

**Empirical Ethics:
Or the Poverty of Ethical Analyses in
Economics and the Unwarranted
Disregard of Evidence in Ethics**

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Abstract

Normative conclusions in economics are usually based upon a set of assumptions which are untenable in the health sector. Persistence with these assumptions highlights a more fundamental problem: the epistemology of normative economics – the methodology for drawing conclusions with respect to the improvement of social wellbeing – is itself flawed. Orthodox economics does not include a process for selecting relevant ethical assumptions or context specific ethical theories. Likewise, however, ethics as a discipline is flawed as judged by this same criterion, ie the ability to provide an ethical basis for economic and other analyses which reflects defensible social values. Implicit criteria of universality and immunity from criticism, no matter how contrived the context, leaves ethical principles in an epistemological never-never land: never to be accepted because of empirical evidence about social values and never demonstrable from logical argument alone. It is suggested below that empiricism and ethical theory should be combined in a process described here as 'Empirical Ethics'. The endpoint of the suggested process would be, as in the physical sciences, the best currently available theory or hypothesis. The procedure cannot produce certainty and it is itself an epistemological theory which cannot be conclusively 'proved' by logic or empiricism. It is argued that, like old age, it is nevertheless the best of the available options.

Empirical Ethics: Or, the poverty of ethical analyses in economics and the unwarranted disregard of evidence in ethics

1 Introduction

With limited resources there is a need for rules and institutions to ration resources including health services. The task of doing this in a way that maximises social wellbeing is the defining task of economics and economists have devised a theoretical schema and a set of procedures which, for the most part, provide a satisfactory indication of how best to use our resources. In the health sector both the theory and practice of orthodox economics are more problematical. Most fundamentally, the ethical basis of economic orthodoxy – welfarism, or a qualified form of libertarian utilitarianism – does not appear to represent the ethical views of the population. In every country where there is a functional government it has intervened, to a greater or lesser extent, to modify the outcome of the unregulated market, the mechanism which is commonly recommended by economists to achieve maximum social welfare. The rejection of the simple market implies the need for some other set of rules for allocating resources.

It is argued below in Section 2 that, not only has orthodox economic theory failed to meet this challenge, but it has adopted a set of assumptions, definitions and conventions that impedes inquiry into social values and obscures the need for ethical enquiry. Ethical questions have been misrepresented as technical issues and as issues where economists have particular expertise and authority. In Section 3 it is argued that when social objectives are imperfectly understood there should be an interactive ‘dialogue’ between the public, economists and ethicists to identify widely held social values and that government decision making should take these into account. It is suggested that the term ‘Empirical Ethics’ would be a useful title for this process. In Section 4 a number of the possible criticisms of this process are discussed and, in particular, the damaging assertion that the truth or otherwise of ethical, like physical, laws cannot be found by ‘voting’. This criticism is evaluated in relation to the need for a methodology which bridges the chasm between ‘disembodied’ ethical theories and acceptable policy action.

The chief focus of the paper is not upon the validity or otherwise of the assumptions of orthodox economics, although these are discussed. Rather, it is upon economic methodology or, more correctly, upon the epistemology of normative economics – the way in which economists justify normative conclusions and policy recommendations. It is argued that the almost total disregard of ethical theory is particularly damaging in the context of a value-impregnated field such as health and health care. However it is also argued that, as presently constituted, ethical discourse is flawed as a guide to useful policy. Ethical theories occupy an epistemological never-never land. Propositions cannot be proven empirically: they cannot be proven by logic. At best they may help to highlight anomalies in other theories and demonstrate context specific conclusions which violate our moral intentions. Typically, however, the alternative theory is vulnerable to similar context specific criticism. It is concluded that a useful two-way interaction between ethics and economics can only occur if there is agreement about the status of the knowledge which is achievable in the field of normative economics or applied ethics.

