Empirical Ethics Versus Analytical Orthodoxy: Two Contrasting Bases for the Reallocation of Resources

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Summary

Economics is commonly defined in terms of the relationship between people’s unlimited wants and society’s scarce resources. *Prima facie*, the definition, implies a central role for the understanding of what people want: their objectives. This, in turn, suggests an important role for both empirical research into people’s objectives and ethical debate about the acceptability – ethical implications – of the objectives. It is, therefore, surprising that the literature largely ignores these issues.

It is argued here that economics has avoided these issues by the adoption of an orthodoxy which imposes objectives and defends the choice by the use of tautological argument and the misuse of definitions. By a series of doubtful assumptions, issues of social choice – issues which should be the subject of ethical debate – are given the appearance of being technical matters about which economists have particular expertise. (Section 1). Evidence suggests that, at least in the health sector, people do not have the simple objectives assumed by economic orthodoxy (Section 2) and further evidence referred to in Section 3 suggests that mainstream empirical economics has ignored behaviours and objectives that are inconsistent with theoretical orthodoxy. This implies two analytical approaches. First, it may be argued that the objectives assumed by economists *should* be imposed as they are better – more rational and more likely to promote human welfare – than the (irrational and erratic) objectives we observe. Secondly, economists might seek to investigate the true objectives of the consumer/citizen and then to determine which of these should be rejected or accepted as the basis for economic policy.

This latter process would necessarily involve ethical debate and the participation, inter alia, of ethicists and the inclusion of the general public. This interplay between empirical enquiry into public objectives and ethical discourse is labelled ‘empirical ethics’. The second approach, however, becomes problematical if, as is likely, people’s social objectives are not well formed or coherent, in the sense that some objectives may conflict with others. In this case, a ‘meta issue’ arises with respect to the process of decision making. It is also suggested in Section 4 that this issue might also be informed by empirical evidence (‘Empirical Meta Ethics’).

In Section 5 there is a brief discussion of the question of why the first path – economic orthodoxy – has achieved such ascendancy over the alternative empirical approach and which of the alternative paths should guide future economic analyses.

It is concluded that if economics is to be concerned with the satisfaction of population objectives then the second path should be adopted and that economists should engage in both empirical and ethical analyses of social objectives. If the first path is preferred then there is a need for a new discipline to investigate how best to satisfy society’s unlimited wants with its finite resources.
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Economics

‘An academic discipline which focuses on the attempts by individuals and societies to satisfy their extensive wants in the situation of scarcity.’


Economics is the study of how people in society end up choosing ... It analyses the costs and benefits of improving patterns of resource allocation.


The problems of economics arise out of the use of resources to satisfy human wants.


1 Accusations

In the last two decades there have been a succession of publications arguing that the preoccupation of modern economics with formal technique – formalism – and the lack of emphasis upon empirical reality have led to a declining relevance of the discipline. The culmination of this concern throughout the 1980s was an enquiry into Graduate education in the USA which, in large part, endorsed these concerns.1 According to Mark Blaug, ‘If we can date the onset of the illness at all, it is the publication in 1954 of the famous paper by Nobel Laureates, Kenneth Arrow and Gerald Debreu. This paper marks the beginning of what has since become a cancerous growth in the very centre of micro economics’ (Blaug 1998, p13). Blaug’s argument is that this paper became a model for what economics ought to be. The approach, Blaug argues, was ‘then canonised by Debreu in his theory of value five years later, probably the most arid and pointless book in the entire literature of economics (Ibid, p17). None would doubt the intellectual brilliance of the Noble winning contribution of Arrow and Debreu. It may, however, have been a further illustration of Karl Popper’s recurring theme ‘that great men make great mistakes’ and that, therefore, their contributions should be subject to the greatest possible criticism.2

2 This was the sub-theme of his ‘Open Society’ and its enemies (Popper 1949)
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These publications may, or may not, have had the dominating influence ascribed to them by Blaug but they reflected and promoted the tendency in economics to adopt a Rationalist methodology, viz a method of analysis reliant entirely or predominantly upon pure reason and with minimal reference to an empirical starting point or to empirical testing of conclusions as distinct from anecdotal confirmation: (Richardson 1999). Likewise, the attraction to formalism is reflected in neoclassical orthodoxy and, particularly, the branch which resulted in modern welfare economics.

The tendency to formalism should not, of course, be overstated. As argued by Solow (1997), ‘the past fifty years have, indeed, seen formalistic economics grow and prosper … (but) only a small minority within the profession practices economic theory in this style …. generally speaking, formalists write for one another’ (p43). In support of this view there is clear evidence that the majority of applied economists practice a form of robust and eclectic empiricism. It is eclectic in the sense that practitioners are prepared to consider a variety of ‘common sense’ hypotheses to problem solve and correctly use empirical data to distinguish between these. Most economists would also have little argument with Solow’s comment that ‘there is a lot to be said in favour of starting at the piece of reality your are studying and asking, just what is going on here?’ (p56).

Increasingly, however, graduate teaching appears to have emphasised formalism and there are clear signs of its influence creeping into health economics. Perhaps the best example of this is the now ten year debate over the relative virtues and properties of the Healthy Year Equivalent (HYE) and the QALY (which are merely two of a large number of possible constructs which might claim to measure health related ‘utility’). Scholastic debate over the extent of the correspondence, of each of these with the underlying axioms of economic orthodoxy is surely the health economic equivalent of the medieval debate over the number of angels which could balance on the head of a pin.³ The purity of this debate was seldom sullied by reference to the fact that the axioms are entirely discredited as general descriptions of human behaviour and that, almost certainly, a more pressing issue to resolve is the psychometric validity and reliability of the two methods of preference elicitation, and the threat to these arising from the respective magnitudes of the cognitive tasks.

Perhaps the most disquieting legacy of formalist ‘economic orthodoxy’ and the subject matter of this article – is the way in which the assumptions, necessary for formal and orthodox analyses, have transformed important social questions – questions which should be the subject of intense ethical debate – into questions which appear to be technical in nature and the province of economic analysis. The result of this transformation and the over simplification of social issues is nicely analysed by Hurley (1998) who approvingly quotes Zajac ‘an economist with extensive experience and public utility regulation’ as saying:

‘Why do (public utility) regulators or even the public generally, find it so hard to accept and apply the principles of economic efficiency – principles that are so obvious to trained economists… My continual immersion in public utility regulation has gradually led me away

³ While perhaps spoiling the rhetorical impact of this statement I suspect that the issues of angels and their footwork had far greater intellectual importance. It raised the pressing issue of the relationship between celestial beings and the physical World.
from the “the public is illiterate” view and more towards the “economists are deaf” view.’

