

How Drug Companies Subordinate Human Life to Profit*

By Jordi Martorell

1. Introduction

Early in 2001 nearly 40 South African pharmaceutical companies took the South African government to court in order to defend their massive profits, even if this meant the death of millions of people who are HIV positive. The case opened at the Pretoria High Court on March 5th and ended in partial defeat for the pharma-mafia which were forced to retreat, embarrassed by the negative publicity they were getting from this case. The struggle, however, is far from over.

In 1997, the South African government passed the Medicines and Related Substances Control Amendment Act which would allow the government, in certain cases, to use “parallel imports” (importing drugs from other countries where the patent owner is selling them cheaper) and “compulsory licensing” (forcing drug companies to release information allowing the government to produce cheaper generic versions of the drugs).

The South African Medicines Act was passed in compliance with the Trade-Related Aspects of Intellectual Property Rights (TRIPs) agreement which is compulsory for World Trade Organization (WTO) members. TRIPs was developed during the Uruguay round of the General Agreement on Tariffs and Trade (GATT), the WTO’s predecessor, and establishes a very hard regime in protection of intellectual rights. Companies have the right to patent products for 20 years; by contrast, for example, Kenya’s patent law, which was introduced during British colonial rule, allows patents to last for only seven years.

As this was widely seen as an extraordinarily harsh regime, a clause was added to TRIPs which says that under exceptional emergency cases governments are allowed to use compulsory licensing to force companies to give them information which would allow them to

*The author would appreciate any feedback on the article and can be contacted at jordi@marxist.com.

produce cheaper generic versions of the patented product. All governments, including the US and European Union, agreed to this, but immediately proceeded to put pressure on Third World governments to make sure the clause would never be used. As is always the case when a resolution that does not suit the interests of the big powers is passed in an international body, the resolution is not implemented.

For instance, after the South African government passed the Medicines Act, the Vice President of the European Commission, Leon Brittain, wrote to the then-Deputy-President Thabo Mbeki arguing that the Act “would appear to be at variance with South Africa’s obligations under the WTO TRIPs...and its implementation would negatively affect the interests of the European pharmaceutical industry.” The US put South Africa on a “Trade Watch List” and threatened economic sanctions, including a bill which went through Congress making all aid to South Africa contingent on dropping the law.

The South African pharmaceutical companies also exerted heavy pressure, closing factories, cancelling investments and even taking out scare ads suggesting people would be hurt by generic drugs. When their chief lobbyist, Mirryina Deeb, was asked if the industry’s threat to cut off all new drug discoveries meant they were threatening thousands of South Africans lives, she admitted: “In so many words, yes”!

2. The Scale of the AIDS Pandemic

Around the world there are an estimated 35 million people with HIV/AIDS, 25 million in sub-Saharan Africa, the same region which also accounted for 80 percent of the 2.8 million who died of AIDS in 1999. Life expectancy has dropped dramatically and in countries like Botswana 35 percent of the adult population are HIV positive. The figure in South Africa is four million (about 20 percent of the adult population). In the year 2000 there were 3.8 million new infections in the region and more than 16 million Africans have already died since the pandemic started.

The enormity of the crisis in Africa is not unconnected to the massive plunder of these countries by imperialism. Over the last decade, the US and Europe have forced African and other Third World countries to open up their markets and privatize their public services (including health and education). In some cases the very structure of the state has collapsed or is on the verge of disappearing under the pressure of imperialist exploitation. The Structural Adjustment Plans (SAPs) imposed by the IMF and the World Bank on African countries have had the effect of destroying their health and education infrastructure by forcing them to “balance the budget” and repay their external debt. It is

in these conditions that HIV/AIDS has been able to spread faster than anywhere else and everyday diseases mean a death sentence for HIV-positive people with extremely weakened immune systems.

Even the US Central Intelligence Agency recognized the potential social effects a crisis of this magnitude could have. In a report issued in January 2000 they warned that “these diseases will endanger US citizens at home and abroad, threaten US armed forces deployed overseas, and exacerbate social and political instability in key countries and regions in which the US has significant interests.”

