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**The Non-Identity Problem and the Ethics of Future People**

By DAVID BOONIN

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**The Risk of a Lifetime: How, When, and Why Procreation May Be Permissible**

By RIVKA WEINBERG

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David Boonin’s *The Non-Identity Problem and the Ethics of Future People* and Rivka Weinberg’s *The Risk of a Lifetime: How, When, and Why Procreation May Be Permissible* are both important books for those interested in procreative ethics. Each argues for surprising and controversial conclusions: Boonin argues that we should solve the Non-Identity Problem by accepting its apparently unacceptable conclusion that actions cannot be wrong due to their effects on future people whose lives are worth living and who would not exist were the actions not performed; Weinberg argues that there is no Non-Identity Problem, that future children have no interest in existing, but significant interest in avoiding harm, and that procreation is, therefore, a much more morally risky business than we tend to think. Even if you cannot bring yourself to accept their conclusions, engaging with these thought-provoking texts will provide a deeper understanding of the ethics of future people.

Boonin presents the Non-Identity Problem as ‘five plausible premises and one implausible conclusion’ (1). Consider:

Wilma: If Wilma conceives now, her child will be blind. If she takes a tiny pill for two months before conceiving, the child will be perfectly healthy. Wilma decides taking the pills is too inconvenient and conceives at once (2).

If Wilma conceives immediately, the child she conceives will be a different child than she would have conceived if she had waited two months. Let’s say she will have a girl called Pebbles rather than a boy named Rocky. If Pebbles’ life is worth living, Wilma does not make Pebbles worse off than she would otherwise have been. If Wilma had waited, Pebbles would never have existed (Premise 1) (3). But it seems that (Premise 2) harming someone must make that person worse off than they would otherwise have been. So Wilma does not harm Pebbles. (3-4). Given that most people think that Wilma’s act is wrong independently of its effect on anyone else, we can add (Premise 3) Wilma does not harm anyone other than Pebbles. So Wilma’s act does not harm anyone (4). But (Premise 4) if an act does not harm anyone, then the act does not wrong anyone (4-5) and (Premise 5) if an act does not wrong anyone, it is not morally wrong (5) are both extremely plausible. These premises jointly imply the ‘Implausible Conclusion’: that Wilma’s behaviour is not morally wrong (5). The Non-Identity Problem forces us to reject one of the five plausible premises or to accept the Implausible Conclusion.

Boonin first argues that we cannot solve the Non-Identity Problem by rejecting any of the premises. This section alone makes the book a must-read for anyone working on the Non-Identity Problem: there is no similar comprehensive examination of possible solutions to the Non-Identity Problem and Boonin produces new, incisive criticisms of each position. Boonin then offers his own solution: accept the Implausible Conclusion. Rather than presenting this as unpalatable but unavoidable, Boonin offers the first substantial defence of this approach to the Non-Identity Problem. He uses a series of thought experiments to try to convince us that the Implausible Conclusion is on a par with other claims that ‘are widely regarded as perfectly plausible’ (191) and thus, on reflection, the Implausible Conclusion should not seem deeply implausible.

Boonin argues that any solution to the Non-Identity Problem must meet the Modesty Requirement: a solution must not require us to accept implications that are even more implausible than the Implausible Conclusion. Consider:

Betty: Betty has a slight preference to have a child. Any child she has will be born blind. Betty conceives a blind child (24, 198).

Jane: Jane has two happy and healthy children. The positive and negative consequences of having a third child are balanced for her existing children and everybody else. Jane has a slight preference not to have a third child. Jane does not conceive a child (24, 171, 198).

Boonin argues that many purported solutions imply either that what Betty does is wrong or that what Jane does is wrong (24-25). Suppose we argue that Wilma’s behaviour is wrong because it violates one of Pebbles’ rights. Unless we can explain how Pebbles’ rights are violated while the rights of Betty’s child are not, such a solution would imply that Betty’s behaviour is also wrong (113, 117). Arguing that Wilma’s act is wrong because it results in worse overall consequences seems to imply that Jane’s behaviour is wrong (171-172). Boonin also uses this pair of cases to defend his own solution, arguing that if neither Betty’s behaviour nor Jane’s behaviour is wrong, Wilma’s behaviour is not wrong.

Boonin responds to the worry that there is a significant difference between Wilma and Jane due to the significant impact of having a child. His response is to ask us to imagine Claire, a surrogate who, by stipulation, has a very slight preference not to be a surrogate rather than receiving $50,000 to be a surrogate (177). But pregnancy itself is a deeply intimate, life-altering business in which significant pain and discomfort comes as standard and there are risks of serious injury or death. I’m sceptical that our intuitions are responsive enough to stipulation for our judgments about Betty, Jane and Claire to genuinely reflect a belief that the overall risks and costs are small. Some costs may also be non-compensable. I thus doubt these examples can play the roles Boonin wants them to play.

Nonetheless, focussing only on Wilma’s case, I do not find the Implausible Conclusion extremely implausible. Even without the identity issues, Wilma might not count as doing harm to Pebbles. The Non-Identity Problem seems much more problematic in cases such as the climate change case where our current polluting behaviour causes damage to the environment, resulting in droughts etc. Here if it weren’t for the non-identity problem, we would have a clear case of impermissible harm. Boonin refers to the claim that our behaviour in such cases is not wrong as ‘The Even More Implausible Conclusion’ (220). He uses the same strategy of trying to show that the Even More Implausible Conclusion is on a par with other plausible claims: suppose the United States could increase its humanitarian spending, saving a roughly equivalent numbers of lives, with an equivalent cost for its citizens, as tackling climate change. Plausibly, it is not immoral for the US to refuse to do this (221). Boonin argues that the two cases should not strike us as very different, appealing to his earlier arguments that the polluters do not harm those future people to respond to worries that one involves doing while the other merely allowing harm. (222). But, even if we accept Boonin’s earlier arguments, the Non-Identity Problem may remain a problem for us precisely because the conviction persists that there is something wrong with our behaviour – and wrong in a way that seems to reflect deontological distinctions such as the doing/allowing distinction – but we are not able to explain this. There is also a difference between showing that there are currently no successful attempts to solve the non-identity problem by arguing that we harm or wrong our descendants and showing that we do not harm or wrong our descendants: Boonin may have done the former but I do not think he has done the latter.