Neoclassical orthodoxy and its epitomisation in welfare theory is based upon a set of assumptions and principles which permit ‘rigorous analysis’. The first of these, discussed in the following section, is the assumption of Welfarism, the theory that social welfare is entirely a function of individual utilities. Secondly, utilities are defined by revealed preference. Thirdly, preferences are usually envisaged as preferences for consequences. In principle, processes may be conceptualised as consequences (Culyer 1998) but this is not normally incorporated in theory and, with some exceptions, would be very difficult to incorporate in practice. Fourth, efficiency is defined by the Pareto criterion and it is assumed that the achievement of Pareto efficiency is (self evidently) desirable. Fifth, in order to operationalise the model, the Kaldor-Hicks potential compensation principle is usually assumed to be acceptable. Finally, and as the only concession to the existence of ethical preferences, it is conceded that there will be a social preference for certain distributions of well being. However, in order to retain efficiency, these must be achieved through lump sum re-distributions of resources before individuals commence trade and reveal their preferences.

Each of the first five of these assumptions plays a role in sanitising orthodox economics of the ethical elements which characterise most social decision making. Without consumer sovereignty and the revealed preference criterion for utility, debate could emerge over the appropriate concept of utility. This is discussed further in the next section. It is sufficient to note here that there are different concepts of utility and different arguments for their adoption. As noted by Hurley (1998), without the assumption of consequentialism the concept of efficiency embodied in economic orthodoxy would be undermined as an outcome might then be considered to be fair and reasonable so long as it is generated by a fair and reasonable process’. Such approaches often accord individual rights an absolute status, so a policy or action is ethical only if it does not violate anyone’s rights (eg Nozick 1974, p381). Such an ethical schema is orthogonal in its content and emphasis to the neoclassical orthodoxy.

As demonstrated in the theory of welfare economics every competitive equilibrium results in a Pareto efficient outcome and it is from this that the competitive model derives much of its appeal. The appeal of economic orthodoxy largely arises from the fact that in the model defined by the orthodox assumptions every competitive equilibrium results in a Pareto efficient outcome. However the argument is only of practical relevance if one of two assumptions is true. The first is that all commodities, services, activities or processes which affect utility are marketable and that, consequently, each individual can trade until they have obtained the combination of commodities, services, activities and processes which maximises the utility that they can obtain from their resources. The second and alternative assumption is that Pareto efficiency (and by implication, utility) only depends upon marketable outcomes (ie does not depend upon unmarketable quantities). As descriptions of the real marketplace or the motivation of real people both assumptions are aggressively counter-factual. Interestingly, the Bible cites Jesus Christ as

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4 Defining processes as part of the consequences of an action would imply that all of the considerations of procedural justice would be reconceptualised as consequences. Thus, for example, the processes by which outcomes were achieved would be redefined as outcomes and the same consequence derived by two different processes would be seen as two different outcomes. This is clearly not intended by orthodox statements of theory in which the arguments of a utility function are conceived as goods, services and in some more general statements, utilities – outcomes – for other members of the society.
endorsing the Pareto criterion, the biblical parable reported in St Matthew itself illustrates the commonplace response of the majority to the increased wellbeing of other people; viz, envy.\textsuperscript{5, 6} It is not true that most people will remain neutral or pleased by the observation of an increasing growing income disparity in the income or wealth of others so long as they are not personally disadvantaged in absolute terms. To the contrary, there is little which will breed disharmony as quickly and surely as the granting of advantage, or privilege, to some members of a group while others are ignored. While it may be possible to conceptualise a model in which envy is a marketable commodity such a model cannot be used to justify policies in a real marketplace where envy is not market or marketable.

Finally, it is universally agreed that in practice virtually any policy will have a redistributive affect which will commonly disadvantage someone. The conventional solution to this problem of losers is the Kaldor-Hicks criterion; viz, that one state of the world should be considered better than another if losers may, potentially, be compensated by winners. The widespread acceptance of this self evidently defective principle is a testament to the strength of the economists desire to avoid ethical debate. At best, the application of the principle encourages the identification of potentially better states of the world. At worst, it redefines the meaning of ‘better’ to mean what, in common language, is meant by ‘potentially better’ and in so doing it permits advice to be based upon the covert and dubious ethical proposition that ‘potentially better’ should be equated with ‘better’. A more benign interpretation of Kaldor-Hicks is that economists pass back the issue of whether or not to compensate to political decision makers; and the fact that compensation seldom, if ever, occurs is outside the control of economists. The common disregard of distributional issues in economic analyses casts some doubt on this interpretation and this is particularly true in the analysis of health and health programs. When decisions effecting life and death are made, compensation is not possible, even in principle. As compensation for health and health services not received has never occurred nor ever been contemplated in any country, the Kaldor-Hicks criterion is simply irrelevant and the concept of ‘pure economic efficiency’ – value free improvement – is misleading.\textsuperscript{7}

Without Kaldor-Hicks and Pareto it is hard to disagree with Williams (1998) argument that in practice it is impossible to separate the analysis of efficiency and the analysis of distribution and that this re-establishes the important position of ethical debate.

\textsuperscript{5} And Jesus said unto them … for the Kingdom of Heaven is like unto a man … which went out early in the morning to hire labourers in his vineyard. And when he had agreed with the labourers for a penny a day he sent them into his vineyard … And about the eleventh hour he went out, and found others standing idle, and saith unto them, Why stand ye here all the day idle … , Go ye also into the vineyard; … So when even was come, the lord of the vineyard saith unto his steward, Call the labourers, and given them their hire, beginning from the last unto the first. And when they came that were hired about the eleventh hour, they received every man a penny. But when the first came, they supposed that they should have received more; and they likewise received every man a penny. And when they had received it, they murmured against the good man of the house, saying, These last have wrought but one hour, and thou hast made them equal unto us, which hath borne the burden and heat of the day. But he answered one of them, and said, Friend, I do thee no wrong: didst thou not agree with me for a penny … . So the last shall be first, and the first last: for many be called but few chosen (St Matthew 19, 20 St James edition).

