# Speech 1NC Yale Rd 2 vs Dr Philips 9-17 5PM

## 1

#### The standard is maximizing expected wellbeing – that means act hedonism.

#### 1] Util is key to debates about IP.

Kar 19 [Mohit; Writer at the Original Position; “Utilitarianism in the Context of Intellectual Property,” The Original Position; 9/18/19; <https://originalpositionnluj.wordpress.com/2019/09/18/utilitarianism-in-the-context-of-intellectual-property/>] Justin

Jeremy Bentham is known as the founder of modern utilitarianism. He believed in production of the greatest possible quantity of happiness, on the part of those whose interest is in view. With regards to intellectual property, he had opined that inventors and authors should be given absolute privilege over their work, which would ensure they get remunerated duly for their work, thus leading to further creative actions being taken by them. In this article, the author will make an analysis of the utilitarian theory as proposed by Jeremy Bentham and its interplay with Intellectual Property.

According to utilitarians, the main purpose of property rights is the maximization of common well-being.[i] According to Jeremy Bentham, the common well-being here mentioned is the good for the greatest number of people in a population. He defined the principle of utility as carrying an object of production of maximum happiness in a given time in a particular society.[ii]

The wealth of a society consists of the cumulative wealth of each of its individual members. The most effective way to increase individual wealth is to leave the management of wealth to the individual himself, since – between the individual and the government – it is the individual who can best manage his own wealth. The society gains benefits because the increase in individual wealth is also the increase of collective wealth. Sharing this wealth is managed by the government, through taxes. Bentham argued that the value of outcome of a society is positive if the total quantity of pleasure gained by each individual under its influence is greater than the total quantity of pain.[iii] Thus, Bentham put stress on the happiness and wealth of individuals in a society.

Jeremy Bentham’s utilitarianism advocates the maximization of common well-being and the proper use of resources available. To show us a practical point of view, he criticized the kind of trade strategies where a country prevents the purchase of cheaper products from another country only to protect its market. In his opinion, to pay more for a product that can be manufactured elsewhere with the same quality standards only to favor the national industry is a waste of resources.[iv] Bentham believed that trade barriers to foreign imports cannot increase trade and commerce in a particular country.[v] He termed it as a necessary evil which would give rise to monopolies and lower the quality of production.[vi]

Transposing this theory to intellectual property rights, for the maximization of common welfare to be made, the legislators should strike a balance between, the monopoly of rights to stimulate creation and giving access to the population to inventions. Bentham defended the idea of ​​a limited period of protection for patents and he believed in the absolute privilege of the inventor, so that the latter can recover the amounts invested during the inventive process, while being paid for his creative activity.[vii] The right must also help the inventor since without any laws to protect him; any third party could copy his invention and thus enjoy his work without any compensation being granted. The logic to defend the monopoly stems from the fact that, without the latter, the inventor would not be encouraged to put his product or invention on the market. In this case, it would be the society that would have lost wealth which could have been added to the common well-being. In the name of enriching common well-being, Bentham stresses the importance of patents in a society and even argues that their concession should be a free service offered to inventors.[viii]

The contemporary version of this theory has been presented to us by William Landes and Richard Posner in two separate works, one on copyright and the other on trademark law.[ix] Economic analysis of intellectual property rights presented by these two authors demonstrates that the protection of intellectual property may be too expensive for society and it limits the use of products. If we extrapolate a little, this contemporary utilitarian vision can assert that the products by intellectuals should be easily copied since the copies of a product do not prevent the use of the same product by several people.

William Landes and Richard Posner consider the creative process as divided into two parts.[x] If we use a book as an example, its production is split between the part comprising author’s time and effort plus publishing costs, and the second part includes publication and distribution costs of the book. Generally, it is the first of these two elements that demands the most investment. The second will be more or less expensive, depending on the quantity of copies that will be produced. When the work is complete, its reproduction does not require any investment at the creative level. Hence, they stated that striking a correct balance between access and incentives is one of the central problems of copyright law.[xi] In this way, as already mentioned, the lack of remuneration of creators for the exploitation of their works may have as a consequence the diminution of the cultural wealth of a society, given that the creators will not have the desire to continue to create unless paid. It is important to note that the lack of protection conferred by copyright would not change this problem. In a society where copyright protection does not exist, a book could be easily copied without the act of copying being considered an offense. When the contemporary utilitarian vision is applied, it indicates that the benefits that they bring to a society are: It makes it easier for consumers to choose the product which has the qualities corresponding most to its needs. Since consumers already know the brand, they should not search among a whole range of products available on the market; It encourages producers to maintain good quality of their products, because consumers associate the product quality with the brand attached to it; It improves the language. Landes and Posner believe that the brands create new words that end up being incorporated in the lexicon of the language.[xii]

Suppose the utilitarian theory – that of Bentham, or Posner’ and Landes’ – would be applied to intellectual property as it stands today: the benefits that would be brought to society by this analysis would be the incentive for creativity, the optimization of production and the disappearance or diminution of similar inventions made by different individuals.

