

A De Dicto Solution to the Non-Identity Problem:
Why what we do to future people matters morally

Introduction

We often speak of having duties to future people, and most hold that we have a moral obligation not to harm them. However, upon reflection, claims such as “burying nuclear waste near waterways is wrong because it harms future generations” seem rather odd. The statement’s strangeness stems from facts regarding human reproduction and identity. Even slight changes in a chain of events can affect the time of conception and, thus, the specific genetic code which will form into a person. Often policy decisions, energy management plans, and innovations impact the identity of individual future persons through their effect on jobs, quality of life, migration patterns, economic distribution of wealth, etc. As Parfit notes, “how many of us could truly claim ‘Even if railways and motor cars had never been invented, I would still have been born?’” (*Reasons and Persons*, 361). The very act which intuitively harms the future individuals also most likely contributed to the individuals’ existence. We are then in the slightly awkward position of claiming that an action that has benefited a person by bringing her into existence has also harmed her. This problem of determining in what morally relevant sense we can “harm” a person who would not have otherwise existed and of reconciling our moral intuitions with facts regarding the situation under moral evaluation is known as the non-identity problem, in part because the decision in question determines the identity of the “victim.”

After explaining this problem in more depth and providing some background information and assumptions in Part I, I will focus on a specific case of the non-identity problem and offer my own solution to the problem in Part II. I will then address my solution’s application to other articulations of the non-identity problem in Part III. I propose that the difficulty with the non-identity problem arises from thinking of our obligations to future individuals in the *de re* sense

instead of the *de dicto* sense.¹ I hold that we should understand our obligations to an object or objects of concern in the *de dicto* sense when, due to limited knowledge and other situational circumstances, an understanding of our *de re* obligations provides no moral guidance. Therefore, the *de dicto* sense is morally salient in non-identity cases, and our initial moral intuitions in such cases are justified.

Part I: The Problem

1.1 An Overview of the Non-Identity Problem

The non-identity problem concerns our moral obligations to persons who do not yet exist. This problem can take many formulations: from thought experiments regarding the effects of current toxic waste management policies to decisions on when to conceive. In each scenario, a tension arises between our moral intuitions and our reflective intellectual evaluation of the situation. Consider the two following scenarios:

The Risky Policy: Suppose that, as a community, we have a choice between two energy policies. Both would be completely safe for at least two centuries, but one would have, for the further future, certain risks. If we choose the Risky Policy, the standard of living would be slightly higher over the next century. We do choose this policy. As a result there is a...catastrophe two centuries later, which kills and injures thousands of people. (Parfit, "Future Generations," 114)

Wilma: Wilma is not yet pregnant, but is planning to try to have a baby and so goes to the doctor for a pre-conception checkup. The doctor says that there is some good news and some bad news. The bad news is that if Wilma conceives, as things now stand, she will conceive a child with a significant, non-terrible, irreversible handicap. The good news, though, is that Wilma can prevent this from occurring simply by taking a tiny pill once a day for the next two months before conceiving. The pill is easy to take, has no side-effects, and will be paid for by her insurance company. Fully understanding all of this, Wilma decides that having to take a pill once a day for two months before conceiving is too inconvenient and so chooses to throw the pills away and conceive at once. As a result, she ends up with an incurably blind child [called Pebbles] rather than a sighted child. (Boonin, "How to Solve the Non-Identity Problem," 128)

¹ I will explain these terms later in the paper.

Intuitively, it seems that both actions are morally wrong.² After all, we tend to associate blinding a child (or withholding medication to prevent blindness) and causing a catastrophe that will injure and kill thousands of people with moral wrongness. Most feel as if Wilma and the community have violated their duty to others, disregarded others' rights, or in some other way wronged Pebbles and future generations.

However, the story is more complex due to what Gregory Kavka, in "The Paradox of Future Individuals," refers to as the "precariousness" of existence and to what Parfit calls "the Time-Dependence Claim." These authors, among others, observe that because of a spermatozoon's short life span and the millions of spermatozoa which could potentially fertilize that month's ovum, almost any action can affect which gametes join to form a zygote. The timing, the manner of conception, and the specific individuals involved in the reproductive process all impact the genetic composition of the resulting zygote and, consequently, the offspring. As Rivka Weinberg states, "each person's set of conception circumstances are the only ones possible for her; her existence depends on them" (4). If my parents had waited a day, a month, or perhaps even a few hours before conceiving me, Beth may have been Bob, or at least a very different Beth. The chain of events leading up to the moment of conception is highly susceptible to alteration as well. If my parents had never met, had met at a different point in their lives, or had never been born, no one remotely resembling me would ever have come into existence.

² I would like to emphasize that Wilma's and the community's actions are morally *wrong* and not merely morally *worse*. In some cases, the two descriptors are both applicable to the same action. However, if one accepts that there are morally supererogatory actions – actions which would be morally great but are not morally required – then one could make a morally worse choice but not the morally wrong choice. In the case of Wilma, I am arguing that her choice was morally wrong and not merely morally worse. (See also Boonin, "How to Solve the Non-identity Problem, 131-132)

This claim does assume a certain relationship between body and self – a relationship which is not obvious to all. The jacket of Woody Allen’s *Without Feathers* contains the following words at the end of a brief author’s biography: “His one regret in life is that he is not someone else.”³ We also occasionally hear others, or even ourselves, say things such as “I wish I was [insert name of someone we consider famous, wise, beautiful, lucky, and/or wealthy]” or “I wonder what I would be like if I was born in [insert a different time period].” The notion that we can still be us with different genetic information is at least present in everyday discussions and ponderings. Although I hold that we should not be overly hesitant to make the assumption that a link exists between our physical bodies and our selves, I will briefly address this concern because without it the non-identity problem poses no problem at all.⁴

1.1a Theories of Personal Identity

I will consider five main accounts of personal identity in relation to the claim of a necessary link between genetic information and self. First, the genetic account of personal identity asserts that “the conditions of numerical personal identity are comprised in our possession of a unique genetic code” (Mannien, 191). Since a difference in the time or manner of conception would result in a different genetic composition, this account articulates the view found in Kavka’s explanation of the “precariousness” of existence. The second account, the biological approach,⁵ equates a person, or self, with a

³ I found this bit of information in Reiman’s “Being Fair to Future Individuals” (69). The quotation is in Woody Allen’s *Without Feathers* (New York: Random House, 1975).

⁴ If, in fact, the self is not related to any physical aspects determined by genetic material, then the claim that future beings are not harmed by an action if that action is necessary for their existence bears little moral relevance to the evaluation of the action if the individuals would have existed if another action, which does not harm the individuals, was taken.

⁵ This account is also called animalism (see Mannien, 120).

numerically distinct member of the species *Homo sapiens* (Olson, 17).⁶ This view differs slightly from the genetic account in its emphasis on a human as a distinct *organism* as opposed to a distinct set of genes. The easiest way to distinguish between the two theories is to consider cases of cloning: the genetic account would consider a being and its clone to be the same person whereas the biological account would consider the two to be distinct beings. However, in the non-identity problem, both would still agree that a change in the manner of conception would produce a different individual.⁷ The embodied mind account of personal identity (EMAPI) is the third main view. Under the EMAPI, the self is closely connected to the human organism and is identical with the human mind, whose existence is dependent upon the existence of a functional brain (Mannien, 194). Alterations in either the human body or brain, caused by altering genetic sequences, would then result in a slightly different person.

The fourth and fifth views I will address, the psychological account of personal identity (PAPI) and the Cartesian view, are slightly more difficult to reconcile with the assumption present in the non-identity problem. PAPI argues that personal identity is dependent upon some continuing psychological relations involving mental contents – “memories, beliefs, desires, and so forth” – or, mental capacities (Olson, 13-14). Under this account, a person is anything which is “rational, reflective, and self-conscious, with a strong continuous stream of memories and mental states [desires, character traits, goals, beliefs, etc]” (Mannien, 193). Some may claim that a child born into the same household

⁶ Olson explicitly distinguishes his biological approach from the “physical criterion” which links identity more closely to the brain than the person’s status as an organism. He also claims that his account differs from the “bodily criterion.” If one is interested in this discussion, then I would recommend some works listed under “further reading” (Johnson, Noonan, Shoemaker, Thomson, and Unger). However, for our purposes, this debate within the larger approach to a numerical and physically distinct body/organism/body part remains irrelevant.

