

**“Harming Irreparably:  
On Neoliberalism, Kaldor-Hicks,  
and the Paretian Guarantee”**

**Abstract:**

The global neoliberal project, which entailed *inter alia* financial liberalization that accelerated financialization of the world economy, was advocated by leading Austrian, Chicago School neoclassical, and New Keynesian economists, despite awareness that the project would harm many members of society even as it benefitted others. To the extent that they were efficacious in their advocacy, economists contributed to the imposition of serious harm. Often the harm befell the most vulnerable members of society. At least some of the harm was avoidable.

This paper examines critically the Kaldor-Hicks compensation test, a primary criterion used in defense of the neoliberal project. The paper finds that the best existing defense of Kaldor-Hicks is Paretian rather than Benthamian in nature: it focuses on the long-run rather than on each individual policy innovation, and claims that all agents benefit by a series of Kaldor-Hicks consistent innovations even if some are harmed in each individual instance. The paper finds that the Paretian case is deficient on grounds other than those commonly invoked against Kaldor-Hicks. The critique focuses on the neoclassical consequentialist welfarism that grounds the Paretian case, and the related presumption that all harms are repairable and, indeed, compensable.

## I. Introduction:

During the 1980s and 1990s a series of grand economic policy experiments was undertaken in the global south and post-socialist transition economies of central and eastern Europe and, to a lesser but nevertheless significant extent, in the global north. I refer to the dramatic turn away from state-directed economic management toward what is often called neoliberal economic policies, or market-mediation of economic flows and outcomes. The neoliberal turn influenced policy at the domestic and international levels. A key feature of the project was financial liberalization, which accelerated the financialization of the world economy.

The neoliberal project was advocated by leading academic and applied economists, from Austrians and Chicago School neoclassicals to New Keynesians, despite awareness of the fact that the project could and likely would harm many members of society.<sup>1</sup> Harms were excused as short-run adjustment costs as economies shifted toward more efficient utilization of resources. To the extent that they were efficacious in their advocacy, economists contributed to the imposition of harm. Often the harm befell the most vulnerable members of society. At least some of the harm was substantial, and some was avoidable.<sup>2</sup>

For present purposes I will presume rather than demonstrate the harms associated with the neoliberal project. The harms encompass *inter alia* macroeconomic instability, financial crises, rising income and wealth inequality, ecological degradation, and in some cases, increased mortality (see UNICEF 1993; Calvo and Coricelli 1993; Eberstadt 1994; Murrell 1995; Stuckler, King and McKee 2009; Stuckler and Basu 2013).

How did the profession defend the imposition of the anticipated and unanticipated harm associated with neoliberal reforms? Advocates endorsed the project on grounds that it met the conditions specified in the Kaldor-Hicks compensation test. Since the 1930s Kaldor-Hicks has provided an attractive criterion for policy assessment and advocacy in both the Keynesian and neoclassical frameworks. In abstract policy assessment of the sort that predominates in textbooks, Kaldor-Hicks is invoked explicitly. In applied economics

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<sup>1</sup> Peter Murrell (1995) explores the extent and depth of the consensus among leading economists around the need for neoliberal reform. He focuses on the essays that appeared in the landmark collection edited by Oliver Blanchard, Kenneth Froot, and Jeffrey Sachs (1994). In addition to the editors, contributors include luminaries such as Stanley Fischer, Lawrence Summers, Andrei Shleifer, Rudiger Dornbusch, and Simon Johnson. Though these economists did not agree on all the particulars of reform, in Summers' words "there was a striking degree of unanimity" on the desirability of rapid market-oriented transformation of target economies (cited in Murrell 1995, 164; see also DeMartino 2011, 144ff).

Nothing like pure neoliberalism was achieved in practice, of course. Economic policy prescriptions always evolve in the policy-making arenas and in implementation. In the instant case, economic interests secured all sorts of exceptions to strict market mediation—such as government-funded bailouts of financial enterprises during periods of crisis. But the shift toward market mediation of economic affairs was pronounced, widespread, and consequential.

<sup>2</sup> The claim here is not that the shift to neoliberalism produced no benefits. I claim more modestly that it also generated harm.

and in cases involving discrete projects, Kaldor-Hicks is typically operationalized via cost-benefit analysis.

DeMartino (2013) has offered the term “econogenic harm” to refer to the harm that economists induce as they try to do good. The term borrows from medical practice and medical ethics, where the term “iatrogenic harm” denotes physician-induced harm, and where the harms resulting from medical practice are explicitly recognized and confronted. In contrast, economics lacks a tradition of careful inquiry into economist-generated harm. Given the outsized role that economists now play in public policy and private affairs it is reasonable to expect that the profession follow the lead of medicine by bringing to light the harms that its practice causes. It bears emphasis in this connection that harm is inherent in economic practice—almost always some are harmed, even when economic interventions work just as they are intended to do (see DeMartino 2013 and forthcoming). Indeed, harm attaches to economic practice to a greater extent than it does to most other professional practice. John Hicks argued that any economic policy intervention that affects relative prices—which is to say, all interventions—“benefits those on one side of the market, and damages those on the other” (Hicks, 1939: 706). In making this claim Hicks was surely guilty of what philosopher Shiffrin (2012, 372) calls the “overrecognition” of harm—theorizing even trivial diminutions in preference satisfaction as harm. But he was correct in emphasizing the uneven impact of economic interventions in complex economies. That fact raises a series of difficult normative questions. Under what conditions are economist-induced or economist-advocated harms legitimate, and when are they illegitimate? What forms of econogenic harm are warranted, and which are ethically worrisome? What ought to be the role of the economic profession in confronting the matter of economist-induced harm? And what should we take to be the rights of the community that is targeted for economic interventions when those interventions might induce substantial damage?

These are enormously important and terribly difficult questions that I cannot tackle adequately here. What I will do is argue that the Kaldor-Hicks compensation test, which is central to the way in which economists justify the harms associated with economic interventions, is an ethically flawed decision criterion. The inference to be drawn is not that the profession must never do anything that entails harm. It is instead that economists need to do much better in acknowledging and confronting, ethically and practically econogenic harm.

