

# Human Rights and Business

A Corporate Ethics Challenge for the  
Pharmaceutical Industry

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## Is “Human Rights” the “business of business”?

- The debate on “Human Rights and Business” has gained significant weight and is expected to intensify – corporations are more and more held accountable for “deliverables” in this domain.
- Companies who have pledged support to the UN Global Compact must explain what they mean

**“We seek to support and respect the rights defined in the Universal Declaration of the United Nations within our sphere of influence.”**

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## Human Rights principles of the United Nations Global Compact

The Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the following areas:

### Human Rights

Principle 1:  
Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2:  
make sure that they are not complicit in human rights abuses;

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## The Context: Globalization Discontent



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## Globalization and Human Rights

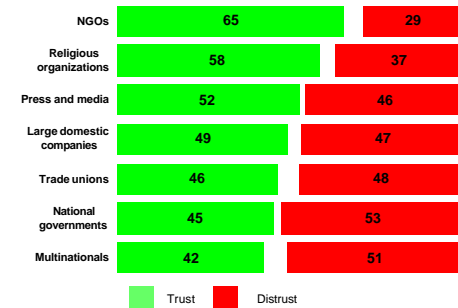


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## Trust in Institutions to Operate in Best Interest of Society

(EnviroNics, 2002 / 2004 - 20 industrial and industrializing countries surveyed)



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## Pressure from the street makes perception a reality

**"I don't care how many lobbyists  
you have in Washington, if you  
are weak in the streets,  
you are weak"**

Ralph Nader

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## Lessons learned from the political arena

**"An issue ignored  
is a crisis invited"**

Henry Kissinger

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## Two Distinct Sets of Human Rights:

### *Civil and Political Human Rights*

#### Civil and Political Human Rights

Civil and political rights are defensive rights and aim to prevent state interference with individual freedoms. They include the rights to life, liberty and security of the person; the right to privacy; the right to recognition as a person before the law as well as to a fair trial; freedom from slavery or servitude; freedom from arbitrary arrest, detention and exile; freedom of thought, conscience, religion, opinion and expression.

An enlightened corporate position on Civil and Political Human Rights could be:

We respect and support civil and political rights within the sphere of our influence and strive to ensure that we neither contribute directly or indirectly to human rights abuses nor knowingly benefit from such abuses.

## Two Distinct Sets of Human Rights:

### *Economic, Social and Cultural Human Rights*

#### Economic, Social and Cultural Human Rights

Economic, social and cultural rights are positive rights that require the material support of the state. They include **the right to** work and the right to just and favorable remuneration; the right to a standard of living adequate for the health and well-being of the employees and their nucleus family, including food, clothing, housing and **medical care**; and the right to education and to participate in the cultural life of a community.

What should a corporate position on Economic, Social and Cultural Rights be?

- The primary duty bearer for the realization of these rights is the state.
- Business enterprises cannot on their own fully realize economic, social and cultural rights - they, however, contribute in many ways to there realization.
- There is half a sentence in the preamble of the UDHR...

## The private sector human rights duties and "good governance"

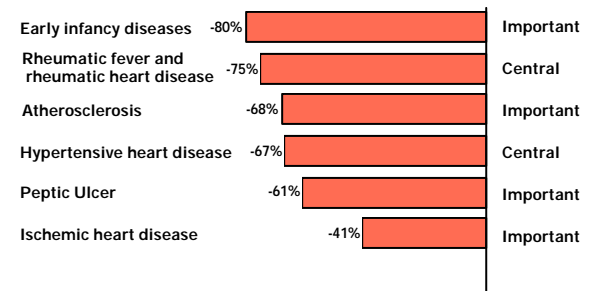
Under "normal" conditions, pharmaceutical corporations contribute to the fulfillment of economic, social and cultural human rights in the context of their normal business activities:

- ✓ Be successful in R & D and provide goods of high quality that succeed in meeting effective customer demands and can be sold at prices that are competitive and in the best interest of the corporation - while obeying the law;
- ✓ keeping, hiring, and competitively remunerating employees;
- ✓ paying taxes; and contributing towards pension and insurance systems
- ✓ being a good corporate citizen and contribute to other social purposes.