⁷ Or, as Professor Smith pointed out to me, a set of individuals in the case of cloning under a genetic account.

could have the same memories and psychological states as a hypothetical child conceived within a few days of the actual child's conception. Although I am inclined to believe that nurture is a more powerful force than nature, we can look at the drastic differences between siblings who grew up in the same environment to see that similarities in experiences do not always produce individuals with similar, much less identical, mental traits. Furthermore, the body and its details – determined by genes – do influence memories and mental states. Aside from the link among brain activity, mental states, and the genetic predisposition towards certain mental states,⁸ physical aspects of our body shape how we interact with the world and how the world interacts with us, which, in turn, does influence our traits, goals, and beliefs. Even something as small as finger length or height could influence one's goals by contributing to one's success in certain activities, such as playing piano or basketball.

The fifth account, the Cartesian view, is not commonly held. As its name implies, the self is understood as a Cartesian Ego completely divorced from the physical – from both the body and the brain. I would first like to note that the rejection of this view is, as Parfit claims, “at most mildly controversial” (*Reasons and Persons*, 353). Second, I would like to suggest, as I previously did, that the body plays a crucial role in our conception of ourselves. Although under this view no changes in the physical, including genetic information, can affect the self, I hold that even if consciousness is completely

⁸ For example, consider depression. Although studies are still underway, the Mayo clinic states the following regarding the possibility of depression being an inherited trait: “Depression is more common in people whose biological family members also have the condition. Researchers are trying to find genes that may be involved in causing depression” (Mayo Clinic, “Depression (major depression)”). Dr. Levinson and Dr. Nicholas from the Stanford School of Medicine claim that a combination of genes can influence depression (<http://depressiongenetics.stanford.edu/mddandgenes.html>). Other personality disorders as well are “thought to be caused by a combination of these genetic and environmental influences” (Mayo Clinic, “Antisocial Personality Disorder”). Although genes are not necessarily deterministic, they do influence the “person” one will become even in regards to mental states and psychological factors.

divorced from both brain and body, one can at least agree that a short, blonde-haired male experiences the world quite differently from a tall, brunette female. Subsequently, the ego would express itself differently in these two bodies, and one would have a very different individual. Therefore, all five accounts admit to some level of our personal identity's dependence on our genetic code.

1.1b A formal formulation

Given the assumptions about the relation between selfhood and the body, the non-identity problem is as follows:

P1: An action which brings a being into existence – provided that the being has a life worth living – does not make that individual worse off than she otherwise would have been.⁹

P1A: Action X brings into existence a being, B, who has a life worth living.

P2: If an action harms a being, then it makes that being worse off than it would otherwise have been.

C1: Action X does not harm B. [from P1, P1A, and P2]

P3: Action X does not harm anyone else.

C2: Action X does not harm anyone. [from C1 and P3]

P4: If an action does not harm anyone, then it does not wrong anyone.

C3: Action X does not wrong anyone. [from C2 and P4]

P5: If an action does not wrong anyone, then it is not wrong.

C4: Action X is not wrong. [from C3 and P5]¹⁰

⁹ One could substitute “was before” for “otherwise would have been” depending on which account of comparative harm one chooses. The conclusion remains the same with either sense.

¹⁰ This structure is a slightly modified and generalized structure taken from Boonin's article “How to Solve the Non-Identity Problem.”

Because the action that most people intuitively think harms the individual is a necessary condition for the existence of that harmed individual, and because a life worth living does not make the individual who exists worse off, the non-identity problem presents us with the task of resolving this paradox. The argument contained within the non-identity problem is logically valid. Therefore, a solution to the non-identity problem, if we reject the conclusion, must either restructure the argument or reject one of the premises. I will focus on a reformulation of premises 1 and 2.

1.2 Approach

I approach the non-identity problem from a stance informed, in part, by John Rawls' concept of reflective equilibrium. I begin with our "considered judgments" concerning harming, wronging, and future individuals – noting the tension which arises in our reflections on non-identity cases. I then reflect upon these judgments, the underlying principles, and our intuitions through considering "all possible descriptions to which one might plausibly conform one's judgments" (Rawls, 49). Instead of rejecting either our first-order intuitions or our more theoretical intuitions, I seek to develop a more nuanced understanding of the obligations relating to our intuitions and so relieve the tension between our intuitions in the non-identity problem.

In proposing my solution, I will first focus on a specific non-identity case to illustrate the morally relevant principles. I have chosen to use the Wilma case and would like to clarify that my argument does not depend upon any specific parental moral obligation that Wilma has to her child. Instead, I argue that Wilma's action is wrong because it causes morally wrong harm. Regardless of additional concerns and obligations Wilma may have toward her child, her child as a person is an object of moral concern for

Wilma. By “object of moral concern,” or simply “object of concern,” I mean something, someone, or a group of somethings or someones to which or to whom one has a moral obligation. I assume that people have all other people¹¹ as *prima facie* objects of concern. I will demonstrate how this obligation can extend to persons not yet existing in Part III.

1.3 Harming

Most would agree that one of our duties to this general class of objects of concern is to not harm them. The most common, traditional account of harming is “to make an individual worse off” (Markie, 302). An action can make another individual worse off than she otherwise would have been had the act not occurred or worse off than she was before the action occurred. The first sense is a counterfactual account of harming; the second sense is a temporal account of harming. Both are comparative, but the counterfactual compares one’s current state with a hypothetical yet realistic alternative state while the temporal account compares the current state to one’s previous state. Both accounts also state that making an individual worse off, in their respective senses, is a necessary condition for morally wrong harming.¹² However, in this paper, I adopt a slightly different approach. I propose to define harming as what Elizabeth Harman identifies as the first sufficient condition on harming: “One harms someone if one causes him pain, mental or physical discomfort, disease, deformity, or death” (Harman, 139).¹³ I

¹¹ I ask the reader to allow me to side-step a rather large area of philosophical debate and leave the question of what I mean by “person” unanswered.

¹² Some accounts claim it is a sufficient condition as well; others state harming is a *prima facie* sufficient condition; and still others state that harming is not even a *prima facie* sufficient condition. These differences, for my purposes, are not crucial.

¹³ Some may define violating another’s rights or dignity as harming. Although such actions do wrong another, I suggest treating these moral wrongs as separate from harming to maintain precision and clarity in our moral

use this account because the traditional definitions, as will be shown in this section, provide too narrow an account of morally wrong harming.

However, before I begin to discuss my account of harming and morally wrong harming, I would like to clarify that our obligation not to harm, as defined by either a counterfactual, temporal, or Harman account, is not absolute. Our moral duty is *prima facie* in the sense that actions which may otherwise have been classified as a morally wrong harming may not be so in certain mitigating circumstances. The first set of circumstances arises when other moral concerns modify our obligation. If another is attacking me, then actions done in self-defense are not morally wrong even if such actions harm the attacker in ways which would otherwise be considered morally wrong. Another exception would be legal punishment when enforced in accordance with the principles of justice.

Keeping this qualification in mind, I argue that harming, *but not comparative harming*, remains a necessary condition for morally wrong harming. I propose two other criteria to use in determining when harming is morally wrong; the presence of harming

language. Given this distinction, one may then wonder why I focus on harming and not rights. In both cases I shall have to make a case for viewing our obligations in the *de dicto* sense. However, I propose that rights are not necessary to a solution to the non-identity problem (as will hopefully be shown in this paper) and involve additional concerns. One main concern is establishing what a right is (a political construction or a natural entitlement, positive or negative, etc.) and what rights we have (the right to freedom of religion, the right to healthcare, a right to relative security etc). After these questions are answered, we must then establish which right is violated in the non-identity case. A difficulty arises in establishing such a right which does not require present generations to ensure the best possible life for future individuals. Doran Smolkin suggests that “when a person is, as a result of an earlier person’s action, (1) caused to exist and (2) to be unable to lead a flourishing life in some life stages” we should view that person’s rights as being violated (206). This account however, is problematic. It can have a variety of meanings. First, it could be seen to suggest that one should not cause others to have a life not worth living, but this view leaves a wide variety of cases unaddressed (such as blindness) and is rejected by Smolkin for this very reason. Second, it could mean that one should be able to live a flourishing life at all life stages. Yet, this interpretation would either preclude all handicapped or disabled births or allow for such births even when they could be prevented (such as in Wilma’s case). Furthermore, this principle may be seen as requiring parents to ensure that their children will be able to lead flourishing lives at all stages of their life, which could have some troubling implications. For example, parents living in areas of political unease or tyranny, conflict, or extreme poverty, or parents who would pass on a hereditary trait which would prevent their children from flourishing would violate their children’s rights by having any children at all. Therefore, the main problem with a rights-based approach is identifying a right which explains why Wilma’s action is wrong, yet still allows couples to have children with disabilities or less than ideal lives.

and either one of these two conditions will be sufficient to establish, *prima facie*, a moral wrong. First, harming (the infliction of “pain, mental or physical discomfort, disease, deformity, or death”) is morally wrong when it causes an individual to be worse off than she was before (Harman, 139). For example, I walk to up to Bob, punch him, and break his nose. Bob is worse off after my action than he was before. Therefore, I both harmed and morally wronged Bob, assuming no other moral principles or legitimate moral interests spoke in favor of me punching Bob.