\textsuperscript{6} This passage was pointed out to me by Professor Peter Forsyth.

\textsuperscript{7} Hurley 1998, suggests that an alternative defence of the criterion is that economists may believe that, over time, everyone will become better off when policies are based upon the Kaldor-Hicks criterion. If this is what economists believe then this is what they should say. As Hurley points out, it is by no means obvious that the competitive solutions endorsed by economic orthodoxy will not systematically advantage one group of the society and, indeed, the systematic skewing of the distribution of income associated with globalisation and market-based policies in recent years suggests that this is what will happen.
The one concession to the relevance of ethics in the neoclassical orthodoxy, as noted above, is that a redistribution of resources and utility might be warranted to maximise social welfare. But this concession unavoidably raises two questions. First, what is the ethical principle which should determine the nature and extent of the redistribution and does it truly imply nothing more than a simple lump sum redistribution? Is it possible, for example, that the ethical principle suggests the need for certain non lump sum redistributions or that this conclusion would be implied by the principle in combination with some real world constraint (asymmetrical information, political constraints on the redistribution of income per sé) which have been assumed away in the simple orthodox model. Secondly, is it possible that the re-distributive and ethical element is, in practice, of greater importance for social welfare than the achievement of efficiency? There is no compelling reason why the achievement of Pareto efficiency, subject to ‘satisfactory but unquantified redistribution’ should be preferred to an analytical approach which, in practice, reverses the focus of interest’. In this we might define Pareto efficiency as ‘increased social justice subject to no unfairness to any individual (or possibly subject to no individual being worse off) with a caveat that, as there are, potentially, an infinite array of socially just solutions (according to any given criterion) then the absolute level of income should also be taken into account.

It is very probable that if we were to investigate these two alternative approaches to social welfare, viz a focus upon efficiency with an acknowledgment of equity and a focus upon social justice with an acknowledgment of efficiency, then the former would have greater explanatory power of economic behaviour and might be widely regarded as deserving more attention. The deep seated prejudice against ethical debate in neoclassical orthodoxy, however, is illustrated by the fact that this option is never mentioned or discussed. Orthodoxy may also be defended by changing the goal posts. Economics might be redefined as a discipline which only explains the use and allocation of resources but which does not take an interest in social wellbeing. But if the goal posts are shifted then economists are guilty of providing dishonest policy advice and some other discipline must take up the task of advising on the use of resources to maximise social wellbeing.

Summarising a somewhat long introductory section: it has been argued that applied economics is characterised by a robust empiricism, commendable pragmatism a set of powerful and commonsense principles and increasingly, by the use of empirical techniques for analysing a complex reality. However, economic theory, as embodied (or, perhaps more correctly, disembodied) in neoclassical orthodoxy is highly problematical. Of particular relevance here, it has adopted a set of assumptions which sanitise economical analysis of virtually all ethical content.

Three adverse consequences follow from this. First, there is a dissipation of intellectual effort into activities bestowing high prestige to the individual but of doubtful benefits to the community. Secondly, and following from this, there is a constant threat to sensible economics from the dubious practical implications of the more prestigious theoretical contributions from the neoclassical orthodoxy. Thirdly, theoretical economics has become more concerned with formal analysis than with a consideration of the ethical principles which permeate decision making and, in particular, the health sector.
2 Welfarism and extra welfarism

The assertion that one state of the world is better than another is always and unavoidably based upon an ethical theory or belief. This section is concerned primarily with the core ethical proposition of economic orthodoxy; viz., that economic analysis should adopt the assumption of Welfarism, namely, that social welfare is a function of individual utilities and, consequently, that the value of programs should be judged by their impact upon individual utilities. Welfarism has two related but logically distinct forms. As a positive theory, it hypothesizes that social welfare – what is of importance to people – is, a function of individual utility: that the population wishes individual utilities to be maximised. Welfarism may also be taken as the normative or ethical proposition that it is individual utilities which should be of importance, and are therefore the appropriate target of economic policy.

Before proceeding with a discussion of these theories, these two sets of definitions must be clarified. Confusion over the second has been employed as a persuasive but illegitimate defense of Welfarism.

There have always been advocates of extra Welfarism even before the term was explicitly used (possibly the most famous being Sen as, for example, in Sen 1979; 1985). Extra Welfarism is first discussed in health economics by Culyer (1989; 1991). However, as discussed by Hurley (1998) Culyer’s use of the term is somewhat ambiguous even after his own clarifying note (Culyer 1998). Sometimes the term is used to indicate health, per sé, as an alternative objective to utility. Sometimes health is viewed as a supplementary, but independent objective in the social welfare function. Consequently, and for no other reason than linguistic clarity, three forms of extra Welfarism may be distinguished. First, ‘narrow extra Welfarism’ may be defined as either the replacement of utility with health outcome as an objective (Version 1) or, as the replacement of utility by an objective defined by a decision maker (Version 2; the version advocated by Sugden and Williams (1978) in their ‘Decision Making Approach’). Secondly, ‘broad extra Welfarism’ may be defined as the supplementation of utility with some other objective. Thirdly, very broad extra Welfarism may be defined as ‘other than Welfarism’. In the following discussion the term extra Welfarism will refer to this last concept.

The second and more insidious linguistic issue arises from the meaning of the term ‘utility’ and what is implied by ‘maximising utility’. Elsewhere I have argued that the term ‘utility’ refers to at least four different concepts in the economics literature (Richardson 1994).8 Of greater importance here, economic orthodoxy adopts the revealed preference criterion in the existence and strength of utility. This may take the form of a hypothesis or a definition. The concept of utility corresponding with these two uses is quite different. In the first case utility may be independently defined (for example by pleasure-pain, by actions that the individual would subsequently and after reflection deem sensible, etc). By contrast with this narrow use of the term, in the second case the concept is all embrasive. No matter what a person does or for what reason and with whatever feeling of pride or self contempt they must, by definition, be revealing utility. It is this second usage which may be employed to defend Welfarism. No matter what a

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8 The four concepts correspond with (i) pleasure-pain; (ii) a psychologically felt strength of preference; (iii) an analytical device to impose order upon analyses; and (iv) behaviour corresponding with a set of axioms such as those proposed by Von Neumann and Morgenstern.
person does or no matter what reason is given for the action the true motivation is, by this
criterion, utility maximisation. But this usage of the term is vacuous. It immediately encounters
what might be called the ‘libertarian tautology’. ‘Question 1: Why do people select X? Answer 1:
Because this maximises utility. Question 2: How do we know that this maximises utility?
Answer 2: Because people have selected it and this is what is meant by utility.’ However, if the
definition implicit in this second answer is substituted into the first answer we are left with the
following unhelpful restatement: ‘Question 1: Why do people select X? Answer 1: Because they
have selected it’.