2 Ethics and the Conceptual Basis of Economics

The assertion that one state of the world is better than another is always and unavoidably based upon an ethical judgement or belief. The distinction between the achievement of 'economic efficiency' and a normative or equity objective such as a particular distribution of benefits does not arise from a fundamental difference in kind between economic 'efficiency' and equity or normative objectives, but from the breadth of the acceptance of the ethical – normative – basis of 'economic efficiency' and from linguistic convention. It is a convention which is misleading as it wrongly encourages economists to believe that their advocacy of 'economic efficiency' is value free. Technical efficiency per sé – the ability to do more with the same resources or to use fewer resources to do the same job – only results in an improved state of the world if the resources freed by technical efficiency produce more of something which is valued, and this judgement is necessarily 'normative' or 'ethical'. 'Pareto efficiency' – the assertion that social wellbeing is increased if no one is worse off and someone is 'better off' – requires a normative judgement about what it means to be 'better off'.

Rather than seeking evidence regarding the determinants of individual and social wellbeing and analysing the ethical components of this, neoclassical economic orthodoxy adopts a set of assumptions and principles which very largely eliminates the need for ethical inquiry. The first of these is the assumption of 'welfarism', the theory that social welfare is a function of individual utilities only. Secondly, utilities are defined by revealed preferences. Thirdly, preferences are determined by consequences and specifically consequences for the mix and volume of goods and services. In principle, processes may be conceptualised as consequences (Culyer 1998) but this seldom occurs and, with some exceptions, it would be difficult to incorporate 'process utilities' in applied economic analyses.¹ Pope (2001) has also demonstrated that, in the context of risk, such a conceptualisation is inconsistent with the axiomatisation of behaviour which is of fundamental and defining importance for neoclassical economic orthodoxy.² Fourthly, efficiency is defined by the Pareto criterion noted above and it is assumed that the achievement of Pareto efficiency is self evidently desirable. Fifth, in order to overcome the problem of interpersonal comparisons, the 'Kaldor-Hicks Potential Compensation' principle is usually assumed to be acceptable. This is the doctrine that one state should be considered better than another if losers in this second state could, *potentially*, be compensated by the winners while still leaving winners better off. 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 wellbeing. However, in order to retain Pareto efficiency, it is generally argued that the redistribution of wellbeing should be achieved by a redistribution of wealth rather than by the provision of services or the regulation of trade.

The combined effect of these assumptions is to eliminate the need for an enquiry into social and ethical objectives other than the initial distribution of wealth. However, even a moment's reflection would convince most people that at least some of these assumptions are contestable. A policy aimed at maximising utility and especially when utility is defined by revealed preferences requires the maximisation of each person's choice (subject to non-interference with other

¹ 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. 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, may include utilities, or outcomes for other members of the society.

² In Richardson (1999) I argue that axiomatisation reflects the 2,500 year old methodological tradition of (philosophic) rationalism – a tradition which was disregarded in the physical sciences and replaced by 'Empiricism' – a tradition which was probably a prerequisite for the subsequent growth of scientific knowledge.

individuals). But national health and health insurance policy have never had choice as their primary objective. Rather, these policies are primarily designed to maximise health per sé or access to health services. These objectives may – theoretically – be a means or prerequisite to the ultimate end of utility maximisation. But likewise they may be an end in themselves and would be widely regarded as being of greater importance than the satisfaction of preferences. Unsurprisingly the available evidence suggests that ‘extra welfarism’, not welfarism, best describes the prevailing ethical objectives with respect to the provision of health services³ (Hurley 2000; Olsen and Richardson 2001).⁴

The inadequacy of the orthodox economic framework in the health sector is also evident when the other pivotal assumptions are examined. Without consumer sovereignty and the revealed preference criterion for utility, debate would emerge over which, if any, of (at least) five concepts of utility was most useful for economic theory⁵. As noted by Hurley (2000), without the assumption of consequentialism the concept of efficiency embodied in economic orthodoxy would be questionable as an outcome might be considered desirable or undesirable because of the process which led to the outcome and not because of the outcome per sé. For example, and as argued by Mooney et al (1991), ‘access’ to health services, rather than health outcome, might be considered sufficient to meet social obligations in the health sector.

Consequentialism implies that patient history and context per sé should not be of importance when health improvement is evaluated. In contrast, Ubel et al (1999) found that survey respondents discriminate between previously healthy patients and long term quadriplegics when priority is to be determined for a life saving procedure which will leave both groups of patients with long term quadriplegia.⁶ As with procedural justice, respondents considered context and past history to be significant for assigning priority to health services.

³ While loosely defined, ‘Extra Welfarism’ refers to the existence of social objectives other than the maximisation of utility. It usually includes health per sé as an independent objective.