My second condition comes into play when harming does not make the individual worse off. This criterion thus applies to cases not included under either the temporal or counterfactual accounts. I hold that harming is morally wrong in cases where the individual is not made comparatively worse off by the action but when the action harms unnecessarily. Harming is unnecessary if the individual could have received the benefit conferred because of the harming with a smaller amount of physical pain, suffering, etc. For example, a dentist causes physical pain. If she is performing a root canal on an abscessed tooth, then she does not make the patient worse off than he was before the action or would have been otherwise if the action was not performed. Let us suppose that this dentist can perform the root canal using either technique A or technique B. Both are effective, but technique B causes the patient to feel 3 more units of pain. The (evil) dentist chooses to use technique B. Once the anesthesia wears off, the patient feels 4 units of pain. Because this state is better than the 7 units of pain he felt before the surgery, the surgery did not cause the patient to be worse off than he was before the action.¹⁴ Therefore, under the traditional temporal definition of harming, the (evil)

¹⁴ My conclusion in this case will be that the dentist harmed and morally wronged the patient. However, as the reader should be aware, some situations are more morally complex than others, and as mentioned, our duty not to

dentist neither harmed nor morally wronged the patient (because the necessary condition of “harming” is not present).¹⁵ This conclusion seems intuitively wrong; the three excess units of pain were not needed to make the patient better off. Thus, I hold that an account of morally wrong harming which contains a non-comparative element allows us to capture the moral relevance and wrongness of harming unnecessarily. My slightly modified definition remains sensitive to the possibility of a harmful action which does not make an individual worse off than he was before the act yet harms more than is necessary to achieve the benefit bestowed to the individual as a result of the harming.

Some may claim that this definition simply replaces the temporal account of harming with a counterfactual account. Instead of claiming that an action harms (and potentially morally wrongs) A if the action causes A to be in a worse state than A was before, the counterfactual account of harming claims that an action harms (and potentially morally wrongs) A if the action causes A to be worse off than A otherwise would have been. However, my account of harming does not reduce to the counterfactual account. Although in the dentist example the patient is worse off than he otherwise would have been in a hypothetical yet realistic alternative, the counterfactual account of harming does not always include all cases where an agent is morally wronged because of

harm is only *prima facie*. If a doctor is at an accident scene and must choose between the least painful way to save patient X and a more time efficient way to save X which will allow her to save Y as well, then the doctor must consider her obligations to Y as well as X and may balance the two through choosing a quick procedure which will cause X more pain than a more time consuming procedure would cause (this case was brought to my attention by Professor Angela Smith). In such a case, I do not think we would say the doctor’s actions are deserving of moral blame. (Whether we say that she has morally wronged X but that she is excused for such an action is a question for a different paper.) However, like the self-defense and legal punishment exceptions to the first sense of morally wrong harm, I present this exception merely as an example of the complexity of human life. Often we must balance duties arising from kindness, honesty, fairness, and/or utility maximization and/or deontological obligations. I unfortunately will offer no suggestions as to how to balance these moral concerns, other than to draw our attention to them, but hope only to clarify the application of one such principle in a specific case.

¹⁵ One could claim that what the (evil) dentist does is a moral wrong but that she does not morally wrongfully harm the patient, meaning that the moral wrongness comes from another aspect of the case, such a violation of patient-doctor trust. However, what intuitively is wrong about the case is the fact that the harm was unnecessary.

the infliction of pain, suffering, etc. For example, Mob Boss told Thug 1 to break A's legs. Because Thug 1 sometimes disobeys, Mob Boss gave the same order to Thug 2, who always obeys. If Thug 1 follows orders, does Thug 1 harm A? Provided that Thug 1 could not stop Thug 2 from following orders, Thug 1's action did not cause A to be worse off than he otherwise would have been. Yet, Thug 1 does cause physical pain to A that results in A being worse off than he was before. According to the counterfactual account, Thug 1 does not harm A and, thus, cannot morally wrong A by causing what Harman, and most non-philosophers, would describe as harm. As with the temporal account, the counterfactual account seems to be missing something. Thug 1 one harms A regardless of how A would have been otherwise. By adopting my account of harming and morally wrong harming, we are able to say both that Thug 1 harms A and that Thug 1 wrongs A.¹⁶ [For those who enjoy visual aids, I have provided an account my approach in flowchart form in the appendix.]

Given this modified account of harming, premise 2 of the non-identity argument needs to be revised. Premise 2 states, "If an action harms a being, then it makes that being worse off than it would otherwise have been or was before." Yet, Premise 2 should state, "If A's act harms B, then it causes B physical, emotional, or psychological pain or suffering." A few other changes shall be needed as well. C1 (action X does not harm B) and C2 (action X does not harm anyone) are now incorrect, and P4 (if an action does not harm anyone, then it does not wrong anyone) is mostly irrelevant because under the new account of harm, action X does harm B. However, the conclusion that action X is not

¹⁶ This "Thug 1, Thug 2" example was taken from a class lecture given by Boonin at the University of Colorado's 2010 Summer Seminar in Philosophy.

morally wrong still holds. Here, then, is an updated version of the non-identity problem using my revised conceptions of harming and morally wrong harming.

P1: An action which brings a being into existence – provided that the being has a life worth living – does not make that individual worse off than she otherwise would have been or was before.

P1A: Action X brings into existence a being, B, who has a life worth living.

P2: If an action harms B, then it causes B pain, mental or physical discomfort, disease, deformity, or death.

C1: Action X harms B.

P3: Harming is morally wrong when it either makes the individual worse off or harms unnecessarily in the absence of morally relevant, mitigating factors.

P4: Action X does not make B worse off.

P5: Action X does not unnecessarily harm B. [assumes the precariousness of existence]

C2: Action X does not morally wrong B.

P6: Action X neither harms nor causes morally wrong harm to anyone else.

P7: If an action does not wrong anyone, then it is not wrong.¹⁷

C3: Action X is not morally wrong

P4 remains true because B still has a life worth living (from P1a). By being born and having a life worth living, B is not made worse off than she was before. She also is not made worse off than she otherwise would have been nor is she harmed unnecessarily because the only way for B to exist is *as B does exist* upon her birth.

¹⁷ This statement is up for debate. However, I believe that the argument still holds without it (assuming that the only relevant ethical principle in this case is the obligation not to cause morally wrong harm). I included the premise here because Boonin included it in his articulation of the problem, and I have not argued for its removal.

1.4 Morality

One last assumption I would like to discuss before turning to Wilma concerns the nature of morality. I assume that morality must be action-guiding. As Edmund Pincoffs notes, “the moral question, inevitably, is: What would it be correct for me to do?” (559).¹⁸ All three main ethical accounts provide answers to this question; they are, to some degree or another, code[s] of conduct.¹⁹ Both consequentialist and deontological provide principles which are used in determining the right action. Although virtue ethical accounts generally avoid “principles” or “rules” and instead advocate the development of virtues, these accounts provide a way of living and, thus, still seek to guide our actions (in addition to behaviors, attitudes, motivations, and habits).²⁰

Because morality is concerned with the answer to the question of “what should I do?” or, for the virtue ethicists, “how should I live?”, ethical accounts must have certain properties. First, morality must be able to direct most of our actions. Although morality may be silent on whether I should buy a pair of stilettos in blue or red,²¹ it should be able to guide my interactions with others and help me make decisions such as “is it morally permissible for me to eat meat?”, “should I kill that annoying person talking loudly in the library?”, and “can I dump nuclear waste into waterways?” In other words, a moral account must provide a way of determining the correct action. An account which said “always do what is right” without offering a definition of wrong would be nonsensical,

¹⁸ I realize that, as philosophers, we focus on other moral questions as well: What do moral expressions mean? What is the metaethical foundation of an ethical theory? Are moral properties real? What is the relationship between reasons and motives? etc. However, for this paper at least, I ask that when the words “morality,” “ethical account,” or “ethics” are used we focus on normative ethics.