In principle, the all encompassing concept of utility could be modified so that it did not depend
upon revealed preference and thereby it could avoid the tautology above. Utility could now be
defined as whatever a person had a preference for, whether or not it was revealed. Thus, for
example, when Sen argues that basic capacities should be respected or when Rawls argues for
the special treatment of the least well off members of society, proponents of this broad concept
may assert that these views simply represent a particular set of preferences and that respecting
these views will, therefore, increase the utility of the people holding these views.

This broader doctrine may also be used to defend Welfarism and once again the defense is
illegitimate. ‘Utility’, broadly defined in this way, necessarily subsumes every conceivable set of
values. It implies that for 2000 years or so ethicists have failed to realise that the various
conceptual distinctions they have drawn are, in truth, only manifestations of ‘utility’. Alternatively,
utility must be subdivided so that concepts, once believed relevant, are reincarnated as sub-sets
of ‘utility’. Thus we may have ‘hedonistic utility’, ‘contractarian utility’, ‘communitarian utility’, etc.

At best this latter defense simply adds an additional layer of language. At worst it may lead to a
loss of the concepts described by alternative ethical theories. A ‘hard line’ view may be that this
would not represent a loss and that as all views must, in this broad sense, be preferences, then
this outcome would only simplify and clarify discourse. While it is legitimate to explore the
hypothesis that all motivation is essentially the same and may be described by this all embrasive
use of the term ‘utility’, the hypothesis should be debated and tested openly and not established
as an orthodoxy by the cleansing of language and the destruction of conceptual distinctions which
are commonly made. People do draw distinctions between different classes of motivations and
behaviours and commonly pass different judgements upon them. Arguing for the existence of a
single motivation – maximising a homogenous concept of utility – reflects a deeply impoverished
view of human nature. Arguing that the moral imperative to fulfil duty, respect autonomy,
enhance communal cohesion, protect and help the needy, permit the exercise of self interest are
all equivalent reflects an equally impoverished understanding of ethical discourse.

It is, of course, legitimate to argue that behaviours associated with these concepts should not be
given special treatment. However, it is entirely illegitimate to construct a set of definitions such
that this question cannot be debated. For these reasons the term utility here is used in its narrow
sense to imply the strength of a person’s self interested or selfish preference for an option.

9 One of the prescient ideas in George Orwell’s classic novel ‘1984’ was that thought and behaviour could be
manipulated by the cleansing of language: a task assigned, in his novel, to the ‘thought police’.

10 Even this definition is somewhat ambiguous. Strength of preference may reflect a psychological feeling akin to
pleasure-pain. Alternatively, it may reflect an intellectual preference for a course of action. The psychological
interpretation is clearly implied when utility instruments register lower scores for people in pain and distress. The latter
It is difficult to believe that there can be any argument over the proposition that, as an empirical observation, people are not simply motivated by self interest, narrowly defined. The distinction between the self interested individual and the (same) socially motivated citizen dates back at least to Aristotle. Quite apart from everyday observation, there is now significant body of experimental evidence which shows that people are prepared to make significant sacrifices in order to obtain other objectives (Hurley 1998). Thus, if we are interested in the scientific question ‘what motivates people’, it is hard to avoid the conclusion that the narrow welfarist description of the world is factually in error. Welfarists might, however, argue that utility maximisation is simply an instrumental theory, viz, that while it does not describe behaviour accurately it is sufficient for our economic theories and for the prediction of behaviour. This was the position of Edgeworth who first insisted that we should regard utility maximisation in this way. (Curiously, Edgeworth did not himself believe that individuals were purely self interested.) If instrumentalism is, indeed, the defense of Welfarism then this should be made explicit. The deliberate impoverishment of our assumptions does not, on the surface, appear a credible way of increasing the long term accuracy of economic predictions. Of greater relevance here, however, while an instrumentalist interpretation of Welfarism may justify its retention in positive theory it cannot be used to justify normative conclusions. That is, policies cannot be advocated because they maximise utility if utility is being given no more than an instrumentalist interpretation.

Finally, and possibly the most persuasive argument in favour of the normative interpretation of Welfarism, it might be argued that the satisfaction of individual preferences should be the core business of economics and that while there are other ethical considerations, these are of sufficiently small importance that they may be neglected or, at least, assigned to an ‘analytical footnote’ in policy formulation.

There are two problems with this argument. The first is that there are serious objections to the maximisation of utility – strength of preference – as the sole or even primary objective in all contexts. These are discussed very nicely by Goodin (2000), Bowles (1998) and Rabin (1998). In their reviews these authors describe a very different concept of preferences from the complete, well ordered and ruggedly individualistic preferences conceptualised in neoclassical orthodoxy. By contrast with this conception there are a range of ‘preference failures’ (Goodin 2000): even setting aside failures arising from poor information or understanding – problems endemic in the health sector – preferences may be incoherent or incomplete (inconsistent or non existent). There may be a failure of contextualisation (preferences may differ by context); a failure of will, extension, stability, or imagination. This list of problems may be summarised by saying that the determinants of preferences and even their existence may be unclear and, consequently, the relationship between their expression (or lack of expression), wellbeing, and what we should seek to achieve is, at best, variable and uncertain. It is because of this that not only stated preferences but revealed preferences may be influenced by framing and presentational effects (for example by superficial forms of marketing which we might not wish to influence the subject of our economic policy (see Smith and Nagle 1995)). A consequence of the acknowledgement of personal preference failures is the possibility that an individual might seek to pre-commit both

definition is clearly implied when we refer to ‘a preference for a just society’ or ‘a preference for the elimination of poverty in the world’.
themselves and others to particular forms of behaviour and to avoid succumbing to the preference failure.\textsuperscript{11}

Perhaps the most fundamental problem arises from the fact that preferences are commonly endogenous (Bowles 1998). Economic institutions affect social norms and preferences. Institutions structure tasks people face and influence their capacities but also their values. Markets and other institutions affect the cultural learning process and alter desires and values. The importance of these influences may be summed in the dictum that ‘a person may be able to do what they wish but they cannot determine what it is that they wish’. This is the subject of other forces.

