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Who's in the Business of Saving Lives?

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There are individuals, including children, dying needlessly in poverty-stricken third world countries. Many of these deaths could be prevented if pharmaceutical companies provided the drugs needed to save their lives. Some believe that because pharmaceutical companies have the power to save lives, and because they can do so with little effort, they have a special obligation. I argue that there is no distinction, with respect to obligations and responsibilities, between pharmaceutical companies and other types of companies. As a result, to hold pharmaceutical companies especially responsible for saving lives in third world countries is unjustified.

Keywords: *drugs, impoverished, obligation, pharmaceutical, responsibility*

I. INTRODUCTION

Pharmaceutical companies have the power to save lives.[1] Because many of the drugs that are needed to save lives are already on the market and because the cost of producing them is minimal, these companies could save lives with very little effort. It would not be controversial to say that because most everyday citizens and some ethicists believe these claims to be true, they also believe that drug companies have a special obligation to save lives. Arguments for or against this obligation have usually centered around the correctness of these claims.

One side of the argument claims that the billion-dollar bottom lines are necessary to create new and innovative drugs (Van Gelder, 2005). In other words, huge profits are just part of the pharmaceutical game. If drug companies were required to provide drugs to people who had no money to pay

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for them, they would not be able to invest adequately in research and development (R&D), which would adversely affect people who need new and innovative drugs to better their lives, and who can afford to pay for them. This argument rests on the belief that it is not justified to save the lives of the poor, by providing life-saving drugs, at the expense of depriving those who can afford to pay for drugs themselves (Resnik, 2001, pp. 14–15). The other side of the argument presupposes a Good Samaritan intuition—it holds that because drug companies have the power to save lives, they ought to save lives. This intuition is frequently invoked as a defense of moral obligations.[2]

Current literature on pharmaceutical companies and their social responsibilities to the impoverished revolves around a Good Samaritan intuition, although some stipulate contingencies and limits on the requirement of helping the impoverished. For example, David Resnik, in his paper, "Developing Drugs for the Developing World: An Economic, Legal, Moral, and Political Dilemma," argues that as long as the impoverished play by the rules, such as respecting intellectual property rights, pharmaceutical companies have a responsibility to provide the needed drugs to save their lives (Resnik, 2001, pp. 16–17). Norman Daniels and Dan W. Brock both claim that they agree with Resnik, although they seem to want more argumentation for his view (Brock, 2001, p. 33; Daniels, 2001, p. 38).

It seems that although there is much discussion about *how* the impoverished are to be aided in the current literature, the general consensus is that pharmaceutical companies *do* have a special obligation to those in developing countries who need their drugs to survive. "They have these special obligations because of the field they have freely chosen, because they are related to health care in a way others are not, because they have the expertise that others lack, and because they make their living or profit from health-related activities" (De George, 2005, pp. 555). This, I believe, is a mistake.

In this article, I will argue that there is no distinction, with respect to responsibilities, between pharmaceutical companies that produce life-saving drugs and companies that produce other products. I have two objectives:

1. I intend to show that although pharmaceutical companies manufacture the products needed to save lives, this fact should not release other types of companies from the obligation to save lives as well. I want to make it clear that my intention is *not* to argue that there is no moral obligation to save lives in third world countries. On the contrary, I am working under the *assumption* that there probably is such an obligation.[3] The problem is how this obligation is assigned.

2. I believe current theories of corporate obligation need to be critically reevaluated. What are these theories for and do they do what we need them to do? If not, how can they be improved?

My initial goal is to examine current theories of corporate obligation to discover whether they track or fail to track our basic intuitions about corporate obligation.[4] If they do track them, then there should be no problem using them to argue for duties that represent our intuitions. If they fail to track our intuitions, then we either stand by our theories and surrender our intuitions, or we revise our theories to account for them.

First, I must mention briefly the distinction, which has already been argued for in the literature, between legal obligation and moral obligation.[5] Second, I will explain how proponents of current theories of obligation fail to justifiably assign to pharmaceutical companies a special moral obligation to save lives, even though they produce life-saving products. Third, I will argue that the inability to assign this unique responsibility stems from the inability to draw a morally relevant distinction between pharmaceutical companies that produce life-saving products and companies that produce other types of products. Finally, I will discuss briefly what this means for the intuition that there is a duty to save lives in third world countries, and how this consequence ought to affect perceptions of current theories of corporate obligation.

II. LEGAL VS. MORAL OBLIGATIONS

It has been argued that there is a distinction between law and morality (Hart, 1958, pp. 56–72). To take an obvious example, an owner who, in the same week, both throws a million-dollar party for his company's CEO, and orders a layoff, on the grounds that the company is suffering from "hard times," may be acting entirely within legal boundaries.[6] But he may nonetheless be subject to moral criticism.

