

Symposium
on David Boonin's
*The Non-Identity Problem and
the Ethics of Future People*

Introduction

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Consider the following case:

Wilma: Wilma has decided to have a baby. She goes to the doctor for a checkup and the doctor tells her that there is some good news and some bad news. The bad news is that as things now stand, if Wilma conceives, her child will have a disability. The doctor cannot say precisely what the disability will be, but she can tell Wilma three things about it. First, it will be the kind of disability that clearly has a substantially negative impact on a person's quality of life. This could be because of features intrinsic to the disability itself, because Wilma's society discriminates against or fails to sufficiently accommodate people with the disability, or because of some combination of these reasons. Second, even if it is possible for a life to be worse than no life at all, this particular disability will clearly not be so serious as to render the child's life worse than no life at all. So while the disability will be considerably far from trivial, the child's life will nonetheless clearly be worth living. Finally, the disability will be irreversible. There will be no way to eliminate it or mitigate its effects.

The good news is that Wilma can prevent this from happening. If she takes a tiny pill once a day for two months before conceiving, her child will be perfectly healthy. The pill is easy to take, has no side effects, and will be paid for by her health insurance. Fully understanding all of the facts about the situation, Wilma decides that having to take a pill once a day for two months before conceiving is a bit too inconvenient and so chooses to throw the pills away and conceive at once. As a result of this choice, her child [Pebbles] is born with a significant and irreversible disability (Boonin, 2014: 2).

Initially, it is tempting to claim that Wilma has acted wrongly by refusing to delay conception, and that the wrongness of her action can be explained in terms of its negative impact on the welfare of Pebbles. But as Derek Parfit (1984: chapter 16) and others have argued, this intuitive reaction is complicated by the fact that our genetic identities are dependent on the timing of conception. Had Wilma followed her doctor's advice and delayed conception for two months, this would not have improved Pebbles'

condition, but would rather have resulted in a different child altogether, one composed of a unique set of reproductive gametes. Assuming that life with her particular disability is better than no life at all, Pebbles has not in fact been made any worse off as a result of Wilma's decision, as she would not have existed had Wilma decided differently. This, in turn, raises a puzzling question: what, if anything, is morally objectionable about Wilma's decision?

Providing an answer to this question and others like it has become the preoccupation of a vast literature on what is now known as the *non-identity problem*. The non-identity problem arises in cases where an action or decision that appears to harm a person is also a necessary condition of their existence. It is generated from the mundane fact that our genetic identities are dependent on the timing of conception, such that if your parents had not conceived when they in fact did, the resultant child would not have been you, but rather a genetically distinct (or 'non-identical') child composed of a unique set of reproductive gametes. Parfit (1984: 352) expresses this fact as the Time-Dependence Claim, which holds that "If any particular person had not been conceived when he was in fact conceived, it is *in fact* true that he would never have existed."¹ According to Parfit and others, the Time-Dependence Claim forces us to concede that so long as a person has a life worth living, she cannot be harmed by a set of actions or decisions that led to her conception, for her very existence depended on that conception taking place when it did.²

In the case of *Wilma*, this presents a problem: it appears as though Wilma has acted wrongly by her refusal to delay conception, yet our most readily available explanation of wrongdoing—that Wilma has *harmed* Pebbles—does not apply in her particular case. Must we conclude, then, that Wilma has acted permissibly? Most philosophers have attempted to avoid this conclusion by explaining how an action or decision can be morally wrong even if it does not make any particular person worse off than they otherwise would have been. For example, some have argued that it not necessary to be made worse off in order to be harmed; that it is not necessary to be harmed in order to be wronged; or that it is not necessary

¹ Parfit (1984: 352) actually presents two different versions of the Time-Dependence Claim, the latter of which holds that "If any particular person had not been conceived within a month of the time when he was in fact conceived, he would in fact never have existed." Parfit includes the latter version to account for the fact that a differently timed conception that occurred within the same month would still involve the same ovum, and thus the resultant person would not be entirely genetically distinct

² I draw here on my presentation of the non-identity problem in Magnusson (2019).

for an action or decision to wrong a particular person in order to be morally wrong. However, in *The Non-Identity Problem and the Ethics of Future People*, David Boonin argues that all of these varied attempts fail, and that we must therefore accept the ‘implausible conclusion’ that decisions like Wilma’s are in fact morally permissible.