## **II. Econogenic Harm and Kaldor-Hicks**

As their training predisposes them to do, many economists have adopted tractable decision rules to undertake policy adjudication in cases that entail harm. More so than most other professions, economics tends toward what Radest (1997) calls “moral geometry.” Indeed, much of the new welfare economics of the 1930s involves the hunt for objective decision rules. Economists then and now rely on the Pareto criterion in the rare instances where a policy option presents itself that benefits some members of the economy while harming none. When instead an option entails harm, economists engage the Kaldor-Hicks potential compensation test. Under Kaldor-Hicks a policy  $x$  is preferred

to an alternative policy  $y$  if the winners under  $x$  can fully compensate the losers while retaining net benefit.<sup>3</sup> Economic growth is the paradigmatic example of an outcome that is Kaldor-Hicks consistent. Under a set of restrictive assumptions (the right goods and services are produced and distributed efficiently, price changes are relatively modest, etc.) an economy with more output will be Kaldor-Hicks preferred since its surplus relative to an economy with less output ensures that the winners can have more even were the losers to be fully compensated. Hence, the bias in economics toward growth-promoting policies—even those that threaten misery for some members of society. While others might flinch from growth-promoting policies that put 18<sup>th</sup> century hand weavers or 20<sup>th</sup> century machinists out of work, or that devastate communities through forced relocation to make way for a dam, economists armed with the science of policy choice that Kaldor-Hicks provides rise to the challenge.

The apparent virtue of Kaldor-Hicks is that it provides receptive economists with a mechanism for generating unequivocal judgments on economic policy decisions that entail harm, without requiring cardinal utility measurement or Benthamian utility aggregation (see below). In Hicks' words, there is

a perfectly *objective* test which enables us to discriminate between those reorganisations which improve productive efficiency and those which do not. If  $A$  is made so much better off by the change that he could compensate  $B$  for his loss, and still have something left over, then the reorganisation is an unequivocal improvement. (Hicks 1941: 111, emphasis added)

Kaldor-Hicks presumes potential rather than actual compensation.<sup>4</sup> Hicks summarized the “hard-boiled attitude” of economists of his era, which was “to reject all compensation on the ground that such risks *ought* to have been allowed for” (1939, pp. 711–712; emphasis in original). Whether compensation is or is not warranted in particular cases involving harm is widely taken to be a non-economic question.<sup>5</sup> Moreover, the test itself is silent with respect to the matter of the distribution of

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<sup>3</sup> There are in fact several distinct compensation tests. Interested readers should consult Adler (2012), Boadway (1974), Boadway and Bruce (1984), Chipman and Moore (1978), Little (1957), Scitovsky (1941) and the citations provided in Adler and Posner (2006). The chief differences among the various tests are technical rather than normative, and so are orthogonal to the concerns explored in this paper. For ease of exposition, then (and following Adler and Posner 2001), I will refer to Kaldor-Hicks throughout.

<sup>4</sup> Actual compensation to would-be losers from a policy renders the Kaldor-Hicks test redundant as a criterion for policy choice since in the event of full compensation the policy will be Pareto efficient (Sen 1979).

<sup>5</sup> “Whether the landlords, in the free-trade case, should in fact be given compensation or not, is a political question on which the economist, *qua* economist, could hardly pronounce an opinion. The important fact is that, in the arguments in favour of free trade, the fate of the landlords is wholly irrelevant: since the benefits of free trade are by no means destroyed even if the landlords are fully reimbursed for their losses” (Kaldor 1939, 550-51). See Chipman and Moore (1978, 579-581) on the contrasting views of Kaldor and Hicks, one the one hand, and Hotelling, on the other.

benefits and harms. If one policy affords gains to winners that eclipse the losses to losers, then the policy warrants economists' endorsement. The case for liberalized trade that appears in the leading trade textbooks, for instance, is secured by this reasoning (see Krugman, Obstfeld, and Melitz 2015, 110). Trade based on comparative advantage owing to cross-national differences in endowments increases economic efficiency and aggregate real income while threatening the livelihoods of many economic agents. More generally, the cost-benefit analysis that grounds policy and regulation assessment, and which is widely understood by economists to operationalize Kaldor-Hicks, typically endorses the policy that maximizes net benefits without attending to distribution, and without at the same time calling for compensation to those who will be harmed by the efficient policy (Kanbur 2003).<sup>6</sup>

Kaldor-Hicks provides an elegant defense of the neoliberal project. Since neoliberalism was expected to promote gains in economic efficiency and growth relative to alternative policy regimes, it passed the Kaldor-Hicks compensation test irrespective of the harms it threatened or the distribution of its benefits and harms. Of course, the neoliberal intervention represented a grand and terribly risky experiment, the precedent for which was entirely lacking in human history. But any concern over the riskiness of the project was dwarfed by the confidence with which many of the profession's most prominent members spoke of the experiment's payoffs. I have argued elsewhere that in the context of the extraordinary professional hubris and closed-mindedness that prevailed during the heyday of neoliberalism—excessive even by the historical standards of the economics profession—economists embraced the “maxi-max” decision rule, advocating neoliberalism on grounds that its greatest possible payoff exceeded the best possible payoff of any alternative regime, full stop (DeMartino 2011a, chs. 9 and 10). Maxi-max requires adherents to presume probabilistic knowledge of the future rather than accept fundamental uncertainty; and it then reduces policy choice to the single datum of maximum possible payoff, ignoring entirely the probability and consequences of policy failure. But even the most enthusiastic advocates of neoliberalism recognized the inevitability of substantial harm. Hence, maxi-max was combined with Kaldor-Hicks to generate a formidable intellectual defence of an epoch-making policy regime shift. Indeed, the “shock therapy” that was advocated by leading economists during the neoliberal era was intended to force through harm-inducing policies quickly, before the likely victims had time to organize to resist the onslaught that was about to upend their lives. The adventurist social planner Jeffrey Sachs spoke of the “need for speed” to thwart “populist politicians” who will conspire “to hook up with coalitions of workers, managers, and bureaucrats in hard-hit sectors to slow or reverse the adjustment” (Sachs 1991, 238; 239). To the Solidarity Parliamentary Caucus in Poland in 1989 he said, “figure out how much society can take, and then move three times quicker than that.” At the time he assured the legislators that “The crisis will be over in six months” (cited in Wedel 2001, 48).

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<sup>6</sup> See Adler (1998, 1378-1383; 2012, 100; and forthcoming) and Boadway (1974) for discussion of the differences between Kaldor-Hicks and cost-benefit analysis. The distinctions are not relevant to the focus of this paper.

