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#### The standard is maximizing expected well being.

**Pleasure and pain are intrinsically valuable. People consistently regard pleasure and pain as good reasons for action, despite the fact that pleasure doesn’t seem to be instrumentally valuable for anything.**

**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] SJDI

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.**

**Thus the standard is maximizing expected well-being. Prefer additionally:**

**1] Only consequentialism explains degrees of wrongness—if I break a promise to meet up for lunch, that is not as bad as breaking a promise to take a dying person to the hospital. Only the consequences of breaking the promise explain why the second one is much worse than the first. Intuitions outweigh—they’re the foundational basis for any argument and theories that contradict our intuitions are most likely false even if we can’t deductively determine why**

**2] Reductionism – empirics prove.**

**Parfit 84** [Derek Parfit, cool hair. “Reasons and Persons” 1984. Brackets for gender]

Some recent medical cases provide striking evidence in favour of the Reductionist View. Human beings have a lower brain and two upper hemispheres, which are connected by a bundle of fibres. In treating a few people with severe epilepsy, surgeons have cut these fibres. The aim was to reduce the severity of epileptic fits, by confining their causes to a single hemisphere. This aim was achieved. But the operations had another unintended consequence. The effect, in the words of one surgeon, was the creation of ‘two separate spheres of consciousness.’

This effect was revealed by various psychological tests. These made use of two facts. We control our right arms with our left hemispheres, and vice versa. And what is in the right halves of our visual fields we see with our left hemispheres, and vice versa. When someone’s hemispheres have been disconnected, psychologists can thus present to this person two different written questions in the two halves of [their] ~~his~~ visual field, and can receive two different answers written by this person’s two hands.

**Use epistemic modesty for evaluating the framework debate: that means compare the probability of the framework times the magnitude of the impact under a framework. Prefer:**

**A] Substantively true since it maximizes the probability of achieving net most moral value—beating a framework acts as mitigation to their impacts but the strength of that mitigation is contingent.**

**B] Clash— we don’t know if our frameworks are true, but we can debate the topical question. That incentivizes debating both layers instead of solely focusing on framework.**

#### Biotech is resilient and fundamentals are strong – but this trend relies on innovation and investment

Cancherini et al 21 -- Laura Cancherini is a consultant in McKinsey’s Brussels office; Joseph Lydon is an associate partner in the Zurich office, where Jorge Santos da Silva is a senior partner and Alexandra Zemp is a partner, McKinsey, What’s ahead for biotech: Another wave or low tide?, April 30, 2021, https://www.mckinsey.com/industries/pharmaceuticals-and-medical-products/our-insights/whats-ahead-for-biotech-another-wave-or-low-tide WJ

As the pandemic spread across the globe in early 2020, biotech leaders were initially pessimistic, reassessing their cash position and financing constraints. When McKinsey and BioCentury interviewed representatives from 106 biotech companies in May 2020,4 half of those interviewed were expecting delays in financing, and about 80 percent were tight on cash for the next two years and considering trade-offs such as deferring IPOs and acquisitions. Executives feared that valuations would decline because of lower revenue projections and concerns about clinical-trial delays, salesforce-effectiveness gaps, and other operational issues.

Belying this downbeat mood, biotech has in fact had one of its best years so far. By January 2021, venture capitalists had invested some 60 percent more than they had in January 2020, with more than $3 billion invested worldwide in January 2021 alone.5 IPO activity grew strongly: there were 19 more closures than in the same period in 2020, with an average of $150 million per raise, 17 percent more than in 2020. Other deals have also had a bumper start to 2021, with the average deal size reaching more than $500 million, up by more than 66 percent on the 2020 average (Exhibit 3).6

What about SPACs?

The analysis above does not include special-purpose acquisition companies (SPACs), which have recently become significant in IPOs in several industries. Some biotech investors we interviewed believe that SPACs represent a route to an IPO. How SPACs will evolve remains to be seen, but biotechs may be part of their story.

