

## Book Review

Michael A. Santoro & Thomas M. Gorrie (Eds.), *Ethics and the Pharmaceutical Industry*, Cambridge: Cambridge University Press, 2005, pp. 492, ISBN 978-0-521-70888-3

The starting point for this anthology is what Michael Santoro calls the “unraveling of the grand bargain” between the pharmaceutical industry and society. During the most part of the history of the pharmaceutical industry, the commercial success of pharmaceutical companies seems to have gone hand-in-hand with enormously increased access in society to many kinds of innovative life-saving and life-enhancing drugs. But as the twenty-first century begins, public distrust and resentment of the industry is at an all-time high. Reports and complaints flourish about ever-rising drug prices; blatantly misleading advertisement campaigns; the industry’s aggressive stance in trade negotiations with third world countries; and even bribery of physicians to prescribe particular drugs, and of scientists to only publish trials with positive results. All in all, the received opinion seems to be that pharmaceutical companies care infinitely more about profits than about people.

So how can the public’s trust in the pharmaceutical industry be restored? What kind of ethical requirements should be imposed on pharmaceutical companies, or in what way could the regulatory landscape surrounding pharmaceuticals be changed to avoid these kinds of problems? These are the kinds of questions addressed in the present collection. With impressive ambition, Santoro and Gorrie have gathered as many as 24 papers on a wide array of interesting topics. The collection is divided into four main parts: In part I, ethical issues related to the research activities of pharmaceuticals are discussed; the conflict between scientific, ethical and economic goals in clinical research, and the rights of people participating in clinical trials. In part II, emphasis is on ethical and political issues related to the marketing activities of pharmaceuticals; the regulation of direct-to-consumer advertising and fairness in allocation of pharmaceutical benefits. Part III covers the heated debate over patents and intellectual property rights from both philosophical, political and historical perspectives. Finally, part IV contains some reflections on and suggestions for the future of the pharmaceutical industry.

It is hard not to be impressed by the great diversity of authors that Santoro and Gorrie have managed to gather in their book. Participating authors have

extremely diverse backgrounds: they are economists, lawyers, philosophers and medical scholars, as well as practicing physicians, politicians, officers of regulatory bodies, and activists. I guess that my main criticism of the collection is that, for obvious reasons, this diversity in authorship makes the whole somewhat eclectic: While some papers are the result of years of academic research, for instance, others are more of personal reflections. While some papers are quite easily accessible, furthermore, others are rather technical or require considerable background knowledge, and while some papers are very innovative, others bring little new to the table. But like with most collections of papers, there is probably little point in reading this book from cover to cover. The great diversity of the collection could certainly be seen as a good thing as well; it means that it is quite likely to be useful in many kinds of both academic and non-academic contexts, and I am sure that almost everyone can find at least something they like in this collection.

I was personally most intrigued by Santoro's elaborate philosophical introductions, both to the collection as a whole and to its four main parts. Writing introductions to collections of other people's papers can be difficult, and must have been especially difficult given the eclectic nature of this particular collection. With notable acumen, however, Santoro's introductions give a both philosophically and empirically insightful overview of the many interesting ethical and political issues which the practices of the pharmaceutical industry give rise to — and these introductions often go well beyond the contents of the papers which succeed them. At the core of most ethical and political debates in this area, Santoro suggests, lies the issue of profit versus people, or the conflict between the profit-maximising nature of companies and the medical needs of the public. The challenge is to find a reasonable balance between these two, and this challenge permeates issues like what the research activities of pharmaceuticals should be, fairness in allocation of pharmaceutical benefits, and what an ethically legitimate patent regime could look like. Although it seems difficult to determine this balance *a priori*, Santoro suggests (with many other authors in the collection), it may be possible to reach more of a consensus through increased collaboration between the many stakeholders of the global healthcare system. I will return to this suggestion below.

Besides Santoro's introductions, I suggest that readers interested in moral and political philosophy may find three brilliant contributions to the debate over patents included in this collection especially worth their consideration. In chapter 15, Patricia Werhane and Michael Gorman critically examine some popular philosophical justifications for intellectual property rights, especially the standard rights-based defence of such property. While the idea that invention or development of something normally should confer a set of special entitlements to this thing may be plausible as such, they argue, this idea actually sits uneasily with the current patent regime related to the pharmaceutical industry. Intellec-

tual inventions, like the development of a new drug, are not the result of isolated scientists or companies but rather of a whole network of people, technology and ideas — thus, it would make more sense of crediting society as a whole for a certain invention than giving exclusive patent rights to individual companies. Werhane and Gorman propose what they call an alliance model, or a network approach, which they suggest could replace the current individualised patent regime.