Among these three advantages, we can consider the incentive to creation as the most important. In this case, the monopoly guaranteed by intellectual property stimulates creation in a society and, especially with regard to patents; inventions will bring more happiness and pleasure to society in general. This justifying argument is in harmony with Bentham’s utilitarianism. The problem here is that no one really knows what kind of invention would bring more or less happiness or pleasure to the society. Moreover, the term “monopoly concession” for patents, trademarks and copyright is not based on any empirical or objective study and is rather random.

Optimization of production sees ownership monopolies intellectual property as a “service” to society since data from sale indicates the products for which the company has the most need. This approach could even justify increasing the period of protection of intellectual property products. The logic here is that the decrease in the protection period or even the removal of the protection would deprive the producers of information that enables them to optimize their production. Thereby, the withdrawal or diminution of protection could even be considered harmful to society. However, if we do not impose limitations to this theory, the result could be a disparity of investments in intellectual property over investments in other areas, such as education and health, as well as in general research activities.

CONCLUSION

Utilitarianism, as it stands today, is intimately linked to the information obtained from the use of intellectual property monopolies. The goal is to avoid duplication of production. The problem in this case is that in a society which values ​​and encourages the production of new patents and new technologies, the plethora of patents complicates the process. This finding is based on the fact that new inventions normally rely on existing patents and the production of a new patented product will require a large number of licenses before it can begin. As Richard Posner said in his blog: ‘Patents are a source of great social costs, and only occasionally of commensurate benefits. Most firms do not actually want patents; for those firms, the costs involved in obtaining licenses from patentees are not offset by the prospect of obtaining license fees on their own patents.’

#### Outweighs –

#### A] Most articles about IP are written through util – means other frameworks can never engage with core questions of the lit and decks predictability – equal topic lit means fair ground.

#### B] TJFs first – substance begs the question of a framework being good for debate – fairness is a gateway issue to deciding the winner and education is the reason schools fund debate.

#### 2] Lexical pre-requisite: preventing death is a prior question to all other ethical theories.

Craig **Paterson** (20**03**, Department of Philosophy, Providence College, Rhode Island. “A Life Not Worth Living?”, Studies in Christian Ethics, https://pubmed.ncbi.nlm.nih.gov/15000090/)

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alter- native of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81 In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### 3] Only pleasure and pain are intrinsically valuable – all other frameworks collapse.

Moen 16 [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281]

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that pleasure and pain are both places where we reach the end of the line in matters of value.

#### 4] Extinction first –

#### A] Forecloses future improvement – we can never improve society because our impact is irreversible

#### B] Turns suffering – mass death causes suffering because people can’t get access to resources and basic necessities

#### C] Moral obligation – allowing people to die is unethical and should be prevented because it creates ethics towards other people

#### D] Objectivity – body count is the most objective way to calculate impacts because comparing suffering is unethical

#### E] Moral uncertainty – if we’re unsure about which interpretation of the world is true – we ought to preserve the world to keep debating about it

#### 5] No intent-foresight distinction for states.

Enoch 07 Enoch, D [The Faculty of Law, The Hebrew Unviersity, Mount Scopus Campus, Jersusalem]. (2007). INTENDING, FORESEEING, AND THE STATE. Legal Theory, 13(02). doi:10.1017/s1352325207070048 https://www.cambridge.org/core/journals/legal-theory/article/intending-foreseeing-and-the-state/76B18896B94D5490ED0512D8E8DC54B2

The general difficulty of the intending-foreseeing distinction here stemmed, you will recall, from the feeling that attempting to pick and choose among the foreseen consequences of one’s actions those one is more and those one is less responsible for looks more like the preparation of a defense than like a genuine attempt to determine what is to be done. Hiding behind the intending-foreseeing distinction seems like an attempt to evade responsibility, and so thinking about the distinction in terms of responsibility serves 39. Anderson & Pildes, supra note 38. I will use this text as my example of an expressive theory here. 40. See id. at 1554, 1564. 41. For a general critique, see Mathew D. Adler, Expressive Theories of Law: A Skeptical Overview, 148 U. PA. L. REV. 1363 (1999–2000). 42. As Adler repeatedly notes, the understanding of expression Anderson & Pildes work with is amazingly broad, so that “To express an attitude through action is to act on the reasons the attitude gives us”; Anderson & Pildes, supra note 38, at 1510. If this is so, it seems that expression drops out of the picture and everything done with it can be done directly in terms of reasons. 43. This may be true of what Anderson and Pildes have in mind when they say that “expressive norms regulate actions by regulating the acceptable justifications for doing them”; id. at 1511. http://journals.cambridge.org Downloaded: 03 Aug 2014 IP address: 134.153.184.170 Intending, Foreseeing, and the State 91 to reduce even further the plausibility of attributing to it intrinsic moral significance. This consideration—however weighty in general—seems to me very weighty when applied to state action and to the decisions of state officials. For perhaps it may be argued that individuals are not required to undertake a global perspective, one that equally takes into account all foreseen consequences of their actions. Perhaps, in other words, individuals are entitled to (roughly) settle for having a good will, and beyond that let chips fall where they may. But this is precisely what stateswomen and statesmen—and certainly states—are not entitled to settle for.44 In making policy decisions, it is precisely the global (or at least statewide, or nationwide, or something of this sort) perspective that must be undertaken. Perhaps, for instance, an individual doctor is entitled to give her patient a scarce drug without thinking about tomorrow’s patients (I say “perhaps” because I am genuinely not sure about this), but surely when a state committee tries to formulate rules for the allocation of scarce medical drugs and treatments, it cannot hide behind the intending-foreseeing distinction, arguing that if it allows45 the doctor to give the drug to today’s patient, the death of tomorrow’s patient is merely foreseen and not intended. When making a policy-decision, this is clearly unacceptable. Or think about it this way (I follow Daryl Levinson here):46 perhaps restrictions on the responsibility of individuals are justified because individuals are autonomous, because much of the value in their lives comes from personal pursuits and relationships that are possible only if their responsibility for what goes on in the (more impersonal) world is restricted. But none of this is true of states and governments. They have no special relationships and pursuits, no personal interests, no autonomous lives to lead in anything like the sense in which these ideas are plausible when applied to individuals persons. So there is no reason to restrict the responsibility of states in anything like the way the responsibility of individuals is arguably restricted.47 States and state officials have much more comprehensive responsibilities than individuals do. Hiding behind the intending-foreseeing distinction thus more clearly constitutes an evasion of responsibility in the case of the former. So the evading-responsibility worry has much more force against the intending-foreseeing distinction when applied to state action than elsewhere.