Fundamentals continue strong

When we asked executives and investors why the biotech sector had stayed so resilient during the worst economic crisis in decades, they cited innovation as the main reason. The number of assets transitioning to clinical phases is still rising, and further waves of innovation are on the horizon, driven by the convergence of biological and technological advances.

In the present day, many biotechs, along with the wider pharmaceutical industry, are taking steps to address the COVID-19 pandemic. Together, biotechs and pharma companies have more than 250 vaccine candidates in their pipelines, along with a similar number of therapeutics. What’s more, the crisis has shone a spotlight on pharma as the public seeks to understand the roadblocks involved in delivering a vaccine at speed and the measures needed to maintain safety and efficacy standards. To that extent, the world has been living through a time of mass education in science research and development.

Biotech has also benefited from its innate financial resilience. Healthcare as a whole is less dependent on economic cycles than most other industries. Biotech is an innovator, actively identifying and addressing patients’ unmet needs. In addition, biotechs’ top-line revenues have been less affected by lockdowns than is the case in most other industries.

Another factor acting in the sector’s favor is that larger pharmaceutical companies still rely on biotechs as a source of innovation. With the top dozen pharma companies having more than $170 billion in excess reserves that could be available for spending on M&A, the prospects for further financing and deal making look promising.

#### Pharma collapses without strong IP protections

Buckland 17 - Danny Buckland (award-winning journalist who writes about health, general features and news, shortlisted for the prestigious Mind Media Awards for his work covering mental health issues), April 26, 2017, “Patents are lifeblood of pharmas”, https://www.raconteur.net/legal/intellectual-property/patents-are-lifeblood-of-pharmas/ WJ

Pharmaceutical companies are staffed by ranks of attorneys, and the intellectual property (IP) specialist is now a pivotal position in the research and development (R&D) cycle that keeps a company profitable and new drugs flowing to patients.

Tighter regulatory frameworks and even tighter purse strings controlled by healthcare systems are putting the squeeze on pharma returns and limiting R&D budgets. Figures from analysts Deloitte in 2016 reported projected return on investment was at a six-year low while development costs had risen by almost a third.

The litany of market changes is vexing for the industry. The generation of blockbuster drugs, with massive returns, has ended, national healthcare budgets are receding, traditional management methods are being challenged and new players, such as electronics and software companies, are entering the arena.

“For pharmaceutical companies, the patent system is its lifeblood and it simply wouldn’t survive without it,” says Simon Wright, a patent attorney with J A Kemp and chairman of the Chartered Institute of Patent Attorneys’ life sciences committee. “The cost of getting a product to market is high and there is a high failure rate, so you are not going to get investment unless you can protect your product and innovation. Quite frankly, it would all collapse without good IP.”

#### Bipoharma collapse causes economic meltdown – it’s far worse than previous recessions

Howrigon 17 -- Ron Howrigon “(President and Founder of Fulcrum Strategies. He earned a Bachelor's degree in Business Administration from Western Michigan University and a Master's in Economics from North Carolina State University, focusing in the area of Health Economics) http://www.kevinmd.com/blog/2017/01/health-care-crash-u-s-economy.html, January 19 2017, WJ