The series of crises associated especially with liberalized financial markets has eroded the hubris of the economics profession. By the early 2000s even Sachs was brought to heel. Since then he has articulated a far more modest vision of the role of the development economist as clinician rather than architect (Sachs 2005). The crisis of 2008 compounded emerging doubts about the ability of the economic profession to engineer economic success via large-scale, top-down reform projects, and induced leading economists to reflect on the culpability of the economics profession in the debacle (see the citations in DeMartino 2011b). But while the self-reflection of the profession in recent years has reawakened interest in Knightian and Keynesian uncertainty it has left the Kaldor-Hicks decision rule intact. Today it is still deemed perfectly appropriate for economists to advocate policy that risks harming some, even severely, for the presumed greater benefit of others.

### ***Kaldor-Hicks: Underlying Logic and Assumptions***

The intuition of Kaldor-Hicks belies the complexity of the logic and assumption set upon which it depends. Kaldor-Hicks reflects central features of the utilitarian framework from which economics draws its normative foundations. Standard contemporary approaches to economics—neoclassical and Keynesian—carry forward the consequentialism and welfarism of classical utilitarianism (Sen 1987).<sup>7</sup> These features entail the evaluation of states of affairs by exclusive reference to the levels of welfare of the agents affected by such states. Within neoclassical theory (and especially in economic modelling) welfare is sometimes taken to refer to levels of utility; more typically, it is defined as the extent of preference satisfaction where existing preference orderings are generally taken to be self-regarding and valid (Sen 1987; DeMartino 2000).<sup>8</sup> Unlike classical utilitarianism, however, the consequentialist welfarism of neoclassical thought rejects cardinal measurements of utility, interpersonal utility comparisons, and the aggregation of utility across individuals. This last feature implies the need for an alternative decision rule to compare social states (such as policy outcomes) when some agents prefer outcome  $x$ , and others prefer outcome  $y$ . Kaldor-Hicks was offered explicitly to meet this need—to substitute for the aggregation of utility within a welfarist framework when assessing economic strategies and outcomes.<sup>9</sup>

The welfarist framework within which Kaldor and Hicks originally proposed compensation tests informs their central features, which are shared by several predominant approaches to welfare economics. Kaldor-Hicks incorporates the idea that

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<sup>7</sup> The term “neoclassical” is imperfect since it is difficult today to draw the boundaries that separate neoclassical economics from other theoretical traditions. I will use it here to refer to the standard textbook approach to economics—what McCloskey (2006) refers to as “Samuelsonian” economics. New Keynesian economics largely shares the welfarist framework of neoclassical theory.

<sup>8</sup> Some theorists argue for the “laundering” of preferences in welfarist accountings, though in practice laundering entails difficult conceptual and methodological obstacles (see Goodin 1986; Adler and Posner 2006, ch.5).

<sup>9</sup> An alternative approach is to generate social welfare functions that generally require some sort of aggregation of welfare (Sen 1986; Adler and Posner 2006).

all goods are *commensurable* since they are reducible to the welfare they induce in egoistic economic actors. Goods cannot have a salient surplus that escapes the welfarist accounting. The existence of meaning or significance of goods that is not reducible to welfare would threaten the commensurability that is vital to the normative framework, while the absence of commensurability, in turn, would threaten the assurance of comparability and the existence of preference orderings altogether.<sup>10</sup>

If we concede the point that goods are properly theorized as nothing but welfare transmitters, we might then be prepared to impose a series of restrictions on preference orderings to ensure that they are “well behaved” (Adler forthcoming, 319)—that they are tractable, yield determinate welfare-driven results when comparing alternative outcomes, and are amenable to Kaldor-Hicks computations. One such restriction requires that preferences over goods be “complete”: that all alternative bundles of goods are comparable within the individual’s preference ordering (Boadway and Bruce 1984, 34; Adler 2012). A second restriction requires “continuity” of preferences which ensures that utility functions have no breaks or jumps; where marginal changes in the amount of any one good generates marginal changes in the agent’s welfare (Boadway and Bruce 1984, 34; Adler 1998). Continuity represents a terribly consequential step in the argument: it rules out a lexicographic preference ordering “which assigns priority to a good  $x$  if a bundle with less of that good is non-preferred regardless of how much of the other goods it contains” (Boadway and Bruce 1984, 182 fn 8). Implicit in continuity of preferences is the assumption of *substitutability* among goods, such that the loss of a finite amount of one good  $v$  can always be fully offset in terms of welfare by the provision of a finite amount of some other good  $w$ . Continuity and a set of auxiliary technical assumptions which need not concern us here (see Katzner 2006; Boadway and Bruce 1984, 31-39) imply that the marginal rate of substitution between any two goods along an indifference surface adjusts gradually in response to varying proportions of the two goods.

### *Theorizing Harm*

The neoclassical assumption set yields a tightly circumscribed conception of harm. *Harm appears here, simply, as the loss of welfare that is consequent upon the diminution in an agent’s access to one or more goods that she values.* But the assumptions made so far allow us to say more. If preferences are well behaved and goods are commensurable and substitutable—in particular, if there are no lexicographic preference orderings—then all harms are *reparable*: the loss of welfare resulting from diminished access to an apple can be fully offset via increased access to another good, such as money (Adler 1998; Adler and Posner 2006).<sup>11</sup> Hence, all harms are theorized as

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<sup>10</sup> I say *threaten* and not *eliminate* to leave open the possibility of sensible comparisons of goods that are incommensurable in the sense of lacking some common property to which the value of the goods can be reduced (see Nussbaum 2001, 194-195; and Adler 1998).

<sup>11</sup> For the sake of simplicity only I will speak throughout of compensation in terms of money, taking money as universally exchangeable for other goods. Depending on the particular assumptions made regarding substitutability, many or even all other goods may suffice. When we encounter situations where the victims of harm from a proposed project refuse monetary transfer but accept other goods in response to the harm, we have good reason to question whether the

*compensable* via monetary transfer—they lie in the northwest cell of Figure 1. After the monetary transfer the agent has been made whole; hence, she is indifferent between having the apple and having the money.

Figure 1 elucidates relationships between the relevant concepts. While compensability requires commensurability and substitutability, reparability does not. In some cases the harm that results from the loss of a good that is prioritized in a lexicographic ordering may yet be reparable, at least in part, even if not via monetary compensation, through some non-compensatory form of *acknowledgment* (southwest cell; see below). On the other hand, some harms may be entirely irreparable. These cases reside in the southeast cell.

