ROLES AND RESPONSIBILITIES: CREATING MORAL SUBJECTS

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ABSTRACT

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Roles and Responsibilities: Creating Moral Subjects

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This work centers on the non-identity problem, but the implications of my view extend well beyond standard non-identity cases. The non-identity problem arises when moral agents are in a position to determine both the welfare and existence of the moral subject(s) in question. If we assume a very commonsense account of harm—the *comparative* account—then causing a subject to exist entails, under some circumstances, that low welfare is not actually a matter of moral concern. This seems intuitively incorrect. The non-identity problem challenges what seem to be very clear intuitions about wrongness and harm, and it uncovers distinct moral considerations. A solution must reconcile our intuitions of harm with a justified account of that harm. My approach allows this through appeal to specific responsibilities that arise for agents who take on certain roles. My aim here is to provide a thorough analysis of this kind of role-based approach to creation cases, and to provide a means by which we can uncover harm in non-identity cases. This solution is useful not because I propose a principle that delineates precisely when a given act of creation is wrong, but because the feature of non-identity cases that generated the problem was our supposed inability to appeal to the comparative account of harm when assessing wrongness; and my view allows for an appeal to the comparative account of harm. The real problem with non-identity cases is not simply that we cannot tell the agent that she has done something wrong. It is that we were

blocked from even analyzing these cases properly in the first place. I have uncovered a means by which we can usefully analyze creation cases, but its use does not end there. If these principles are true, they not only provide us with a sound approach to the non-identity problem, they also provide us with moral features to which we can appeal whenever we assess our roles and respective responsibilities to children, future generations, society, species, and to the human race, regardless of the particulars of existence.

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CHAPTER 1: THE NON-IDENTITY PROBLEM

1.1 INTRODUCTION

Imagine a parent decides to feed his child paint chips. This child eats the paint and then suffers brain damage as a result. To make matters worse, let's say this parent fed his child the paint chips fully aware that it would cause brain damage and with the express intention that his child suffer brain damage. Without a doubt, this person has failed in his role as parent. He has unjustifiably harmed his child to whom he bears significant responsibilities. But not all cases of parental failings are so easily cashed out. What if that parent decided to *conceive* with his partner a child with mental functioning equal to that of the paint-chip child? On certain accounts, this isn't even harmful, for reasons I will outline shortly. It turns out that creation cases bring with them unique moral considerations—not only for parents, but also for all moral agents who create moral subjects. Creation cases like these often lead to the non-identity problem.

This work centers on the non-identity problem, but the implications of my view extend well beyond standard non-identity cases. The non-identity problem arises when moral agents are in a position to determine both the welfare and existence of the moral subject(s) in question.[1] If we assume a very commonsense account of harm—the *comparative* account—then causing a subject to exist entails, under some circumstances, that low welfare is not actually a matter of moral concern. This seems intuitively incorrect. The non-identity problem challenges what seem to be

[1] I will be using as a basis the formulation of the non-identity problem outlined by Derek Parfit. See Parfit 1984: 351-379.

very clear intuitions about wrongness and harm, and it uncovers distinct moral considerations. A solution must reconcile our intuitions of harm with a justified account of that harm. My approach allows this through appeal to specific responsibilities that arise for agents who take on certain roles. My aim here is to provide a thorough analysis of this kind of role-based approach to creation cases, and to provide a means by which we can uncover harm in non-identity cases. This analysis has direct implications not only for abstract ethical dilemmas, but also for practical issues, such as environmental policy, population ethics, bioethics, animal ethics, and species ethics.

1.2 THE PROBLEM: TWO VERSIONS

The non-identity problem is often cast in terms of either same number cases or different number cases.[2] While I maintain a similar distinction, my focus in not on numbers per se. Rather, I wish to focus on distinguishing cases of a narrower, personal nature from cases of a broader, social nature.

Version 1 – Simple Procreation Cases

Simple cases of the non-identity problem classically involve questions of which individual children to have in the near future. I focus on this version first, and I then outline the second version involving large-scale social concerns. These two versions carry importantly different implications – which I will uncover as this work progresses—but all non-identity cases have certain of the same features. While the non-identity problem comes in various forms, crucial to the formation of a non-

[2] This is part of Parfit's original formulation of the problem. See Parfit 1984.

identity problem is that an act produce two specific effects.[3] That is, the case in question must have the following characteristics, which I call "Identity Determination" and "Welfare Determination:"

> ID: The act in question must determine the identity of the subject in question.
>
> WD: The act in question must predictably affect the overall welfare of the subject in question.