While it might, of course, be objected that it is not the role of economists to determine social values or to remould people’s wishes, the relevance of endogenous preferences is that individuals, acting as citizens, may recognise the significance of these influences and, on occasions, support policies which override the consequences of induced preferences. Voluntary programs to combat alcoholism and other forms of addiction are only an extreme example of this. Of greatest relevance here, preference failures and the existence of endogenous preferences are damaging to the ethical argument in favour of respecting preferences. If these preferences are simply the reflection of uncontrolled – or worse, self interested and manipulative – forces, then the argument for respecting them is seriously weakened.

The second problem with the argument that economists should maximise utilities, narrowly defined and to the exclusion of other ethical considerations, is that mainstream economics has simply not debated this issue satisfactorily and certainly not in the context of the health sector. Curiously, while it is almost universally agreed that the population regards health and health services as being, in some sense, meritorious, there has been minimal enquiry into the actual objectives of the community as distinct from individual objectives and little attempt to link these objectives to major ethical theories. Important individual contributions have, of course, been made by economists such as Williams, Culyer, Mooney, Wagstaff and Rice (1998a, b). But even here there has been little or no recourse to the observation of population values as discussed below.

In sum, it has been argued in this section that the assumption of Welfarism in the neoclassical orthodoxy has not been justified, to date by argument and evidence. It has been defended and made plausible by the use of definitions which result either in circularity or in a framework so broad that it is empty of content. This linguistic sleight of hand does not provide a fruitful framework for the analysis of empirical behaviour or ethical objectives. At best it represents a misuse of language as commonly employed. This does not imply that Welfarism (narrowly defined) is an inappropriate description of a great deal of all behaviours or an inappropriate framework for a great deal of policy. To the contrary, evidence suggests that it has very wide application as both a normative and positive hypothesis. The issue is whether or not it is universally applicable. The evidence and argument below suggest that it is not and that, in the context of health, there is a need for a great deal more ethical analysis.

\textsuperscript{11} An interesting observation is that, in the context of food, it has been found that there are different neural systems in the brain which control wants and long term desires. Immediate behaviour responds to the former. A person may wish to pre-commit their behaviour to correspond with the latter.
3 A pot-pouri of empirical evidence

If Solow’s benign view of formalism was correct and formalists only wrote for one another then the issues discussed so far in this paper would only be of academic interest. A less benign hypothesis is that the adoption of a narrow, analytically easy form of Welfarism limits the range of issues which economists investigate. The observation of robust empiricism in the pursuit of this subset of issues would then be consistent with the belief that formalism was adversely affecting the discipline. This hypothesis is explored and supported below by citing and discussing a number of studies which have recently received some empirical support but which are, \textit{prima facie}, inconsistent with the axioms of Neoclassical Welfarism.

These case studies are drawn from the relatively new and eclectic literature analysing ‘social preferences’ (Nord 1999; Nord et al 1999; Menzel et al 1999) which argues, \textit{inter alia}, that cost utility analysis should be expanded to ‘cost value analysis’ in which utility (as measured in CUA) is converted to social value by the inclusion of other quantified social values.

A: Private vs social preferences

1 Severity: In conventional CUA the initial health state is only of importance because health improvement is equal to the quality of life of the final minus the initial health state. When directly questioned and informed of the fact that individual patients find two health improvements to be of identical benefit, survey respondents drawn from the general population express a strong preference for allocating resources to the illness where the initial health state is most severe. This result has been independently derived in Norway, Spain, the USA and Australia (Nord, Ubel and Scanlon 1996; Nord 1993; Nord et al 1999; Menzel et al 1999). As the initial health state is not a consequence, the result conflicts with consequentialism. As individual preferences are not sovereign, it conflicts with individualism; that is, the priority accorded to patients with a severe condition does not arise from the magnitude of the utility gain as perceived by the individuals affected, but from a social judgement about the distribution of such benefits.

Perhaps the most striking evidence for the independent importance of severity comes from the US criteria for prioritising the allocation of liver and heart organs (where need exceeds supply). Severity is the overriding element in the decision but this directly conflicts with outcome. Those with the best prognosis after receipt of the organ are those with the least severe illness and maximum health gain would be achieved by giving organs to this group. The actual policy results in the ‘perverse’ situation, where this group must wait until their health state has deteriorated sufficiently for them to satisfy the severity criteria. This policy could only be described as perverse, however, if health gain is the overriding social objective. In this case this objective is explicitly of secondary importance to severity, a result also consistent with the ‘Rule of Rescue’ discussed below. Kidney transplantation is not included in this policy as dialysis is available as an alternative, i.e. the condition without transplantation is not sufficiently severe for inclusion in the policy.

\footnote{This section reproduced pp29-31 of Richardson 1999.}
Richardson and Nord (1997) found that there was a significant difference in people’s preferences when they viewed benefits from their personal perspective and from the perspective of a citizen judging social benefits. If a social perspective is deemed appropriate in social decision making then the outcome would conflict with the result of individualistic Welfarism.

Studies in the USA, UK, Australia and Japan have all found that the health of people in particular age groups is considered to be of greater importance than the health of others. Results are summarised in Tsuchiya 1999. Australia results are reported in Nord et al (1995) Nord, Street and Richardson (1995).

B: Overriding Preferences

Explicit Paternalism: To test the hypothesis that the population might, in particular contexts, endorse government paternalism and not personal preferences, Olsen and Richardson (1999) constructed a plausible scenario where these decision rules conflicted. When asked whether community decision makers should allocate resources in accordance with the preferences of well informed citizens or in a way which maximised lives saved, an overwhelming majority of respondents nominated the second option (Olsen and Richardson 1999). The result is an explicit repudiation of Welfarism.