## Major Achievements in the fight against premature mortality

### Drop in Death Rate, United States 1965-1999

Relative Importance of Pharmaceuticals



Source: The Boston Consulting Group, 1993 & 1999. Based on Data from the U.S. National Center for Health Statistics.

## Strong Decrease of Cancer Death Rate

- >60% survive >5 years<sup>1</sup>
- Children: 49% drop in cancer mortality within the last 25 years<sup>2</sup>
- 75–80%<sup>3</sup> of children with cancer and 85% of children with leukemia survive their disease<sup>4</sup>



<sup>1</sup> 5 year relative survival rates based on follow up of patients through 2000 Source: Surveillance, Epidemiology, and End Results Program, 1975-2000, Division of Cancer Control and Population Sciences, National Cancer Institute, 2003; <sup>2</sup> Cancer Facts & Figures 2004, American Cancer Society; <sup>3</sup> Journal of Pediatric Oncology Nursing, Vol. 21, No. 3, 160-164 (2004); <sup>4</sup> Leukemia Research Foundation, December 2003

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## Promotion and Protection of Human Rights and Corporate Citizenship Deliverables

Additional  
Desirables

Expected  
„ought to“ dimension

Essentials  
„must“-  
dimension



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## Market failures and failing states: Issues for stakeholder dialogue and corporate decision

What are corporate human rights duties under “non-normal” conditions?

- Who is in charge if markets fail to help manage disease problems?
- Who is in charge if those that are supposed to be in charge are not delivering – because they are not capable or willing?
- What is the role and duty of the international community?
- Under what conditions can Novartis be expected to do what for whom until when?

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## The Public Concern Context: Mass Poverty

- About 3 billion people live on less than 2 US\$ a day.
- The 20 richest percent of the world’s population receive 85% of the global income, the poorest 20 percent only 1.4%.
- Average life expectancy in the poorest countries of Africa is less than 45 years.
- Every Year more than 500’000 women die in pregnancy and childbirth – one every minute
- 14 million children die every year due to preventable diseases - 800 will die during the 30 minutes of my lecture.

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## World Population Growth (in Mio) 1950, 2004 and 2050\*

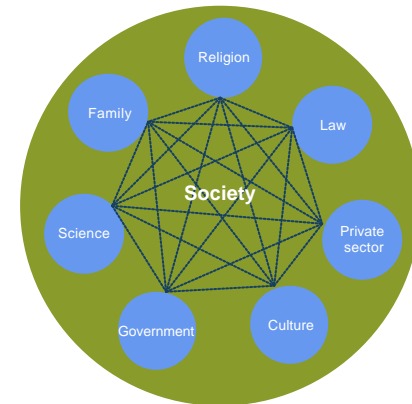
Region	1950	2004	2050
World	2'510	6'396	9'276
Industrial Countries	813	1'206	1'257
Developing Countries	1'706	5'190	8'019
Africa	221	885	1'941
Asia	1'315	3'875	5'385
Latin America and Caribbean	167	549	778

Quelle: Population Reference Bureau, 2004 World Population Data Sheet; UN Population Division:  
World Population Prospects: The 2002 Revision, New York 2003,  
\*) Mittlere Projektion,

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## What is a "fair societal division" of responsibility for respecting and supporting Human Rights?



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## Issues to reflect, evaluate and decide upon

Actual or perceived issues of human rights significance for pharmaceutical corporations such as Novartis are, e.g.

- the handling of *patents* and the *pricing policy* for life-saving medicine under conditions of individual and collective poverty;
- research priorities not considering the immense needs of people living in absolute poverty;
- specificities of clinical trials (such as the concept of informed consent or the voluntary nature of trial subjects living in poverty);

**What are appropriate corporate policy responses?  
What is "required", what "expected" and what is "desired"?**

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## What is the Impact of Patents on Preventable Mortality?