⁴ Empirical evidence indicates that when people are asked to select between the maximisation of life and the maximisation of utility as *social* objectives, the overwhelming majority select the former option (Olsen and Richardson 2001)

⁵ Richardson (1994) identifies four concepts: (i) psychological, pleasure/pain; (ii) psychological intensity of feeling; (iii) an ordinal ranking of preferences serving as an organisational framework in positive analyses; (iv) ‘N-M Utility’, defined by the existence of behaviour consistent with the von Neumann-Morgenstern axioms of Expected Utility. A fifth concept corresponds with preferences which are intellectually determined (eg a preference for justice) even where there is no corresponding intensity of feeling or revealed behaviour.

⁶ Simple QALY or utility maximisation implies that quadriplegics should receive lesser priority than ordinarily healthy people as they cannot be restored to full health. Ubel et al, however, found that survey respondents would not discriminate and would afford quadriplegics the same priority as patients who could be returned to full health. Both groups would be given higher priority than previously normal patients who would become quadriplegics.

As demonstrated in the theory of Welfare Economics, every competitive equilibrium in the idealised competitive model results in a Pareto efficient outcome and it is from this that the competitive model derives much of its appeal. However, the assumption that Pareto efficiency is self evidently desirable is aggressively counter-factual. It is not true that most of the population will remain neutral or pleased by the observation of a growing disparity in income, health status or access to services as long as they, personally, are not disadvantaged in absolute terms. To the contrary, there is little which will breed disharmony as quickly and surely as the granting of advantage to some members of a group while others are ignored.⁷

In practice, virtually all policies have a redistributive affect which will disadvantage someone and either implicitly or explicitly these policies are justified by the Kaldor-Hicks potential compensation principle as a solution to the problem of interpersonal comparison. The acceptance of such a self evidently defective principle is a testament to the strength of economists' desire to avoid ethical enquiry. 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' outcomes should be equated with outcomes which are truly 'better'.

A more benign interpretation of the Kaldor-Hicks principle is that economists leave 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 upon this interpretation and this is particularly true in the analysis of health and health programs. When services are financed from flexible government revenue, healthy taxpayers are the losers. However there has never been a case of compensation for tax payers from those made better off because of health services. When a new health program is financed from a fixed budget, the inclusion of an additional set of services must be at the expense of a second set of services. Compensation for health services not received has also never occurred nor been contemplated and, in cases where life is lost, compensation is impossible. This indicates that the concept of 'pure economic efficiency' – value free improvement – is misleading and 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. It follows from this that ethical analyses should be of pivotal importance in establishing the normative foundations of policy analysis.

⁷ Interestingly, the Bible cites Jesus Christ as endorsing the Pareto criterion, but as a normative principle. In the same parable it is recognised that the common response to others' good fortune may be anger and envy (St Matthew 20).

3 Empirical Ethics

Rejection of the values embodied in economic orthodoxy implies the need for an enquiry into the values which should govern the allocation of health sector resources. The suggestion below seeks to circumvent two polar and unsatisfactory approaches. First, there is an empirical free ethics literature which reflects public values only incidentally or to the extent that the ethicists' intuitions coincide with public values. Secondly, there is an empirical economics literature with limited or no ethical analysis. The assumption underlying the proposal below is that social values should be determined by the interaction of these two approaches: that ethical principles should be broadly consistent with community values but that community values should, in turn, be subjected to ethical scrutiny, debate and revision.

In sum, it is suggested that ethical values should be elicited using an iterative process. 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 by ethical analysis. For example, the implications of the 'strong interval' property implicit in the use of QALYs or DALYs should be made explicit, viz, that a ten percent drop in the utility index is of equal importance (value) as a ten percent drop in the quantity of life (Richardson 1994); that a high rate of time preference means that a certain number of people will die prematurely whose lives could have been saved by the sacrifice of some short term quality of life enhancing programs, etc. Postulated ethical principles should be reformulated in view of population reaction to this information and then 're-submitted' for empirical testing. The process should continue until acceptable, stable (reliable and deliberated) ethical principles are identified, principles that withstand both a priori ethical criticism and the test of population support. The information obtained from this procedure should then be provided as input into the decision making process.