Proponents of standard theories of corporate obligation, such as stockholder theory, stakeholder theory, and social responsibility theories, argue from a moral point of view.[7] This means that each theory prescribes what corporations *morally ought* to do, much as standard moral theories for individuals prescribe what they *morally ought* to do. (I am assuming that a corporate theory of obligation, like a moral theory for individuals, must tell us what counts as an obligation or duty. If the theory lacks this capability, I will consider it an incomplete theory of obligation.) I will be assessing corporate theories of obligation in the same manner one standardly assesses individual moral theories: if a theory produces inconsistent views, highly counterintuitive results, or is self-refuting, etc., it is to be rejected. I will now argue that even under the broadest scope of corporate obligation, pharmaceutical companies do not have a special obligation to provide life-saving drugs to those in need—even though they could do so with very little effort.

III. CORPORATE OBLIGATION

Open any business ethics textbook, and you will come across theories of corporate obligation which state either that corporate decision makers have a duty to satisfy stockholder interests, or to satisfy stakeholder[8] as well as stockholder interests, or to maximize the general good of society.

A. Stockholder Theory

Little needs to be said about the stockholder theory of obligation in regard to corporate responsibility. Under this theory of obligation, corporate decision makers have a duty to increase profits for stockholders without the use of deception or fraud (Friedman, 2002/1971, pp. 33–37). Clearly, under this theory of obligation, pharmaceutical companies have a duty to ignore the concern with saving the lives of those in need, unless acting on this concern increases profits for stockholders.

B. Stakeholder Theory

Under stakeholder theory, it is not as clear whether pharmaceutical companies have a responsibility to provide life-saving drugs to those who need them. Stakeholders include any group or individual influenced by the company's operation.[9] At first glance, it appears that because pharmaceutical companies could directly save the lives of so many, those in need of life-saving drugs count as stakeholders. If they count as stakeholders, then the drug company is obligated to consider their interests, which means that there could be an obligation to provide life-saving drugs.

But a closer look will establish the contrary. In order to count as a stakeholder, a group or individual must be influenced by or influence the company's operation.[10] The question is, however, what counts as being influenced by or influencing the company's operation? A supplier is influenced by the company's operation because it receives orders and depends on buyers to stay in business. If the company goes out of business, the supplier suffers from the loss of business. If the company grows, the supplier will experience growth in its sales. So the company's operation creates by-products that influence the supplier. That same supplier can influence the company by raising prices, discontinuing certain supplies, going out of business, merging with another supplier, etc. Using this example, we can explain "influence" as a causal concept, that is, anything that counts as "influence" must be caused by the participants. This causal connection is evident in what standardly counts as stakeholders of a company, namely suppliers, customers, stockholders, employees, etc. (Freeman, 2002, pp. 38–48).

However, if we focus on pharmaceutical companies and consider those who need life-saving drugs but cannot pay for them, we cannot identify any causal connection. A drug company's operation normally has not directly shaped the situation of faraway individuals who are unable to pay for life-saving drugs. It is not as though the drug companies have caused these people to become poor and sick. Had the drug companies never come into existence, those people would still be in need. And those who need life-saving drugs, but cannot pay for them, do not influence the drug company in any way, since they are not customers of or contributors to the company.[11]

Consequently, those who are in need of life-saving drugs but cannot pay for them typically fail to count as stakeholders. Under the stakeholder theory of obligation, as under the stockholder theory of obligation, pharmaceutical companies would not have a special duty to save lives.

The objection has been raised that drug companies perpetuate the poverty and sickness of those who cannot pay, even though they did not create them, and that this amounts to enough of a causal connection to count the impoverished as stakeholders of drug companies.[12] Although I will not be critically evaluating this point, I do want to say that if the perpetuation of poverty and sickness amounts to the right sort of causal connection, it is doubtful whether this causal connection can be traced back *uniquely* to pharmaceutical companies. If one argues that those who need life-saving drugs are stakeholders because drug companies are part of the cause of their poverty, it will turn out that too *many* parties can be considered stakeholders. (I will be discussing this particular point in more depth following this section.)

Another response is that the impoverished count as stakeholders because they cooperate with and honor laws that allow drug companies to flourish and do business. They could, as a desperate measure, revolt and create havoc for drug companies. Because companies rely on global cooperation, the impoverished turn out to be stakeholders after all. But this type of response conflates the concept of stakeholders with the more general concept of society, which is the topic of the next section.

C. Social-Responsibility Theory (SRT)

Proponents of social-responsibility theories, or what I will call SRT accounts, argue that corporate responsibility should extend to the whole of society. "Ethical responsibilities encompass the more general responsibility to do what's right and avoid harm" (Trevino & Nelson, 2004, p. 32). Their argument depends on the claim that the greatest social and economic benefit would result if corporations recognized the well being of society as a whole in their decision making process. The following are some standard accounts of social responsibility theories of corporate obligation.