3. Profits Before People’s Needs

The fact that the pharmaceutical companies are run on the basis of profit means that they are simply not interested in developing treatments to cure diseases which affect mainly people in the Third World, as these people do not have the purchasing power to buy drugs. Between 1975 and 1997 the multinational pharmaceutical companies brought 1,233 new medications to the market. Only one percent of those (13 medications) were specifically designed to treat tropical diseases plaguing the Third World and which kill millions of people every year.¹

In fact, the main emphasis of the research programs of the pharmaceutical giants is on the so-called lifestyle drugs, that is products which treat conditions like obesity, baldness, face wrinkles and impotence, among others. The market for such drugs is worth billions every year.

Roy Vagelos, the former head of Merck, a company which now controls 10 percent of the world’s pharmaceutical market, was quite open about this: “A corporation with stockholders can’t stock up a laboratory that will focus on Third World diseases, because it would go broke.”²

But the pharmaceutical giants are hardly struggling to make ends meet! This highly profitable industry has been swept by a wave of mergers and takeovers, creating massive companies worth more than the annual GDP of many Third World countries. The most recent example is the fusion between SmithKlineBeecham and GlaxoWelcome

¹Ken Silverstein, “Millions for Viagra, Pennies for Diseases of the Poor,” *The Nation*, July 19, 1999.

²Roy Vagelos, quoted in *The Nation*, August 20, 1999.

(themselves the results of earlier mergers). The combined worth of the “Big Five” is twice the combined GDP of all sub-Saharan Africa!³

Another growth area for these companies is the “companion animal drug market,” with US sales for 1998 estimated at about \$1 billion. There are now drugs to treat dogs that suffer from “separation anxiety,” Alzheimer’s, arthritis, dementia, allergies, cancer and periodontal disease. According to an industry source, US companies spend about half a billion dollars a year for R and D on animal health.⁴

The priorities of these multinational companies are clear: Pfizer made more than \$1 billion in sales of Viagra in the first year on the market. In the same year, the top two drugs that fight alopecia had combined sales of \$180 million, and Allegaran earned \$90 million from sales of its miracle anti-wrinkle treatment (at \$1,000 for three injections).

Drug company researcher A.J. Slater, in a paper published in the *Royal Society of Tropical Medicine and Hygiene* magazine, concluded that the development of new antibiotics is very costly and their provision alone to Third World countries can never be financially rewarding. In other words, profits come before people’s lives.⁵

And they will defend their massive profit margins (the highest of any legal industry in the world) by any means necessary. In the US alone, drugs companies spend \$75 million a year in lobbying, making sure regardless of whatever government is in power, their interests will be well defended all over the world. It is alarming to learn that there is one pharmaceutical lobbyist for every two members of Congress. During the 2000 US presidential elections, these massive multinationals spent an unprecedented \$26.6 million, 70 percent of which went to the Republican party.⁶

Larry Elliot, writing in the *Guardian*, described the tactics of the multinationals and the US government as “gunboat diplomacy.” He explained, for instance, that “the US offers a special deal to the Dominican Republic for exports of textiles. It is now threatening to withdraw this privilege unless the country scraps plans for compulsory

³Julian Borger, “Industry that Stalks the US Corridors of Power,” *Guardian*, February 13, 2001.

⁴Vagelos, *op. cit.*

⁵A.J. Slater, “Transactions,” *Royal Society of Tropical Medicine and Hygiene*, 1989.

⁶Center for Responsive Politics, according to data released by the Federal Election Commission, go to www.opensecrets.org.

licensing and parallel importing. Brazil and India have also been warned that they could face sanctions under America's bilateral Super 301 legislation."⁷ This is a clear example of how the multinationals use their economic muscle to threaten any countries which take measures which would undermine their profits.

In another example of this, GlaxoWelcome has threatened legal action against the Indian generics company Cipla for trying to provide Ghana and Uganda with a cheap version of Combivir. This is a pill which combines AZT and 3TC, two drugs which were developed in the US with public funding!

4. Multinationals' Lame Excuses

One of the arguments that pharmaceutical companies are using to defend themselves and patent rights is that they need to recover the enormous cost of developing new drugs. But if one takes a careful look at the way the companies spend their budgets, it is clear that projected costs are greatly exaggerated. For instance, a great chunk of their spending goes to marketing, exactly twice as much as they spend on Research and Development.