Under some circumstances (which may also be the subject of empirically informed debate) it may be desirable to adopt the deliberative responses from the population as the appropriate indicator of social value and, therefore, policy should be directly based upon these responses. In other cases it may be more appropriate for decision makers to be 'informed' about population values, to exercise discretion and trade-off population against other views. Finally, there may be a class of population values – hopefully small – where it would be expected that decision makers would override population values entirely (racism, sadism etc), a process referred to by Goodin (1986) as 'laundering preferences'.

As illustrated in Richardson (2001) it is possible to empirically examine the 'meta issue' of whether or not the public believes that a particular moral issue *should* be decided by, or even influenced by, public opinion (the 'Abdication Hypothesis'). At first, it may appear paradoxical to ask people if they have a preference for the sovereignty of their own preferences. There is, in fact, 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 in 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 which encourage deliberation. However, it is possible for individuals to reject the sovereignty of even well informed preferences. For example, Olsen and Richardson (2001) 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.

Even when there is no obvious alternative objective, such as life saving, individuals may prefer decisions to be made by the government. This may reflect a lack of confidence in the capacity of fellow citizens to make wise judgements and a belief that – at least in some contexts – governments have the capacity to ponder and assess a wider range of considerations than the individual and, further, that government may be less easily manipulated by particular interest groups. Indeed, it is a common view that this is precisely the role of government; viz, to make a series of difficult decisions on behalf of the population. This view was nicely expressed by a member of a focus group discussing the relevance of the social rate of time preference:

'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'.

The belief that governments are elected to make decisions that the public do not wish to make or when people do not trust the wisdom of their fellow citizens has a long tradition extending back to Edmund Burke. It is not, of course, an unchallenged position and the belief that governments should be no more than the agent implementing the wishes of the majority was articulated by Rousseau⁸. Support for these two positions would be expected to vary by issue and between countries. It is likely, for example, that support for government decision making would be significantly higher in European countries with their tradition of government intervention than in the USA where government appears to be less trusted. The general point, however, is that Empirical Ethics may include an inquiry into the extent of government interference and the circumstances and issues when this should occur.

4 Objections to Empirical Ethics

For many ethicists and health economists the procedures suggested above might appear to be deeply flawed. The (lesser) concerns of the economist might be expressed as follows:

Quantifying the strength of preferences for different ethical values will encounter significant measurement problems including inconsistency. People will not have considered many of the issues raised and their responses will be superficial. Revealed, not stated preferences, are the appropriate gold standard. The expectation that governments will process the ethical arguments provided to them and act as the idealised umpire when ethical issues conflict or when preferences need to be laundered is naïve. Governments have short run political objectives and, far from adjudicating contentious ethical issues, they normally seek the advice of economists and others. If government is the umpire there will be a circular process of decision shifting: economists seeking ethical guidelines from government which turns to economists for advice on precisely the same issue. Ethical input with respect to the allocation of health resources is, furthermore, superfluous. The objective of the health system is to provide health and this is something that needs technical, not ethical analysis.

⁸ It was believed, however, that with respect to significant issues and through an improbable mix of social behaviours, the public would reach a consensus on significant issues.

These arguments do not alter the fundamental case for Empirical Ethics. It is not true that the objective of the health system is only to maximise health, defined in the narrow sense of mortality, morbidity and health related quality of life. Even with this narrow definition, there are ethical issues associated with the distribution of services, the right of some to purchase better services or to avoid queuing and thereby impose longer queues on others. Recent literature has also demonstrated ethical issues arising from considerations of both procedural and distributive justice. For examples, see Nord (1999); Menzel et al (1999). Despite the common distrust of government amongst orthodox economists, there is little alternative to their assuming the role of ultimate arbiter over ethical issues, a role discussed further below.

The argument that the public will not have carefully considered many of the ethical issues and cannot therefore give consistent or sensible responses to ethical questions is an unproven assertion. A number of empirical studies of ethical preferences have now been undertaken and there are no obvious reasons for believing that they are all invalid. Further, shortcomings in present methodologies may simply reflect the fact that there has been remarkably little effort to devise methods for eliciting 'deliberative responses'. A variety of options for achieving this exist: repeat interviews, group discussions, 'triangulation' of issues by the use of multiple elicitation techniques, modified Delphi techniques, etc, etc. It is the responsibility of researchers to devise both techniques and questions sufficiently simple that population values may be elicited. These have not been fully developed as orthodox economists have, as described earlier, circumvented the need for such evidence and ethical argument while ethicists have doubted the relevance of evidence altogether. This does not mean that methods cannot be devised which, to a greater or lesser extent, achieve the desired objectives.

