Our Responsibility to the Non-existent

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Abstract: Those who do not exist cannot be harmed. If someone is not worse off than she otherwise would have been, she is not harmed. Together, these claims entail that the individuals in non-identity cases are not harmed, because no one who exists is made worse off. While these claims might be true at the individual level, their truth does not preclude our having harm-based concerns about future persons in general. These concerns are justified when we recognize the responsibility we have over certain offices that persons come to fill. By positing an account of *de dicto* harm and arguing for its moral relevance, I provide a solution to the non-identity problem that coheres nicely with our intuitions regarding harm, responsibility, and obligations to future persons.

The non-identity problem comes in various forms, but two characteristics are crucial to the formation of a non-identity case—identity determination (ID) and welfare determination (WD):

ID: The act in question must determine the identity of the subject in question.

WD: The act in question must predictably affect the overall welfare of the subject in question.

To illustrate how this determination takes place, consider the following case:

> *Sarah*: Sarah decides to become a mother. She goes to the doctor and the doctor tells her two things. One: if she conceives immediately, she will give birth to a child with a serious birth defect—call this child "Trig." The particular defect does not matter, although one should keep in mind that it is serious, but not so severe that it significantly shortens the child's life or makes the child's life not worth living. Two: if she waits two months, she will conceive and give birth to a perfectly healthy child—call him "Track." She does not wait, and conceives Trig, the child with the debilitating defect.

Each of Sarah's options would determine the identity and affect the welfare of her future child. Although she could have given birth to a perfectly healthy child, she does not. Does she then do something wrong? Many think that she does do something wrong by knowingly and willingly conceiving a child with a defect when she could have conceived a healthy child. And we are likely inclined to think that she has harmed her child. But upon closer examination, this thought might be misguided, and out of this arises the problem with non-identity cases.

Despite appearances, if Sarah conceives Trig, Sarah does not harm Trig. Trig has a life worth living, and, importantly, Trig has not been made worse off than he otherwise would have been, because the alternative is that he does not exist at all. And since Track does not exist, it is impossible that he is harmed in this scenario. Thus, no one is harmed, because no one has been made worse off.[1] Without an account of harm, there is no clear account of wrongness. Therefore, we should have no qualms with Sarah's decision to conceive immediately. But many of us still feel as if something is wrong here, hence the problem with non-identity. We intuit a wrong, yet, due to the particulars of the case, we have no account of that wrong.

The basis for the problem with non-identity can be encapsulated in the following principles:

A) If P's act harms Q, then P's act makes Q worse off than Q otherwise would have been.
B) If P's act harms Q, then P's act wrongs Q.
C) If P's act wrongs Q, then P's act is wrong.

These seemingly reasonable principles, along with ID and WD, are precisely what give rise to the non-identity problem. In other words, in situations where P's action determines whether and how Q exists, counter-intuitive conclusions follow from the intuitively forceful principles above.

I offer a morally robust and intuitively plausible solution to the non-identity problem. This has proven difficult, and attempts to solve this problem are many and varied. However, there appears to be a good explanation for at least some of the difficulties encountered. Central to non-identity cases are certain factors that obfuscate the relevant moral questions. When considering persons who might or might not exist, it is easy to conflate or ignore a very important distinction—the difference between *de re* and *de dicto* senses of harm and benefit. David Boonin and Caspar Hare, amongst others, have touched on this distinction.[2] In this paper, I move beyond previous discussions of this distinction and provide positive reason to prioritize *de dicto* harm. I argue that our standing in the correct

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responsibility relation to future persons is morally salient when evaluating *de dicto* harm, and the presence of this harm and our responsibility together generate the intuitively correct answers in non-identity cases.

To harm or benefit someone in the *de re* sense is to make a particular individual worse or better off, respectively. To harm or benefit in the *de dicto* sense is to act such that whoever comes to fill a certain office is made worse or better off, respectively—that is, in *de dicto* cases of harm or benefit, we arrive at WD before or without ID. Interestingly, when we talk of future persons, it is not always clear whether we mean to be referring to them in the *de re* sense or the *de dicto* sense. When I ask if Sarah's child has been harmed, it matters whether I mean to refer to Track, Trig, or just to whomever her child turns out to be. However, it is easy to equivocate on these two senses in our discussions of non-identity precisely because the moral subjects in non-identity cases do not yet exist. But once we recognize this distinction, we can see that the non-identity problem is more fine-grained than originally presented. There are actually two separate ways that we might interpret the aforementioned basic principles of the non-identity problem.

A *de re* reading of relevant principles:

A1) If P's act harms a particular, actual individual, then P's act makes that particular, actual individual worse off than that individual otherwise would have been.

B1) If P's act harms a particular, actual individual, then P's act wrongs that particular, actual individual.

C1) If P's act wrongs a particular, actual individual, then P's act is wrong.