Weinberg argues the Non-Identity Problem involves mistakenly treating existence as a good (84). Given that we have no interest in existing, we should not see existence as something that can offset the burdens imposed on someone by an identity-affecting act (86). Those who bring you into existence don’t get ‘credit’ for your existence itself, nor for the ‘unrelated good stuff on the scale’, even if your existence is necessary for the good stuff (89). Weinberg also argues that Non-Identity Problem is only a problem for narrow person-affecting theories, which hold that whether an act is right or wrong depends solely on its effects on one or more particular, identified individuals but that most ethical theories are not narrow person-affecting theories in this way. For example, Weinberg claims that Contractualist Theories, on which an act is wrong if it is contrary to principles that no one could reasonably reject, would not endorse the Non-Identity Principle ‘when we could set a higher, more protective standard of care that would be better for us’ (109).

Boonin and Weinberg reach very different conclusions about the implications of Contractualism for Non-Identity Cases. Boonin argues that, reasoning behind a Veil of Ignorance, we should accept a rule that permits Wilma to conceive Pebbles: ‘If I turn out to be a child like Pebbles, I will … prefer adopting the rule to rejecting it. Adopting the rule will make it possible for me to be conceived’ (126). Weinberg defends her claim that children should prefer stricter rules governing procreation by arguing: ‘I will either exist, in which case I’d much prefer an adult mother etc., or I won’t exist, in which case, nothing matters to me because I am a merely possible person – a hypothetical, non-existent entity with no interests at all’ (109n24). Despite Weinberg’s protests, I struggle to understand how her assessments make sense without assuming that the same individuals would be better off under alternative principles.

Weinberg defends two principles of procreative permissibility. The Motivation Requirement: ‘Procreation must be motivated by the desire and intention to raise, love, and nurture one’s child after it is born’ (176); Procreative Balance: ‘procreation is permissible when the risk you impose as a procreator on your children would not be irrational for you to accept as a condition of your own birth (assuming you will exist), in exchange for the permission to procreate under these risk conditions’ (179).

Weinberg argues that gamete donation is ‘irresponsible procreation’ (247). This conclusion comes from the Motivational Requirement and her view that any behaviour which risks our gametes coming into contact with another’s gametes generates non-transferable parental responsibility for any resulting offspring (71-79). The Motivational Requirement springs from Weinberg’s search for a motivation for procreation compatible with treating the child as an end in itself, which is in turn necessary for the child to develop basic self-respect. But suppose that I donate gametes to allow someone who would otherwise be unable to have children to have a loving relationship with the child. This does not seem to treat the child as a mere means in a way that threatens basic self-respect. Like Weinberg’s favoured motivation, the gamete donor’s motivation is grounded in the recognition of the value of the parental relationship with the child.

Weinberg endorses a ‘Hazmat Theory’ of parental responsibility that relates parental responsibility to our responsibility for hazardous material that we own and control (our gametes)(2). One might think that gamete donation involves the transfer of ownership of the hazardous material and thus the gamete donor is not a parent. Weinberg considers and rejects this argument: ‘Imagine if I decide to sell my cache of enriched uranium to a uranium brokering agency. Surely that won’t absolve my responsibility for the nuclear explosion that may result (especially if I know that the mission of the brokering agency is to sell the enriched uranium to people who want to create controlled explosions)’ (72). But, contra Weinberg, it is possible to sell hazardous materials in such a way that full responsibility passes on to the new owner. Ownership and responsibility are transferred when the appropriate procedures are followed. Those procedures depend on the reasons to permit such transfers to proceed, the extent to which additional checks will impede such transfer or otherwise have negative aspects, and the donor’s responsibility to prevent risky material from falling into the wrong hands. The need for gamete donation to prevent people from missing out on the opportunity to be (gestational) parents speaks against the blanket ban Weinberg proposes.

Weinberg also argues that gamete donation is an ‘*exercise* of the donor’s ownership and control’ similar to procreation by ordinary fathers. The difference cannot be that gamete donors transfer parental responsibility because ‘If you are not initially responsible, you have no responsibility to transfer’ (73). This argument is unconvincing. Giving away one’s belongings is an exercise of ownership *by which* one transfers ownership. The rights and responsibilities that are transferred are, on my suggested amendment of Weinberg’s theory, the rights and responsibilities of ownership of the hazardous material that is one’s gametes not parental rights and responsibilities over the child.

Weinberg’s Procreative Balance Principle is intuitive and appealing (setting aside non-identity worries). As she notes, unlike many alternative principles, Procreative Balance seems to be a fair way to balance competing interests, ignoring neither the interests of the child nor the interests of the mother (181). However, Weinberg applies the principle iteratively, considering each potential bad effect to the child in isolation. This may cause problems when it comes to avoidable risks. For example, Weinberg concludes that it impermissible to delay procreation until later in life to establish one’s career. The costs of procreating earlier are not so high they outweigh the increased risk of Down’s Syndrome. But she also argues that it is impermissible to have a child rather than finishing college (182). If we put these, and similar, principles together, the window for permissible procreation may become so narrow it rules out procreation for many people. We should consider the aggregative effect of our procreative principles.

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