The more fundamental objection to Empirical Ethics which is likely to be raised by ethicists may be summarised in the following way.

It would be foolish to believe that ethical issues can be resolved simply by voting. Even with more sophisticated procedures designed to elicit deliberative responses, people might select immoral options. This is recognised by the need for the 'laundering' of preferences; but laundering is simply a recognition of the fact that populations may be wrong in their ethical perceptions. They may vote for slavery, racist or other immoral policies. Ethics is immensely complex and it is no more sensible to elicit opinions from even well informed and intelligent amateurs than to vote on the laws of physics.

There are two implicit assumptions in this argument and both are unacceptable. First is the belief that ethical arguments must be fully consistent and applicable in all possible contexts. The 'immense complexity' of ethics often arises only when ethicists seek the implications of an ethical theory in an unusual or abhorrent context. Thus, for example, simple utilitarianism may be criticised as it appears to permit torture if this generates more utility than it destroys. However, ethical issues may have broad application in uncontroversial areas. Welfarism, for example, is almost certainly a correct and defensible description of population values in markets less contentious than health care. More generally, and as noted earlier, there is ethical content in all normative advice and the ethical basis for much of this is simple and uncontroversial. There is no great complexity in the ethical principles which lead to the recommendation of technical efficiency. There is no ethical complexity in accepting that severity per sé may be of independent importance in prioritising health services or that we may wish to give priority care to individuals who have previously been disadvantaged, have not yet had their 'fair innings' (life span), have been discriminated against, etc, etc. A significant part of Empirical Ethics has been, and should continue to be, the identification of such issues and the demonstration of their importance relative to more generally accepted goals.

The second implicit assumption in the passage is that an argument or procedure is flawed unless it achieves certainty and universality: that a procedure or ethical theory must be rejected if it might conceivably produce a 'wrong' conclusion – one that is repugnant to our moral intuitions. However, ethical theory and normative economic analyses do not and cannot provide answers to ethical questions which are unambiguously true or immune to criticism. But this conclusion also applies to positive analyses. It is always possible that the current laws of physics, for example, may be falsified by new observations. A physical law is never unambiguously 'true', but represents the best current theory or hypothesis which may subsequently be corrected, generalised or rejected altogether. Analogously normative theories are tested for consistency and by comparing conclusion with well established ethical conclusions elsewhere. There is an unavoidable possibility that future analysis may demonstrate inconsistency in a previously unexplored context.

More generally, ethical theories may be judged according to appropriate criteria. For example, we may ask whether principles adopted are those which accord with moral intuition; which accord with a religious view; which are logically consistent with other commonly accepted ethical principles ... etc. However, to demonstrate that a particular set of criteria is appropriate or 'correct' in some sense requires the application of a 'meta-criterion' which itself needs justification and this justification requires a further (meta-meta-) criterion. That is, any attempt at ultimate justification leads to an infinite regress. For the purpose of practical action, including the unavoidable need for economic and other policy, this is curtailed either by negotiation (and the acceptance of procedures rules) or by the referral of the issue to Parliament. In the intellectual market place where such pragmatism may be eschewed, a moral theory or a set of criteria must eventually be 'sold' by the persuasiveness of its supporting argument as discussed below. This is, essentially, what is done by Murray et al (2001) and Richardson (2001) to establish minimal criteria for evaluating various SMPH.

It may, of course, be argued that the successful marketing of an idea does not represent gold standard justification; that successfully marketed ideas may be 'wrong' in some context and that the procedure suggested here is, therefore, flawed. However this rejoinder assumes that there must be certainty – that the theory must be universal and true in every context, no matter how

contrived. But this implicit criterion will inevitably create disembodied theory which cannot help us identify best policy. It is 'disembodied' in the sense that there is no criterion or justification for connecting theory to practical action as there will always be some context in which the theory is of doubtful validity as judged by the standard of another theory. Thus, if three ethical theories conflict with each other with respect to particular actions (for example, maximising lives saved versus life years saved versus age and quality adjusted life years saved) then it is necessarily true that theory A will imply a (possibly extreme) event X which may appear unacceptable and which suggests the adoption of theory B. But theory B implies (extreme) event Y, which is also unacceptable and this suggests theory C. This, however, implies objectionable event Z which suggests theory A. Unless this circulatory can be ended and criteria established for the acceptance of a preferred theory – or minimally, its tentative acceptance in a defined context – then ethical theory will remain limited in its policy relevance.