In recent history, the U.S. economy has experienced the near catastrophic failure of two major market segments. The first was the auto industry and the second was the housing industry. While each of these reached their breaking point for different reasons, they both required a significant government bailout to keep them from completely melting down. What is also true about both of those market failures is that, looking back, it’s easy to see the warning signs. What happens if health care is the next industry to suffer a major failure and collapse? It’s safe to say that a health care meltdown would make both the automotive and housing industries’ experiences seem minor in comparison. While that may be hard to believe, it becomes clear if you look at the numbers. The auto industry contributes around 3.5 percent of this country’s GDP and employs 1.7 million people. This industry was deemed “too big to fail” which is the rationale the U.S. government used to finance its bail out. From 2009 through 2014, the federal government invested around $80 billion in the U.S. auto industry to keep it from collapsing. Health care is five times larger than the auto industry in terms of its percentage of GDP, and is ten times larger than the auto industry in terms of the number of people it employs. The construction industry (which includes all construction, not just housing) contributes about 6 percent of our country’s GDP and employs 6.1 million people. Again, the health care market dwarfs this industry. It’s three times larger in terms of GDP production and, with 18 million people employed in the health care sector, it’s three times larger than construction in this area, too. These comparisons give you an idea of just how significant a portion health care comprises of the U.S. economy. It also begins to help us understand the impact it would have on the economy if health care melted down like the auto and housing industries did. So, let’s continue the comparison and use our experience with the auto and housing industries to suggest to what order of magnitude the impact a failure in the health care market would cause our economy. The bailout in the auto industry cost the federal government $80 billion over five years. Imagine a similar failure in health care that prompted the federal government to propose a similar bailout program. Let’s imagine the government felt the need to inject cash into hospital systems and doctors’ offices to keep them afloat like they did with General Motors. Since health care is five times the size of the auto industry, a similar bailout could easily cost in excess of $400 billion. That’s about the same amount of money the federal government spends on welfare programs. To pay for a bailout of the health care industry, we’d have to eliminate all welfare programs in this country. Can you imagine the impact it would have on the economy if there were suddenly none of the assistance programs so many have come to rely upon? When the housing market crashed, it caused the loss of about 3 million jobs from its peak employment level of 7.4 million in 1996. Again, if we transfer that experience to the health care market, we come up with a truly frightening scenario. If health care lost 40 percent of its jobs like housing did, it would mean 7.2 million jobs lost. That’s more than four times the number of people who are employed by the entire auto industry — an industry that was considered too big to be allowed to fail. The loss of 7.2 million jobs would increase the unemployment rate by 5 percent. That means we could easily top the all-time high unemployment rate for our country. OK, now it’s time to take a deep breath. I’m not convinced that health care is fated to unavoidable failure and economic catastrophe. That’s a worst-case scenario. The problem is that at even a fraction the severity of the auto or housing industry crises we’ve already faced, a health care collapse would still be devastating. Health care can’t be allowed to continue its current inflationary trending. I believe we are on the verge of some major changes in health care, and that how they’re implemented will determine their impact on the overall economic picture in this country and around the world. Continued failure to recognize the truth about health care will only cause the resulting market corrections to be worse than they need to be. I don’t want to diminish the pain and anguish that many people caught up in the housing crash experienced. I think an argument can be made, though, that if the health care market crashes and millions of people end up with no health care, the resulting fallout could be could be much worse than even the housing crisis.

## Case

#### Framework:

#### Motivational internalism can never coherently generate moral norms even by agreement.

**Velleman 08** David Velleman, Self-to-Self, 2008

This calculation is what gives rise to the idea of saying “I’ll cooperate if you will.” Unfortunately, the calculation reckons on our having abilities that can seem impossible for us to have. How can I determine my future behavior by means of a present intention? And how can I give you reliable grounds for believing that I have such an intention? In any cooperative agreement, the benefit to me flows from your believing in my effectively intending to cooperate, not from my actually intending to cooperate, and certainly not from my so intending effectively. Even if I formed an intention to cooperate, I would have no reason to let it take effect in my future behavior, and I have no reason to form a cooperative intention if I can convincingly feign one instead. It therefore seems that I cannot commit my future self to cooperate, and that, even if I could, I cannot give credible evidence of having done so. A classic, one-time prisoners’ dilemma thus generates two problems – a problem of commitment and a problem of credibility – neither of which appears to be soluble in the circumstances.

#### Contractarianism isn’t normative because it appeals to an obligation to follow the contract that is never justified.

