



Phil 173: Non-identity and rights

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When is reproduction harmful?

Denying a premise:

- 'no harm, no foul' principle (wrongdoing only in cases of harm)
 - Utilitarianism?
- Counterfactual account of harm
 - We will look at this later...
- Time-dependency claim (gamete-dependency claim)
 - Not sure how this would work....
- Permissibility of creating offspring in the cases described
 - Some do – but it seems implausible!

When is reproduction harmful?

- The parent harms ‘their child’
 - Parfit p. 359
- Linguistic move
 - De dicto sense of ‘their child’
 - ‘their child’ does not refer to the same person
 - I did some reading and got my dog to behave better, I gave away my dog and got another dog!
 - One way to see this in non-identity cases is to name the gamete pairings (zygotes)
 - Have I made ABC worse off?



Non-identity problem and disasters

Not just reproductive ethics:

- Climate change
- Reparations

Ethics of future generations stuff!

Non-identity problem and disasters

Recall the tensions was between these premises:

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Non-identity problem and rights

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Deny **no harm no foul**

Non-identity problem and rights

Last class we saw a bunch of examples where there was wrongdoing without (counter-factual) harm:

- Lucky phone call
- Bully case (over-determination of harm)

- And we can think of others
 - Negligent pharmacist
 - Racist driver

 - Inadvertently make someone better-off despite acting wrongly

- Rights!

- If we appeal to the rights of children, then we can identify the wrongdoing!

Non-identity problem and rights

- Some objections to rights as a solution :
- There is no identifiable individual who is the holder of the rights
 - Not just an epistemic problem!
 - Our decisions will affect *who* exists
 - BUT we might think that *all* members of certain categories have certain rights
 - We know that whomever exists will have certain rights, and so we can talk intelligibly about rights even if we don't know which individuals those rights attach to

Non-identity problem and rights

- Some objections to rights as a solution :
- We cannot violate rights of non-existent people
 - The decision to forgo sperm sorting could not violate the child's rights because the don't exists!
 - Once the exist, there are no further violations of rights
- But is it true that we cannot violate rights before someone exists?
 - Feinberg's bomb example

Non-identity problem and rights

- Some objections to rights as a solution :
- Waving rights / hypothetical consent
 - So long as a child's life contains more good than bad, they are likely to agree that existence was worth it
 - We don't always need consent ahead of time
 - Eg. unconscious rescue → anticipated consent seems to be doing the work
 - Does the same hold true in reproduction cases?

Non-identity problem and rights

- Some objections to rights as a solution :
 - We don't always need consent ahead of time
 - Eg. unconscious rescue → anticipated consent seems to be doing the work
 - Does the same hold true in reproduction cases?
 - Here we are preventing a bad outcome, not so in reproduction
 - We make a guess about what the person *who exists* would choose, but in there reproductive case there is no one who yet exists

Non-identity problem and rights

- Some objections to rights as a solution :
 - Lack of complaint
 - Still better-off
 - Is this good enough?
 - Unfairness
 - Too much reproduction becomes impermissible
 - Bite the bullet

Non-identity problem and rights

- Some other objections

- All reproduction becomes impermissible (antinatalism)

- Everyone experiences rights violations!

- The problem is just shifted...

- How do we determine what the threshold for rights violations are?