- ✓ The International Covenant on Economic, Social and Cultural Rights recognizes **"the right of everyone to the enjoyment of the highest attainable standard of physical and mental health"** and includes a right to **"...the provision of essential drugs"**;
- ✓ WHO defines "Essential medicines" as those **"...that satisfy the priority health care needs of the population"** They are selected with regard to public health relevance, evidence on efficacy and safety, and comparative cost-effectiveness;
- ✓ Out of the currently 319 products on the list only 19 are patented (predominantly HIV/ AIDS and multi-resistant TB and malaria).

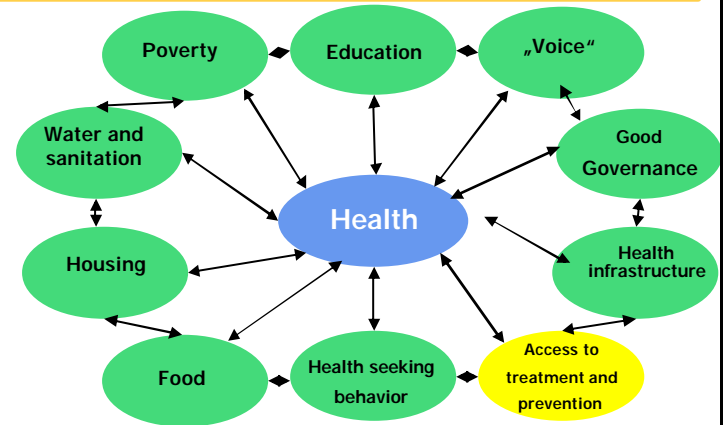
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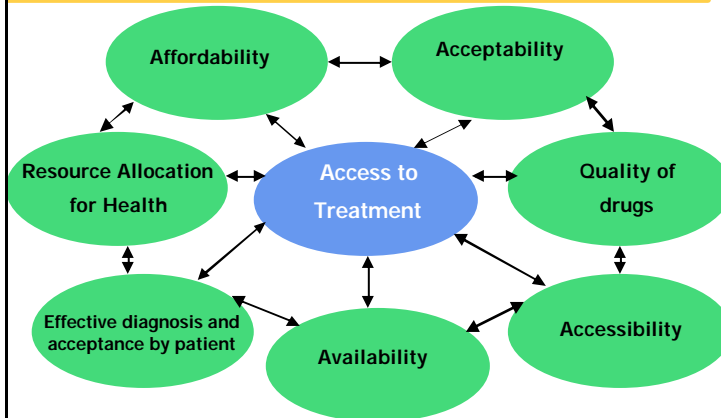
## Special Issues and Risks for a constructive debate: "Accusers" lead the way

- ✓ worst cases from the extractive sector are generalized to "all multinational corporations" having (and using) a "carte blanche to abuse human rights" – imposing an inversion of the burden of proof.
- ✓ "Big Pharma" is violating the right to health "from Bhopal to Doha";
- ✓ Corporations selling at market prices are violating human rights if patients are too poor to afford;
- ✓ If States fail, "Big Pharma" is in charge...

## Reality Check 1: Determinants of Health



## Reality Check 2: Determinants of Access to Treatment



## What did Novartis do for the Business and Human Rights Debate?

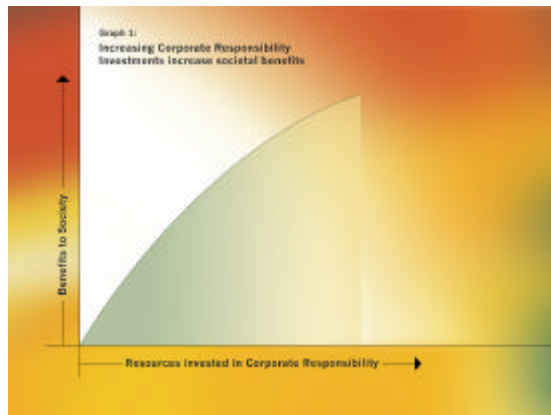
Develop and implement Human Rights Corporate Citizenship Guidelines compatible with the **content** of the draft UN Norms currently under discussion.