#### 6] States must use util – they seek practical benefits for constituents and aren’t unified agents so they don’t have intentions. No calc indicts since states use util successfully all the time and they just prove util’s hard to use not impossible.

#### 7] Physicalism is true and is a side constraint on ethics.

Papineau 8, David, "Naturalism", The Stanford Encyclopedia of Philosophy (Spring 2009 Edition), Edward N. Zalta (ed.), URL = <http://plato.stanford.edu/archives/spr2009/entries/naturalism/>.

In the middle of the nineteenth century the conservation of kinetic plus potential energy came to be accepted as a basic principle of physics (Elkana 1974). In itself this does not rule out distinct mental or vital forces, for there is no reason why such forces should not be ‘conservative’, operating in such a way as to compensate losses of kinetic energy by gains in potential energy and vice versa. (The term ‘nervous energy’ is a relic of the widespread late nineteenth-century assumption that mental processes store up a species of potential energy that is then released in action.) However, theconservation of energy does imply that any such special forces must be governed by strict deterministic laws: if mental or vital forces arose spontaneously, then there would be nothing to ensure that they never led to energy increases. During the course of the twentieth century received scientific opinion became even more restrictive about possible causes of physical effects, and came to reject sui generis mental or vital causes, even of a law-governed and predictable kind. Detailed physiological **research, especially into nerve cells, gave no indication of any physical effects that cannot be explained in terms of basic physical forces** that also occur outside living bodies. By the middle of the twentieth century, belief in sui generis mental or vital forces had become a minority view. This led to the widespread acceptance of the doctrine now known as the ‘**causal closure’** or the ‘causal completeness’ of the physical realm, according to which all physical effects can be accounted for by basic **physical causes** (where ‘physical’ can be understood as referring to some list of fundamental forces) non-physical causes of physical effects. As a result, the default philosophical view was a non-naturalist interactive pluralism which recognized a wide range of such non-physical influences, including spontaneous mental influences (or ‘determinations of the soul’ as they would then have been called). The nineteenth-century discovery of the conservation of energy continued to allow that sui generis non-physical forces can interact with the physical world, but required that they be governed by strict force laws. This gave rise to an initial wave of naturalist doctrines around the beginning of the twentieth century. Sui generis mental forces were still widely accepted, but an extensive philosophical debate about the significance of the conservation of energy led to a widespread recognition that any such mental forces would need to be law-governed and thus amenable to scientific investigation along with more familiar physical forces.[5] By the middle of the twentieth century, the acceptance of the casual closure of the physical realm led to even stronger naturalist views. The causal closure thesis implies that any mental and biological causes must themselves be physically constituted, if they are to produce physical effects.It thus gives rise to a particularly strong form ofontological naturalism, namely the physicalist doctrine that any state that has physical effects must itself be physical. From the 1950s onwards, philosophers began to formulate arguments for ontological physicalism. Some of these arguments appealed explicitly to the causal closure of the physical realm (Feigl 1958, Oppenheim and Putnam 1958). In other cases, the reliance on causal closure lay below the surface. However, it is not hard to see that even in these latter cases the causal closure thesis played a crucial role. Thus, for example, consider J.J.C. Smart's (1958) thought that we should identify mental states with brain states, for otherwise those mental states would be "nomological danglers" which play no role in the explanation of behaviour. Or take David Lewis's (1966) and David Armstrong's (1968) argument that, since mental states are picked out by their causal roles, and since we know that physical states play these roles, mental states must be identical with those physical states. Again, consider Donald Davidson's (1970) argument that, since the only laws governing behaviour are those connecting behaviour with physical antecedents, mental events can only be causes of behaviour if they are identical with those physical antecedents. At first sight, it may not be obvious that these arguments require the causal closure thesis. But a moment's thought will show that none of these arguments would remain cogent if the closure thesis were not true, and that some physical effects (the movement of matter in arms, perhaps, or the firings of the motor neurones which instigate those movements) were not determined by prior physical causes at all, but by sui generis mental causes. Sometimes it is suggested that the indeterminism of modern quantum mechanics creates room for sui generis non-physical causes to influence the physical world. However, even if quantum mechanics implies that some physical effects are themselves undetermined, it provides no reason to doubt a quantum version of the causal closure thesis, to the effect that the chances of those effects are fully fixed by prior physical circumstances. And this alone is enough to rule out sui generis non-physical causes. For such sui generis causes, if they are to be genuinely efficiacious, must presumably make an independent difference to the chances of physical effects, and this in itself would be inconsistent with the quantum causal closure claim that such chances are already fixed by prior physical circumstances. Once more, it seems that anything