> Social responsibility is the obligation of decision makers to take actions which protect and improve the welfare of society as a whole along with their own interests. (Davis & Blomstrom, 1975, p. 23)

> The idea of social responsibility supposes that the corporation has not only economic and legal obligations, but also certain responsibilities to society which extend beyond these obligations. (McGuire, 1963, p. 144)

> [Social responsibility] implies bringing corporate behavior up to a level where it is congruent with the prevailing social norms, values, and expectations. (Carroll, 1997, pp. 594)

> The social responsibility of business encompasses the economic, legal, ethical and discretionary expectations that society has of organizations at a given point in time. (Carroll, 1979, p. 500)

> The ethical responsibility of business includes the dictum to 'do no harm' by such activities as polluting the environment, discriminating against workers, producing dangerous products, engaging in misleading advertising, and so on. (Carroll, 1997, p. 594)

Given these definitions, we can see that proponents of SRT accounts demand the broadest scope of corporate responsibility.

At first glance, it seems clear that providing life-saving drugs to those in need would result in great benefits to society (Sen, 1993, pp. 52–54). Lives would be saved. And since pharmaceutical companies produce these drugs, they are in a unique position to help the impoverished in third world countries. It seems, then, that proponents of SRT accounts could hold that pharmaceutical companies have a *special* duty to save lives.

But suppose this is true: the implication is that when a company is *able* to save lives *with little effort*, there is a special duty to do so. The duty to save lives is derived from the ability to do so, and to do so with little effort.

However, drugs are not the only things that can save lives. Money can save lives as well. This could take the form of purchasing needed supplies, purchasing drugs, providing doctors, etc. Corporations that are allowed to reach and maintain a reasonable profit margin are in a position to save lives with little effort. This means that once a corporation achieves a reasonable profit margin, it should use any profit generated on top of that to save lives. If proponents of SRT accounts require pharmaceutical companies to save lives when they are able, then they must require all companies, when they are able, to save lives as well. Hence, proponents of SRT accounts who require drug companies to save lives for the good of society should also require the same of all companies that possibly could save lives. But often this is not the case—drug companies are usually singled out for *special* responsibility.

Companies such as McDonalds, Nike, and Coca-Cola usually are not taken to be under a moral obligation to save lives, even though their profit margins would allow them to save lives with little effort. For these corporations, being socially responsible usually is taken to consist only in not actively harming society, rather than saving those in need. Consequently pharmaceutical companies should not be morally required to save lives either, just because they can. There is no moral justification for singling them out.

Standardly, we do not tolerate *special* treatment of individuals in moral theories. Utilitarianism and Kantianism have a symmetry property: moral obligations and duties apply equally to everyone. No one is free from moral requirements. For example, it is not permissible for people to neglect or harm their children (we do not single out college graduates as especially responsible to their children) and it is impermissible for anyone to plagiarize (we do not impose the prohibition only on persons with a low GPA).[13,14] But proponents of SRT accounts usually require only pharmaceutical companies to save lives, even though many other kinds of companies have the ability to save lives as well.

The symmetry property is necessary for a coherent moral theory. It would be incoherent for utilitarians to say that some people should act to maximize happiness while others need not do so. Kantians would be regarded as unreasonable if they held that some rational beings were bound by the categorical imperative, but others were not. Currently there are no important moral theories that lack the symmetry property.[15] As with moral theories applied to individuals, the symmetry property is necessary for the coherence of corporate theories of obligation.

If the criterion for holding a corporation responsible for saving lives is the ability to do so with little effort, then all corporations that satisfy this criterion must be held responsible. The singling out of pharmaceutical companies by proponents of SRT accounts is therefore a violation of the symmetry property. As a result, because proponents of SRT accounts usually do single out pharmaceutical companies as having an obligation to save lives, their interpretation of social responsibility is incoherent.

Proponents of SRT accounts could just bite the bullet and satisfy the symmetry property by holding all successful companies morally responsible for saving lives, when they are able and when it takes little effort to do so. This currently is not the case, and it seems highly unlikely that proponents of SRT accounts will require this duty of corporations in general. I do not here propose to critically defend or criticize this option. However, I do want to say that if proponents of SRT accounts choose to bite the bullet, they will run into many theoretical and practical complications. For example, it will be quite difficult to draw a non-arbitrary line between corporations that have the power to save lives with little effort from those corporations that do not. And although it might be easy to pick out *clear* cases of corporations that are capable of saving lives, it will still be quite tricky to draw a non-arbitrary line between the *clear* and the *not quite clear* cases of capability. Arbitrary lines may be acceptable in delineating *some* moral requirements, but the competitive nature of the market is likely to encourage constant redefinition of where that line should be drawn; this would prevent such a line from having enough moral force to be taken seriously (Frank, 2002/1996, p. 256).[16]

Another option for proponents of SRT accounts is to draw a relevant and legitimate distinction between pharmaceutical companies and other types of companies.[17] If this can be established, then proponents of SRT accounts who claim that pharmaceutical companies have a special obligation to save lives may be justified.