¹⁹See Bernard Gert’s “The Definition of Morality.”

²⁰ For an example of a defense of the action guidance ability of a virtue ethicist account, see Elizabeth Hursthouse, in particular *On Virtue Ethics* and “Virtue Theory and Abortion.”

²¹ However, according to Peter Singer, an account of morality may require me to forgo non-necessary footwear in place of charitable donations. (see “Famine, Affluence, and Morality”)

so too would an account which said we should do what the crystal balls tell us to do if crystal balls cannot be found and their instructions are not known. Both accounts would leave us without guidance in our everyday actions.

These observations highlight another aspect of morality: morality is used to correctly attribute blame and praise.²² Therefore, morality cannot require of us what we cannot do, or, alternatively stated, “[we] must judge that [we] can do what the [moral] law tells [us] that [we] ought to do” (Kant, *Metaphysics of Morals*, 513).²³ For the purposes of this paper, I interpret this requirement to mean that morality cannot require us to have knowledge beyond what we could reasonably be expected to know²⁴ and that a person cannot be morally responsible for something she cannot control²⁵ or did not do.²⁶

Part II: Solutions

I propose that the solution to the non-identity problem begins with the *de re/de dicto* distinction. First I will explain this distinction. Then, I will address its moral relevance by discussing Casper Hare’s argument, David Boonin’s response, and my own modifications. I will argue that the Wilma case meets the criteria for being *de dicto*-morally relevant and then return

²² Or, at least, guilt and shame (Crisp, “Ethics”)

²³ In addition to numerous other comments on the subject of “can” and moral “ought,” Kant states, “duty commands nothing but what we can do” (*Religion Within the Boundaries of Mere Reason*, 92) and “For if the moral law commands that we ought to be better human beings now, it inescapably follows that we must be capable of being better human beings” (*Religion Within the Boundaries of Mere Reason*, 94).

²⁴ What amounts to reasonable or culpable ignorance is a matter which has been widely debated. I wish to avoid this debate and direct the reader, if interested, to George Sher’s, *Who Knew? Responsibility without Awareness* or Michael Zimmermann’s, “Controlling Ignorance.”

²⁵ Some debate surrounds this concept of “what one can control.” For example, in the case of drunkenness, one may be unable to control one’s actions. Yet, we generally hold individuals accountable for their drunken behavior. I would like to suggest that in these cases, the individuals are still attributed blame because they are responsible for their drunken state – for a prior culpable act or omission. If the individual was not responsible for being in such a state when an otherwise morally wrong action was committed, then she should not be held responsible because she was not responsible for a prior culpable omission or action.

²⁶ For more information regarding this “ought implies can” aspect of morality, see Griffin and Stern.

to the premises of the non-identity problem. I will conclude in Part III by applying the moral principles found in the Wilma case to other non-identity cases.

2.1 De Re/De Dicto Introduction

De re, when literally translated, means “of (the) thing”; *de dicto* means “of (the) word.” In our context, *de re* can be thought of as referring to a specific person, whereas *de dicto* is anyone who happens to fit the relevant description. For example, when I say “I want to marry the richest person in Lexington, VA” I can mean two things by “the richest person in Lexington.” In the *de re* sense, my statement means I want to marry a specific person who just so happens to be the richest person in Lexington. In the *de dicto* sense, I do not care if I marry John, Billy, Susie, or whoever so long as he or she fulfils the description “the richest person in Lexington.”

In most moral situations, we are not faulted for thinking of moral obligations to others in the *de re* sense. Consider the following scenario: I marry John and vow to love my husband until mine or his death. Since I know that after ten years and a day I become bored and stop loving people, I make sure to get a new husband every ten years with the intention of upholding my vow. Although I uphold my vow in the *de dicto* sense (I always love my husband – whoever he happens to be at the time), most would claim that I should understand my commitment in the *de re* sense. It seems understandable to say that I should understand my vow as a commitment to love John until mine or his death.²⁷

We can also consider ways in which individuals are made better or worse off in one sense but not in the other. If I replace my current best friend with a person who is terminally ill, then I have made things worse off for my *de dicto* best friend. However, unlike poisoning my best friend (which makes my best friend in both the *de dicto* and the *de re* sense worse off), there is

²⁷ This example was molded off of Hares’ “Zsa Zsa” case (514).

nothing morally wrong with my action.²⁸ In most of our daily interactions, it is the *de re* and not the *de dicto* sense which is morally salient.

2.2 Hare and Tess

Casper Hare accepts that in some cases we should understand our obligations in the *de re* sense but claims that in certain situations the *de dicto* sense is morally significant. He provides the following example of Tess the safety officer:

Tess is a state safety officer, whose job it is to regulate those features of the automobile that protect its occupants in the event of collision – air bags, crumple zones, and so forth. Noticing that people in her state are not wearing seat belts, she implements some tough new regulations and, a year later, is pleased to discover evidence that they have been effective, that the severity of injuries sustained in automobile accidents has been reduced as a result of people belting up. (Hare, 516)

In Hare's example, a philosopher later accosts Tess and claims that she has, in fact, made last year's accident victims worse off. The philosopher asserts that if Tess had not implemented her new safety procedure, then the individuals would not have taken the time to comply with the policy, would have reached intersections and passed other cars at different times, and, therefore, would not have been in accidents. The philosopher is claiming that the specific individuals – the *de re* victims – were harmed by the policy because without the change they never would have been victims at all. Hare claims that Tess should respond by saying that the welfare of last year's *de re* accident victims is not her concern. Instead, her job is "to make it the case that last year's accident victims were, collectively speaking, healthier than those people who would have been last year's accident's victims would have been if I had acted otherwise" (Hare, 518). Tess claims that her obligation is to a class of people understood in the *de dicto* sense.

²⁸ This example as well was drawn from Hare (516).

From this scenario, Hare proposes two criteria for determining in which cases the *de dicto* sense is morally significant. First, the acting agent has an appropriate partial concern for a person or a group of people. For example, it is appropriate for Tess not to be concerned with every person of her state and instead to be partial to accident victims within her state. Likewise, Hare holds that it is appropriate for a parent to have concern for his or her child.

Though correct in cases such as Tess's, in non-identity cases I believe that this criterion is unnecessary. I hold that the wrongness of Wilma's actions and those of individuals in other non-identity problems does not rely upon some special obligation or partial concern we have to our children *qua* children or to future generations *qua* future generations. Instead, I propose that the moral evaluation of actions in non-identity cases can be based upon our *prima facie* obligation to all people. We can therefore evaluate the actions in question without having to stipulate why individuals have a "special concern" – a concern over and above what already exists towards other persons due to their status as persons – for the objects which are possibly being unnecessarily harmed.²⁹ Instead, in almost all iterations of the non-identity problem, we can start from our obligations to others as people *qua* people.

Hare's second criterion stipulates that, "in virtue of...causal circumstances," the partial concern has no *de re* expression (Hare, 519). As Hare correctly notes, in certain circumstances one's action will always have an impact on the person of concern in such a way that no matter how one acts, one's action will be either always be better or worse for the *de re* object of concern. In Tess's case, no matter which policy she chooses, her action will impact who will be involved in accidents and, thus, makes the *de re* victims worse off. In the case of Wilma, so long as her child has a life worth living, her action – whether she takes the pills or not – will benefit

²⁹ I am not denying that we have special concerns arising out of roles but simply noting that such a special concern is unnecessary to the non-identity problem's solution.

the *de re* child. I hold that Hare's second criterion is correct (though perhaps slightly incomplete as will later be shown) because morality is supposed to be action-guiding. In non-identity cases, relying upon effects on *de re* identities provides no hint as to how one should act.³⁰ As Hare correctly notes, if one's concern for a group of people should play a significant role in guiding one's actions, then this concern must be to a group of people understood in the *de dicto* sense.

However, Boonin raises concerns with this approach, some of which illustrate ways in which Hare's account can be improved and further clarified. Boonin's first critique involves the meaning of the phrase "to make things *de dicto* better for [objects of concern]." He holds that this phrase can be understood in two ways. Referring to Tess, he first suggests that *de dicto* betterness could mean that either Jack or Jill will be in an accident and it is Tess' job to "make sure that the person who is in an accident suffers *less harm* than would otherwise have been suffered by the person who is in an accident" (Boonin, manuscript, 16). Second, the phrase could be interpreted to mean that either Jack or Jill will be in accident and Tess' job is to make sure that whoever is in an accident has a higher level of health after the accident than the person who is in an accident would otherwise have had. To illustrate this distinction, Boonin provides the following matrix:

	<u>Policy 1</u>	<u>Policy 2</u>
<u>Jack</u>	has accident; drops from 100 units of health to 90	does not have an accident
<u>Jill</u>	does not have an accident	has accident; drops from 80 units of health to 75

(Boonin, manuscript, 17).