Furthermore, many products which do not fall into the category of lifestyle drugs are actually developed by US government laboratories or other publicly funded institutions. The vaccine for hepatitis A was largely developed by researchers at the Walter Reed Army Institute, but marketing rights were given to SmithKline Beecham and Merck. The market for the vaccine, which is sold at \$60 per person, is about \$300 million annually. For their efforts, the researchers at the Walter Reed Institute got a plaque in exchange.

In fact, some of the AIDS drugs which are at the center of the current dispute between the drugs giants and the South African government were discovered by publicly funded laboratories. This is the case for ddI, AZT, 3TC and the protease inhibitor Norvir, some of the drugs which are part of the cocktail which helps prevent HIV positive patients from developing AIDS.

The pharmaceutical companies insist in keeping high prices and blocking cheaper generic alternatives for Third World countries even in the case of drugs from which they are earning large amounts of money from sales in the West. This is the case with GlaxoWelcome which sold AIDS drugs worth \$1.7 billion.

⁷*Guardian*, February 12, 2001.

One of the best examples is fluconazole, a powerful anti-fungal agent which treats both toenail fungus and AIDS-related diseases, like oral thrush and cryptococcal meningitis. Pfizer has the patent for fluconazole and earns large amounts from its sales (worth \$1 billion a year) to wealthy US and European patients, but still refuses to provide the drug cheaply to Third World countries, and in order to protect its patent rights has used all sorts of bullying methods and threats.

In Thailand, 20 percent of people with AIDS suffer from cryptococcal meningitis. If untreated the victims die in less than a month. The wholesale price of a dose of Diflucan (fluconazole's commercial name) in Thailand is \$5. But generic versions of the same product produced by Cipla in India are sold for 64 cents a pill and Thai companies produce them for much less, about 30 cents. Thai law did not allow medicines to be patented until 1994 when the Thai government was forced to sign the TRIPs agreement as a condition for WTO membership. Although fluconazole was in the market before the law changed in Thailand, Pfizer managed to include it in an exclusivity program which allowed them to sell the pill for \$7 a capsule until 1998 with no competition.

Another country which has defied the international drugs monopolies is Brazil. In the early 1990s the country had the fourth largest number of reported cases of HIV/AIDS in the world (about 3 million people). The Brazilian government decided to import, produce and distribute large numbers of anti-retroviral drugs which led to a drop of 38 percent in the number of AIDS-related deaths since 1994. The cost of a year's treatment is about \$600 as opposed to \$10,000 for patented versions. Brazil has now been threatened by the US with retaliatory measures if it does not drop its policy on generic drugs and parallel importing. The Bush administration (whose election campaign was heavily funded by the drugs industry) has already asked for a WTO disputes hearing, claiming Brazil is in breach of TRIPs.

5. Making Concessions?

Last year the US government, after having been severely criticized around the world, announced that it was going to give \$1 billion to AIDS prevention. However, when African countries looked at the small print of the offer they discovered that what was being proposed were loans at commercial rates to be spent only on US manufactured drugs! In other words the "generous" offer amounted to the US government subsidizing US drugs companies and making a nice profit on the interest rate.

This “AIDS aid,” far from solving the problem, would plunge countries deeper into the foreign debt spiral which is already eating up most of their foreign trade earnings and preventing them from putting in place the medical, educational and infrastructural measures that would alleviate the HIV/AIDS crisis.

The pharmaceutical companies, fearful of losing markets, also have announced massive reductions in the price of HIV/AIDS drugs. But campaigners pointed out that the 85 percent price reduction announced by the “big five” drugs multinationals would make almost no difference in the number of people able to afford the treatment.

The head of Kenya’s AIDS control council, commenting on these announced price reductions, declared: “If the international mafia — the drug companies — really mean business, they should waive their patent rights and let developing countries make drugs themselves under their supervision. Kenya already has the capacity to make most of these drugs. It is the big five who are stopping us.”⁸ Government figures show that 25 percent of Kenyans are HIV positive but only 2 percent can afford the treatment. In South Africa the situation is even worse, with only 10,000 people among the 4 million who are HIV positive able to afford a treatment of the triple therapy which can cost up to \$10,000 a year. Most employed South Africans earn less than \$250 a month. Importing the drugs from India could reduce the price of the treatment to less than \$300 a year.