Support Mary Robinson's Business Leaders Initiative on Human Rights (BLIHR) to "road test" the draft UN Norms

Organize a Novartis Foundation Symposia on "Human Rights and Business" as well as on "The Right to Health – **a Duty for Whom?**" to announce corporate position and invite a broad stakeholder debate

Where should one go from here?

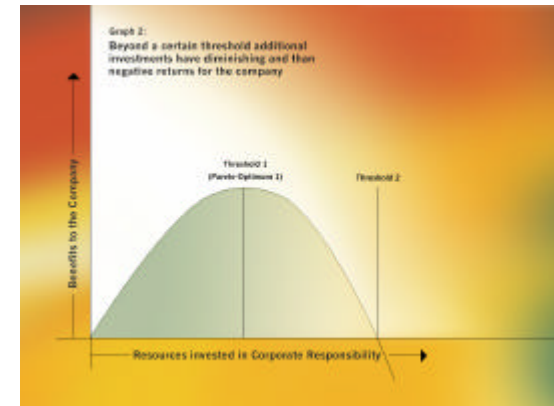
## Phase 1 of Human Rights specific investments: A „win-win- situation



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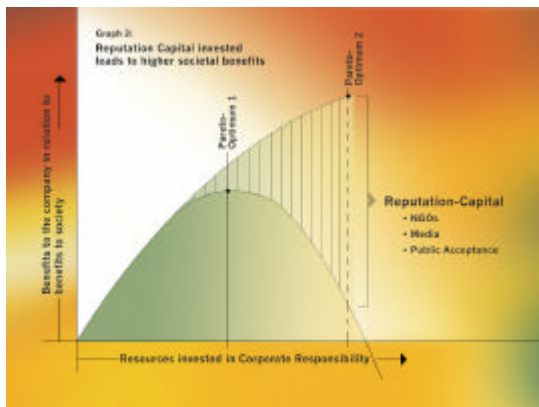
## Phase 2 of human rights specific investments: Reaching a “Pareto Optimum”



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## Phase 3 of Human Rights specific investments: A „Public-Private-Partnership“ for Reputation Capital



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## Reputation Drivers (perception of CEOs and financial analysts)

2002		2003		2004	
1	Competitiveness	1	Competitiveness	1	<b>Ethical Behavior</b>
2	Marketing Effectiveness	2	<b>Ethical Behavior</b>	2	Workforce
3	<b>Ethical Behavior</b>	3	CEO Leadership	3	Financial Stability
4	Workforce/Process	4	Financial Stability	4	Leadership
5	Financial Stability	5	Manufacturing Process	5	Third-Party Relations
6	Social Responsibility	6	Social Responsibility	6	Marketing Effectiveness
7	Strategic Alliances	7	Employee Retention	7	Community Outreach
8	Charitable Support	8	Marketing Effectiveness	8	Strategy
		9	Charitable Support	9	Global Capabilities
				10	Charitable Support

Source: Rating Research LLC; Pharmaceutical Executive, Feb 05, p. 82.

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## Where should enlightened companies go from here?

- ✓ Continue to explain issues and to develop sensitivity
- ✓ Communicate (internally and externally) the reason, extent **and limits** of the corporate commitment (moving target)
- ✓ Defining a consensus corridor for ambiguous terms such as “sphere of influence” or “complicity”;
- ✓ Participate in the debate on the meaning of Article 25 UDHR “right to medical care” for the pharmaceutical industry
- ✓ Cooperate with GRI on appropriate Human Rights Indicators (G3) and develop Human Rights Impact Assessment

## Why bother with “Business and Human Rights”?

### Because it is the right thing to do:

You cannot have a first class economic performance and be perceived to have a second class human rights record.

## Plausible arguments for a “Business Case”

Applied Corporate Responsibility including the respect and support of Human Rights likely (but not proven!) to

- ✓ Reduce friction with society and need for crisis management
- ✓ Reduce legal, financial and reputation risks
- ✓ Engender employees’ motivation and identification
- ✓ Enhance the attraction of the corporation (ethical investment)
- ✓ Preserve corporate freedom and provide new competitive edge in modern societies (“**licence to operate**”)

[www.novartisfoundation.com](http://www.novartisfoundation.com)