**Figure 1: Compensable vs. Non-Compensable Harm**

	Reparable Harm	Irreparable Harm
Commensurable, Substitutable Goods	Compensable Harms	Undefined
Incommensurable, Non-Substitutable Goods	Non-Compensable Harms -- Acknowledgement: Apology, Sympathy, Gratitude, Recognition, Respect, Honor	Non-Compensable Harms -- Remedial measures unavailable

Neoclassical assumptions permit a relaxed attitude toward the commensurability of *benefits with harms*. Indeed, benefit-harm commensurability is central to the moral geometry upon which Kaldor-Hicks depends. Moreover, if we take benefits and harms as commensurable, so then are we apt to treat as commensurable *acts* of benefitting that entail harm, and those that do not. Under Kaldor-Hicks we are to judge whether an act is warranted by exclusive reference to the net benefits that the act generates, not whether it entails serious harm. Largely absent here are any deontological or other principle-inflected grounds of assessment of the acts of an agent—say, an economist—who confronts the possibility of harming some in order to benefit others.

### III. Kaldor-Hicks: The Paretian (or Proto-Contractarian) Defense

The most common defense of Kaldor-Hicks appeals to intuition. If in comparison with the status quo policy  $x$  is such that the winners can fully compensate the losers and still retain net benefit, then, bracketing various technical difficulties, we have reason to

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goods transfer involves compensation at all. It may entail *acknowledgement* rather than compensation. We return to this idea below.



believe with Hicks that  $x$  enhances social welfare without having to aggregate utility. Under consequentialist welfarism, we are directed to pursue this option.

The intuitive defense has by now been shown to suffer from various technical and ethical problems.<sup>12</sup> As concerns ethical issues, a variety of concerns have been raised. First, critics argue that the insensitivity of Kaldor-Hicks to inequality invalidates it as a decision rule (e.g., see Sen (1987); Bhagwati 1994). Alternatively, Mark White (2006, 241-2) presents the Kantian objection that harming some without their consent for the benefit of others violates the “Formula of the Respect for the Dignity of Persons” by treating some agents simply as a means, and not also as an end. A third criticism concerns the fact that Kaldor-Hicks compares an *actual* outcome  $x$ —in which some agents are harmed—against another *potential* outcome  $x'$  that entails a transformation of outcome  $x$  involving compensation to those who are harmed. As Sen puts the critique, “In what sense is a rise of “potential welfare” of interest to *actual* welfare comparisons? Even if the gainers *could* overcompensate the losers, why is that an improvement?” (1979, 24; cited in Adler 2012, emphasis in original).

A more compelling potential defense of Kaldor-Hicks would seem to be contractarian. A careful, systematic contractarian defense has not yet emerged in the literature, but an under-developed or what may be considered a *proto*-contractarian case for Kaldor-Hicks appears in several accounts. It holds that *all of us* benefit by and therefore have good reason to consent to constitutional arrangements that encourage Kaldor-Hicks consistent social innovations even if each individual innovation risks harm to some members of society. As Adler (forthcoming, 330) puts it:

[T]he Kaldor-Hicks test is sometimes defended not as the criterion of betterness, but as a decision procedure which, in the long run, yields Pareto-superior outcomes (Graham 2008: 414–19). If government repeatedly makes choices that are Kaldor-Hicks efficient (by repeatedly using CBA), everyone will be better off.

In her defense of Kaldor-Hicks McCloskey (2010, 81-85) points out that the rule utilitarian tradition that runs from Mill and Sidgwick through Harsanyi, Buchanan, Tullock, and Rawls establishes a compelling case for the legitimacy of a constitution to govern economic interactions that permits uncompensated harms (see also Polinsky 1972; Leibenstein 1965; Buchanan and Tullock 2004 [1962]). Put in contractarian terms the case posits rational agents, operating behind a veil of ignorance, that voluntarily consent in advance to participation in a series of economic games, each of which entails risk, provided doing so maximizes their own welfare over time. It rests on the claim of the generalized benefits of efficiency: since we are all beneficiaries of a system that generates efficiency-inducing innovations, the risk of harm that befalls any one of us from any particular innovation is ethically benign. McCloskey (2010, 84) deserves to be quoted at length:

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<sup>12</sup> On the technical problems with Kaldor-Hicks and the new welfare economics more generally, see Chipman and Moore (1978), Scitovsky (1941), Sen (1979), and Stringham (2001).

[The] gain since 1800 from economic change has massively outweighed in monetary and ethical terms the loss to English woodmen disemployed by Swedish timber, or American blacksmiths disemployed by automobiles, or Indian bullock-drivers disemployed by motor trucks. The Win-Win-Win-Win-Wins far outnumber the lone Lose. To put it back in terms of rule utilitarianism and constitutional political economy, what sort of society would you rather be born into: one that forbade every innovation that resulted in any loss whatever to anyone, and rested therefore at \$3 a day, and held that the sun “rose” and that painting must always be representational, or one that allowed innovation, perhaps with a social safety net like Norway’s, and resulted in \$137 a day, and allowed Copernicus and Picasso to make old ideas obsolete?”

The proto-contractarian therefore presumes *ex ante* hypothetical approval behind a veil of ignorance of uncompensated harms—not for the greater good of the greatest number, as a utilitarian would have it, but ultimately for the greatest good of each and every one of us. The case is grounded, then, in Pareto rather than Bentham (cf. Adler and Posner, 1999; White 2006).<sup>13</sup> We are simply asked to accept that rational deliberators would have little basis for rejecting a decision rule, like Kaldor-Hicks, that ultimately benefits everyone—especially if they have reason to believe that the application of the rule would benefit everyone (including the disadvantaged) more than would other viable decision rules.

Despite its apparent fit into a contractarian framework, I will refer to the *long-run, series-of-innovations* defense of Kaldor-Hicks as Paretian rather than contractarian since it is not at all clear what a careful, full-blown contractarian case for Kaldor-Hicks would look like (if one is possible at all). In contrast, I will refer to the more common defense of Kaldor-Hicks, which focuses on each individual innovation in isolation, as Benthamian since that defense accepts that some will be left worse off from Kaldor-Hicks consistent innovations. The question before us, then, is this: is the Paretian case, which guarantees net benefits for all, compelling?

### ***The Paretian Defense of Kaldor-Hicks: Assumptions and Logic***

The long-run Paretian case for Kaldor-Hicks is more demanding than the short-run defense that permits Benthamian calculations in which some are harmed. On what grounds is the Paretian defense established?