IV. ARE PHARMACEUTICAL COMPANIES SPECIAL?

For theorists of corporate obligation to single out and hold pharmaceutical companies responsible for saving lives when they are able, they must distinguish pharmaceutical companies from other types of companies. If a morally relevant distinction cannot be established, then under no theory of obligation can pharmaceutical companies be singled out as having a unique duty to save lives.

There have been many attempts to distinguish pharmaceutical companies from other types of companies. I will now briefly review the most common attempts and why they fail.

1. Because drug companies produce life-saving products, they ought to provide these products to those who need them to stay alive, regardless of whether or not they make a profit.[18] Unlike other types of companies, pharmaceutical companies have the power to save lives. The fact that they produce life-saving products distinguishes them from other types of companies. And this distinction is enough to hold them morally responsible for saving lives (De George, 2005, p. 555). "'If it's relatively cheap to manufacture [AIDS] drugs, it makes no moral sense to let thirty-six million people die,' says James Love, director of the Consumer Project on Technology, an organization started by Ralph Nader" (*The Progressive*, 2001).

   Reply: What counts as a life-saving product? Are drugs the only products that count? Life-saving products are those products that, when provided to those who need them, prevent death under those conditions of need. Under this interpretation, when a country is suffering from famine, McDonalds produces a life-saving product. When a country is suffering from drought, Coca-Cola produces a life-saving product. When a country is at war and in need of arms and ammunition to fight their attackers, gun manufacturers produce a life-saving product. Circumstances determine what products count as life-saving products. Since other types of companies can produce life-saving products, the fact that pharmaceutical companies produce life-saving drugs does not distinguish them from other types of companies.[19,20]

2. Marcia Angell has proposed another distinction: drug companies often benefit from public or government support, whereas other types of companies do not. The claim is that drug companies are subject to a type of *reciprocity* principle. The government support that Angell has in mind takes the form of copyright and patent protection, FDA regulation, university research, and research done at the National Institutes of Health (Angell, 2004, pp. 7–10). Her claim is that government agencies aid drug companies in their operation and success. In some cases, drug companies entirely rely on government funded organizations for their research. This, for Angell, is a relevant and legitimate distinction. Because drug companies are benefited by publicly funded organizations, they have a responsibility to the public that made their success possible.

   Reply: Many industries are supported by publicly funded organizations. And many industries benefit from research done at universities, for instance, the computer industry, the textile industry, the food and cosmetics industry, and the aerospace industry. So, pharmaceutical companies are not a special case of industry benefiting from publicly funded organizations. This distinction ultimately fails. But even if Angell is right in saying that drug companies are indebted to the public because they benefit from publicly funded organizations, this does not mean that drug companies would be indebted to the people in third world countries who are in need of life-saving drugs. Pharmaceutical companies, on this theory, would only be responsible to the particular society that funded them. So even if this distinction were legitimate, it would not establish the obligation in question.[21]

3. If we want to preserve the profit margins of pharmaceutical companies, we could just require them to give up their intellectual property rights, rather than the products that are sold for profit. This way, countries that need life-saving drugs to save people's lives could make the drugs themselves. "The main moral problem pits the moral principle that the inventor(s) have the right to the fruits of their labor versus the principle that priority be granted to fulfilling the basic needs or right to livelihood of those who cannot afford the innovation in question, such as a vital drug" (Steidlmeier, 1997, pp. 337–339). The distinction offered here is that, unlike other types of companies, drug companies can save lives by sharing their intellectual property, without affecting the sales of their

products to those who can pay. Other types of companies cannot do this—they would have to donate actual product or money. Since giving up product and money influences the bottom line directly, it would seem unreasonable to require them to save lives. This would not be the case for drug companies; relinquishing intellectual property to impoverished nations will not affect their bottom line, since the impoverished do not contribute to it anyway.[22] As long as enforceable procedures are in place to regulate drug distribution effectively, pharmaceutical companies could be singled out for special responsibility.[23] In short, other types of companies cannot save lives without sacrificing the bottom line, while pharmaceutical companies can.