Direct Cost: Individuals surveyed in Australia decisively rejected the proposition that services should be provided on the basis of least cost, as this implies ‘discrimination against those with high cost diseases’. Respondents persisted with this view when interviewers were instructed to argue with them and when they were asked to allocate their own budget between two groups of ill patients. As discussed by Nord and Richardson (1995) this result is not necessarily as perverse as it first appears as it is based upon the stated view that it is unfair to discriminate against patients who are unfortunate enough to have high cost illnesses. Rather, it is felt that some compensation should be given to offset this disadvantage. This finding strikes at the heart of the orthodox economic paradigm. In particular, it is likely to conflict with the assumption of potential compensation. A likely explanation of the result is that respondents implicitly recognise that compensating individuals for illness will not occur. Even in principle this option is difficult and especially when the individual is dead. Empirical results consistent with these observations have been found in Spain and the USA (Menzel et al 1999; Ubel 2000; Ubel et al 1996, 2000).

Indirect Benefits: One of the benefits of a health program arises from the early return to work of a patient or their retention in the workforce when they may otherwise have died. It has generally been accepted that these benefits should be included in the comparison of overall costs and benefits of the program. However, when directly surveyed, individuals reject the inclusion of such indirect benefits when these necessarily favour the wealthy. Olsen and Richardson (1999) have suggested that such production gains should be included in a new category of ‘socially irrelevant benefits’; a class that would also include the net benefits of crime and drug taking. These conclusions conflict with the assumption of consequentialism and potential compensation for the reasons given above.
Willingness-to-Pay: Surveyed individuals almost unanimously reject conventional willingness-to-pay as the basis for evaluating health benefits. This is quite distinct from the willingness-to-pay as a taxpayer for health benefits; a willingness that is conditional upon tax payments by other members of the community (Olsen, Richardson and Mortimer 1998; Richardson 1999). This conflicts with the assumption of context free rationality as the results apply to benefits in the context of a National Health Scheme. It also conflicts with the assumption of Welfarism, i.e., the assumption that the relevant benefit is always a function of individual utility as defined by the individual willingness to pay. The citizen's willingness to pay as a taxpayer is arguably more related to communitarian values (Mooney 1998).

C: Context

Double jeopardy: Context free rationality implies that if a cure returns a person to a pre-existing chronic health state such as quadriplegia, then saving such a person's life should have lower priority than saving the life of a person who will return to normal health (McKie et al 1998; Nord 1993). However this conclusion is almost universally rejected as such discrimination against particular individuals is believed to violate principles of social justice (Olsen, Richardson and Mortimer 1998). Respondents to a recent US 'Person Trade-off' survey accorded quite different importance weights to the same health improvement when recipients were long term quadriplegics and when recipients had previously been in full health (Ubel, Richardson and Baron 1999). In effect, it is believed that individual health gains should be weighted to overcome any such context specific discrimination. It is of interest to note that failure to acknowledge this in the theory of utility measurement was a major contributory factor to the rejection, in court, of the methodology of the Oregon Experiment for prioritising services in the Medicaid program for the poor and medically indigent. It was argued that the QALY procedure discriminated against the disabled.

Rule of Rescue: In the context of the Oregon experiment Haddorn (1991) argued that rationing which may be acceptable in abstract, or in at least some contexts, would not be acceptable in the context of an emergency. The view appears to receive general support although it again conflicts with the assumption of consequentialism which precludes context per se from having independent significance (Pinto and Lopez 1998; Ubel et al 1996). The context can, however have ethical significance (Richardson and McKie 2000).

Ex ante vs Ex Post Perspective: In the context of a National Health Scheme, respondents to an Australian survey indicated that they did not wish the Australian health service, Medicare, to pay for ‘ex ante’ sources of utility such as the elimination of fear, dislike of risk and the anticipation of regret. This again conflicts with the axiom of context-free consistency of preferences and Welfarism (Richardson 1998).

Communitarianism: Peacock et al (1997) found that decision makers in the State of South Australia expressed a strong preference for what they described and precisely defined as 'community empowerment'; a concept which explicitly excluded eventual health related utility benefits to patients. The decision makers were prepared to trade off
very significant health benefits for ‘community empowerment’. This again conflicts with the assumptions of Welfarism and individualism.

Two possible reactions to these issues and empirical findings are, first, that people’s stated preferences are sensitive to framing effects and when respondents to a survey have insufficient time to deliberate on unusual issues, these framing effects may dominate the results; and, secondly, that respondents may simply be wrong; that they have supported options and outcomes that would reduce their wellbeing.

These criticisms may or may not have some validity. However, the point of the examples above is to show that there are a series of hypotheses about socially desired outcomes that have prima facie legitimacy – they are consistent with accepted principles of social justice – but which have not even been discussed in the literature which has been overwhelmingly concerned with a narrowly defined range of ‘orthodox’ issues. It is true that stated preferences are often elicited without the possibility of lengthy deliberations; but this is true for almost all stated preference studies and not simply those concerned with unorthodox issues and outcomes. It is also true that individuals may be ‘wrong’ in their choice of options in the sense that they will not lead to optimal outcomes. This is, of course, necessarily true if ‘optimality’ is defined conventionally so that they must be ‘wrong’. It may also be true if optimality is defined in some other way. But a prerequisite to this latter conclusion is the determination of what this other definition of ‘wrong’ entails – which other unorthodox social values define ‘optimality’ – and it is the failure to adequately and creatively explore this question that is highlighted by the studies summarised above.

It is not suggested that any of the results have been ‘established’ and certainly not to the point where they should influence health policy. The purpose of their enumeration here is to demonstrate that there are a surprisingly large number of unsurprising responses from the public which conflict with the present practice or theory and which have not been systematically investigated or even discussed. The suggested reason is that, in each case, the unsurprising public response conflicts with economic orthodoxy and with the assumptions that are consciously or unconsciously made by many or most economists. Each of these issues could, of course, be reconciled with economic orthodoxy by the tautological approach to utilitarianism discussed earlier. But the point is that without the wisdom of hindsight economists have been constrained in the scope of their enquiry.

These issues by no means exhaust those which need further explanation. There is a large class of distributional issues still requiring quantification (Nord, Richardson et al 1995; Williams 1997). The only one of these which has been researched to any extent is the importance of age weights (Tsuchiya 1999).