**Korsgaard 94** Christine Korsgaard [Professor of Philosophy at Harvard], *Sources of Normativity,* 1994, Lecture 1

The problem here is a general one, which applies to any attempt to derive normativity from a natural source of power. Suppose the authority of obligation derives from the power of our sympathetic motives. Then if you lack sympathetic motives, you lack obligations. Your obligations vary along with your motives, and so you can do no wrong. Suppose, as Hume sometimes seemed to think, that the authority of our reasons for action must be de- rived from the strength of our desires. Then you will always do what you have reason to do, and you can do no wrong. As Joseph Butler would later point out, this sort of argument shows that authority cannot be reduced to any kind of power. And the relation in which moral claims stand to us is a relation of authority, not one of power. So we are faced with a dilemma. If we try to derive the authority of morality from some natural source of power, it will evaporate in our hands. If we try to derive it from some supposedly normative consideration, such as gratitude or contract, we must in turn explain why that consideration is normative, or where its authority comes from. Either its authority comes from morality, in which case we have argued in a circle, or it comes from something else, in which case the question arises again, and we are faced with an infinite regress.

#### Turn on Offense: Negotiations for the WTO TRIPS agreement formed a legitimate contract there was omnilateral consensus. Pharmaceutical agreements have specifically been supported when faced with recent challenges. TRIPS provides the best possible contract because alternative bilateral ones lack flexibility and legitimacy for developing countries. Affirmation isn’t contractual because each member states do it without agreement.

Otten 15

Otten, Adrian. “The TRIPS negotiations: An overview.” 2015. World Trade Organization. https://www.wto.org/english/res\_e/booksp\_e/trips\_agree\_e/chapter\_3\_e.pdf