A *de dicto* reading of the relevant principles:

A2) If P's act harms the office holder—whoever he or she might be—then P's act makes the office in question worse for whoever comes to fill it.

B2) If P's act harms the office holder—whoever he or she might be—then P's act wrongs the office holder.

C2) If P's act wrongs the office holder, the P's act is wrong.

Keeping this distinction in mind, we can say that Sarah harmed her child in the *de dicto* sense as well because she made the person occupying the office of her child worse off than the person who would have held that of-

fice would have been, thereby making the office of 'Sarah's child' worse than it otherwise would have been. However, we do not want to say that she harmed her child in the *de re* sense because she did not make her actual child, Trig, worse off than he otherwise would have been.

The question we should ask now is whether we have adequate reason to prioritize the *de dicto* harm (which obtains) over the *de re* harm (which does not obtain) when assessing non-identity cases. Parfit himself (1984, p. 360) implies that the answer is no. He arguably rejects the *de dicto* reading with his example of a general in a war:

> *General:* We seem warranted in deeming someone a good general if he is always on the winning side. However, this estimation is not actually warranted if the general always switches to the winning side right before the battle ends, making him only *de dicto* a good general.

The assumption that follows is that if we ought to take a *de re* reading of the general case, then we ought to take a *de re* reading of the Sarah case.

In response to this example, Caspar Hare rightly asserts that "it does not follow from the fact that *de dicto* betterness is not always morally significant that it is never so" (2007, p. 516). To illustrate he gives the example of the safety officer.

> *Safety Officer:* It is Tess's job to reduce the severity of automobile accidents in her state. So, she tightens seat belt regulations (so to speak) and is pleased to discover that this greatly reduces the severity of automobile accidents in her state.[3]

Given the fact that automobile accidents usually happen in a mere matter of seconds, and given the fact that it takes people at least that long to belt up, it is likely that most people who were in automobile accidents after the regulations were put into place would not have been involved in an accident otherwise. Thus, Tess harms the victims of automobile accidents in the *de re* sense. However, this is clearly not the wrong thing to do. What matters, then, in at least this case, is the *de dicto* reading of the harm. She does not harm the accident victims in the *de dicto* sense because she makes the victims, whoever they might be, better off than whoever the victims would otherwise have been would be, thus improving the office itself for whoever comes to occupy it.

We now have evidence that, at times, a *de re* reading is morally relevant—the General case—and we have evidence that, at times, a *de dicto* reading is the morally relevant one—the Safety Officer case. Which is the morally relevant reading for non-identity cases? By exploring relevantly analogous cases, I will show that *de dicto* considerations of harm are clearly the morally salient considerations in cases where we have not determined at the time of our action the identities of the persons involved. In such cases, we often have strong moral reason to make things better for the office holders in general, whoever they might be. Consider the following examples, which I claim to be *de dicto* relevant:[4]

De Dicto Relevant Cases

College Fund: You and your partner begin setting aside money for your children's education before you even have children. The individual identities of the children you have are not relevant. What is relevant is that the persons who come to fill the offices of your children have the opportunity for higher education, thus bettering the office of 'your children.'

School Teacher: You are a schoolteacher preparing next year's lessons. Suppose, as may often be the case, that you know neither the number nor the identities of the students you will have in the coming year. Nonetheless, you plan your lessons with the intent to benefit your students, whoever they might be, thus bettering the office of 'your students.'

Leader of State: Imagine you are a leader of state faced with a tough environmental decision. You could choose to sign a protocol that would require certain sustainability practices, thereby providing the future citizens in your state with better lives than they otherwise would have had. The alternative is to forgo the signing of the protocol and ensure that the resulting effects on the climate will have adverse effects on the future citizens of the state. You sign the treaty, thereby bettering the office of 'future citizens.'

Cases like these, and like the Safety Officer case, have something in common. In all of these cases, we have agents who are responsible in some

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important and recognized way due to a certain level of authority and power they possess. That is to say, we have moral expectations for people whose role it is to better the lives of those who fall under their umbrella of responsibility. Because, oftentimes, the responsibility obtains before the identities are known, we think that they ought to consider how best to benefit the office of, say, 'my child' or 'my student' or 'future citizens.' If they ignore this responsibility, then we can say that they harm the office holders in the *de dicto* sense. The point of these analogies is to demonstrate that the *de dicto* considerations in these cases arise at a time *before* individuals come to fill certain offices—and therefore before *de re* considerations arise—and they arise from the type of responsibility that is also present in the Sarah case. This responsibility justifies our prioritization of *de dicto* harm and benefit in these cases.

Note that when this responsibility does not obtain, *de dicto* considerations often diminish in importance. Consider the fact that, in our everyday lives, we harm people in the *de dicto* sense all of the time. This harm is usually morally permissible insofar as we bear no legitimate responsibility to the persons who come to fill the office in question. Consider the following cases, which I claim to be *de dicto* irrelevant:

De Dicto Irrelevant Cases

Movie Theater: Imagine that there is a sold-out showing of a very popular movie. You are very excited to see this movie, so you arrive early. You do not sit in back of the theater off to the side in order to benefit those who come into the theater after you. Instead, you take the best seat.