First we should take note that, like the Benthamian case, the Paretian case invokes consequentialist welfarism and the associated neoclassical assumption set. Doing so enables the presumption of universal reparability of harms through compensation, which

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<sup>13</sup> Hicks (1941, 111), Polinsky (1972, 409ff) and Posner (1980) present related arguments. According to Polinsky (1972, 408): “By broadening the notion of compensation to include bundles of changes that have some effective randomness in distribution, it thereby becomes possible to leave particular individuals uncompensated and worse off for single changes, yet assure them that they can (mathematically) expect to be better off as a result of the entire bundle (with the probability of actually being made worse off set at a value approaching zero).”

is just as vital to the Paretian as it is to the Benthamian case. Reparability through compensation is assured by theorizing harm exclusively in terms of the diminution in welfare associated with decreased access to one or more goods; treating all goods as commensurable; and assuming that all preference orderings are continuous such that all goods find readily available substitutes. Absent these assumptions the compensation test would dissolve as an ethical decision rule for adjudicating policy interventions in the Paretian just as in the Benthamian account. At the risk of stating the obvious, *compensation requires compensability*. Those advocating Kaldor-Hicks as a generally applicable standard for policy adjudication, then, are induced to treat all harms as residing in the upper-left-hand cell of Figure 1. Moreover, and again consistent with consequentialist welfarism, the Paretian case for Kaldor-Hicks accepts that harms and benefits, and the act of harming and the act of benefitting, are commensurable, permitting ethical evaluation through mathematical calculation of the Win, Win, Win, Lose sort.<sup>14</sup>

The Paretian case encompasses several additional assumptions that need not trouble the unrepentant Benthamian. First, all harms must be minor relative to the flow of gains that the agent secures. Otherwise, the Paretian guarantee fails. Polinsky is explicit: “It will be assumed that no negative reward is so large as to “bankrupt” the individual at some point and end his participation in the “game.” This assumption will also be made for bankruptcy occurring through the accumulation of negative rewards, none of which would be sufficiently detrimental alone” (1972, 414 fn 6). Second, the Paretian case requires some notion of basic fairness in the distribution of harms and benefits. Here, basic fairness is intended not as a condition of universal consent, as a contractarian would have it (Harsanyi 1982; Rawls 1971), but as a condition for the Paretian guarantee that there are no losers in the long run. The Paretian case would entail, then, the condition that harms must be serially independent (Kanbur 2003). Only if harms are small and winning and losing are effectively randomly distributed (Polinsky 1972, 408-409) may we presume that each of us may be expected to benefit over time (see also Posner 1980; Coleman 1980).

#### **IV. Assessing the Paretian Defence**

The Paretian case is impervious to the criticisms of Kaldor-Hicks cited above. If there are no losers, the distributive critique loses is less urgent (though it does not disappear altogether). Moreover, the Paretian case can survive the Kantian objections and Sen’s complaint concerning the conflation of potential and actual welfare. If the Paretian guarantee is realized—the promise that *all* members of society stand to gain from constitutional arrangements that permit non-

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<sup>14</sup> It is an open question whether (and if so, how) Kaldor-Hicks could be reformulated in a way that breaks with neoclassical welfarism while still providing generally applicable policy guidance. If goods are not just conveyers of welfare, all harms not reducible to diminished access to goods, and benefits and harms not taken to be commensurable, then can we presume that all (or even most) harms will be compensable, as Kaldor-Hicks requires? It is difficult to see how they could be. I should add that the neoclassical welfarist grounding of Kaldor-Hicks might in fact represent an insuperable obstacle to its satisfactory elaboration within a full-blown contractarian framework.

compensated Kaldor-Hicks efficient policy relative to available alternative arrangements—then the critiques lose their force. Under the Paretian defense we are no longer judging the ethical validity of Kaldor-Hicks based on the outcome of any one discrete policy adjustment. We judge its validity instead based on its net impact on each member of society of a long series (a lifetime's worth?) of applications.

A more persuasive challenge to the Paretian case entails demonstrating that its welfarist foundations and associated assumptions are objectionable.

### ***On Welfarism***

Neither consequentialist welfarism nor the utilitarianism from which it evolved persuades as easily today as it once did. In the wake of the work of John Rawls, Amartya Sen, Martha Nussbaum, Bernard Williams, Robert Nozick, and other rights-sensitive theorists of the late 20<sup>th</sup> century, consequentialist welfarism and especially utilitarianism have lost much of their lustre (see Williams 1973). In professions involving clinical practice we find over the past 40 years or so growing recognition of the rights of clients and a corresponding demotion of professional privilege grounded in client welfare. Medicine is exemplary in this regard: the agency and integrity of patients, negative and positive rights and freedoms, and justice concerns have come to trump levels of welfare as bases for medical practice (Sharpe and Faden 1998, Part I). Though consequentialist welfarism and even the more problematical utilitarianism can still boast capable advocates (see J.J.C. Smart 1973; Griffin 1986; Sumner 1996), they are widely taken to be insufficiently sensitive to rights and values that do and should matter deeply in just, liberal societies.

Our focus on harm leads us to another critique of welfarism: an analysis that excludes all non-welfare information yields a *very partial and biased account of harm*, one that presumes an impoverished account of human existence.

It is certainly true that welfarism generates an internally consistent, complete, and tractable account of harm. Reducing all goods to the welfare they induce, and harms to the diminution in access to goods, implies that whatever harms the fates may bring can be corralled under the category of welfare losses. But the very same features of the welfarist account of harm represent its central deficiency. A welfarist account trivializes what it *means* to be harmed while ignoring the diverse *forms* of harm, and *ways* people can be harmed. If we recognize human beings as more complex than the image given by “Max-U” theory (McCloskey 2006, ch. 6)—if as Sen (1992) claims, they have life-defining projects and goals that are unrelated to their own welfare, and that might even compromise or conflict with their own welfare—then this definition of harm won't do. A person whose agency to pursue a meaningful but risky course of action is curtailed against her will may subsequently enjoy greater “welfare” than were she able to take the risk, but her rights (Nozick 1974) and substantive freedom (Sen 1992) have been diminished. To claim that she is better off is to place her “welfare achievement” on a higher evaluative plane than her “agency freedom” (Sen, 1992), a ranking to which she

herself might rightly object. An equally problematic aspect of the neoclassical version of welfarism stems from the fact that serious harms may occur without having any impact on one’s level of utility or preference satisfaction. Elster’s discussion (1982) of “adaptive preference formation” is illustrative. Members of oppressed groups may come to devalue goods that are denied to them as a means of coping with the psychic pain that deprivation would otherwise induce. Once accommodated to their oppression, the agents might suffer no welfare loss from their inability to attain the devalued goods. A strict neoclassical welfarist would have to conclude (no doubt with some embarrassment) that the freedom deprivation suffered by the “happy slave” is in fact inconsequential.<sup>15</sup> For Elster, Sen, Nussbaum, and many others, however, the neoclassical welfarist assessment merely punishes the dispossessed for their deprivation.