³⁰Unlike shoes, persons matter morally. Therefore some form of guidance would be expected from a moral theory.

Given this information, Tess should choose Policy 2 under the first interpretation because the policy reduces the amount of injury sustained in the accident. Under the second interpretation, she should choose Policy 1 because the result is a healthier accident victim. Boonin, Hare,³¹ and most agree that Tess should understand her obligation using the first interpretation. Her job is not to direct accidents toward healthier people but instead to reduce the harm caused by the accident.

From this assessment Boonin concludes that Wilma's choice to conceive a blind child is not morally wrong. He argues that Wilma should not "redirect" her conception decision to ensure that the result will be a child that is healthier than it otherwise would have been just as Tess should not redirect accidents toward healthier people to ensure that victims post-accident are healthier than they otherwise would have been. Boonin claims that Wilma instead should "minimize the harm that will be incurred by whatever person turns out to occupy the role of her child" (Boonin, manuscript, 18). He then claims that "neither of Wilma's choices will cause any harm at all to the particular child that she conceives" (Boonin, manuscript, 19). Since Wilma should be concerned with the harm done to her child, and conceiving a blind child does not harm the child, then Wilma does no moral wrong in conceiving a blind child.

2.3 Responses to Boonin and Modifications to Hare

Boonin seems to conflate the *de re/de dicto* distinction when discussing Wilma and Tess. As Hare notes, sometimes the acting agent cannot know the *de re* object(s) of concern. Tess, in normal circumstances, cannot know the health of all of the possible accident victims under Policy 1 and Policy 2. She knows the accident victims only as *de dicto* accident victims.

³¹ Hare states that Tess is "pleased to discover evidence that [her new regulations] have been effective, that the severity of injuries sustained in automobile accidents has been reduced as a result," implying that Tess' job is to reduce the severity of the accidents and not to insure that the accident victim under the new policy is healthier after the accident than the victim would otherwise have been under a different policy (516).

Therefore, preexisting conditions and other facts of the *de re* accident victims are not relevant.

All accident victims, those under Policy 1 and Policy 2, should be seen as starting out at the same level of health. Although, as Boonin's example illustrates, some *de re* accident victims may in fact be healthier under the old policy, Tess cannot know this at the time of her decision.

Therefore, we must judge whether she made things better for her *de dicto* victims and assume, like Tess, all victims start at an equal level. All things held equal, breaking a toe (and sustaining 5 units of harm) is better than breaking an arm (and sustaining 10 units of harm).

Thus far, Boonin would be in agreement.³² However, I hold that he is misguided in his application of the conclusion of Tess's case to Wilma's pregnancy decision. I maintain that Wilma's postponement of her conception is not the same as Tess redirecting accidents towards healthier individuals. Tess's choice is made before the individuals become accident victims and is made without regard to the fact that her action will harm *de re* accident victims – in part because all victims will be harmed *de re*. Similarly, Wilma's choice is made before a specific individual exists as her child and all *de re* children will be benefited. Her choice should be made without regard to benefiting *de re*. The fact that Wilma does not harm her *de re* child when she conceives a blind child should have as much moral significance as the fact that Tess does harm the *de re* accident victims. When Boonin claims, "neither of Wilma's choices will cause any harm at all to the particular child that she conceives," he slips back into talk of harming or benefiting the *de re* child, which has been deemed irrelevant when discussing Tess (Boonin, manuscript, 19). Therefore, Wilma and Tess should both take the course of action that produces the best outcome for their *de dicto* objects of concern.

³² Recall that he did say Tess' obligation should be interpreted in the first sense (to minimize the severity of the accidents) and not the second sense (to maximize the victims' post-accident health).

Boonin's second argument against the proposed solution merely draws attention to a fact already admitted by Hare: in some situations the *de dicto* sense of objects of concern is morally irrelevant. He describes a case in which a woman chooses to adopt a blind child over a sighted child and claims that her choice would not be morally wrong even though her decision made her child, *de dicto*, worse off. Like the previously mentioned case in which one chooses to befriend a person who is terminally ill, thus, makes one's *de dicto* friend worse off, this case illustrates that in some situations *de dicto* considerations are morally irrelevant. Yet, Boonin does challenge proponents of the *de re/de dicto* distinction solution to explain how the Wilma and the adoption case are morally different.

2.4 The Difference

Boonin's adoption analogy illustrates that Hare's second criterion may need to be supplemented. Hare's second criterion states that "in virtue of...causal circumstances," the partial concern has no *de re* expression (Hare, 519). At first glance, the adoption case and the Wilma case do seem similar. At the time prior to their decision to conceive or adopt, neither Wilma nor the adopting parent can know their *de dicto* child as a *de re* child; "in virtue of...causal circumstances," their concern has no *de re* expression. However, significant differences between the two cases exist, and one could respond to Boonin in three different ways.

The first two responses make assumptions regarding the condition of the adopting parent and the children. The first one notes that other morally relevant factors may be at play: i.e. the blind child is my dead sister's offspring. Although such conditions would explain the permissibility of the adopting parent's actions, these factors may not always be at play, and in

such cases we would still want to say that adopting a blind child is permissible. Therefore, we should continue to look for an explanation.

The second response is more promising, and through allowing its assumptions, highlights an important criterion for determining when the *de dicto* sense is morally relevant. Recall that morality must guide our actions. This stipulation means that in cases of limited knowledge about the individual who will be affected, the *de dicto* sense must guide our action. Therefore, one of the potential differences between the two cases is the amount of knowledge possessed by the agents. In certain instances, such as making policy decisions and decisions made prior to conception or birth,³³ we have only a vague idea of the characteristics of the possible future object(s) of concern. In other cases, our concern for the people or the person to whom we have obligations can manifest itself in accordance with the specific knowledge we have instead of having to rely upon the *de dicto* sense for guidance. In some adoption (and all friendship cases) our decision can take into account details not available in true *de dicto* cases and therefore may make our child or our friend worse in a specific *de dicto* sense. Although we may harm our friend or child in this specific sense, this harm may not make her worse off. The decision to adopt the blind child does make the *de dicto* child blind but may also make the *de dicto* child intelligent, talented, or a good “fit” with the rest of the family. The *de dicto* child may have lacked such characteristics if she had been sighted. In contrast, when Wilma makes her choice she does not know anything else about her child other than that it could either be sighted or blind. Based on the given information, she must choose a course of action. The benefit of existence cannot be grounds for choosing one action over another because both actions would lead to the same benefit. Instead, she must consider her obligation in the *de dicto* sense if her

³³ Which term is most morally appropriate is a topic for an entirely different paper; therefore, I sought to avoid the debate by using both.

moral obligation is to guide her choice. She has a duty not to harm unnecessarily. *Ceteris paribus*, Wilma has an obligation not to act in such a way that causes her child to be blind.³⁴

However, in some adoption cases, the adopting parent possesses as much knowledge about the child as Wilma does, and we still want to say that adopting a blind child is morally permissible. I now return to the nature of morality for help in responding. Recall that morality is used to correctly attribute blame and praise, and, consequently, a person cannot be morally responsible for something she cannot control or did not do. In the case of Wilma, she is the cause of her child's harm in both the *de dicto* and *de re* sense. To say that the adopting parent is the cause of her *de dicto* child's harm, however, seems rather strange. If the parent chose to adopt a very intelligent child, we would not say that she is the cause of her *de dicto* child's intelligence. The parent did not blind her child or cultivate the child's intelligence; she merely chose to make a blind, or intelligent, child her object of concern. In contrast, we can link Pebbles' condition to Wilma's action in a way we cannot in the adoption case. When we state the adopting parent is the cause of the *de dicto* child's blindness, the only casual link between the parent and the blindness is the parent's choosing. However, the parent's action is neither the source of nor a contributing factor to the blindness itself. In explaining both the *de dicto* and *de re* child's blindness we, must point to another factor when we state, "The child is blind because of (Xerophthalmia, albinism, her birthmother's excessive alcohol

³⁴However, if Wilma receives new knowledge regarding her child, she may morally permissibly conceive Pebbles. For example, consider if Wilma finds a magic crystal ball which informs her that if she chooses to have Pebbles, Pebbles will be talented, intelligent, and find the cure for cancer. If Wilma chooses to have Bam-Bam, Bam-Bam will be less than average in academics, sports, and the arts and will still be single and living at home when he's thirty. Due to this new information, Wilma, like the parent adopting the lovable and intelligent blind child over the sighted child, does nothing morally wrong by conceiving Pebbles. Both parents benefit their child *de dicto* and *de re* without harming unnecessarily.

drinking while pregnant, etc).” We therefore attribute moral blame to Wilma but not to the adopting parent.