Former director of the WTO’s intellectual property division. // Park City NL

With the passage of time and in the light of the difficulties that the WTO has since had in making headway in its negotiating agenda, the scale of the TRIPS Agreement seems the more remarkable. The pre-existing public international law no longer provided the basis for a functioning multilateral rule of law in the IP area, especially in the field of industrial property where it was silent on most of the key parameters of a minimum standard of protection (protectable subject matter, rights, exceptions and term), not to mention enforcement. Building on and incorporating the key WIPO conventions, the TRIPS Agreement provided for minimum standards in these areas and made the whole Agreement subject to a functioning system for the resolution of disputes between governments, for the first time in the IP area. The Agreement has continued to form the centrepiece of the multilateral rule of law in an area where there had been marked signs of this breaking down with resort to unilateral withdrawals of trade commitments. It is precisely **because there were strong** perceptions of **divergences of interest** that **it was essential to achieve a multilateral consensus** on how far governments could be expected to go, when setting their domestic IP regimes, in taking account of the interests of their trading partners. The TRIPS Agreement, including the WTO dispute settlement system as applied to it, has stood the test of the last 20 years relatively well. While worked on from both sides (to interpret the flexibilities as broadly as possible and to seek TRIPS-plus commitments through international negotiations in other contexts), **no effort has been made to reopen the basic balances** found in the Agreement, **except** on one relatively small but important point **in regard to** the **compulsory licensing of pharmaceutical products – where a solution was agreed**. So how was all this possible? As indicated earlier, it was generally recognized that at stake in the Uruguay Round was the very existence of a multilateral system of international trade relations. Indeed, the reality of this was recognized in the fact that the WTO Agreement provided for a new GATT, not the incorporation of the pre-existing GATT, and that any government that decided not to join it would lose its pre-existing trade rights. As also indicated earlier, developed countries became increasingly convinced, as the negotiations progressed, of the central importance to their future international competitiveness of the technology, creativity and reputation incorporated in the goods and services they produced and thus of the TRIPS negotiations, and developing countries came to accept that a successful outcome to the Uruguay Round would require a major result on the TRIPS negotiations. But it was not just in the area of TRIPS that the results of the Uruguay Round exceeded what could have been reasonably envisaged at the outset. This was also the case in some areas to which developing countries attached importance, including as trade-offs for TRIPS: agriculture, which went from being largely excluded from trade commitments to being arguably more comprehensively covered than other areas (although often at higher levels of protection); textiles and clothing, where the previous system of trade restrictions was phased out by 2005 (not by chance the same timeframe as for key developing country obligations under the TRIPS Agreement); and the bringing of emergency safeguard measures under effective multilateral rules, including the end of so-called grey-area measures (such as voluntary export restraints). In other areas, the results also exceeded Punta del Este expectations: the very concept and structure of the WTO, including the multilateral application of virtually all agreements; the greatly strengthened and more juridical dispute settlement system; the establishment of a comprehensive framework for the liberalization of trade in services; and the preference for price-based balance-of-payments restrictions, to name only some. In broader terms, the Uruguay Round represented a major evolution in the basic character of the multilateral trading system, from one focused on border measures applied to goods to one dealing with a spectrum of laws and regulations governing the conditions of competition between the goods, services and persons of contracting parties. Underlying the dissatisfaction with the pre-existing trading system and creating the conditions for these Uruguay Round achievements was a changing view of the role of trade and international markets in economic and social development, especially in developing countries and the countries of the eastern bloc. The failure The TRIPS negotiations: An overview 75 of economic planning and import substitution policies followed by many developing countries and the success of the east Asian “tiger” economies and some ASEAN countries and Chile, which were following more export- and market-oriented policies, was not only influential in other developing countries but also meant that there was a growing kernel of developing countries committed to a major strengthening of the multilateral trading system from the outset. The dramatic collapse of the communist systems in Eastern Europe after the fall of the Berlin Wall in 1989 was both a reflection of the Zeitgeist and a great stimulus to it. Although the TRIPS Agreement went further and faster than some would have decided by themselves, much that was in it was going with the grain of economic policy thinking and reform under way at the time in many developing and Eastern European countries, where there was growing interest in the role of IP systems in promoting domestic innovation and creativity and facilitating the transfer of technology and foreign direct investment. Another major consideration for developing countries in accepting the **TRIPS Agreement** was the international recognition they **secured** in it of **important elements of balance and flexibility in IP systems**, to safeguard their right to modulate their IP regimes **to meet their national developmental, technological and public health objectives**. **The alternative of negotiating bilaterally with major trading partners**, where developing countries would find it more difficult to use their collective weight and to exploit the differences between the major demandeurs, **could not** be expected to **yield as much flexibility or** give it the same degree of **legitimacy.** When one considers how unusual were the circumstances that made the TRIPS Agreement – and, more generally, the results of the Uruguay Round – possible, one can also understand more readily the difficulties that the WTO has since had in making headway. Paradoxically perhaps, it may be that the comparative success of the WTO in “holding the ring”, even at a time of severe international economic difficulties, has made making progress more difficult: on the whole, the prospect of new benefits is a weak incentive compared with the prospect of the loss of existing ones when it comes to the willingness of governments to expend the political capital necessary for change. Moreover, it may be that the very size of the Uruguay Round results, especially in the TRIPS area, and the lack of appreciation of the special nature of the circumstances that made them possible, has made some governments unduly cautious. There are also other factors complicating progress. One may be the rigour of the WTO dispute settlement system. This has obvious advantages in providing an expectation of greater security of the benefits being negotiated, but it does the same also for the obligations being entered into. This can make negotiators more cautious and perhaps lead to a greater role for lawyers at the expense of dealmakers. A further factor has been the increasing political importance of nongovernmental organizations, especially those that claim to represent the public interest and that have a synergetic relationship with the media. While they are a positive force in ensuring that some aspects are fully taken into account, they also increase the political cost of making the compromises necessary in any international negotiation. But perhaps most fundamentally, the WTO and its members are faced with making a transition to a world where a wider spectrum of countries must take the initiative if progress is to be made. Fortunately, its structures do not need modifying to take account of the changing importance of countries in the international trading system (unlike in the cases of the International Monetary Fund and the World Bank, or even the UN), but attitudes do, in both countries that formerly assumed leadership and those that now need to. These changes began in the Uruguay Round, but have still some way to go before the multilateral system can once more play its proper role.

Turn 2: Government made a contract with the companies – they must fulfill it by keeping these IPPs