It bears emphasis that any conception of harm will reflect some conception of human existence—human nature, potential, rights, purposes, relationships, and so forth. The simplistic account of human subjectivity, as is given to us by neoclassical welfarism, yields a simplistic account of harm that is reducible to a homogenous entity like welfare. In contrast, a richer account of human existence calls forth a thicker account of harm.

Table 1 presents an incomplete and imprecise (but, I hope, useful) taxonomy of overlapping and interdependent harmed and harmful conditions, one that is predicated on a complex view of a human life.<sup>16</sup> All of the listed harms can arise as the direct or indirect effects of economic interventions that economists propose—especially grand, utopian projects. Perusing the list we confront the irreducible diversity of harms that agents suffer, ranging from assaults on their physical bodies and mental capacities, to damage to their psychological states, economic, social and moral conditions, and autonomy. Some of the harms are recognized and experienced consciously by the agent; others, like adaptive preference formation, occur behind their backs.

Table 1: An Incomplete and Usefully Imprecise Taxonomy of Harmed or Harmful Conditions<sup>17</sup>

Physical:	Pain Injury or dismemberment Loss/diminution of physical or mental capacities Death Degradation of the physical environment
Psychological:	Emotional or psychological suffering; depression

<sup>15</sup> The happy slave and similar problems can be resolved within welfarism via a range of strategies that substitute ideal or laundered for actually existing preferences (or that discount or disregard preferences in defining welfare). Neoclassical economists tend to be wary of such strategies, however, since they call into question the fundamental assumption of rationality (DeMartino 2000).

<sup>16</sup> No claim is made here about the ease of operationalizing the taxonomy—it is no doubt too cumbersome for that. Its purpose is to problematize the presumption of the welfare-reducibility, reparability and compensability of all harms.

<sup>17</sup> Reproduced with permission of Oxford University press. See Feinberg (1984, 33) on the distinction between harmed and harmful conditions.

	Becoming fearful, insecure, or anxious Becoming ashamed Loss of Hope Erosion of self-respect Loss of capacity for creativity, playfulness, inventiveness, or fraternal feelings
Economic:	Loss of income, wealth, or welfare/utility Loss of access to valued goods Loss of genuine choice over valued goods Loss of economic security Loss of economic opportunities (to do, be, or become) Loss of economic capacities (e.g., to earn a living) Loss of control over one's economic activities and practices Alienation from one's labor, output, or nature Subjection to exploitation, discrimination, or deprivation
Social:	Loss of community Loss of place in community (status, influence, or role as contributor) Loss of respect, recognition, or honor Loss of political efficacy Loss of fraternity or meaningful connections with others Erosion of social capital
Moral:	Erosion, inversion, and/or collapse of some important ethical or spiritual values, virtues, sensibilities, and norms
Autonomy:	Adaptive preference formation Impairment in the pursuit of one's life plans Treatment as mere means and not also as an end Destruction of a valued way of life Constriction of one's capabilities or feasibility set Exacerbation of personal or systemic threats, risk, or instability Assault on negative or positive rights/freedoms (coercion) Denial of opportunity to participate in vitally important social, economic, or cultural processes

The taxonomy suggests a methodological choice, one with deep practical and ethical implications. We can accept that all harms are usefully reducible to welfare losses, presuming that much is gained and nothing of moral substance is lost in doing so. Welfarist reductionism yields elegant decision rules that are easily operationalized—hence, its appeal to the economics profession. The enormous ethical cost is that it takes an extraordinarily casual view of harm and harming. Or we can acknowledge the essential complexity of human existence and the diversity and incommensurability across harms. This route complicates greatly the assessment of the presence and extent of harm, responsibility for harm (and harm aversion), reparability of harm, and much else besides. It places a much heavier burden on the shoulders of those, like economists, who are in position to induce significant harm to those they purport to serve. And yet it might be necessitated by the stakes involved in economic practice. The sacrifice of tractability is perhaps the price to be paid for professional practice that can stand a much higher degree of ethical scrutiny.

### ***On the Scale of Harms***

Are all harms relatively trivial, such that they would be fully offset by prior and subsequent benefits, as the Paretian case requires? A cursory review of the harm taxonomy above should disabuse us of the notion that the harms actually experienced as a

consequence of economic policy choices meet this condition. Many harms have enormous impact on the lives of those who suffer them. An agent who loses his job owing to, say, trade liberalization is apt to lose some income, of course, and this loss may be minor once any severance and welfare payments to which he is entitled are factored in. But, as Sen (2000, 94) rightly argues, unemployment may also entail

psychological harm, loss of work motivation, skill and self-confidence, increase in ailments and morbidity rates (and even mortality rates), disruption of family relations and social life, hardening of social exclusion and accentuation of racial tensions and gender asymmetries.

These harms register as a loss of agency freedom and not just welfare. Bracketing for just a moment the question whether such harms are reparable, we should take note of their magnitude. Displaced workers who suffer them are not apt to be made whole through the lower prices now available at Walmart for the goods they once produced.

Grand utopian economic reform projects, like economy-wide institutional redesign, and large-scale infrastructure projects, like dam construction, are prone to harms that can be massive relative to the flow of benefits that Paretian defenders of Kaldor-Hicks presume will compensate the losers. Economic engineering often entails displacement or disintegration of entire communities.<sup>18</sup> Harms on this scale can be life-shattering, dwarfing any benefits that will ultimately flow to the project's victims. This is arguably true of the neoliberal experiment, where communities have been devastated and life expectancy rates have fallen as a consequence of radical institutional reform that generated crises and otherwise failed to take root as hoped (see citations provided in the introduction).

One can, of course, defend reform involving massive harm with the claim that subsequent generations will enjoy greater levels of growth (or freedom, or justice) than were achievable without the reform-induced suffering. The reformer can invoke the "dirty hands" defense of strategies that are damaging in the short run (Sartre 1960). This is indeed the stock reply of reformers (on the right and the left) when challenged on grounds that the policies they advocated caused extensive harm. But this defense turns its back entirely on Paretian claims and returns us squarely to Bentham. The strategy is also exceedingly dangerous since it can be harnessed in support of even the most irresponsible and devastating policy regimes. "Don't worry," it tells the victims, "those who follow will be better off!" As Nozick (1974, 298) puts it with his characteristic wit, "Utopia is where our grandchildren are to live."

