

Access to medicines: intellectual property rights, human rights and justice

Keren Bright and **Lois Muraguri** (The Open University)

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Abstract

Many are aware of the fine balance between the human rights of individuals (right to health; right to share in scientific advancement and its benefits) and the human rights of companies (right to own property; right to protection of moral and material interests resulting from scientific production; entitlement to the peaceful enjoyment of their possessions, which includes patents). This paper argues that notwithstanding this fine balance, human rights concepts are shaping the use of patents and the development of health-related organisational mechanisms in poorer countries.

Pharmaceutical companies justify their patent monopolies and their high profits in terms of the research and development needs of the next generation of drugs: each successful medicine brought to market typically costs over £1 billion and has taken ten years to develop. Patent monopolies and profit in turn contribute to inequality of access to medicines. This paper considers various interventions which challenge the conventional rationale adopted by pharmaceutical companies. It discusses initiatives such as patent pools and the substantial R & D funding provided by charitable foundations which are designed to ameliorate the connection between innovation and inequality.