Reply: This distinction, at first glance, is very convincing. Since drug companies are not making money from these impoverished nations anyway, allowing them to legally make their own drugs would not affect their bottom line. The claim is that drug companies are a special case where releasing only intellectual property could save lives. However, it is not true that the pharmaceutical industry is a special case. There are several industries that hold patents that, if released, could save the lives of the impoverished. Big agribusiness holds patents on genetically modified foods (Conway, 1999). Nutrient deficiencies in impoverished nations can be remedied by providing rice that is genetically engineered to contain additional vitamins and minerals (Whitman, 2000). The computer and software industry have benefited greatly from patent protection. It seems correct to say that technology has made saving lives more efficient and effective (Versweyvel, 2003). The number of energy-related patents is rising quickly. Sustainable energy for impoverished nations would no doubt save millions of lives (McAlister, 2005). These are all industries that have the potential to save lives by releasing intellectual property to impoverished nations; the pharmaceutical industry is *not* a special case.

4. Proponents of SRT accounts could argue that the socially responsible act is to consider the impoverished as stakeholders, not because they currently affect the drug companies' operation, but because they could affect it eventually down the line, especially since there is no obligation to give up the intellectual property that could save the lives of the impoverished. "In the intellectual property debate it is often forgotten that the property rights advocated by multinational companies are primarily based upon modern Western values and culture. In different cultural settings they do not find the same legitimacy" (Steidlmeier, 1997, pp. 337–339). What reasons do the impoverished nations have for respecting property rights? The point is that regardless of whether the impoverished count as *current* stakeholders, they will inevitably count as stakeholders in the future.

This is because if drug companies fail to count them as stakeholders, and if drug companies are not required to save their lives by providing the life-saving drugs or intellectual property, there would be no reason for the impoverished to abide by and respect the property rights of the pharmaceutical companies, in which case, they would have the potential to affect the company's operation negatively.[24] As a result the impoverished would *ultimately* count as stakeholders.

Reply: However, if this response were to be taken seriously, it would turn out that the impoverished would ultimately count as stakeholders for all successful corporations since they, too, are allowing them to suffer and die.[25] There would be no reason for the impoverished to care about *any* corporation's property rights. Again, it turns out, according to this argument, that what applies to pharmaceutical companies also applies to other types of companies. There is no distinction. "This point raises the question of whether (if, indeed, there is a moral obligation to aid the disadvantaged …) it is the obligation of the property owner or, rather, of society at large to do so" (Steidlmeier, 1997, pp. 337–339).

5. In 2002, according to the Fortune 500, the top seven pharmaceutical companies generated more in pure profit than the top seven auto companies, the top seven oil companies, the top seven airline companies, and the top seven media companies. Pharmaceutical companies averaged a 17.9% profit margin, which was the highest margin of any industry in the nation. Here, the distinction between pharmaceutical companies and other types of companies is based on the former's exorbitant profit margin rather than on the product that is produced (*Fortune*, 2002).

   Reply: This seems to be the most intuitive distinction. Many people believe that people or corporations who have significantly more ought to aid and help others who have less. We can find this point in Peter Singer's "Famine, Affluence, and Morality" (1972). It is hard to get around the idea that because pharmaceutical companies make exorbitant amounts of money, they have more of an obligation to save lives. Here, the capacity to save lives is based strictly on profit margin.[26] However, although it may be true that pharmaceutical companies have the highest profit margins, this is not a distinguishing feature. Drug companies are not specially situated to make the most money.[27] It is quite possible for other types of corporations to generate the highest profit margins. "The large drug companies are now worried about revenue growth in the years ahead. Growth through mergers and acquisitions is slowing down, and consolidation has just about hit the wall as a way to produce growth" (Elliot & Schroth, 2002, p. 59). "It's hard to make the case that an industry as rich and powerful as this one … is in trouble, but it is" (Angell, 2004, p. 217).

If this distinction is based purely on profits, it shouldn't matter what types of products are produced; the most profitable corporations should bear the responsibility of saving lives in third world countries. Exorbitant profit margins are not a unique feature of the pharmaceutical industry; rather, they are features of the market. My point here is similar to my reply to the first distinction—because market circumstances can lead other types of corporations to become the most successful, the fact that pharmaceutical companies currently generate the highest profit margins does not especially distinguish them from other types of corporations. (Many people believe that drug companies ought to save the lives of those dying in third world countries because they make so much money. The fact is that, currently, drug companies do make more money than other corporations. They not only make more, they make so much more that it seems immoral for them not to donate drugs to save lives. However, if a Good Samaritan duty is based on the generation of profits, it does not necessarily establish the duty to save the lives of those in need of life-saving drugs. Remember that for this distinction, the fact that drug companies produce life-saving products doesn't matter. What matters is that they make the most money. This means that Merck could fulfill their Good Samaritan duty by donating to People for the Ethical Treatment of Animals (PETA), the National Organization of Women (NOW), Deseret Industries, The Foundation for Starving Artists, etc. This distinction says nothing about whom the Good Samaritan duty ought to be directed to, since it is based on profit margins. Consequently, this distinction, even if it were legitimate, would not establish the specific duty to save lives.)