Before returning to the structure of the non-identity problem, I would like to address one more potentially problematic hypothetical case and show how my theory can coherently apply to this case. Let us now consider Jane Jetson. Jane has a condition in which all of her children will be born blind no matter when she conceives. Most would say that it is morally permissible for her to conceive her blind child, called Elroy. However, Wilma may then question why it is permissible for Jane to have Elroy but not permissible for her to have Pebbles. In response to Wilma’s question, let us consider Tess again. No matter what Tess does, accident victims will undergo some pain. However, it would be unreasonable for Tess to ban driving. Although she would eliminate all of the harm suffered by objects of her concern, she would also eliminate all objects of concern. Similarly, Wilma’s child, blind or not, will undergo certain painful experiences as a result of being born; yet this fact does not speak in favor of Wilma remaining childless. The circumstances of each agent and the impact each can have upon the object of concern differ. The difference is that, no matter what Jane will do, the object of her concern (both *de re* and *de dicto*) will always be blind. Since the *de dicto* child could not have been otherwise, Jane does nothing morally wrong in conceiving a blind child.

To summarize, in some situations an agent must show concern for a person or a group of persons to which she has a moral obligation. In a subset of these cases, the agent must act with limited knowledge and limited influence over certain outcomes associated with characteristics of the *de re* object(s) of concern. Since morality must be action guiding and one cannot be held morally responsible for what one cannot change, then in these cases *de dicto* identities and concerns are morally relevant. Because Wilma has an obligation to her child and has limited

knowledge regarding the life of her child, she should consider what is best for her child in the *de dicto* sense.³⁵

2.5 The Non-identity Problem: Revisited

Now that we have established that Wilma and all soon-to-be-parents with children not yet conceived should consider their obligations to their *de dicto* children, let us return to the initial formulation of the non-identity problem. Premise one states that Wilma does not harm Pebbles by bringing her into existence. This premise is true. However, it is both irrelevant and the wrong place to begin. Instead, the first premise should be that Wilma has a duty to her *de dicto* child. Premise two should state the nature of this duty: do not cause unnecessary harm.

Next, we examine whether Wilma violates her duty to her *de dicto* child. Wilma gives her child a benefit – existence – which comes with some pain. Blindness will produce additional amounts of hardships for the child without, known to Wilma at this point, any additional benefits. Because Wilma has a duty not to unnecessarily harm her child, Wilma violates her duty to her *de dicto* child when she conceives. The benefit given to Pebbles, her *de re* child, is irrelevant since Wilma could have given her child the benefit of existence without causing the child to be blind. Therefore, Wilma's act is morally wrong.

³⁵ I would like to clarify that the conclusion of this sentence remains true only so long as its antecedents remain an accurate description of the situation. Once the child is born, then Wilma no longer has a *de dicto* obligation but instead must do what is *de re* better for her child. This means Wilma cannot put Baby 1 up for adoption and then adopt New, Better Baby, in order to make her child smarter, prettier, and more talented. Similarly, if Wilma discovers a magic crystal ball that allows her to see into all possible futures, then her obligation to her child resembles the adoption case. If Wilma sees that blind Pebbles will be more intelligent, talented and lovable than Bam-Bam, it is morally permissible for Wilma to conceive Pebbles because the blindness is necessary to confer the additional benefits of intelligence, talent, and loveliness.

Part III: The Application

3.1 A Brief Recap

I would like to remind the reader of where we currently stand. First, we established that before asking “have I harmed anyone?” and then, if applicable, “have I morally wronged her by harming her?” we should ask “should I consider my obligation not to wrong another in the *de re* or the *de dicto* sense?” One should consider one’s duty to another to be a duty in the *de dicto* sense if:

- A) one has a duty to another or a group of others (called object(s) of concern)
- B) one possess limited knowledge of the potential or actual objects of concern
- C) one’s action will always cause all (*de re*) potential objects of concern to be either worse off or better off if these potential objects of concern become actual objects of concern.

3.2 Extension to Future Individuals

Aside from the Wilma case, the other main type of non-identity examples found in the literature involves current decisions that affect the *de re* identities and quality of life of future generations.³⁶ Wilma and Tess both had an obligation which could not be expressed in the *de re* sense because no current individuals fulfilled those roles and because they had limited knowledge regarding who would come to hold these descriptions. I argue that we, like Wilma and Tess, have an obligation to a group of individuals: other people. This obligation is to other people “in general”; it is an obligation that we have to others simply *qua* person. In some cases, this obligation to other people construed in the general sense can express itself in the *de re* sense. In other cases, we must fulfill our obligations without such specific knowledge. Therefore,

³⁶I use quality of life in a very loose sense which includes health, standard of living, happiness, etc.

because we still have a moral obligation, we fulfill our obligation to the best of our abilities and consider the object(s) of concern in the *de dicto* sense.

I argue these *de dicto* cases are not as uncommon as one may first suppose. Consider the following: I am walking in the woods and meet a random stranger. I have a moral obligation to that stranger because he is an object of concern. My obligation is to him as a person and is to avoid wrongly harming him. Imagine I shoot him, and he is rushed to the hospital where a deadly yet hard to detect condition is discovered. Far from dying from the bullet wound, the stranger is saved from a painful death by my action. *De re*, he did not suffer morally wrong harm (assuming that my shooting him is the only way he will learn of this illness). I harmed him, but he was not made worse off and not harmed unnecessarily; therefore, I did not wrong him. However, this seems to be a rather strange way to evaluate my action. We still want to say that I morally wronged this stranger because I harmed him. I propose that this sense of wrong is captured by evaluating the problem from a *de dicto* stance. The individual, specific person benefited from the shooting, just as Pebbles benefits from Wilma's refusal to take the medication. Yet, when we consider this stranger simply as a person and consider what, *ceteris paribus*, would count as morally wrong harming when directed toward a generalized "person," then we can say that I harmed and wronged the *de dicto* stranger. Furthermore, not only do we intuitively think of our obligation in this way, we must use a *de dicto* approach if I am to allow the moral principle regarding harm to guide my actions. Because I lacked knowledge of the stranger as a *de re* person, I instead must think of my duty to him in the *de dicto* sense – as a generalized "person" – in order for moral concerns to inform my interactions with him.³⁷

³⁷ Some may claim that the wrong occurred from the violation of the stranger's rights. I would like to remind the reader of footnote 13 in which I listed reasons for focusing on harm instead of rights in non-identity cases. I would like to also offer reasons for why I stick with the harming approach in this case as well. First, I would like to note that violating someone's rights and morally wrongfully harming are not mutually exclusive descriptions. I hold that

Some may claim that a crucial difference exists between the stranger in the woods and a person in generation Z: the stranger in the woods currently exists while the future person does not. I hold that this claim makes no moral difference. Like Tess, we occasionally have obligations to a group of people before those people exist as objects of concern for us. Once Tess decided that accident victims would be a category of concern, her obligation to such objects began. We cannot decide that other persons are categories of moral concern. As moral agents, other persons, simply as persons, already exist in such a category. Others' temporal places, like other particular characteristics, remain irrelevant when determining our obligations to them as *de dicto* objects of concern. For example, if I plant a bomb in New York City set to detonate in 30 minutes, then I will have unnecessarily harmed and wronged those individuals injured because of my bomb. If the bomb detonated 30 days after I planted it, then the conclusion would remain true. If a few newborns were included among the dead or injured, then it would be absurd to exclude them from the list of those I wronged simply because they were not alive when I planted the bomb. In both cases I knew that my action would cause harm to people. I did not know which *de re* people I would harm, but I did know that my action violates my obligation to *de dicto* people in general. The specific identity of the individuals who just happen to be in New York City 30 days from now remains irrelevant to the moral evaluation of my action.

independent of an evaluation of the rights violated in the above example, we can still – and intuitively do – point towards the harm done as the reason for describing my action as morally wrong. Second, I focus again on harming instead of rights because of the additional difficulty of determining which right I violated. One could claim that we have a right not to be harmed. Although this right would explain why my action was wrong, it would also apply to doctors, coaches, and others who cause pain but do not make the “victim” worse off or harm unnecessarily. Claiming that we have a right not to be harmed unless we consent is problematic as well due to medical procedures performed when one cannot give consent. If one then turns to an account which claims we have a right not to be harmed if one would not reasonably consent to being harmed in such a way, then my action did not violate his rights under a *de re* description: who would not reasonably consent to a small amount of pain if it lead to the detection of a painful and dangerous medical condition? To claim that his right was violated, we would need to give an account of to what one would “reasonably consent,” which I suspect would then strongly resemble an account of morally wrongful harming understood in a *de dicto* sense.