### ***On Serial Independence***

Over the course of the neoliberal experiment we find dramatic evidence across the globe of an association between neoliberal reform and rising within-country inequality. In the United States, those who have benefitted from successive rounds of trade

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<sup>18</sup> On the massive harms attending dam construction, for instance, see Cernea (2003), Kanbur (2003), and Gasper (2015).

liberalization are investors and high-income earners (themselves the chief investors), while workers displaced by retrenchment have generally failed to secure equal (or better) wages in the industries to which they have migrated (Scott 2013; 2003; Bivens 2008, 3; OECD 2005, 46-47; U.S. Senate Committee on Finance 2002, 19; Weidenbaum 2001, 17; Charles, et al. 2013). But investors and high-income earners have also been the principal beneficiaries of financial liberalization and recent trends in tax reform. The net result is a historically unprecedented surge in income and wealth inequality in the United States during the neoliberal period, with economic stagnation and even decline for many at the lower end of the scale. Moreover, recent evidence establishes that trade and financial liberalization during the 1980s and 1990s has had similar effects across the developing world.<sup>19</sup> These trends provide *prima facie* evidence that the benefits and harms of successive rounds of liberalization have been serially correlated, in violation of the Paretian rationale for uncompensated Kaldor-Hicks innovations. When harms are serially correlated, the Paretian guarantee evaporates.

### ***On Reparability and Compensability***

The empirical question whether all agents can expect to be compensated in the long run for any harms they suffer along the way comes one step too late in the argument: *the question presumes, after all, that all harms are in fact reparable, and more restrictively, compensable*. Reparability implies that the harmed party can be *rendered whole*—that there are no lexicographic preference orderings. An agent who has been harmed can always be restored to his previous indifference surface following the act that effects the repair. Compensability implies that this reparation can be brought about via monetary (or other goods) transfer. As the economist would put it, *everything has its price*.

Are all harms reparable, and are all reparable harms, compensable? The view in law is that they are not: some harms cannot be repaired in the sense of rendering the victim whole.<sup>20</sup> Appreciation of the scale of harms that humans suffer and a review of the harm taxonomy in Table 1 sustain that conclusion, and suggest that it is professionally irresponsible of those whose practice routinely causes harm to presume that all harms are reparable. Those who are severely damaged physically or mentally, or killed, or whose loved-ones are killed, or who are made or induced to suffer shame, the loss of self-respect, the capacity for inventiveness, access to irreplaceable valued goods (to name just a few items on the list) might not be able to be repaired at all. Alternatively, the possible repair may be partial rather than full. It is vital in this connection to theorize repair properly, in terms of healing, coping, or restoration of the ability to function—to have a full human life, in Nussbaum's (2000) account—and not in the simplistic way of the

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<sup>19</sup> On trade liberalization and inequality in developing countries see Goldberg and Pavcnik (2007); on the effects of financial liberalization see Epstein and Gabel 2006; Weller and Hersh 2004; Cornia 2003; Baldacci et al. 2002; Eichengreen 2001).

<sup>20</sup> Though the distinction between reparable and irreparable harm is well established in the field of law, it is specified in various ways, and contested. See Kornhauser (2001), Rendleman (2002); Brooks and Schwartz (2005); Lichtman (2007); Grosskopf and Medina (2009); and McGowan (2010).



economist, as restoration to one's previous level of welfare. Partial repair, if it comes at all, might therefore require the passage of time, hard work, luck, and substantial family, professional and community assistance. The point is that compensation may not be central to the process of repair. Indeed, some categories of harm, such as being dishonored, are not amenable to compensation at all. As McGowan puts it, "Once lost, honor is extraordinarily hard, if not impossible, to regain . . . the very idea of [pricing honor] seems inconsistent with the concept" (2010: 589, 591).

The *causes* of harm bear on the *nature* of the harm suffered (including its compensability or reparability). Potential causes include atrocities, negligence, error, accident, voluntary or coerced risk taking by the harmed agent in the service of others, etc. Physical harm stemming from violence (such as wounds suffered in an assault) registers differently than does the same physical harm resulting from an accident—it compounds and involves other kinds of harm beyond the merely physical. It follows that distinct causes of harm also bear on the matter of the requisite response. While some harms warrant compensation, others require "acknowledgment" (see the southwest cell in Figure 1). Acknowledgment can and should take diverse forms, reflecting the particular causes and nature of the harm in a given case. Acknowledgment might include public *apology* or expressions of *sympathy* for, or *recognition* of one's loss, as often occurs in the context of post-crisis truth commissions. Here, the admission by a perpetrator of his guilt, combined with apology in the context of public sympathy, may give the victim a degree of solace that no monetary payment could match and that explicit monetary compensation would trivialize (Bouris 2007). Acknowledgment can also take the form of the expression of *gratitude* or *respect*, or the bestowal of public *honors* for those whose harm is a consequence of purposive risk taking and sacrifice on behalf of others—such as those who put themselves in harm's way to ensure the safety of one's community.

Sometimes, monetary transfer accompanies public acknowledgment, and this can lead to confusion among economists who are trained to see transfers as an exchange of values. But in cases involving the violation of rights or the loss of irreplaceable goods, *monetary transfers serve purposes other than compensation that renders the harmed victim whole*. For instance, monetary transfers in response to atrocities can signal the genuineness, depth, and honesty of acknowledgment of wrongdoing. Speaking of the reparations following the holocaust Martha Nussbaum puts it this way: "Indeed, we might say that the main importance of reparations, too, is *expressive*...its primary significance [may be] a public expression of wrongdoing and the determination to do things differently in the future" (2001, 173 fn 8, emphasis added). To view reparations as compensation that renders victims whole is to trivialize the atrocities that led to the harm, and the harm itself.

Breaking the conflation of monetary transfer and compensation we might be able to recognize a wide range of social functions that transfers can serve. One is to reduce the social tension that might otherwise persist in the wake of a particular harm or series of harms. In this case, its purpose is *instrumental*—to prevent conflicts between the

perpetrator and the victim of harm that would be disruptive of social life.<sup>21</sup> Alternatively, the expectation that harming another will require monetary penalty might serve as an incentive for those in position to harm to act responsibly, taking measures to reduce the risk of harming (Kornhauser 2014). What monetary transfer can't always do is restore harm victims "to their previous level of enjoyment," to borrow Kaldor's evocative phrasing (1939, 551), or restore their previous level of freedom, rights, and wellbeing.