I have attempted to show that common distinctions made between drug companies and other types of companies are unjustified, in which case singling out drug companies, as having the responsibility to save lives while other companies do not, is also unjustified. If we do not require other types of corporations to save lives then we should not require drug companies to do so. There is no distinction, with respect to responsibilities, between pharmaceutical companies that produce life-saving products and other companies that produce other types of products.

V. OPTIONS

If I am right, the intuition that corporations have an obligation to save lives, when they are clearly capable, ought to extend beyond the scope of pharmaceutical companies, which would mean that there ought to be far more corporate regulation. Alternatively, since theorists of corporate obligation cannot establish this special duty, the intuition that drug companies have a moral duty to save lives, when they are clearly capable, needs to be abandoned. Since theorists of corporate obligation are left with these options, if neither of these options are acceptable, current theories of obligation turn out to be unacceptable as well, and in need of revision.

Proponents of SRT accounts are well intentioned. Concern for the greater good of society is admirable. However, if there *really* is a concern for the greater good, consistency requires extending the moral responsibility to save lives to other corporations that have this capability[28]; this obligation would reach far beyond pharmaceutical companies. The point is this: the fact that drug companies produce life-saving products should not release other corporations from the obligation to save lives.[29] But it is doubtful that theorists who propose to restrict the *free* market in such an extreme manner would be taken seriously, even if they ought to be.[30]

If proponents of SRT accounts will not extend the obligation to save lives to other types of corporations, then, again for the sake of consistency, this obligation ought to be abandoned. There is no moral justification, as I have shown, for singling out pharmaceutical companies.[31] But telling people to abandon this obligation may be harder than it seems. The intuition that drug companies have a special obligation to save lives is so strong and so widely accepted that it evidently seems immoral to give the obligation up.[32] This attitude, I believe, is a mistake stemming from an assumption that obligations come only in two modalities—moral and legal. And since the belief that drug companies have a special duty to save lives is perceived as a moral one, it is too difficult to give it up. But there are other kinds of obligations that are neither moral nor legal: prudential, professional, legacy (having to do with birthrights), conventional (etiquette), patriotic, friendship, etc.[33] These kinds of obligations are easier to revise or abandon and perhaps the symmetry property does not apply to them. Since intuitions that are perceived as moral duties are too hard to shake off, and yet the intuition that drug companies have a *special* moral obligation to save the impoverished is unjustified, this intuition may need to be recast as a different type of obligation. By doing so, we can account for the intuition, without insisting on an illegitimate moral obligation.

The last alternative is to insist relentlessly that pharmaceutical companies *do* have a special moral duty to save lives. At the end of the day, this moral intuition may be too hard to abandon or recast as an alternative type of intuition. But since I have shown that current theorists of corporate obligation cannot rationally reconstruct this moral duty, that would mean that we need to look for a new theory which can. This alternative would require that we accept the inadequacy of current theories of corporate obligation, including standard interpretations of SRT accounts. Only then can we seriously move on to establish better, more rigorous and effective theories of corporate obligation.

VI. CONCLUSION

The first objective has been to show that the responsibility to save lives in third world countries is not one that is particular to pharmaceutical companies. The fact that they produce life-saving products does not release other types of corporations from the obligation to save lives. However, if theorists of corporate obligation, such as SRT theorists, *do* release other types of corporations from this obligation, it will turn out that the obligatory force of saving lives is minimal. In other words, it would mean that proponents of SRT accounts are not really concerned with saving lives after all. This conclusion may seem unacceptable to those who believe their concern for the impoverished is genuine. For these people, current theories of corporate obligation ought to be considered insufficient for guiding business choices.

As a response to this problem, the second objective was to show that current theories of corporate obligation, including SRT accounts, need to be critically reevaluated. If we really are concerned with moral or ethical business behavior, we need theories of obligation that reflect this concern. I have used a common intuition to illustrate this point. Current theories of corporate obligation fail to be interpreted as reflecting the intuition that extremely successful corporations have a responsibility to help the impoverished, especially when doing so takes little effort.

My hope is to motivate critical reevaluation of current theories of corporate obligation. I suspect that the standard interpretations of the theories will turn out to be ineffective and irrelevant guides for business practitioners when making important decisions.[34] Recognizing and understanding how current theories of corporate obligation are deficient is, I believe, the first step to establishing and organizing an ethical and moral corporate environment.