Boonin’s book is noteworthy not only for its striking conclusion, but also for the comprehensiveness of the argument that leads to it. In the four-plus decades since the independent discovery of the non-identity problem by Parfit (1976), Thomas Schwartz (1978), and Robert Adams (1979), an extensive literature has emerged in response to that problem across a wide range of disciplines, including philosophy, law, political science, and bioethics, to name only a few. Through seven chapters and six appendices, Boonin carefully collects, categorizes, and analyzes an impressive amount of this literature, making his book both a useful entry point and required reading for students and professional academics working on the non-identity problem.

Central to Boonin’s argument is his distinctive understanding of the non-identity problem, which he sees as emerging from a tension between “five plausible premises and one implausible conclusion.” (Boonin, 2014: 27) In relation to the case of *Wilma* described above, he lists these premises as follows:

- P1: Wilma’s act of conceiving now rather than taking a pill once a day for two months before conceiving does not make Pebbles worse off than she would otherwise have been
- P2: If A’s act harms B, then A’s act makes B worse off than B would otherwise have been
- P3: Wilma’s act of conceiving now rather than taking a pill once a day for two months before conceiving does not harm anyone other than Pebbles
- P4: If an act does not harm anyone, then the act does not wrong anyone
- P5: If an act does not wrong anyone, then the act is not morally wrong
- C: Wilma’s act of conceiving Pebbles is not morally wrong (Boonin, 2014: 27)

Boonin’s objective in his book is to show that we should actually accept this conclusion and thereby reject the non-identity *problem* in favour of a coherent non-identity *argument*. To do so, he dedicates each of his chapters to showing how attempts at resisting it by rejecting one of the premises fail, ultimately concluding that (a) we must accept the Implausible Conclusion, but (b) it is not actually as implausible as it initially seems.

Reflecting Boonin's understanding, this Symposium brings together six philosophers whose strategies for addressing the non-identity problem involve rejecting one of the premises that Boonin claims cannot plausibly be rejected. Janet Malek opens the Symposium with a paper exploring two possible strategies for rejecting P1. The first (the *de re/de dicto* strategy) is based on the idea that we can conceive of Pebbles in two distinct ways—as the particular individual 'Pebbles' or as an individual who has the property of being 'Wilma's child'—and that the latter conception supports the claim that Wilma's refusal to delay conception has in fact made Pebbles worse off than she otherwise would have been. The second (the *metaphysical* strategy) challenges the extent to which the possible children in non-identity cases are actually distinct by emphasizing the non-genetic determinants of identity that will go on to shape the individual who turns out to be 'Wilma's child'. According to Malek, both of these strategies provide plausible ways of constructing continuity of identity among the possible persons implicated in non-identity cases, and therefore provide grounds for rejecting P1.

Molly Gardner follows Malek's discussion with a paper challenging P2. As stated above, P2 assumes that the notion of harm must be understood in a counterfactual sense, according to which a person is harmed by an act if they are made worse off than they otherwise would have been had the act not been performed. On this conception, Pebbles cannot be harmed as a result of Wilma's decision, as she has a life worth living and would not have existed had Wilma acted differently. However, Gardner argues that there is a plausible alternative conception of harm that allows us to claim that Pebbles *has* in fact been harmed in a morally relevant sense. According to the Existence Account of harming, a state of affairs, T, is a harm for an individual, S, if and only if:

- (i) There is an essential component of T that is a condition with respect to which S can be intrinsically better or worse off; and
- (ii) If S existed and T had not obtained, then S would be better off with respect to that condition.

According to Gardner, the Existence Account is capable of providing a coherent harm-based solution to the non-identity problem, one that involves less bullet-biting than alternative harm-based accounts that have been proposed in the literature, and one that meets Boonin's own criteria for a satisfactory solution.