that makes a difference to the physical realm must itself be physical. Even if it is agreed that anything with physical effects must in some sense be physical, there is plenty of room to debate exactly what ontologically naturalist doctrines follow. The causal closure thesis says that (the chance of) every physical effect is fixed by a fully physical prior history. So, to avoid an unacceptable proliferation of causes, any prima facie non-physical cause of a physical effect will need to be included in that physical history. But what exactly does this require? The contemporary literature offers a wide range of answers to this question. In part the issue hinges on the ontological status of causes. Some philosophers think of causes as particular events, considered in abstraction from any properties they may possess (Davidson 1980). Given this view of causation, a mental or other apparently non-physical cause will be the same as some physical cause as long as it is constituted by the same particular (or ‘token’) event. For example, a given feeling and a given brain event will count as the same cause as long as they are constituted by the same token event. However, it is widely agreed that this kind of ‘token identity’ on its own fails to ensure that prima facie non-physical causes can make any real difference to physical effects. To see why, note that token identity is a very weak doctrine: it does not imply any relationship at all between the properties involved in the physical and non-physical cause; it is enough that the same particular entity should possess both these properties. Compare the way in which an apple's shape and colour are both possessed by the same particular thing, namely that apple. It seems wrong to conclude on this account that the apple's colour causes what its shape causes. Similarly, it seems unwarranted to conclude that someone's feelings cause what that person's neuronal discharges cause, simply on the grounds that these are both aspects of the same particular event. This could be true, and yet the mental property of the event could be entirely irrelevant to any subsequent physical effects. Token identity on its own thus seems to leave it open that the mental and other prima facie non-physical properties are ‘epiphenomenal’, exerting no real influence on effects that are already fixed by physical processes (Honderich 1982, Yalowitz 2006 Section 6, Robb and Heil 2005 Section 5). These considerations argue that causation depends on properties as well as particulars. There are various accounts of causation that respect this requirement, the differences between which do not matter for present purposes. The important point is that, if mental and other prima facie non-physical causes are to be equated with physical causes, [any] non-physical properties must somehow be constituted by physical properties. If your anger is to cause what your brain state causes, the property of being angry cannot be ontologically independent of the relevant brain properties. So much is agreed by nearly all contemporary naturalists. At this point, however, consensus ends. One school holds that epiphenomenalism can only be avoided by type-identity, the strict identity of the relevant prima facie non-physical properties with physical properties. On the other side stand ‘non-reductive’ physicalists, who hold that the causal efficacy of non-physical properties will be respected as long as they are ‘realized by’ physical properties, even if they are not reductively identified with them. Type-identity is the most obvious way to ensure that non-physical and physical causes coincide: if exactly the same particulars and properties comprise a non-physical and a physical cause, the two causes will certainly themselves be fully identical. Still, type-identity is a very strong doctrine. Type identity about thoughts, for example, would imply that the property of thinking about the square root of two is identical with some physical property. And this seems highly implausible. Even if all human beings with this thought must be distinguished by some common physical property of their brains—which itself seems highly unlikely—there remains the argument that other life-forms, or intelligent androids, will also be able to think about the square root of two, even though their brains may share no significant physical properties with ours (cf. Bickle 2006). This ‘variable realization’ argument has led many philosophers to seek an alternative way of reconciling the efficacy of non-physical causes with the causal closure thesis, one which does not require the strict identity of non-physical and physical properties. The general idea of this ‘non-reductive physicalism’ is to allow that a given non-physical property can be ‘realized’ by different physical properties in different cases. There are various ways of filling out this idea. A common feature is the requirement that non-physical properties should metaphysically supervene on physical properties, in the sense that any two beings who share all physical properties will necessarily share the same non-physical properties, even though the physical properties which so realize the non-physical ones can be different in different beings. This arguably ensures that nothing more is required for any specific instantiation of a non-physical property than its physical realization—even God could not have created your brain states without thereby creating your feelings—yet avoids any reductive identification of non-physical properties with physical ones. (This is a rough sketch of the supervenience formulation of physicalism. For more see Stoljar 2001 Sections 2 and 3.) Some philosophers object that non-reductive physicalism does not in fact satisfy the original motivation for physicalism, since it fails to reconcile the efficacy of non-physical causes with the causal closure thesis (Kim 1993. Robb and Heil 2005 Section 6). According to non-reductive physicalism, prima facie non-physical properties are not type-identical with any strictly physical