In chapter 22, Nien-hê Hsieh argues that even if giving strong and exclusive patent rights to individual pharmaceutical companies could be justified on a *political* level, which on one interpretation is what proponents of the pharmaceutical industry typically suggest, these companies *themselves* may have ethical obligations to refrain from *protecting* these rights, and to for example provide cheaper drugs to the victims of the African HIV/AIDS crisis. Just because you *have a right* to do something, namely, this doesn't necessarily translate into it *being right* to do so. Hsieh's argument is a fascinating one and I find myself in agreement with most of what he says. In chapter 19, finally, James Thuo Gathii critically examines the latest in a row of excuses for not responding to the African HIV/AIDS crisis given by American pharmaceutical companies — the idea that the real problem is not poor people's lack of access to pharmaceuticals as such, but simply the fact that they are poor. Gathii argues that many poor people certainly could be saved if these companies were to refrain from protecting their patent rights and, indeed, there are some indications that the current patent regime actually has contributed to the impoverished state of the sub-Saharan region.

Readers more interested in global health law in general may find a number of further papers worthwhile. Chapter 2 introduces the development of international norms for the use of human subjects in clinical research, and chapters 3 and 4 elaborate on relevant regulations specifically developed for trials involving children. In chapter 7, the Congressman Rush Holt gives his insightful take on the debate over stem-cell research in the US and its regulatory results. Thomas Abrams gives a very accessible and interesting account of the development of direct-to-consumer advertising and how legislators have sought to control it in chapter 9. Moreover, Scott Danzig guides the reader through the extremely complex legislative landscape surrounding "off-label" drug promotion in chapter 11.

I obviously cannot account for all the papers in the collection in this context, but let me just mention a few more which I believe stand out. I was quite taken aback by Valentine Burroughs' (chapter 5) account of how patients from racial and ethnic minorities actually are doubly discriminated against by the practices of the pharmaceutical industry and the US healthcare system. Not only are healthcare practitioners often poorly educated to cater for the particular needs of minorities, but the standard focus on non-minority subjects in the *research* activities of the pharmaceutical industry actually makes it much more difficult for

healthcare practitioners to cater to these needs. Of course, as Charles Bardes makes quite clear in chapter 8, this is just a small part of the enormous ethical complexities involved in the healthcare practitioner's day-to-day job of prescribing medication. With great insight, Bardes introduces some further difficult dilemmas involved in giving advice on pharmaceuticals, illustrating quite nicely how the ethical difficulties facing modern clinicians are difficult to capture in abstract philosophical schemas. In chapter 17, finally, Martin Delaney gives an insightful account of what it is like to be on the other side of these choices, and how patient advocacy groups can help to make the healthcare system better adapted to actual healthcare needs. Relating his experiences from the American HIV/AIDS patient movement, Delaney gives some interesting suggestions as to how patient advocacy groups can increase their credibility by abiding by a set of ethical guidelines.

So how can we chart a sustainable path for the pharmaceutical industry in the twenty-first century? This is the topic of the last part of the collection and a central theme, not just in the papers in this part but throughout the book, seems to be that increased collaboration by the many stakeholders of the global healthcare system is needed. Many authors suggest that actors from both the public and the private sector need to work together to find solutions; alliances need to be formed between pharmaceutical companies, governments, non-governmental organisations, and patients. I am perhaps not entirely convinced by this kind of suggestions — while talk of alliances certainly may look good on paper, and some inspiring precedents of successful collaborations in the area exist, it just seems hard to believe that the pharmaceutical industry voluntarily would open itself up to outside influence in this way in a larger scale. But perhaps we will just have to hope that they do. As far as the authors of this collection are concerned, in any case, the only alternative is renationalisation, or governmental regulation of every last detail of the industry's activities, and this isn't held out as a particularly attractive alternative.

I sincerely recommend this anthology to everyone interested in global health law or health politics, as well as to everyone with interests in healthcare ethics or business ethics more generally. The ethical and political issues raised by the practices of the pharmaceutical industry are both intriguing and extremely important to consider, and this anthology highlights many of them. Whether the pharmaceutical industry will be able to overcome the many ethical problems currently associated with it remains to be seen, and this anthology can perhaps not present the final solution. Hopefully, however, it can be a first step in a more promising direction.

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