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Do only existing people deserve moral consideration or do people who will almost certainly come into existence also deserve moral consideration?

What does it mean to have moral consideration? Well a 'morally considerable being is a being who can be wronged' (Gruen, 2021). Many or I would say most people would agree to say that people who will almost certainly come into existence (future people) deserve moral consideration. Our general inclination is indeed that we ought not to wrong future people. However the question then is how can our actions in the present wrong (or benefit) future people? In trying to answer this question we run into what is known as the non-identity problem (NIP) as articulated by Derek Parfit (1987, Ch.16). NIP is supposed to be a problem specifically for moral obligations with respect to future people. In the first part of this essay I will argue that NIP is a problem also for obligations with respect to the future of actual people, in particular for the moral justification of social policies regarding the future. In the last part I will point out that Attfield's theory of Biocentric Consequentialism provides a promising solution to these problems.

The problem of non-identity and future people

The problem of non-identity is rooted in the idea that someone's identity is dependent on the particular act of procreation that brought her about. The particular time of conception is one act in a chain of acts, such that had one significant act in that chain not been performed, the conception probably wouldn't have taken place and so that particular person would not have been born. (1987, p.352-355)

With this concept of identity in mind, we run into a paradox about the right or wrong of our actions with respect to future people. This paradox is based on two intuitions about moral actions, the first being the intuition that for an act to be morally objectionable, it must wrong a particular person (1987, p.362). The second intuition at stake is the principle of being comparatively worse off which says that for an act to wrong a particular person, it must make this person comparatively worse off. These intuitions come together in what Parfit calls the Person Affecting View (PAV) (1987, p.370). In relation to the question whether future people deserve moral consideration this intuition would imply that if the answer is affirmative, future people should be capable of being

wronged by our actions. The implication of this view is, that if there is no *identifiable* individual that is made *worse off* by our actions, no wrong can be done.

The problem of non-identity then arises from the fact that significant choices we make in the present with regards to the quality of life that people will enjoy in the future brings about a different chain of actions than would have come about if we had made a different choice. The choice we made determines not only the quality of life lived in the future, but also the identity of the people that will live to enjoy it. And most people, even in barren circumstances often consider their life worth living; most people are rather alive than dead, which implies that most people are not being harmed by their existence since they consider their existence as worth having (1987, p.362)

The final step in bringing NIP home is that in performing a morally objectionable act with regards to the quality of life in the future we haven't harmed anyone, because had we acted differently this would have resulted in a different person being born altogether. And for this person to be wronged by our actions, it must make her comparatively worse off, however, she very likely owes her existence to this supposedly wrongful act - for had that act not been performed, she may never have been conceived – and if she considers her life to be worth living than she is not made worse off than she otherwise would have been (1987, p.359) So the problem of non-identity seems to saddle us with the counterintuitive conclusion that it is impossible to do wrong to future people in a meaningful sense.

How to solve this problem? Well the easiest way might seem to stick to PAP and argue that future people do not deserve moral consideration and so we have no obligations to future generations whatsoever. But the implication of PAP is that it leaves no means available to criticize policies that severely deplete resources only for the benefit of leading an affluent life in the present, leaving nothing for the next generation even to fulfil their basic needs. (1987, p.362-364) Neither would this view consider anything wrong with performing an act in the present which we know will cause serious damage to people living a hundred years from now. Such like storing nuclear waste in containers which we know will start to leak in a hundred years or so (Routley and Routley, 1978, p.135). While both acts clearly seem wrong, PAP tells us that our moral intuitions on these issues are unfounded or false.

If we are determined to stick to both PAP the problem of non-identity shows us that we have no means to address our moral intuitions about future people, however, I would argue that the problem of non-identity also shows us that in this case we have no means to address our moral intuitions about moral actions that affect the future of actual people.

The problem of non-identity; actual people and social policies

The reason why I believe that the problem of non-identity also affects our moral obligations to actual people is because I believe that Parfit's account of identity is incomplete. Parfit argues (1987, p357) that "(f)uture people are, in one respect, unlike distant people. We can affect their identity." The assumption underlying this argument is that our genetic make-up, which is determined in the moment of conception, is both necessary and *sufficient* for the identity of people.

