaked to *The Star* newspaper in South Africa said AIDS will become the single biggest killer of teachers (Harvey 2001) and one in four undergraduates is HIV positive. The report notes that in South Africa public spending is being shifted away from education in line with macroeconomic policies consistent with globalization adjustments. The I.L.O. Study (2000) leading to its new code of practice estimated that the size of the labor force in some African Countries could be up to 35% smaller in 2020 than it otherwise would have been in the absence of AIDS.

The issue of AIDS in South Africa has raised enormous questions for the 21st Century. Questions of corporate moral responsibility, questions of the globalization and intellectual property agreements and questions of the development of African economies and labor forces in a global economy that can only be answered globally by a community that is willing to recognize that corporate profitability is no longer tenable in a global world where both economics and humanity are interdependent.

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