To illustrate how these determinations take place, consider the following simple procreation case:

> *Sarah*: Sarah decides to become a mother. She goes to the doctor and the doctor tells her two things. One: if she conceives immediately, she will give birth to a child with a serious birth defect—call this child 'Trig.' The particular defect does not matter, although one should keep in mind that it is serious, but not so severe that it significantly shortens the child's life or makes the child's life not worth living. Two: if she waits and takes a tiny pill every day for two months, she will conceive and give birth to a perfectly healthy child—call him 'Track.' So, her options are (1) to conceive Trig now with a defect and lower welfare than the child she otherwise would have conceived or (2) conceive perfectly healthy Track later with higher welfare (but with the added inconvenience of repeatedly having to take a pill). She chooses option (1).

The act of not taking the pill and conceiving immediately determines that a certain egg and sperm unite creating not only a specific identity but also the defect that affects the welfare of the person with that particular identity. Given basic facts about reproduction, taking the pill and waiting to conceive determines that a different person with a different identity comes into

[3] This outlining of the problems comes directly from an earlier article. See Haramia 2012: 356.

existence, because waiting ensures that a different sperm fertilizes a different egg. Thus, the genetic identity of Sarah's child is time-dependent. Taking the pill also determines that the person who comes into existence will have a higher level of welfare that comes from not having the serious defect. So, in the case above, the mother must choose between two courses of action, each of which determines the identity and affects the welfare of her future child.

Since Sarah decides that taking the pills is too inconvenient, she conceives immediately and conceives a child with a serious defect. She could simply have waited and very soon given birth to a healthy child, but she does not. Does she then do something wrong? Many think that she does do something wrong by knowingly and willingly conceiving a child with a defect when she could have conceived a healthy child. And we tend to think that she then harms her child. But closer examination undercuts this intuition, and out of this arises the problem with non-identity cases.

If you intuit that Sarah harms her child, it is likely that you are also envisioning a very useful and common account of harm—the aforementioned comparative account. The simple explanation of this account is the following. When given a case with a moral agent and a moral subject, we determine whether harm occurs by comparing the current state of the subject with the state the subject would have been in had the agent not performed the act in question (or performed it, as the case may be). If the current state leaves the subject worse off that the subject otherwise would have been, then the subject has been harmed. This account can be stated as follows:

> *Comparative Account*: P's act is harmful if P's act causes Q to be worse off than Q otherwise would have been.

So, if I steal one thousand dollars from you, I have harmed you under the comparative account because you are one thousand dollars poorer and *pro tanto* worse off than if I had not

stolen the money. Notice that this also entails that I can harm you if, say, I am an employer, and I hire someone else to fill a position for which you applied. While both of the above actions are harmful, stealing from you seems clearly wrong while opting to employ another candidate seems (*prima facie*) perfectly permissible. That is because, on this account, 'harm' is not a morally loaded term. The comparison is a metric by which we may determine whether harm has occurred, but it is a further question whether any case of harm is also morally wrong. So even in Sarah's case, pinpointing harm is only the first step, and determining whether the harm is unjustified (and thereby wrong) is an important second step.

Yet, in the *Sarah* case, neither Trig nor Track is made worse off no matter Sarah's choice. Despite appearances, if Sarah conceives Trig, Sarah does not thereby harm Trig. Trig has a life worth living, and, importantly, Trig has not been made worse off than he otherwise would have been. The alternative is that he does not exist at all. Assuming existence is not positively worse for Trig, Sarah does not harm Trig by conceiving him instead of Track. In fact, she may benefit him because his life is worth living. And since Track does not exist, it is impossible that he be harmed in this scenario. Furthermore, Sarah avoids the hassle of taking a pill for two months. Thus, under the comparative account of harm, no one is harmed, and Sarah and Trig may actually be benefited. While this comparative sense is not the only sense of harm that philosophers have posited, it is the sense on which Parfit relies to generate the problem. Furthermore, given that this account of harm is so useful in more common cases, I claim that a virtue of a good approach to the non-identity problem will be its ability to retain this commonsense, comparative account of harm.