Let me alter the New York bomb scenario one more time. Instead of a bomb under New York City, I plant nuclear waste; instead of the negative effects of my action coming to fruition in 30 days, we must wait 300 years. The fact that my action may have influenced who was born is irrelevant because my obligation to the people in New York is *de dicto* and not *de re*. My decision meets all the requirements established in the previous section for evaluating an obligation in the *de dicto* sense: I have a moral obligation to the people in New York, I possess limited knowledge of the potential or actual objects of concern, and the extent that my actions will influence who will be born, all potential objects of concern would receive the benefit of a life worth living. Therefore, my action – like that of the community in Parfit’s risky policy example – is morally wrong.

Same People, Same Number, and Different Number

Parfit identifies three types of choices in which the non-identity problem could arise with regard to future generations: same people; same number but different people; and different number. In the first type of choice, the same actual people will exist regardless of what decision one makes. Parfit claims that although same people cases are not very common due to the precariousness of existence, “most of our moral thinking is [and should be] about [these choices]” (*Reasons and Persons*, 356). He holds that since we cannot predict the particular effects of our actions on the identity of future persons, we should instead view these choices as same people choices. He gives the example of tossing a piece of glass in the woods and a child cutting her foot on it 100 years later. The effects of this action, unlike the actions in the Risky Policy or Wilma case, do not have a particular, foreseeable effect on the number or identities of future individuals. In the second type of choice, the same number of individuals will exist, but the particular identity of the individuals who exist will depend upon which choice one makes.

The Wilma case, and perhaps the Tess case as well, could reasonably be seen one of these same number but different people cases. In the third, a different number of people will exist depending upon which choice one makes. Up until now, I have ignored these distinctions. However, I will now show that although these choice types have important differences, the same moral theory can still apply to all three.

Parfit proposes two different moral principles which should guide our decision, respectively, in same people choices and in same number choices and then suggests that another theory, which he calls theory X (and which remains unarticulated in his book and undiscovered by him throughout his studies), implies the appropriate theory in each choice and also provides guidance for different number choices. I do not wish to present my thesis as Parfit's mysterious theory X, but I also do not think that we must find X in order to provide a meaningful solution to the non-identity problem. Instead, I think that a basic ethical principle or principles, such as the moral principle not to morally wrongfully harm another, combined with proper attention to the *de re/de dicto* distinction, can be used to guide our actions in all cases. Once we have established our moral obligations to others, we must then ask ourselves how we should consider these obligations. I have argued that in some cases we should think of our moral obligations to others in the *de dicto* sense – as an obligation owed to whoever happens to occupy the position as an object of concern. To solve the non-identity problem, all that is needed are criteria for determining which sense is morally relevant.³⁸ Since our duties to future individuals is one such case in which the *de dicto* sense is morally salient, then the actual identity of the future individuals is irrelevant. Therefore, no significant difference remains between same number and

³⁸ In contrast, I think that Parfit's theory X would need to include all of the moral principles which should guide our actions and, perhaps, even a metathical principle supporting these normative views. I merely focus on a normative principle and assume that it should guide our actions.

same people choices. Different number choices, however, pose additional considerations. I will divide different number choices into two groups: soft and hard.

Just as some same number choices can be thought of as same people choices, I propose that most different number choices can be thought of as morally equivalent to same people choices as well; I will call these choices “soft.” In most of the choices we make regarding future individuals we know that there is a possibility that our actions will alter the number of future individuals, but we have no clue as to the particular impact of our action. In cases like Risky Policy, one can easily see how such a decision would influence which couples meet, how many children people decide to conceive, and perhaps even the use of fertility aids. We can reasonably guess that the number of people who will exist if we choose the risky energy policy would differ from the number present if we choose a different policy; yet, our speculation of what that difference would be remains vague and rather uncertain. Even Wilma’s case could be a different number case. If she waits to conceive, then she could very well have twins. As these two examples show, most choices are, at least potentially, different number cases. Yet, since we do not know and are not expected to know the effects of our choice on future population sizes in “soft” different number choices, the effect on future population sizes cannot play a role in our moral evaluation of our decision.

The other type of different number choices, however, raises additional concerns. In these cases we know the likely or almost certain effects of our decision on future population. These types of choices are less common; yet, they do exist outside of hypothetical situations in philosophy books. Consider Wilma’s cousin Wendy. Wendy wants to have a child, goes to the doctor, and learns that she has a condition similar to Wilma’s. Additionally, the doctor tells Wendy that she has a high chance of conceiving twins if she conceives now but if she takes the

pills her chance of having twins will decrease significantly. Considering what is best for her child, even in a *de dicto* sense, raises the question of which is the morally right choice: have one sighted child who will have a life worth living or have two blind children who will have lives that are worth living but are more difficult than the life of a sighted child.

The issues present in this situation are often described when addressing Parfit's "repugnant conclusion" (*Reasons and Persons*). Parfit, who does not work within the *de re/de dicto* framework laid out, expresses concern about the large scale equivalent of Wendy's problem. He presents us with a scenario in which our choice will lead to either population A or population B. Population A is smaller than B; yet, the members of population A enjoy a higher quality of life than those in B. He asks if choosing the decision leading to population B, in which individuals are worse off than counterparts in A, could be "morally outweighed by the fact that there are more people living" and thus a larger net total of whatever makes life worth living (Parfit, *Reasons and Persons*, 386). If one answers "yes," then one is committed to the "repugnant conclusion" that there is a population – called population Z – whose members "are not much above the level where life ceases to be worth living" yet is large enough that a decision leading to population Z would be better than one leading to population A or B (Parfit, *Reasons and Persons*, 388). As the name implies, Parfit does not find this conclusion promising. He attempts to provide an answer to the initial question which does not result in this conclusion but, in doing so, faces the "mere addition paradox"³⁹ and "the absurd conclusion."⁴⁰

³⁹ The mere addition paradox arises when we consider four alternatives: A+, A, B, and divided B. B's population is twice as large as A's, and B's quality of life is about four-fifths as high as A's. Therefore A is better than B (under either the lexical view or the valueless view). A+ contains population A and an additional population in which everyone has a life worth living but is worse off than those in A. These two groups in A+ are unaware of each other and do not affect each other. A+ is not worse than A (see Parfit's *Reasons and Persons*, pages 420-424 for explanations). Divided B is like B in every way except for the fact that its population is split into two groups which are unaware of each other, cannot communicate with each other, and do not affect each other. B and divided B are equal. Furthermore, a move from A+ to Divided B would be good because the quality of life in the additional population rises more than the quality of life in the A portion of the population decrease. Therefore Divided B and

Instead of following Parfit's discussion further, I would like to suggest that perhaps in overlooking the *de re/de dicto* distinction he has overlooked a solution which avoids both the repugnant and the absurd conclusions. In having the blind twins, Wendy would benefit her two *de re* children; yet, any benefit to her two *de re* children is irrelevant to the case just as the benefit to Pebbles is irrelevant in Wilma's case. Our moral obligation, as described and presented, is to avoid morally wrong harming – *not* to maximize the amount of happiness or the net sum of quality of life in a population. In not taking the pills, Wendy harms her *de dicto* child in that her child could have received the benefit of existence without blindness. One may claim that although this may be so for one of her children, the only way in which her other child could have existed was as a blind child. Yet, such a claim would conflate the distinction for which I have been arguing. The only way for that particular child – that *de re* child – to exist is as a blind child. Wendy could have another child at a later date, and *this* second child could exist as a sighted person. It is important to clarify, however, that Wendy need not have a second child to justify her choice to take the pills. Our obligation to individuals who will become objects of concern extends only to them as objects of concern. There are numerous opportunities to have children, and thus numerous potential objects of concern, but we do not have an obligation to turn any or all potential objects of concern into actual objects of concern. Therefore, Wendy does not harm the potential twins by not conceiving or taking the pill but harms her *de dicto* child by not taking the pill. Therefore, Wendy should take the pills.