The inappropriateness of monetary compensation for certain harms might help to explain why the promise of financial payments to communities for public projects that threaten harm, such as environmental damage, sometimes *reduces* support for public projects (Frey, et al. 1996). Counter-intuitively, communities in the cross-hairs of policy-makers are sometimes willing to accept harm-inducing projects when offered non-monetary amenities in the form of public goods, rather than monetary compensation. Mansfield, et al. (2002) attribute this finding to what they identify as the bribery effect, the crowding out of public-spirited altruism, and feelings of moral responsibility. Equally important, "public goods may be viewed as a way to effectively mitigate the psychic harms associated with local public harms" (368). A reasonable inference, one that is obscured by the convention of referring to all harm remediation as "compensation," is that the provision of public goods is sometimes not regarded (or not *just* regarded) by the harmed parties as compensation; it is regarded instead (or also) as expressive of acknowledgement of the sacrifice that the community is asked to bear for the good of society. It may very well serve the function of *honoring* rather than *compensating* those who face the risk of being harmed for the greater good. It may also be the case that the act of honoring may not just repair but also reduce the harm associated with the project by treating those who will be harmed with due respect.

### *Rights Violations as Irreparable Harm*

As the foregoing suggests, rights violations entail a special category of harms that are not reducible to welfare losses, and are often irreparable and non-compensable. To be deprived of a fundamental right, especially if the rights infringement arises at a critical juncture in one's life or endures over time, is to be harmed irreparably. Rights violations are generally viewed as too precious to repair with compensation (Rendleman, 2002): contrary to the economist's worldview, rights have no price.

Libertarians such as Robert Nozick (1974) take rights to be "side constraints," unbending dictates regarding how we, and the institutions we create, must treat each other. One's rights may not legitimately be eclipsed by public policy for the presumed greater good, even if that good is substantial. In this account, for instance, the imposition of eminent domain and forced relocation of individuals to make way for an infrastructure project that will promote economic growth represents a non-compensable rights violation—one that is not justified by the economic benefits that will flow to the economy as a whole, or even to those who are forcibly separated from their land. While

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<sup>21</sup> If the economist insists on theorizing this as a transaction, what is exchanged is the right to seek justice or revenge. That the transaction is successful tells us nothing at all about whether the victim of harm has been made whole.

Nozick's framework requires reparations for economic losses that attend rights violations, the rights violation itself is beyond repair. Hence, an individual or institution cannot legitimately choose to violate rights while intending to supply compensation since the victim of enduring rights violations cannot be made whole.

Non-libertarian philosophers and economists who value positive rights also object to the idea of compensability for rights violations. An important example is the capabilities approach to human development (Nussbaum 1992, 2000; Sen 1992, 2000). In this consequence-sensitive rights-based framework, distinct functionings—the beings and doings that people have reason to value—are not all fungible. Living a full human life requires having extensive capabilities to achieve a wide array of distinct functionings. Being well nourished or well paid does not substitute for deprivations in political freedom—to live in a gilded cage, after all, is still to be enslaved. Nor can other functionings substitute for inadequate access to shelter, education, or recreation. Rejecting a common denominator such as welfare to which to reduce all functionings the capabilities approach is incompatible with the presumption of the commensurability or substitutability of all goods, and with the conclusion that all harms are reparable and compensable (see Nussbaum 1992; 2000).

## **V. Conclusion**

The neoliberal project induced hardship at the same time that it generated benefits—that much must be clear to reasonably objective observers, including advocates and critics alike. How could it not: the extent of the benefits and harms reflected, necessarily, the scope of the policy experiment, just as Hicks might have anticipated. Aggressive excursions into economic engineering must induce widespread harms, as Adam Smith, Karl Popper, A.O. Hirschman, Nassim Taleb (2010; 2012), William Easterly (2014) and other theorists have persuasively argued (see discussion and citations in DeMartino 2011a). The ethically relevant question is whether the harms were benign and excusable, or instead, troubling and even professionally negligent.

Answering this question requires an engagement with Kaldor-Hicks. The assessment provided here finds that the best defense offered to date, the Paretian case, is deficient. The Paretian guarantee fails. The chief theoretical deficiency of the Paretian case is its grounding in neoclassical consequentialist welfarism which permits it to treat all harms as fully reparable through compensation. It is hard to square this claim with common sense or with relatively objective observation of how people react to the harms they suffer. Just ask the father who loses a child due to the rising cost of a life-saving medicine in a de-regulated market whether he's indifferent between having the child or having the money offered to him in compensation for his loss. Would one in a thousand fathers be indifferent between the two options? Would one in a million? Were we to find a father who is, would we take his indifference as knock-out evidence of the compensability of all harms, or as someone who is extraordinarily unsuited to parenthood? (Raz 1986; Adler 1998)

The apparent virtue of Hicksian overrecognition of harm is to remind economists to be ever vigilant since even their most cherished economic interventions can damage lives. But in fact, it has led economists in the opposite direction. With harm everywhere, resulting from anything we might conceivably do to improve the world, the profession has become inured to harm. To invoke the Hippocratic dictum “First do no harm”—to pursue harmless policy options—is to demonstrate one’s theoretical naiveté. “*There’s no free lunch!*” we remind our audiences. We don’t let harm get in our way as we go about doing god’s work. Instead, we engage the harm assessment machinery that we’ve inherited from Kaldor and Hicks to handle and, hence, dispose of harm. And we then defend the harms our interventions cause by conjuring up dangerous fictions like the Paretian guarantee. In all these ways, the profession trivializes econogenic harm.

Economic practice induces harm—that is the tragedy of economics. Ethical economic practice requires a much more nuanced and sensitive approach to the matter of harm and to policy adjudication than is afforded by Kaldor-Hicks. Which harms are reparable, and which are not? Which reparable harms are compensable, and which are not? Which compensable harms should be compensated, and which should not? What is to be done when economic interventions potentially threaten or actually do cause noncompensable or irreparable harm? And who should be authorized to make these judgments, the affected community or some detached economic harm expert? These are questions over which the economics profession has long asserted a monopoly but long failed to ask, let alone answer.

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