In addition to the studies summarised here there is a more limited literature which at least highlights the potential importance of the macro distribution of health benefits. (For example see Williams 1997; Wagstaff and van Doorslaer 1999; van Doorslaer and Wagstaff 1999). It is, perhaps, a stinging indictment of the lack of attention given to these issues that in the recent WHO evaluation of health systems, health gain per se was given a significantly lower weighting (25 percent) than the cumulative importance of the distribution of health benefits, costs, and the distribution of responsiveness (62.5 percent). The report was unable to draw upon any
systematic body of economic theory or evidence and relied instead upon an ad hoc survey of 1,000 health professionals primarily associated with the WHO (WHO 2000).\textsuperscript{13}

In sum, it has been demonstrated in this section that there is now a significant body of empirical evidence which, taken at face value, and subject to verification of the reported findings could significantly alter the type of information collected to evaluate social costs and benefits. None of these results were derived from a neoclassical model and most would be in conflict with economic orthodoxy. (Although, of course, with skill and motivation, most awkward observations can be rationalised.) The issue which has not been systematically investigated is the ethical status of these empirical results and, more generally, the status of the ethical views derived, however carefully, from the population.

4 Empirical Ethics

The issue which has not been systematically investigated in the literature is the ethical status of the empirical result cited above and, more generally, the status of the ethical views derived, however carefully, from the population. Both Nord et al (1999) and Williams (1998) explicitly advocate what has been implicit in other studies, viz, that ethical values should be quantified and converted into importance weights on a 0-1 scale which may then be used to weight the importance of QALYs in the same numerical way as QALYs are themselves the product of life years and a utility weight.

There is, however, a fundamental difference between utility and ethical weights (Richardson 2000c). The former are time based and ‘experienced’: poor health has an objective dimension – the characteristics of the health state ‘exist’ and many can be directly observed. In contrast, ethical weights are not time based and reflect intellectualised beliefs that may be changed in the light of ethical argument. Consequently there is an unresolved question about the status of empirical results concerning ethical beliefs and a question about the extent to which ethical preferences, elicited empirically, should be accepted at face value or subjected to some process of selection or modification before incorporation into economic evaluation. This subject area is largely uncharted.

Recently I suggested that the enquiry into ethical attitudes and the subsequent ethical debate over the interpretation of the findings should be entitled either ‘Ethics Empiricism’ or ‘Empirical Ethics’ (Richardson 2000a; 2000b). In sum, it was suggested that ethical views be elicited in an iterative way. Researchers should postulate population values (ethical principles) and then embark upon a series of empirical studies both qualitative and quantitative. During these, the implications of population responses should be clarified, a process sometimes described as reflective equilibrium. For example, when a health state is rated by an individual as having a utility score of 0.8 it may be inferred that curing five people in this health state and allowing them to return to normal health for the rest of their lives is equivalent to saving the life of a single person. This and other such implications should be provided to the population (a panel of decision makers; survey respondents, etc) to provoke deliberation. Postulated ethical principles

\textsuperscript{13} Interestingly the inclusion of these equity concerns and ‘responsiveness’ resulted in a reduction in Australia’s rank order from second (life expectancy only) to twelfth with the USA being the only major western country obtaining a lower rank order.
should be reformulated in view of the population reaction and then resubmitted to empirical testing.

If this process is conducted appropriately the empirical findings should be subject to the standard criticisms arising from different ethical theories and, in the particular context under consideration, respondents may find such arguments more or less persuasive. The process should continue until acceptable, stable (reliable and deliberative) ethical principles are identified (albeit unique to a particular context), i.e. principles that withstand both a priori ethical criticism and the test of population support.

During the process described there should be no constraint on the nature of the evidence or the arguments used. Thus, it is possible that empirical methods could be used to determine the acceptability of the decision process itself. This might be described as ‘Empirical Meta Ethics’. For example, in Richardson (2000a) a survey was reported in which respondents were asked whether or not they wished the democratically elected government to follow the wishes of the population (elicited in a survey) in the choice of the rate of time preference. A significant majority of the respondents considered that the government should override the empirically derived public preference when the government considered that there were significant benefits to be obtained by so doing over the following ten years.

At first, it may appear paradoxical to seek empirical evidence on the prior issue of empirical evidence. Surely it is self contradictory to ask people if they have a preference for the sovereignty of their own preferences. There is, however, no inconsistency in a person expressing a preference when asked, but simultaneously favouring a decision process which does not depend upon this preference. The first and most obvious reason for this is a recognition of the inevitable asymmetry of information between an individual and a specialist. It is for this reason that Harsanyi (1997) argues that welfare economics should be reconstructed and based upon informed rather than actual preferences and that, in principle, decisions should be based upon surveys of individuals who have been exposed to a series of procedures designed to encourage deliberation.

However, it is possible for individuals to reject the sovereignty of even well informed preferences. A possible reason for this was nicely expressed by a participant of the focus group conducted in relation to the discounting study who, when asked the reason for rejecting public preferences, stated:

‘I don’t value public opinion... it is so easily manipulated, and, people who represent us, you would assume, are competent. I don’t have any faith in public opinion. If I have faith in anything, it is that the system is putting competent people in positions of power... People are caught up with living their own life and they do not have time to go into every issue.’

People might simply believe that government will make better decisions than the public. In a further example Olsen and Richardson (1999) report surveys in both Norway and Australia in which respondents reject public preferences as the decision criterion and support the maximisation of lives saved as an overriding principle. That is, paternalism is explicitly preferred to consumer sovereignty.
There are, of course, obvious problems associated with the suggested procedure. First, and especially in the context of a limited budget, survey results may be biased by the manner of presentation – by framing effects, dominant personalities in focus group discussions, etc. To this extent, empirical ethicism is no different from other disciplines. Empiricism is, generally, expensive and the requirement that low budget observations should be error free would effectively eliminate all empirical science. Secondly, and unlike a positive theory which may be tested against relatively objective observations, normative or ethical theory can only be tested against normative criteria. For example, we may ask whether principles adopted are those which would be selected from behind a veil of ignorance; whether they are those which accord with moral intuition; whether they are those which accord with a particular religious view, etc. However, to demonstrate that a particular set of criteria is ‘correct’ in some sense requires the application of ‘meta criteria’ which themselves need justification. As the meta criteria also need justification any attempt at ultimate justification leads to an infinite regress. Ultimate justification or the demonstration of ‘truth’ is, therefore, impossible.

Evaluation is yet more problematical. Different ethical theories, each of which may appeal to different parts of our moral intuition, necessarily conflict with one another over some domains of behaviour (a felicitous fact which has ensured the full employment of ethicists for several thousand years!) Consequently, policies which accord with one set of general ethical principles will have implications which must conflict with other general principles. This, in turn, implies that the use of empirical ethics will always result in policies and principles which conflict with the ethical principles of one or more ethical theories.