properties, even though they supervene on them. However, if causes are in some way property-involving, this then seems to imply that any prima facie non-physical cause will be distinct from any physical cause. Opponents of non-reductive physicalism object that this gives us an unacceptable proliferation of causes for the physical effects of non-physical causes—both the physical cause implied by the causal closure thesis and the distinct non-physical cause. In response, advocates of non-reductive physicalism respond that there is nothing wrong with such an apparent duplication of causes if it is also specified that the latter metaphysically supervene on the former. The issue here hinges on the acceptability of different kinds of overdetermination (Bennett 2003). All can agree that it would be absurd if the physical effects of non-physical causes always had two completely independent causes. This much was assumed by the original causal argument for physicalism, which reasoned that no sui generis non-physical state of affairs can cause some effect that already has a full physical cause. However, even if ‘strong overdetermination’ by two ontologically independent causes is so ruled out, this does not necessarily preclude ‘weak overdetermination’ by both a physical cause and a metaphysically supervenient non-physical cause. Advocates of non-reductive physicalism argue that this kind of overdetermination is benign, on the grounds that the two causes are not ontologically distinct—the non-physical cause isn't genuinely additional to the physical cause (nothing more is needed for your feelings than your brain states). There is room to query whether non-reductive physicalism amounts to a substantial form of naturalism. After all, the requirement that some category of properties metaphysically supervenes on physical properties is not a strong one. A very wide range of properties would seem intuitively to satisfy this requirement, including moral and aesthetic properties, along with any mental, biological, and social properties. (Can two physically identical things be different with respect to wickedness or beauty?) Supervenience on the physical realm is thus a far weaker requirement than that some property should enter into natural laws, say, or be analysable by the methods of the natural sciences. Indeed some philosophers are explicitly anti-naturalist about categories that they allow to supervene on the physical—we need only think of G.E. Moore on moral properties, or Donald Davidson and his followers on mental properties (Moore 1903, Davidson 1980). In response, those of naturalist sympathies are likely to point out that any viable response to the argument from causal closure will require more than metaphysical supervenience alone (Horgan 1993, Wilson 1999). Supervenience is at least necessary, if non-reductive physicalists are to avoid the absurdity of strong overdetermination. But something more than mere supervenience is arguably needed if non-reductive physicalists are to make good their claim that non-physical states cause the physical effects that their realizers cause. Metaphysical supervenience alone does not ensure this. (Suppose ricketiness, in a car, is defined as the property of having some loose part. Then ricketiness will supervene on physical properties. In a given car, it may be realized by a disconnected wire between ignition and starter motor.This disconnected wire will cause this car not to start. But it doesn't follow that this car's then not starting will be caused by its property of ricketiness. Most rickety cars start perfectly well.) So it looks as if the causal closure argument requires not only that non-physical properties metaphysically supervene on physical properties, but that they be natural in some stronger sense, so as to qualify as causes of those properties' effects. It is a much-discussed issue how this demand can be satisfied. Some philosophers seek to meet it by offering a further account of the nature of the relevant non-physical properties, for example, that they are second-order role properties whose presence is constituted by some first-order property with a specified causal role (Levin 2004). Others suggest that the crucial feature is how these properties feature in certain laws (Fodor 1974) or alternatively the degree of their explanatory relevance to physical effects (Yablo 1992). And reductive physicalists will insist that the demand can only be met by type-identifying prima-facie non-physical properties with physical properties after all.[6] There is no agreed view on the requirements for prima facie non-physical properties to have physical effects. This difficult issue hinges, inter alia, on the nature of the causal relation itself, and it would take us too far afield to pursue it further here. For the purpose of this entry, we need only note that the causal closure argument seems to require that properties with physical effects must be ‘natural’ in some sense that is stronger than metaphysical supervenience on physical properties. Beyond that, we can leave it open exactly what this extra strength requires. Some philosophers hold that mental states escape the causal argument, on the grounds that mental states cause actions rather than any physical effects. Actions are not part of the subject matter of the physical sciences, and so a fortiori not the kinds of effects guaranteed to have physical causes by any casual closure thesis. So there is no reason, according to this line of thought, to suppose that the status of mental states as causes of actions is threatened by physics, nor therefore any reason to think that mental states must in some sense be realized by physical states (Hornsby 1997, Sturgeon 1998). The obvious problem with this line of argument is that actions aren't the only effects of mental states. On occasion mental states also cause unequivocally physical effects. Fast Eddie Felsen's desire to move a pool ball in a certain direction will characteristically have just that effect. And now the causal closure