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NOTES

1. I will be using the words "pharmaceutical" and "drug" interchangeably.

2. Peter Singer is a well know example of someone who relies on the Good Samaritan intuition (Singer, 1972).

3. This assumption is so intuitive that the very thought of challenging it strikes many people as absurd (even though most people somehow manage to ignore the obligation). Although it would be nice if there really were this moral obligation, it is not at all clear that there is one. My task is not to establish whether or not there is this moral obligation. I am only working under the assumption that there is.

4. This article focuses on pharmaceutical companies and our intuitions about their obligations to society. I am using our intuitions regarding pharmaceutical companies as a test case for examining our current theories of corporate obligation. But of course other intuitions could be used as test cases also.

5. Whether legal obligations are based on moral obligations is another issue, which I will not discuss here.

6. There are of course instances where this act would be illegal, such as if company executives lied about their financial situation.

7. I am putting legal obligations to one side; I will not be discussing them.

8. Some business ethicists, particularly those with a background in management, talk about social responsibility as if it were a result of satisfying obligations to stakeholders. In other words, social responsibility and satisfying stakeholder obligations are synonymous. "Responsible executives have a duty to care about justice and stakeholder rights because, as part of society, it is simply the right thing to do" (Trevino & Nelson, 2004, p. 31). This way of talking about social responsibility is, I believe, a mistake. Stakeholder concerns are not always synonymous with societal concerns. If social responsibility were defined as the satisfaction of stakeholder interests, then there would need to be a new classification dealing directly with societal concerns, regardless of whether they correlate with stakeholder interests. Business ethics anthologies that are meant to be used in *philosophy* courses do separate theories of obligation into three distinct classifications—stockholder, stakeholder, and social responsibility theories. Because my goal is to provide an argument that is persuasive under any formulation of social responsibility theory, I distinguish social responsibility theories from stakeholder theories. This means that I have more theories to account for, hence I argue under the broadest scope of responsibility.

9. Linda Trevino and Katherine Nelson have offered a few definitions of who counts as stakeholders: "A stakeholder is any individual or group that has one or more stakes in an organization. A stakeholder is an individual or group that can affect or be affected by business decisions or undertakings" (Trevino & Nelson, 2004, p. 196). These definitions, however, are close to vacuous, since they define practically anyone and everyone as a stakeholder. This may be why Trevino and Nelson go on to distinguish between primary and secondary stakeholders. "Primary stakeholders are those groups or individuals with whom the organization has a formal, contractual relationship: In most cases this means customers, employees, shareholders or owners, suppliers and perhaps even the government. Secondary stakeholders are other individuals or groups to whom the organization has obligations, but who are not formal, contractual partners" (Trevino & Nelson, 2004, p. 196). From this definition, secondary stakeholders are not adequately identified, which is why I focus mainly on primary stakeholders.

10. See previous footnote.

11. I have been asked to consider the following scenario: suppose a group of impoverished people buy stock in a drug company which produces the needed life-saving drugs—they would then be stakeholders. My immediate response to this is as follows: These stockholders, which are what these impoverished people would be, would benefit the same way as other stockholders. They receive the same as any other stakeholder. I don't believe that being *impoverished* stockholders warrants additional benefits. If it did, stockholders could claim benefits according to their own needs rather than according to company performance. This would be a startling departure from standard practice.

12. I am grateful to Jim Childress for this point.

13. One might object that while parents have the obligation to care for their children, other people don't have this obligation, which means that the symmetry property is not enforced. That, I believe, is a mistake. If one is not a parent, the duty is not applicable. This, however, doesn't mean that one is free from this duty. People are required to tell the truth, but this doesn't mean people who are never in a position to lie are free from this duty.

14. This point should not be obscured by the imperfect duties (O'Neill, 1980). Kant's distinction has to do with determining how much one is required to do in order to discharge one's duties, whereas I am talking about determining who counts as having the duties. Imperfect duties leave it up to the agent to decide when and how to perform them; nevertheless, the duty pertains to everyone similarly situated (Kant, 1996/1797). The issue of who is subject to the duties is taken care of, for Kant, by the symmetry property.

15. There are individual moral theories like Ross's account of *prima facie* duties, and Jonathan Dancy's particularism that may not satisfy the symmetry property (Dancy, 1993; Ross, 1930). What is characteristic of these theories is that they very quickly arrive at a point where they cannot adequately explain their prescriptions or principles. This failure to provide an adequate explanation influences the legitimacy and importance of the theory. Moral principles need to be explicable if they are to be taken seriously. This is why I am not using theories like Ross's and Dancy's as models for theories of corporate obligation.

16. This means that proponents of SRT accounts, if they were to draw an arbitrary line in order to bite this bullet, would have established a somewhat trivial duty to save lives in third world countries. This is not their goal.