The impossibility of ‘truth’ or ‘conclusive proof’ is only different from the impossibility of universal truth in the physical sciences by degree. More relevant here, difficulty in determining ethically acceptable principles or context specific behaviours is not created by the explicit recognition or empirical investigation of ethical issues. The dilemma exists whether or not it is explicitly recognised. Nor does the difficulty in determining ethically acceptable behaviour imply that the problem may be circumvented by relying upon ‘economic theory’. At best, ‘normative economic theory’ embodies ethical principles which have been sanctified through time, contemplation and use. At worst, and as suggested here, it may have been sanctified by nothing more than history and authority. The impossibility of a conclusive demonstration that an ethical position is truly ‘right’ implies the need for a decision process – a circuit breaker – which, in an applied context, can curtail a potentially endless debate. As ethics, as a discipline, does not provide any possible method for the resolution of differences, something from outside the discipline must be included.

This circuit breaker, of course, is the government and ultimately the Parliament. While endorsement by government – and even the Australian government – does not ensure that a policy is morally ‘right’, there is no known process – including the armchair theorising of ethicists or neoclassical economists – which ensures the achievement of this ephemeral objective. The fundamental tenet of empirical ethics must, therefore, be that a particular process, viz, open enquiry and the intertwining of empirical evidence and ethical debate is more likely to present government with socially acceptable and morally justified policy options than any other process.

14 Since the publication of Emmanuel Kant’s ‘Critique of Pure Reason’ it has been known that observation of the physical world is, itself, theory laden – biased by the expectation of what we will find. Or, as summarised by Cohn (1989) and quoted by Reinhardt (1998), ‘I wouldn’t have seen it if I hadn’t believed it!’ p14.
As a minimum, it may achieve a near consensus that procedural fairness has been exercised and those who disagree with either the outcome or the process can, as a minimum, express these arguments. Ultimately, those who reject this process may set out their intellectual stall and attempt to sell their alternative product. If this consists of nothing more than the demolition of all conceivable practical options – a relatively easy task, for, as noted, nothing can be proven ‘right’ – then it is to be hoped that their stall will be bypassed.

5 Why are we where we are and where should we be?

It has been argued above that neoclassical economic orthodoxy has not always served the profession well and particularly in areas such as health economics where social and economic behaviour is atypical. Of course, this conclusion must be kept in perspective. As noted, most of the research carried out, and particularly the robust empiricism which characterises most applied economics, is unaffected by the problems discussed here. At worst, the authors of a cost effectiveness study may be guilty of overselling their results and misrepresenting them as conclusively demonstrating the desirability or otherwise of adopting a procedure. The fact that they may (or may not) have overlooked other social objectives does not detract from the relevance of their analysis. Likewise, the incomplete specification and measurement embodied in the GDP does not make national accounting irrelevant or useless.

The case against economic orthodoxy can be easily summarised. Economics purports to examine the relationship between scarce resources and limitless wants. Its objective is to maximise social welfare in the face of scarcity. But to do this requires an analysis of wants and welfare. Especially in a social context with interdependent individual welfare this is an unavoidably ethical enterprise. Yet economic orthodoxy seeks no empirical evidence on the nature of society’s wants nor subjects its core concepts to ongoing ethical debate. Rather, individual and social objectives are assumed. The theme of this article has been that this tradition should be ended and replaced by a critical tradition of empirical enquiry and ethical debate with respect to our objectives.

A possibly irrelevant – though interesting – question is why this situation has arisen – why economists have persisted with what they know to be flawed axioms and inadequate empirical methods. At least four answers might be given. The first hypothesis, suggested by Evans (1998) is ‘that skilful manipulation of an intellectual framework shared by peer reviewers and editors leads to prestigious publications, reputation, research grants, academic promotions, etc’, p492. The theory is at least consistent with the neoclassical axiom of rational self interest! Secondly, Alford (2000) argues that characteristics of the paradigm may reflect the personal tastes of those who have dominated it in the past. More specifically, Alford argues that males generally have a preference for abstract manipulative activities whereas females prefer contextualisation and knowledge which is embedded in a broader social context. This, Alford argues, explains the disproportionately small number of women economists. As a testable hypothesis, the theory would suggest that the relatively more contextualised sub-discipline of health economics should have relatively more women practitioners. A third hypothesis, and one discussed by Ormerod (1994) is that there may be a genuine confusion of the form of the analysis and the substance. The methodologies selected by economists may have mimicked the form, and the methodologies adopted by disciplines that have had the most spectacular success and most notably, physics.
Thus, orthodox economists may genuinely believe that the emphasis upon analytical precision in some way increases confidence and truth content in conclusions, irrespective of the validity of the axioms. Fourth, and the present author’s preferred hypothesis, is that the outcome may be a reflection of a frustration with empiricism. Experimentation is difficult; natural experiments seldom occur; random control trials have limited application and, perhaps because of the limited range of genuinely independent observations, the econometric ice breaker is all too often stuck in the ice.

A variant of this argument, offered by Solow (1997), is that theory is cheap and empiricism costly and that this explains the relative abundance of theory. While there may be truth in this suggestion it does not imply the Panglossian conclusion that we have achieved optimal substitution. Theory may be cheap for the skilled theorist relative to individual costs. This is consistent with a significant negative externality to the society if, collectively, empiricism is neglected.

For the reasons given in Section 1 it has been suggested here that if, indeed, theory has been substituted for empiricism then this process has gone too far in neoclassical orthodoxy and, indeed, it has progressed to the point where the integrity of orthodoxy as an empirical science is in question. The most advanced symptom of such a methodological sclerosis, and one which appears increasingly prevalent in the health economics literature, is the appeal to the authority of ‘economic theory’ in support of objectives. This appears to elevate ‘theory’ to an ontological status similar to the Platonic Forms or a spiritual revelation: an entity with independent truth and authority.

The conclusion of this argument is that in the determination of our objectives we should adopt the empirical methods of the social sciences as we apply them elsewhere. Orthodox theories and objectives are, obviously, a legitimate and important area of investigation: but they should be investigated, not reified and deified. Since social objectives are unavoidably value laden – ethical – in character, we should be subjecting empirical research to critical ethical scrutiny. That is, we should be adopting the procedures of empirical ethics.
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