

TRANSNATIONAL PHARMACEUTICAL CORPORATIONS' LEGAL AND MORAL HUMAN RIGHTS RESPONSIBILITIES IN RELATION TO ACCESS TO MEDICINES

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ABSTRACT

For decades the lack of access to needed and affordable medicines has unduly burdened developing countries worldwide. To highlight the acute need for international assistance in support of the medical plight of the sick and poor, in addition to the state's human rights obligations to fulfill the right to access medicines, scholars have manifested increasingly visible alarm over the activities and enormous power of transnational pharmaceutical corporations (TNPCs). However, requiring TNPCs to assume human rights responsibilities, in relation to access to medicines, is replete with conceptual difficulties because, as far as the right to access medicines is concerned, TNPCs' normal business operations and voluntary philanthropy form the main corporate contribution to the preservation of this right. TNPCs have only moral responsibilities to facilitate access to medicines. Moreover, it is only misleading to impose moral responsibilities, categorized in the "can" dimension, on TNPCs for pharmaceutical accessibility regardless of the heterogeneous contents on the right to access medicines. Based on the biomedical health model and Norman Daniels' theory of Just Health Care, this article proposes that, (1) TNPCs "ought to" fulfill the right to access medicines when, and only when, these medicines are necessary for restoring or

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maintaining “minimal health” (including life-saving)” without which, an individual cannot be a free and equal member of society and the right loses its significance, and (2) TNPCs “can” voluntarily fulfill the right to access medicines for common or insignificant physical and mental dysfunctions or for pain-killing that go beyond the level of “minimal health.”

KEYWORDS: *transnational pharmaceutical corporations, right to access medicines, human rights responsibilities*