Such a view, that our identity is only based on our genetic makeup I would like to call a *narrow conception of identity*. I believe, however, that when we want to speak meaningfully of moral obligations with regards to other people we need to adopt a *broad conception of identity* which includes genetic identity, personal identity and circumstantial identity. Consider Parfit's argument of the fourteen year girl who has two options, to become pregnant or not (Ibid). Postponing pregnancy, Parfit argues, alters the genetic identity of the child. I don't see any reason to argue with this, however I would argue also that postponing the pregnancy alters the identity of the girl, not her genetic identity but her circumstantial identity and probably her personal identity as well. And we will have different obligations to her circumstantial identity as a teenage mom, then we would have to the circumstantial identity of her being a student without a child. And being a teenage mom might steer her life in such a way that she comes to have a significantly different personal identity than she would have had had she not become a teenage mom.

To make my point clear about the different possible personal identities, consider a hypothetical (but not uncommon) case of illegal adoption. A very poor mother, living in a very poor country who, due to an illness, is temporally unable to take care of her new-born baby. She brings the child to an orphanage, intending to come back after she has recovered from her illness. When she comes back for her child, she is told that the baby died while she was away. She is sad, but at the

same time relieved since she has no means to raise a child at this moment. What she doesn't know is that the baby hasn't died, but instead has been adopted by a loving and well to do couple living in a rich country under fortunate circumstances. The couple does not know that the adoption was in fact illegal. Forty years later, the malpractices of the orphanage are being discovered by a journalist and the child, now a woman, finds out about the illegality of her adoption. The woman is invited to a talk-show, where she explains her case and tells the audience that she has been wronged. She is asked to explain *how* exactly she has been wronged, because if she hadn't been adopted illegally she wouldn't be sitting here as a healthy well-educated and happy woman but instead would have lived a life under appalling conditions with poor prospects in that poor country just like her biological sister did. The woman doesn't know what to say, except that what the orphanage did was wrong. Most people would agree that that is indeed true, but on what grounds? The orphanage might have wronged the mother at that moment, who lost her child, but in this case the mother was actually relieved, first to hear that her child had died and even more relieved when she found out that the child lived a good life thanks to the adoption.

Did the adoption then wrong the adopted child? Next to our genetic makeup, non-genetic circumstances like culture, education, good health, being loved are extremely important in forming our identity. I think it is fair to say that the woman who she would have been had she not been adopted is not the same person, not the same personal identity, as she is now. The woman she is now, is probably better off than the woman she might have been. Maybe we could say then, that the act of illegal adoption actually benefited her instead of wronged her? But that would imply that her genetic sister, who was never adopted and lives here live under the appalling circumstances in this poor country was actually wronged by not being adopted, whether legally or illegally, which is an untenable position to hold as well.

People might react that the act of adoption only affected part of her identity, the nurture part. There is some part of her identity that isn't affected, which is the most significant part: her genetic makeup. However this would entail, that had she and her sister been identical twins, they would still have been in the most important sense identical to each other, the same person. This is a hard claim to make even in cases where the lives of identical twins are very similar. So if we agree that both sisters are genetically identical but in very important aspects not personally identical, and since both sisters consider their lives worth living, neither of the sisters is comparatively worse off.

In cases where an act or the omission of an act is so significant that it changes a course of life of someone so dramatically such that it has a significant impact on the personal identity of that person, that act cannot have benefited or wronged that person in the sense that she is comparatively worse off.

Therefore social policies with the aim of prevention cannot be said to be either good or bad for the people they affect, because social policies are mostly aimed at promoting one course of life instead of another. Their aim is to promote lives that are significantly different from lives that could have been lived without the policies. Social policies aimed at improving the quality of life affect the personal identities of the people they are aimed at. No-one can be said to be comparatively better or worse off because of these policies. To make the impact of social policies on the personal identities of people obvious, we'd only need to compare the lives of children recently being born in Yemen to children born in Sweden. The place of your crib has an enormous impact on your personal identity and obviously social policies play a significant role in this.

But social policies are not only aimed at prevention, we also tend to consider it a good thing to ensure help to people with respect to specific circumstances, like drug addicts, cancer patients, demented people, or refugees. These people deserve moral consideration not because of their genetic identity or their personal identity but because of their circumstantial identity: as a cancer patient, as a drug addict, as a demented person, as a refugee. These policies are developed to function not only at this very moment, but are designed to ensure appropriate help to whoever happens to end up in such circumstances. Who these people will be genetically, we don't know yet, because this also depends on the social policies aimed at prevention. In these cases, the only thing we can be sure of with respect to the present and the future is the circumstantial identity of the people involved. It is to these circumstantial identities that we have obligations.