Rahul Kumar is next with a paper challenging P4. As presented above, P4 assumes that being harmed is a necessary condition of being wronged,

though this assumption has notably been challenged by proponents of rights-based solutions to the non-identity problem, who argue that it is possible to violate the rights of a person without making them worse off. Boonin considers and responds to a variety of rights-based solutions in Chapter 5 of his book, though Kumar argues that many of these accounts misconstrue non-consequentialist thinking about rights and their moral significance, and thus Boonin's objections to them do not foreclose the possibility of a tenable rights-based solution. According to Kumar, such a solution is possible, though it must focus on the general right to have one's vital interests adequately considered in the regulation of others' conduct, and this general right must be understood as attaching to prospective children in the *de dicto* sense, rather than to any particular individual.

David Wasserman follows Kumar's discussion with a paper exploring three challenges that might be raised against either P4 or P5, all of which emerge from possible deficiencies in Wilma's attitude toward her procreative decision. The first involves conceiving of Wilma as the steward of a precious gift—the 'gift of life'—that may be bestowed in ways that express disrespect to the recipient or to the gift itself. The second involves seeing Wilma as deviously creating an obligation to her child that is impossible to satisfy, namely, the obligation to protect her child from the harm of blindness. Finally, the third involves seeing Wilma as displaying insensitivity toward the harm of blindness in the way that she responds to the prospect of that harm, by choosing to expose her child to it for selfish, trivial reasons. After canvassing each challenge, Wasserman ultimately endorses a version of the third, concluding that it is possible to claim that Wilma has displayed an objectionable insensitivity in her decision to create a blind child, and that this insensitivity may leave Pebbles with legitimate grounds for complaint.

Tim Mulgan follows Wasserman's discussion with a paper that exclusively challenges P5, or the claim that if an act does not wrong anyone then it is not morally wrong. Mulgan structures his argument around a case in which this claim appears to be false, namely, a case in which humanity elects to become extinct in the face of a planetary crisis rather than to continue existing in space through a 'generation starship' program. Mulgan argues that the decision to allow the extinction of humanity is morally wrong despite wronging no one, and that any plausible moral theory must be able to accommodate this intuition. He then explains how rule consequentialism has the resources to support this intuition, and in turn to provide a way of avoiding Boonin's Implausible Conclusion in the case of *Wilma*.

Melinda Roberts follows Mulgan's discussion with a final paper

challenging Boonin's general approach toward analyzing the non-identity problem. As indicated above, Boonin approaches the non-identity problem via a core 'same-number' choice in which a woman, Wilma, must choose between creating one of two children who will exist at different levels of welfare. He then extends his analysis to other cases in which the non-identity problem arises, including 'different-number' choices in which we must choose between courses of action that will result in different numbers of people existing at different levels of welfare. However, Roberts argues that there are two interrelated problems with this type of approach. First, she argues that the focus on *Wilma* leads Boonin to take an excessively narrow view of the facts in non-identity cases and thereby treat what are plausibly three-option cases (in which an agent can choose between (a) not causing a person to exist, (b) causing that person to exist with a disadvantage, or (c) causing a person to exist *without* a disadvantage) as two-option cases (in which an agent can choose only between (a) and (b)). Second, she argues that this narrow view of the facts in non-identity cases leads Boonin to take an excessively narrow view of the conceptual elements of the non-identity problem, particularly the relevant baseline against which to determine whether a person has been made worse off. Following Roberts' paper, the Symposium concludes with a reply by David Boonin, who clarifies his arguments and responds to the various objections that have been raised by the commentators.

Like Boonin's book, I hope this Symposium contributes further to our understanding of the non-identity problem and the many challenges it poses in the context of procreative and intergenerational ethics. In closing, I would like to express my gratitude to David Boonin and the authors for their participation, to the anonymous referees for their insightful feedback, and to Serena Olsaretti and Iñigo González-Ricoy for their constant assistance throughout the editorial process.

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