argument bites once more. The snooker ball's motion has a purely physical cause, by the causal closure thesis. This will pre-empt Fast Eddie's desire as a cause of that motion, unless that desire is in some sense physically realized (Balog 1999, Witmer 2000). Other philosophers have a different reason for saying that mental states, or more particularly conscious mental states, don't have physical effects. They think that there are strong independent arguments to show that conscious states can't possibly supervene metaphysically on physical states. Putting this together with the closure claim that physical effects always have physical causes, and abjuring the idea that the physical effects of conscious causes are strongly overdetermined by both a physical cause and an ontologically independent conscious cause, they conclude that conscious states must be ‘epiphenomenal’, lacking any power to causally influence the physical realm (Jackson 1981; 1985. See also Chalmers 1995).[7] The rejection of physicalism about conscious properties certainly has the backing of intuition. (Don't zombies—beings who are physically exactly like humans but have no conscious life—seem intuitively possible?) However, whether this intuition can be parlayed into a sound argument is a highly controversial issue, and one that lies beyond the scope of this entry. A majority of contemporary philosophers probably hold that physicalism can resist these arguments. But a significant minority take the other side.[8] If the majority are right, and physicalism about conscious states is not ruled out by independent arguments, then physicalism seems clearly preferable to epiphenomenalism. In itself, epiphenomenalism is not an attractive position. It requires us to suppose that conscious states, even though they are caused by processes in the physical world, have no effects on that world. This is a very odd kind of causal structure. Nature displays no other examples of such one-way causal intercourse between realms. By contrast, a physicalist naturalism about conscious states will integrate[s] the mental realm with the **causal unfolding** of the spatiotemporalworld in an entirely familiar way. Given this, general principles of theory choice would seem to argue strongly for physicalism over epiphenomenalism.[9] If we focus on this last point, we may start wondering why the causal closure thesis is so important. If general principles of theory choice can justify physicalism, why bring in all the complications associated with causal closure? The answer is that causal closure is needed to rule out interactionist dualism. General principles of theory choice may dismiss epiphenomenalism in favour of physicalism, but they do not similarly discredit interactionist dualism. As the brief historical sketch earlier will have made clear, interactionist dualism offers a perfectly straightforward theoretical option requiring no commitment to any bizarre causal structures. Certainly the historical norm has been to regard it as the default account of the causal role of the mental realm.[10] Given this, arguments from theoretical simplicity cut no ice against interactionist dualism. Rather, the case against interactionist dualism hinges crucially on the empirical thesis that all physical effects already have physical causes. It is specifically this claim that makes it difficult to see how dualist states can make a causal difference to the physical world. It is sometimes suggested that physicalism about the mind can be vindicated by an ‘inference to the best explanation’. The thought here is that there are many well-established synchronic correlations between mental states and brain states, and that physicalism is a ‘better explanation’ of these correlations than epiphenomenalism (Hill 1991, Hill and McLaughlin 1999). From the perspective outlined here, this starts the argument in the middle rather than the beginning, by simply assuming the relevant mind-brain correlations. This assumption of pervasive synchronic mind-brain correlations is only plausible if interactionist dualism has already been ruled out. After all, if we believed interactionist dualism, then we wouldn't think dualist mental states needed any help from synchronic neural correlates to produce physical effects. And it is implausible to suppose that we have direct empirical evidence, prior to the rejection of interactive dualism, for pervasive mind-brain correlations, given the paucity of any explicit examples of well-established neural correlates for specific mental states. Rather our rationale for believing in such correlations must be that the causal closure of the physical realm eliminates interactive dualism, whence we infer that mental states can only systematically precede physical effects if they are correlated with the physical causes of those effects. G.E. Moore's famous ‘open question’ argument is designed to show that moral facts cannot possibly be identical to natural facts. Suppose the natural properties of some situation are completely specified. It will always remain an open question, argued Moore, whether that situation is morally good or bad. (Moore 1903.) Moore took this argument to show that moral facts comprise a distinct species of non-natural fact. However, any such non-naturalist view of morality faces immediate difficulties, deriving ultimately from the kind of causal closure thesis discussed above. If all physical effects are due to a limited range of natural causes, and if moral facts lie outside this range, then it follow that moral facts can never make any difference to what happens in the physical world (Harman, 1986). At first sight this may seem tolerable (perhaps moral facts indeed don't have any physical effects). But it has very awkward epistemological consequences. For beings like us, knowledge of the spatiotemporal world is mediated by physical processes involving our sense organs and cognitive systems.If moral facts cannot influence the physical world, then it is hard to see howwe can have any knowledge of them.