B are better than A+. Since A+ is not worse than A and B is better than A+, B is not worse than A+. Yet, we previously said A is better than B. This is a very brief overview of Parfit's the mere addition paradox. See Chapter 19 in *Reasons and Persons* for a more detailed account.

⁴⁰ The absurd conclusion states that an outcome in which a large number of people existed in the same time period and had lives with a high quality of life except for one person out of every ten billion who has a disease which makes him suffer but still has a life worth living is worse than if no one existed at all. It is also worse than a second outcome in which the same number of people have lives of equally high quality, except for one person out of every ten billion who suffers but still has a life worth living, and this population is spread out over many centuries. This arises out of an asymmetry about the value of quantity which places a limit on quantity's positive value and no limit on its negative value. See chapter 18 of Parfit's *Reasons and Persons*, especially pages 410-411 and 414.

This same method can be used to solve some iterations of Parfit's population problem. Consider a scenario in which we, as a community, could choose a policy and know that the outcome of policy 1 is population A and that of policy 2 is population Z. We further know that there are no other relevant moral factors at play. I stipulate that although the individuals in population Z do have lives worth living, they have more experiences of pain, disease, deformity, or death as a result of being born into population Z. To make discussing the harm associated with these populations easier, I further specify that population A has 100 people and that each person suffers 1 unit of harm as a result of our action. The net total of harm in population A will then be 100 units. Population Z has 500 people, and each person suffers 5 units of harm as a result of our actions. Its net total of harm will be 2,500 units. However, more people would receive the benefit of a life worth living in population Z (500 lives benefited is greater than 100 lives). We are then faced with a choice in which objects of concern could exist either with a smaller amount of harm or one in which a much larger group of objects of concern could exist with a larger amount of harm. In both populations, 100 people will exist with at least one unit of harm. This unit of harm is necessary for their existence and thus does not make those individuals worse off. Therefore, this harm is not morally wrong. The extra four units of harm these persons would suffer under policy 2 is unnecessary and would thus wrong them.⁴¹ Since we have a duty not to harm unnecessarily but no corresponding duty to benefit, as a community we should choose policy 1.

However, certain iterations of the population problem do raise puzzling questions. One formulation of the problem involves a choice about population growth rates between a policy of replacement and one of growth (Parfit, *Reasons and Persons*, 382). In replacement, the population stays stable and experiences long-term benefits; in growth, the population experiences

⁴¹ Anyone suspicious of this conclusion need only consider the evil dentist root canal example.

transitory benefits from population growth. However, after the fourth generation, the quality of life from a policy of replacement is greater than that of growth. Unlike the policy example, this scenario introduces the difficulty of balancing the benefit of one generation with another. Generations 2, 3, and 4 will benefit from growth while generations 4+ will benefit from replacement. Although I am unsure how to fully address this question, I do think that this problem is present in both a *de dicto* and a *de re* articulation of the problem and also appears in cases involving only existing individuals.⁴² Since other theories contain the same difficulty, I do not view this problem as a crippling strike against my proposed solution. In fact, since the observation that we may have to balance our obligations to different individuals seems to reappear often in our everyday lives, I hold that we should not be surprised if this aspect of our moral lives is present in our obligations to future generations as well.

3.3 Conclusion

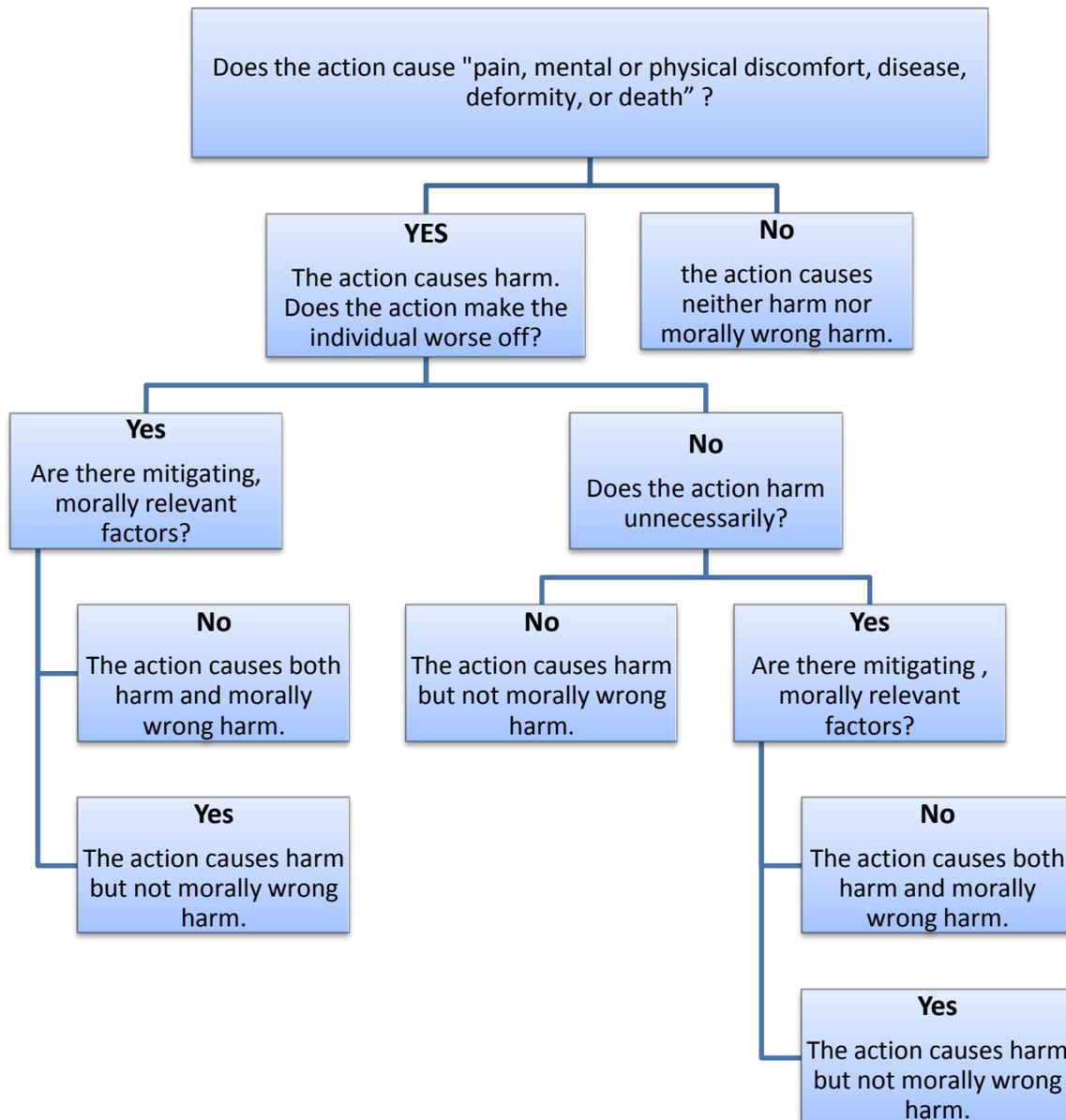
When faced with non-identity cases, we intuitively begin to think of our obligation to future individuals in the *de dicto* sense; yet, these individuals, when considered from a *de re* perspective, are not harmed due to facts regarding the precariousness of human existence. Upon reflection, we can begin to establish criteria for establishing when and why the *de dicto* sense of future individuals is morally salient due to the nature of morality. We should think of our obligations in this sense when we have a duty to objects of concern and we possess limited knowledge about the object of moral concern and when our actions will cause all potential objects of concern to be either always worse off or better off if they become objects of concern. Non-identity cases place agents in such circumstances. Using this distinction and the criterion

⁴² For example, the question of how to distribute benefits among a group of people is present in discussions of social justice, taxes, and welfare.

for when to use the *de dicto* sense, we can explain why conceiving a blind child instead of a sighted one and adopting a “risky policy” violate our moral obligation not to harm other individuals. This account can also be used to solve cases more troubling to other proposed solutions, such as Parfit’s population problems. By focusing on our obligation to not harm unnecessarily, we can determine which actions to take in cases where the effect of our actions on the size of future populations is known. Because my distinction can resolve the paradox within the non-identity problem and successfully address a wide array of cases, I suggest that we should consider our obligations to future individuals in the *de dicto* sense.

Appendix

How to Determine If One Has Committed a Morally Wrong Harm



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