The social policy of prevention of commonly undesired courses of lives is normally considered to be a good thing and is considered to be a moral duty of any good government. The same goes for social policies aimed to ensure, as well in the present as in the future, the well-being of certain individuals in specific circumstances independent of their genetic identity. Both the person-affecting principle and the principle of being comparatively worse off provide no means to criticize the act of illegal adoption or to criticize the head of the cancer department of a hospital who

decides to spent money on cakes and candy, money reserved for the future replacement of crucial equipment to cure cancers in an early stage. If we want to account for the intuition that illegal adoption is wrong and that spending money on trivial cases in the present which was intended to relieve suffering in the future is also wrong we need different impersonal principles for normative moral guidance with respect to both the near *and* far future.

In answer to the main question of this essay “do future people deserve moral consideration?” I would argue that if we think that existing people deserve moral consideration, and obviously we do, in that case not yet existing people will deserve moral consideration on the same grounds. The question then is, what are these grounds?

Biocentric consequentialism

Robin Attfield (2007) states, that instead of a person affecting view of morality, , ‘... we can and should be concerned for whoever there will be, within the period that we can affect, even if this concern relates to more than one alternative population’ (p.363). Attfield is talking about future people but as I hope to have shown above this statement also applies to existing human beings and their future. What is needed is a more impersonal approach when thinking about obligations to possible identities whether genetical, personal or circumstantial.

One possible approach would be a contractarian approach, but as Attfield (2014, p.50) argues, contractarianism is based on the assumption that self-interest makes people agree to rules that are fair and just and comply with them, however there is no reason to suppose that self-interested people would agree to rules of which they assume will never apply to them. Those can be rules that benefit either future generations or present people under circumstances they assume they will never fall into. Also because most people underestimate the life changing effects of social policies and assume that they have become who they’ve become on their own, because of their genetic identity. Contractarianism is not a stable ground for moral obligations directed at the future.

A more promising approach for providing a normative theory capable of coping with inter-human ethics is some form of consequentialism. A consequentialist theory of morality, is capable of circumventing the problem of non-identity altogether because it dictates the promotion of value

over disvalue. Therefore consequentialism does not rely on PAP; the identity of the people involved whether genetic, personal or circumstantial is not relevant for our moral obligations. What is relevant is the maximization of value.

Average and Total Consequentialism are two views of how we could maximize value. Average consequentialism dictates us to promote the maximization of average value of a group's members, or in this case of all human beings present and future. Such a view has many counterintuitive implications such as that it is morally wrong to create lives (have children) that lower the average value, or could even dictate the killing of people who push the average down (2014, p.51) Total Consequentialism, which tells us to promote the total amount of value, doesn't have these implications. However it does need to avoid what Parfit calls the Repugnant Conclusion which says that if committed to the total view then "For any possibly population of at least ten billion people, all with very high quality of life, there must be some much larger imaginable population whose existence, if other things are equal, would be better, even though its members have lives that are barely worth living" (1987 p.388) The Repugnant Conclusion supposedly comes about because in the total view an addition of lives worth living cannot make a population worse and so in order to maximize total value we should aim for the biggest population we can support, even if that means average happiness goes down. As the name already suggests, Parfit himself finds the Repugnant Conclusion unacceptable and most philosophers and non-philosophers agree.

A promising solution to both NIP and the repugnant conclusion seems to be Robin Attfield's Biocentric Consequentialism, which is able to avoid both the problem of non-identity as the repugnant conclusion, while at the same time it has the advantage of being able to attribute moral consideration not just to human beings, but to all living beings, in the present, the near future and the distant future. As for any consequentialist theory, in order to promote value over disvalue, we need to know *what is* of value. According to Attfield (2020), from an individual point of view, what is of value is the satisfaction of one's interests, every being with interests has a good of their own and thus 'moral standing or considerability belongs to whatever has a good of its own' (Ch.1- p.33). Because the satisfaction of a being's interests results in their flourishing or well-being, therefore what is of intrinsic value is the flourishing of all beings that have a good of their own (2020, Ch.2- p.5).

By analogy, Attfield argues that not only humans, but all sentient beings and in fact all living beings have a good of their own (2020, Ch.1) and thus all living beings are morally considerable and their flourishing is therefore intrinsically valuable. And since 'the development and the ability to exercise the essential capacities of one's kind' are constitutive of the flourishing of that kind, the development of the essential capacities of that thing is also intrinsically good. (2020, Ch.3- p.21) So in order to promote value over disvalue according to Attfield, we should promote the development of the essential capacities of living beings.