## 2

#### Vulnerabilities exposed by COVID have invigorated availability and interest in bioterror, but technical challenges remain as barriers to acquisition.

Koblentz and Kiesel 7/14 [Gregory D. Koblentz (Deputy Director of the Biodefense Graduate Program and Assistant Professor of Government and Politics in the Department of Public and International Affairs at George Mason University) and Stevie Kiesel (Biodefense PhD Student, Schar School of Policy and Government, George Mason University). “The COVID-19 Pandemic: Catalyst or Complication for Bioterrorism?”. Studies in Conflict & Terrorism. Published online 14 Jul 2021. Accessed 7/22/21. <https://www.tandfonline.com/doi/abs/10.1080/1057610X.2021.1944023?journalCode=uter20> //Xu]

Since COVID-19 was declared a pandemic in March 2020, there has been no major bioterrorist incident that challenges or validates the core beliefs of the optimists, pessimists, or pragmatists. Extremists with violent apocalyptic or accelerationist ideologies—chiefly jihadists and far-right extremists—have sought to capitalize on the pandemic, but they still rely on conventional weapons. Based on available open-source information, terrorist interest in weaponizing SARS-CoV-2 seems limited. While some individuals and groups who subscribe to violent apocalyptic or accelerationist ideologies have shown some interest in crudely spreading the virus, most terrorists have sought to exploit the conditions the pandemic created rather than the virus itself. An increase in the risk of bioterrorism cannot be completely discounted as the equipment, knowledge, and expertise to work with high-risk pathogens is increasingly available and there are a small number of groups with the ideologies and objectives consistent with the use of biological weapons. Still, important technical barriers to acquiring and using a biological weapon capable of causing mass casualties, even far below the effects of a pandemic pathogen, will remain even after the pandemic is contained. While COVID-19 graphically demonstrated the vulnerability of modern societies to infectious diseases, the lessons learned from this experience, if properly implemented, should significantly improve the capability of governments around the world to detect and respond to future pandemics as well as deliberate disease outbreaks. Counterterrorism and biodefense efforts should not be dictated by the latest “‘risk of the month’ policies crafted in the wake of visible or highly publicized events.”117 Instead, strategies for reducing the likelihood and consequences of bioterrorism in the wake of the COVID-19 pandemic should be based on a realistic appraisal of the risk and investments should be optimized to strengthen preparedness against the full spectrum of biological threats.

#### IP protections are the only limit on proliferating dual-use biotech – losing patents puts financial pressure on companies to outsource R&D, which skyrockets bioterror acquisition.

Finlay 10 [Brian Finlay (President and Chief Executive Officer of the Stimson Center, M.A. from the Norman Patterson School of International Affairs at Carleton University, a graduate diploma from the School of Advanced International Studies, the Johns Hopkins University and an honors B.A. from Western University in Canada). “The Bioterror Pipeline: Big Pharma, Patent Expirations, and New Challenges to Global Security”. The Fletcher Forum of World Affairs. Vol. 34, No. 2 (Summer 2010), pp. 51-64. <https://www.jstor.org/stable/45289504?seq=1#metadata_info_tab_contents> //Xu]

Until recently, these investment risks were frequently mitigated by income generated from past drug development successes. In most markets, that income was guaranteed by strict patent protections that closed the window to outside competition for a set period of time. More recently, however, the uncertainty of R&D investments has been complicated not only by the global economic downturn, but more importantly by looming patent expirations that will open many of big pharma's patent-protected drugs to generic competition. Between 2007 and 2012, more than three dozen drugs will lose patent protection, removing an estimated $67 billion from big pharma's annual sales.33 With existing drug development pipelines unable to fill the gaps, biopharmaceutical companies are under intense pressure not only to cut costs - which would provide only temporary relief to the bottom line - but also to rapidly replenish their development pipelines. Some industry analysts have described this "perfect storm" as an "existential" moment for big pharma.34 Many pharmaceutical companies have approached this challenge by accelerating and widening the outsourcing and off-shoring of both R&D and manufacturing, and by aggressively buying promising assets from small biotech companies through acquisitions and strategic alliances. Interestingly, these partnerships are less frequently linked with American or even Western-owned and-operated companies than in the past. Many pharmaceutical giants like Indiana-based Eli Lilly are turning to alliances with firms in Asia and elsewhere around the world, outsourcing key technical operations. Instead of functioning as fully integrated firms, big pharma companies have found value in networked relationships with independent small to large firms, universities, and non-profit biotechnology laboratories around the globe.35 The net result has accelerated technology proliferation - for both beneficial and nefarious uses - far beyond the traditional hubs for biotech innovation. Pharma's increasingly desperate search to seed and ultimately acquire innovative new biotechnologies means that foreign (non- Western) markets are pulling ahead in biotech innovation. Indeed, the quantity of biotech companies outside the United States has grown remarkably in recent years: in Israel, the number grew from 30 in 1990 to about 160 in 2000; in Brazil, from 76 in 1993 to 354 in 2001; and remarkably, in South Korea, from one in 2000 to 23 in 2003. 36 More generally, the Asia-Pacific region has emerged as one of the world s fastest-growing biotechnology hubs, with the growth of publicly traded companies handily outpacing growth in the United States and Europe over recent years.37 As fruitful partnerships lead big pharma to increasingly generate resources, technologies, and knowledge, these capacities spin off new competitor firms in a self-executing multiplier effect. With the number of facilities and highly trained individuals increasing, the likelihood of a serious biological accident or nefarious incident will similarly rise, which will be particularly risky when dual-use technologies are introduced into insufficiently regulated markets. CONCLUSIONs In statements, U.S. officials continue to cite several countries believed to have or to be pursuing a biological weapons capability.38 But globalization exports the challenge of bioproliferation far beyond these geographic boundaries and transcends multiple societal layers well beyond government actors. As a result, it is increasingly clear that states no longer have a monopoly on dual-use biological R&D. Recent evidence suggests a growing threat of terrorist acquisition of biological weapons. As technological advancement in the life sciences is progressively pushed into countries of the Global South, some of which are also potential hotbeds for terrorist activity, the nexus of science and terrorism becomes especially acute. While far from perfect, the current system of stringent controls levied by Western governments over the biopharmaceutical sector has proven remarkably effective, especially given the diffusion of technologies and the ease of their redirection for hostile purposes. As the biotech revolution continues to widen, however, advanced industrialized governments are increasingly playing catch-up with changing technological realities. As these technologies proliferate, security analysts have become uneasy with the lack of controls in many states. The dearth of legal controls, the lack of rigor in their enforcement, and the growth in private-actor involvement in dual-use activities has sobering implications for global security.