As noted above, the possibility that a theory is wrong or inapplicable in a particular context is not unique to ethics. Physical laws may not fully explain empirical observations but this may not detract from their status of 'best available theory' if it proves to be satisfactory over a sufficiently wide range of observations and there is no better, more general, explanation of events. Likewise when statistics and statistical theory are used to test hypotheses the result is subject to error and this is explicitly acknowledged. The response, however, is not to reject all hypotheses as fallible but to adopt a convention – usually the 95 percent confidence criterion – and to regard null hypotheses as wrong and alternative hypotheses as supported when this conventional criterion is met. The criterion is necessarily somewhat arbitrary but makes possible the use of a powerful methodology in scientific research.

An integral part of 'Empirical Ethics' should be an acceptance of the fact that argument and evidence are fallible and the conclusions are tentative and more or less strongly supported in some contexts than others. It would be highly desirable for a convention to be adopted which indicated – as with the 95 percent confidence criterion – that evidence and argument warranted tentative acceptance of a hypotheses or theory in a particular context.

The more serious criticism of a methodology based upon intellectual salesmanship as discussed above is that depending upon fashion and the rhetorical powers of the salesman virtually anything might be 'sold'. The challenging task will be to 'sell' a convention in which an important element is the practical relevance of a theory and its capacity to endorse and defend particular policies. The chief obstacle to be overcome may well prove to be the greater appeal of elegant and abstract theory which purports to be independent of context and universal in scope. It is arguable that it is the appeal of such traits which derailed recent orthodox economic theory and increasingly replaced context specific empiricism with analytical, context free rationalism.

In sum, Empirical Ethics may be viewed as an attempt to connect ethical and economic analyses. The procedures described earlier do not by-pass the need for ethical analyses by the adoption of convenient assumptions; nor do they become disembodied. Ethical views obtained empirically from the public must be subject to ethical scrutiny and debate. Reformulated ethical hypotheses may be further submitted to public scrutiny using deliberative methods. When options are identified consistent with a coherent and accepted ethical theory then this should be considered strong *prima facie* grounds for their adoption. In the event of outcomes where conflict and principles cannot be resolved then for the purposes of economic policy government or a government endorsed authority must decide the issue. This is not a flaw in the suggested methodology but a recognition of the procedures that have been established by society for precisely this sort of problem solving. If theory and practice are to be connected, then the methodology must recognise and include the existence of these social institutions for conflict resolution.

5 Conclusions

The great strength of economics as a discipline is that it recognises that, ultimately, its conclusions must be implemented in a real world society. As a consequence, it has adapted an explicit ethical theory – welfarism – and a set of value laden assumptions which bridge the gulf between abstract theory and the requirements for practical action. The great weakness, in the context of the health sector, is that the theory and assumptions do not describe community values. Further, the assumptions of orthodox economics has become so deeply embedded in economic theory and practice that it is often forgotten that welfarism is no more than a theory and that this theory may not be universally applicable. By contrast, while ethics is highly flexible in the range of issues it encompasses, it has failed to bridge the gap between theory and the requirements of practical action.

The suggested procedures described here as 'Empirical Ethics' attempts to meld these two disciplines as they coincide in the health sector. The proposal entails, *inter alia*, the acceptance of some methodological convention or rule to indicate whether or not an ethical theory or hypothesis has sufficient empirical and ethical support for acceptance as the 'best available theory' in a particular context. The convention would be the ethical counterpart to the 5 percent criterion for tentative rejection of null hypotheses in statistical theory.

The present suggestion has the ontological status of a theory: it is hypothesised that these procedures will result in a better understanding of community preferences and an increased likelihood of aligning these preferences with the allocation of resources. That is, it is hypothesised that Empirical Ethics will assist with the maximisation of social wellbeing which, as noted, is the defining problem of economic analysis.

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