Attfield can account for the moral considerability of people in the future, because if we want to *maximize* total value we need to hold to the principle of equal consideration of interests and thus there is no ground for discrimination between equal interests neither in space nor in time. This however doesn't entail that all interests are to be counted equally. The satisfaction of all basic needs, (needs for survival and the needs for the development of essential capacities) takes priority over the satisfaction of all other needs or wants, because it is the satisfaction of basic needs that makes life worth living to begin with and they therefore outweigh all added value through satisfaction of non-basic needs (2014, p.53). And because of this priority of the satisfaction of basic needs, he does not commit himself to the repugnant conclusion. Because a world in which all basic needs are being met has more total value than Parfit's hypothetical world in which we have a massive population with very low positive welfare. Basically what Attfield says is that the most profit can be made in fulfilling basic needs. Attfield also argues that the basic needs of creatures with relatively complex and sophisticated characteristics, when in conflict outweigh the basic needs of creature with less complex and sophisticated characteristics. (2020, p.29 Ch.5) Different capacities and different vulnerabilities provide for different degrees of value in different forms of life. (2020, Ch.5-p.24) Such a system of priorities amongst values provide a rational basis for ranking the various states, activities and experiences necessary for making moral decisions at all.

With his biocentric consequentialism, Attfield successfully circumvents the problem of non-identity because of the impersonal aspects of moral obligations and without the implication of having to commit oneself to the repugnant conclusion. As a bonus, with its attribution of moral considerability to all life, his theory is capable to cope not only with inter-human ethics but also with inter-species ethics, while also accounting for the moral intuition that if different interests conflict, different values have different weights.

Biocentric consequentialism and human rights.

What makes biocentric consequentialism especially attractive is that, because it prioritizes the satisfaction of basic needs over the satisfaction of non-basic needs in combination with the principle of equal consideration of equal interests, it provides the means to attribute basic rights to humans (and non-humans), both existing and not-yet existing. This is important because rights over time have acquired normative priority in comparison to other regulatory systems in the sense that all or most normative regulations ought to be compatible with rights. (Düwell & Bos, 2016, p.231)

The basic needs principle together with the principle of equality of interests translate into the attribution of basic rights to all individuals in the present and the future. These rights could be human rights, but I think biocentric consequentialism provides a basis for the attribution of basic rights to non-human beings as well. However for clarity purposes I will focus for the moment on human rights and their regulating force. The attribution of human rights to all (possible) humans requires the development of institutions that regulate our behaviour in accordance with these rights. "We have long-term responsibilities to future people, simply because the possibility that their rights will be secured requires that we adopt certain forms of conduct in the here and now." (2016, p.238) We have obligations to ensure the human rights of people in the future. So the argument for the moral obligations to people in the future "will not be based on strange ideas concerning non-existing people who purportedly are already claiming rights in the present." (Ibid) Future people deserve moral consideration based on the value of the satisfaction of their basic needs, we have "duties to future persons because as human individuals they will possess human rights." (Ibid) Biocentric consequentialism with its focus on basic needs, provides a justification for the existence of states and their social policies for the purpose of protecting the basic rights of the individuals that live and will live under their jurisdiction. Without the restriction of having to be capable of claiming your rights in order to possess them, it also opens up the possibility of attributing rights to non-human beings. This does however ask for a reinterpretation of the concept of a 'right', such a reinterpretation may also be helpful in dealing with the (environmental) challenges that we are facing in the twenty-first century.

The question is however, how natural and intuitive such a reinterpretation would be, since it necessarily has to be a kind of impersonal interpretation of the concept of rights. Because in an account of biocentric consequentialism (human) rights could exist solely for the purpose of the maximization of total value. Such a pragmatic account of rights seems to imply that basic rights are attributed only to beings if they contribute to that maximization of value. So opposite to what we normally consider human rights to be, namely unconditional and irretrievable and attributed to human beings as human beings, they can now be retrieved the moment the satisfaction of basic needs no longer outweigh the satisfaction of other needs. But to whom do we have the obligation to maximize total value? If it is to the individuals involved? Wouldn't we then have to let go of an impersonal view of moral obligation in favour of a personal view? However, such a personal account would take us straight back to square one, since it was the impersonal aspect of consequentialism that made it so attractive. Attractive because it could circumvent all kinds of problems associated with a more personal account of moral obligations with regard to the future. So even though Biocentric consequentialism supplies a normative theory capable of coping with future related ethics, it doesn't seem capable to connect with all our moral intuitions concerning the present and future.

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