17. It is not enough to say that the former produces drugs and the latter does not; just a slightly closer look will disclose the moral irrelevance of this distinction.

18. This, of course, is under the assumption that they will still be making a reasonable profit from those who can pay.

19. Klaus M. Leisinger argues that private enterprises such as pharmaceutical companies can only be as socially responsible as they are capable of being (Leisinger, 2005, pp. 582–583). This implies that different enterprises have different capabilities. My argument focuses on what I think are mistaken conceptions of "capability." To think that pharmaceutical companies have a *special* capacity to save lives is misguided.

20. It has been brought to my attention that in some cases, a pharmaceutical company may be the only producer of what is needed to save lives. This would then establish a distinction between that drug company and other companies like Coca-Cola, since Coca-Cola is not the only company producing water. However, I contend that even if a company is the only producer of what is needed to save lives, that company should not be the only party held responsible for saving lives. It is not as though the life-saving product could not be acquired and distributed through other means, such as government subsidies. My point is that a pharmaceutical company's ability to save lives does not release other parties from the duty to save lives. (I am grateful to Thomas Pogge for helping me realize this point by adamantly disagreeing with me.) Richard T. De George has also made this point. "Clearly, pharmaceutical companies are not the only health care providers and the entire obligation to fulfill the rights in question does not fall on them. And clearly if they have special obligations, that does not mean that government, individuals, families, NGOs, and so on do not also have obligations" (De George, 2005, p. 559). However, what De George has missed, as I have been arguing, is that pharmaceutical companies do not have a special obligation and so should not be assigned a specific and separate placement within the chain of responsibility.

21. This would also be true of David Resnik's reciprocity principle: "[I]f a companies sponsors a study using a specific population, then members of the population that participate in the study should derive some benefits from their participation. In particular, the drug should be made available to members of the population at a reasonable price" (Resnik, 2001, p. 19).

22. Pharmaceutical companies have been severely criticized for lack of leniency with regard to patent restrictions. Marcia Angell explains the influence that drug companies have on the government, which not only has resulted in weak and ineffective attempts to aid the impoverished; this influence has motivated the government to prevent the impoverished from being helped (Angell, 2004, pp. 206–208).

23. The worry is that "secondary markets would develop, whereby people in Africa would buy the drugs cheaply and resell them at a mark-up in the West" (*The Progressive*, 2001).

24. I am grateful to Rob Sparrow for this point.

25. Recall that drugs are not the only thing that can save lives. Money can save lives as well. Money can buy the needed drugs. Money can establish private research geared specifically toward the impoverished. Money can send doctors to care for the suffering.

26. I am treating this intuition seriously since it is difficult to shake. I am ignoring the is/ought problem here; that is, just because it is the case that drug companies can save lives does not mean that they ought to do so. Pointing out this logical fallacy doesn't seem to effectively negate the intuition and so I will not be using it to undercut the distinction.

27. Although it is true that pharmaceutical companies are allowed monopoly privileges as a result of patent laws, the intent is to allow them to make back the money that they put into R&D. The intent of this privilege is not for drug companies to generate the highest profit margins.

28. I referred to this earlier as a symmetry property.

29. The following is an analogous but more intuitive example to further drive home this point: suppose a child is drowning and that there are 10 Olympic swimmers in the pool. The fact that swimmer A could save the child does not release the other swimmers from the duty to save the child (supposing that there is this duty). They all have a duty to save the child. Some have said that the swimmer closest to the child has more of a duty to save the child since he/she could get to the child sooner. However, this still does not release the other swimmers from the duty to save the child. It seems to me that the other nine swimmers have an equally forceful duty to save the child, even if it is by way of making sure the closer swimmer fulfills his/her duty to save the child.

30. Moral restrictions work in the same way that moral permissibility works. They influence how actions are judged—they produce judgments that are either praiseworthy or blameworthy. One way to avoid blameworthiness is to play down the seriousness of the restriction.

31. As a reminder, theories of corporate obligation are *moral* theories. If theorists can't produce the special obligation to save lives, this means that they cannot morally justify this special obligation.

32. This intuition does not extend to other types of corporations, which I believe is the reason that theorists of corporate obligation do not extend the responsibility to save lives to other corporations. The inconsistency in intuitions is what initially motivated this project.

33. Explicit examples include: the obligation to prepare for retirement, the obligation to take and give messages to co-workers, the obligation to have a will, the obligation to turn off mobile phones during a movie, the obligation to stand during the national anthem, and the obligation not to betray friends.

34. It has already been suggested that standard individual moral theories such as utilitarianism, Kantianism, and virtue ethics fail to provide guidance for business decision making (Soule, 2002, p. 115). I am suggesting that this is also true of *corporate* theories of obligation such as stockholder theory, stakeholder theory and social responsibility theories of obligation.

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