



Phil 173: Harm and the non-identity problem

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Intro

- Harm is an important concept in many circumstances
- It's often used to determine:
 - how much a victim is owed
 - how severe a wrongdoing was
 - whether a kind of act ought to be prohibited
 - whether we are justified in interfering in the actions of another person

So we need to get a good grip on what harm is!

Counterfactual Account of Harm

- Interests
 - Things that make our lives go well
- The same action/event may advance certain interests but stall or diminish others
- Examples?
 - We make these kinds of trade-offs all the time
- We can have a sense of the state of our over-all interests
 - Some number we assign to our overall status, based on the different weightings we put on different interests

Counterfactual Account of Harm

- A harms B when A's actions make B's overall interests *worse than they otherwise would be*.
- For the sake of clarity, we can compare this to the 'worsening test':
 - A harms B if B's personal interest is in a worse condition than it was before A acted
 - How is this test different / why is it inadequate?
- The key is that we need to imagine the counterfactual – what would B's state be if A had not acted?
 - Maybe it would be even lower!
 - Maybe it would be higher, though A's action did not lower B's standing

Counterfactual Account of Harm

Not all harms are wrongs

- Unrequited love
- Competition

Perhaps not all wrongs result in harms

- Birthday call
- Pickup friend from school
- We're interested in identifying wrongful harms – cases where someone was both harmed and wronged

Problem with the account?

Before considering reproductive harms, let's turn to a possible problem with the account

- The overdetermination of harm
 - Two bullies want to push Victim into the mud. The first bully is faster than the second and get to Victim first, and shoves them into the mud. The second bully, seeing that bullying has been done goes home. Has the first bully harmed Victim?
 - Harm is over-determined when the same result would have occurred even if the agent who actually caused the harm would have acted differently.

The non-identity problem (Parfit)

- Case 1
 - A couple seeks reproductive advice from their physician. They are told that if they conceive now, they are very likely to pass on a serious disease to their offspring. However, if they take medication and wait a month, there will be a negligible chance of transmitting the disease. Should the couple wait?

Non-Identity Problem

- To harm someone is to make them worse off than they otherwise would have been
- Person-affecting principle: An act that harms no one is not wrong (no harm no foul)
- Time-dependency claim about personal identity:
 - If X's biological parents had reproduced at another time, somebody different than X would exist
 - Better thought of as 'gametic dependency'
 - Basic idea is: If different gametes, then different person

Non-Identity Problem

■ Case 1

- A couple seeks reproductive advice from their physician. They are told that if they conceive now, they are very likely to pass on a serious disease to their offspring. However, if they take medication and wait a month, there will be a negligible chance of transmitting the disease. Should the couple wait?
- Do the couple cause a harm if they do not?
- On the counterfactual account of harm, no one is harmed if they do not wait. Why?
- Taken in concert with the harm principle, it seems that the couple does not do anything impermissible!

Non-Identity Problem

■ Case 2

- X has a genetic condition that results in a healthy life up until age 40, at which point the affected person suddenly and painlessly dies. X has a deep desire to parent a child. No children are available for adoption, and X does not have access to donor gametes. Does X do anything wrong by reproducing?

■ Case 3

- Z has a similar condition to X, except that in Z's case only chromosomally male (XY) offspring are affected. Z could pay for a sperm sorting technique that would ensure only chromosomally female offspring (XX), but decides to spend the money on a trip to Paris instead. Unfortunately, Z creates a male child that inherits the disease. Has Z acted wrongly?

Non-Identity Problem

- Note: The non-identity problem only arises when an individual *would not have existed* if the only available steps to prevent the ailment had been taken
 - NOT a non-identity case:
 - Doctor prescribes the wrong medicine to a pregnant person resulting in harm to the resulting child

Non-Identity Problem

- Tension between:
 - Person-affecting principle 'no harm, no foul' principle
 - Counterfactual account of harm
 - Time-dependency claim (gamete-dependency claim)
 - Permissibility of creating offspring in the cases described

- Possible Responses
 - Bite the bullet!
 - Appeal to impersonal reasons (no appeal to the fact that *someone* was harmed)
 - Obligation to produce the healthiest child you can (utilitarians)
 - Deny the gamete-dependency claim
 - Appeal to a different account of harm



Non-identity problem and disasters

Not just reproductive ethics:

- Climate change