#### COVID resulted in mass on-shoring of R&D – only price incentives can convince them to stay.

Mullin 20 Rick Mullin 4-27-2020 "COVID-19 is reshaping the pharmaceutical supply chain" <https://cen.acs.org/business/outsourcing/COVID-19-reshaping-pharmaceutical-supply/98/i16> (BA English Literature, Drew University, 1980. Business journalist covering engergy, chemicals, pharmaceuticals, and information technology for various publications including Chemical Week since 1983)//Elmer

“We do not pretend to have a unique explanation to the potential shortage of medicine,” Perfetti says. “But every day we are facing consequences of unavailability of starting materials from not only China but the Eastern part of the world.” This issue was brought in sharp focus with the closure of plants—and even entire industrial parks—**in China’s 2017 environmental crackdown**, he says. Industry executives acknowledge the irony that the very companies that spent the past 20 years outsourcing the supply of chemicals and APIs to China are now **asking for support to bring it back**. But they dismiss the criticism, responding that capitalist industries have to compete globally on price. Their request for support, they say, aims to establish a more level, competitive playing field. “We have to deal with the reality that pricing plays an important role in the availability of drugs, primarily if they are generic,” the BPTF’s DiLoreto says. “We have to find a way to provide **additional incentives for manufacturing to come back to the US**. Whatever those financial incentives are, the government will have to start taking it seriously.”

#### Bioterrorism causes Extinction – overcomes any conventional defense.

Walsh 19, Bryan. End Times: A Brief Guide to the End of the World. Hachette Books, 2019. (Future Correspondent for Axios, Editor of the Science and Technology Publication OneZero, Former Senior and International Editor at Time Magazine, BA from Princeton University)//Elmer

I’ve lived through disease outbreaks, and in the previous chapter I showed just how unprepared we are to face a widespread pandemic of flu or another new pathogen like SARS. But a deliberate outbreak caused by an engineered pathogen would be far worse. We would face the same agonizing decisions that must be made during a natural pandemic: whether to ban travel from affected regions, how to keep overburdened hospitals working as the rolls of the sick grew, how to accelerate the development and distribution of vaccines and drugs. To that dire list add the terror that would spread once it became clear that the death and disease in our midst was not the random work of nature, but a deliberate act of malice. We’re scared of disease outbreaks and we’re scared of terrorism—put them together and you have a formula for chaos. As deadly and as disruptive as a conventional bioterror incident would be, an attack that employed existing pathogens could only spread so far, limited by the same laws of evolution that circumscribe natural disease outbreaks. But a virus engineered in a lab to break those laws could spread faster and kill quicker than anything that would emerge out of nature. It can be designed to evade medical countermeasures, frustrating doctors’ attempts to diagnose cases and treat patients. If health officials manage to stamp out the outbreak, it could be reintroduced into the public again and again. It could, with the right mix of genetic traits, even wipe us off the planet, making engineered viruses a genuine existential threat. And such an attack may not even be that difficult to carry out. Thanks to advances in biotechnology that have rapidly reduced the skill level and funding needed to perform gene editing and engineering, what might have once required the work of an army of virologists employed by a nation-state could soon be done by a handful of talented and trained individuals. Or maybe just one. When Melinda Gates was asked at the South by Southwest conference in 2018 to identify what she saw as the biggest threat facing the world over the next decade, she didn’t hesitate: “A bioterrorism event. Definitely.”2 She’s far from alone. In 2016, President Obama’s director of national intelligence James Clapper identified CRISPR as a “weapon of mass destruction,” a category usually reserved for known nightmares like nuclear bombs and chemical weapons. A 2018 report from the National Academies of Sciences concluded that biotechnology had rewritten what was possible in creating new weapons, while also increasing the range of people capable of carrying out such attacks.3 That’s a fatal combination, one that plausibly threatens the future of humanity like nothing else. “The existential threat that would be most available for someone, if they felt like doing something, would be a bioweapon,” said Eric Klien, founder of the Lifeboat Foundation, a nonprofit dedicated to helping humanity survive existential risks. “It would not be hard for a small group of people, maybe even just two or three people, to kill a hundred million people using a bioweapon. There are probably a million people currently on the planet who would have the technical knowledge to pull this off. It’s actually surprising that it hasn’t happened yet.”=