The same point was made about Pfizer’s offer to donate fluconazole to treat 100,000 South Africans. The donation might seem an act of charity, but in reality it is designed to protect Pfizer’s commercial version of the product which is sold under the name of Diflucan. What the drug companies want to prevent at all costs is governments taking the initiative to produce their own generic versions of the drugs or buying generic versions from third countries (like Thailand, India or Brazil). That would set a precedent which would jeopardize their ability to make profits in the future. The issue is not donations, it’s sustainable low-cost antiretrovirals. And you can only do that through generic competition, according to Zackie Achmat, chairman of the South African activist group Treatment Action Coalition (TAC).

(Incidentally, according to TAC, months after the donation was promised, not a single dose of this “generous” offer had yet to reach a single South African patient.)

⁸*Guardian*, November 7, 2000.

As part of its campaigning work, TAC activists illegally imported 5,000 doses of the Thai generic version of fluconazole (which were bought in Thailand for 14 cents each instead of the \$9 they cost in South Africa), distributed them for free and confessed their crime to the police in a bid to force the South African government to do the same. Ironically, although the South African government has been taken to court by the pharmaceutical industry, its actions have been far from defiant of this “international mafia.” For most of 2000 the South African president Thabo Mbeki denied that there was any link between HIV and AIDS. In this way he was trying to avoid the pressure to take decisive action against the drug industry. His argument was that poverty and not HIV caused the collection of diseases known as AIDS.

This was a very hypocritical line coming from the same ANC government which has pushed privatization of the public sector, water and other council services, and which has pursued pro-capitalist economic policies that have destroyed hundreds of thousands of jobs. Yes, poverty helps spread a whole host of diseases to which HIV positive people are more vulnerable, but the ANC government is not doing anything to solve the problem of poverty and lack of access to housing, water and electricity facilities. On the contrary, ANC councils (and others) up and down the country are busy evicting people for not paying their rent, cutting poor people from the water and electricity supply because they cannot afford to pay, and so on.

The diversion tactics used by Mbeki’s government on HIV/AIDS have allowed the opposition Democratic Alliance (DA) to use the issue in a demagogic fashion. Conveniently forgetting that the parties which are now part of DA ferociously opposed the Medicine Act when it was first discussed in 1997, the leader of DA, Tony de Leon, has come out publicly in favor of importing cheap generic versions of the drugs.

6. Health Warning! Profits Kill!

It is clear that the profit motive which drives the multinational companies is causing the death of millions of people every year from diseases which could be easily cured. The only reason why these treatments are not given to people in poorer countries is simply because they cannot afford them. Many other diseases could be cured, but research into those is not carried out because money cannot be made even if a cure is found.

But it would be wrong to argue that this is only because the pharmaceutical companies are particularly greedy. In fact this is the whole logic of the capitalist system. Henry Ford once famously said “I am not in the business of making cars, I am in the business of making

profit.” Production under capitalism is production for profit, and one cannot expect anything different as long as the system exists. A former head of Merck, Roy Vagelos, justified his industry’s lack of interest in tropical diseases by saying research and development would not be profitable, and he added: “that is a social problem, and the industry shouldn’t be expected to solve it.”⁹ And he is quite right, in a sense.

It is necessary to campaign against the pharmaceutical multinationals and force governments to break their will by producing and importing cheap generic alternatives, not only of HIV/AIDS drugs but also of drugs for the other million-killer diseases such as tuberculosis and other diseases in which the multinationals are simply not interested.

But at the same time it is necessary to raise the demand for the nationalization of the pharma-mafia. These giant multinationals have in their hands the lives of tens of millions of people and should be put under democratic control and be run on the basis of the interests of the majority of the population, not the profits of the few.

The problems of health care in the Third World, however, neither start nor end with HIV/AIDS. The most efficient way to fight disease in the Third World is to fight for decent jobs, decent housing, access to running water, electricity, quality education, and so on.

This pandemic has been compared to the Black Death epidemic of plague in Europe in the Middle Ages. The big difference is that at that time the means to combat the epidemic did not exist. They do exist for HIV/AIDS and the only thing which prevents them from being used is a handful of pharmaceutical companies. The current AIDS pandemic serves to highlight that the choices in front of us are today more than ever, “socialism or barbarism.”

⁹Vagelos, *op. cit.*