$20 Bill: You are walking down the street. No one is nearby when you spot a $20 bill lying on the sidewalk. You do not leave it where it is for someone else to find. Instead, you pick it up and put it in your pocket to spend later.

Pie: You are eating at a diner. After your meal, you order a slice of pie. The server tells you that you are in luck because that is the last slice of pie they have that day. You do not retract your order so that someone else may enjoy the pie. Instead, you order and enjoy the delicious dessert.

Should someone arrive at the diner after you, eager for pie, your decision to order the last piece of pie will entail a *de dicto* harm. You made it the case that whoever ordered pie again that day would not get any. Similarly, your decision to pocket the twenty dollars makes anyone who would have spotted the money had you not picked it up worse off than that person otherwise would have been, for that person could have been twenty dollars richer. Likewise, you *de dicto* harm those in the movie theater, because anyone who arrives after you is forced to sit elsewhere than the optimal seat in which you yourself chose to sit. Yet, the *de dicto* harm—even if it obtains—is clearly outweighed by the fact that you are under no responsibility to benefit the subjects in these cases.[5]

The intuitions generated by these *de dicto* irrelevant cases might explain why Parfit takes issue with the type of solution I am offering. Parfit (2011, pp. 220-21) posits a "general person"—which, for our purposes here, is akin to the *de dicto* office I posit—and he states that, under certain circumstances, the general person matters only about half as much as actual—or *de re*—individuals. However, he does not explore claim that they matter less. Perhaps he is actually envisioning *de dicto* irrelevant cases as he makes this claim, for it is true that *de dicto* considerations often matter less, or not at all. However, this is not true for all *de dicto* cases involving general persons, and we should not treat all *de dicto* cases equally. I have provided a criterion of responsibility that draws a clear line between the relevant and irrelevant cases and renders utterly unjustified the assumption that *de dicto* considerations simply matter less across the board.

By comparing these *de dicto* relevant cases to the *de dicto* irrelevant cases, we can see that responsibility (or lack thereof) makes a moral difference. Clearly, the cases that have generated the non-identity problem fall under the category of *de dicto* relevant cases because we bear responsibility to our children, future generations, etc., whoever they might be, in the relevant way. This evident *de dicto* responsibility positively strengthens the claim that we ought to adopt a *de dicto* reading of non-identity cases and posit wrong action where wrong action does in fact occur. Importantly, this account of *de dicto* harm does not entail counterintuitive accounts of harm in simple identity cases. Person-affecting principles of harm to actual individuals are upheld simply by appealing to *de re* harm, and such appeals are included under my view. If I punch a stranger in the face, I harm that individual. But I harm him in the *de re* sense in part because he exists with a particular identity, and whatever offices he might fill are largely irrelevant to this harm. *De re* harm can arise alongside or without *de dicto* harm, and vice versa. Thus, my appeal to *de dicto* harm in non-identity cases has no problematic implications for simple cases of harm to

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actual individuals. This means that my view not only explains the wrong in non-identity cases, but it also preserves our intuitions of wrongness in both identity and non-identity cases.

What is needed to solve the non-identity problem is an account of wrongness that does not appeal to the interests of the individuals who actually experience the effects of our actions. I have met this criterion, because my view appeals not to the individuals, but rather to the condition of the office that future people will come to fill. Therefore, we can appeal to the harmful effect our decisions will have on persons, but not because we are worried about certain persons with individual identities. Instead, we can appeal to a person-affecting principle insofar as we recognize *that* persons will come to fill a particular office, whoever they might be, and that we must make things better for these moral subjects whenever we stand in the correct responsibility relation to the office they will come to fill.

Notes

[1] Though this is not the only sense of harm that philosophers have posited, it is the sense on which both Parfit and many of our commonsense intuitions rely. Thus, it will be most philosophically interesting to solve the non-identity problem while retaining this sense of harm, which this paper aims to do.

[2] See Boonin (2008), Hare (2007), Parfit (2011), and Baier (1984), for example.

[3] Hare (2007, p. 516). I have presented a simplified version of the case.

[4] I do not mean to present cases here that are *totally* analogous to any given non-identity case, rather, I wish to present cases that will highlight at least (and sometimes at most) the relevant *de dicto* considerations of harm and benefit.

[5] You would arguably *de re* harm the actual people in these examples as well because you make the individuals worse off than they otherwise would have been had you not acted. But, again, that this *de re* harm obtains is not itself reason to ignore the *de dicto* harm that also obtains. And, importantly, neither sense of harm is relevant in these scenarios. While it may be supererogatory to act otherwise in these cases, the harms clearly do not generate wrongs.

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