Version 2 – Future Generations Cases

The simple procreation case I have presented above qualifies as what Parfit calls "Same Number" cases.[4] Whether Sarah takes the pill and waits to conceive or conceives immediately, the same number of persons will come into existence, namely, one child. Yet, what makes simple cases simple for our purposes is not the fact that only one person will come into existence as a result of the choice at hand, rather, what matters is that the consequences are immediate and the choices are personal. So a couple's choice about whether to have two or three children also falls under the category of simple procreation cases, even though a different number of children will exist in either scenario. This simple version is not the only kind of non-identity case. Personal, procreation cases differ from other, more social and sweeping cases that raise the non-identity problem. These are commonly cases wherein a different or unknown number of persons will come into existence in the further future—depending on the decision made—but, importantly, theses cases usually require that we consider our roles as members of society or as steward to those who come after us. Cases that question how we should act toward the environment and future generations often fall into this category. Consider the following case:[5]

> *Business-as-usual*: We pollute the environment by intentionally not recycling, wantonly increasing carbon emissions, ruining the soil that grows our food, and using up our natural resources without regard for the future. As we do this, we find that our lives are full of ease, convenience, and plentitude for several generations. It is also the case that the union of each egg and sperm that determine who exists in a given generation is very time-dependent. Such sweeping behavior will cause

[4] Parfit 1984: 356.

[5] Parfit 1984: 361-364. I present here a significantly modified case involving the salient concerns that arise from Parfit's discussion of Depletion versus Conservation cases.

> individuals to meet and couple at different times, creating different people than they would have otherwise. Thus, our acts are such that different people come into existence than would have existed had we not engaged in these practices. Unsurprisingly, after several generations, the welfare of the existing people drops precipitously because we have damaged the earth, radically altered the climate, and run out of many important resources. Yet, these future people have lives that are still worth living. Importantly, their lives are worse than the lives would have been for the other people we would have had a hand in creating had we not engaged in the above practices.

We probably feel that it is wrong to treat the environment and our resources in such a way at least in part because we feel that it is wrong to make things worse for future generations, especially if we are knowingly making things worse for them simply for the sake of added creature comforts today. However, if we take into account non-identity considerations when analyzing the above case, it turns out that we do not make the members of those future generations who come into existence worse off by our pollution and resource use. If, on the one hand, those who come into existence in a world stripped of resources still have lives worth living, then this scenario is not positively worse for them. On the other hand, those who would have been better off than the future generations who actually come into existence *do not* in fact come into existence and therefore cannot be harmed, because we plainly cannot harm those who do not and will not exist. So, since we do not make anyone worse off, no one is harmed. If no one is harmed in either the *Sarah* case or the *Business-as-usual* case, where is the wrong?

Without an adequate account of harm, it is difficult to make claims of wrongness. We are then left with what seems to be no harm, no wrongdoing, and arguable benefits; therefore, we

should have no qualms with Sarah's decision to conceive immediately, or with the decisions made in the *Business-as-usual* case. But many of us still feel as if something has gone morally wrong, hence the problem with non-identity. We intuit a wrong, yet, due to the particulars of the case, we have no account of that wrong. This is not to say that there exists no account of the wrong, but the burden of proof is on those of us who intuit wrongness to say how exactly that wrong arises.

The basis for this problem with non-identity can be encapsulated in the following principles:

(A) If P's act harms Q, then P's act makes Q worse off than Q otherwise would have been.

(B) If P's act does not harm Q, then P's act does not wrong Q.

(C) If P's act does not wrong Q, then P's act is not wrong.

These seemingly reasonable principles, along with Identity Determination and Welfare Determination, are precisely what give rise to the non-identity problem. In other words, in situations where P's action determines whether and how Q exists, counter-intuitive conclusions follow from the intuitively forceful principles above.

1.3 ISOLATING THE RELEVANT FACTORS

Notice that this does not entail that there could be *nothing* wrong with non-identity cases like the *Business-as-usual* and *Sarah* cases. It is sufficient for wrongness that we demonstrate that the actions taken will eventually lead to a life or lives that are not even worth living. If our resource use causes future generations to fall below this threshold, then they are clearly harmed on the comparative account. If you knowingly conceive a child with a birth defect that severely shortens that child's life and causes great pain for the entirety of that short life, then that child is harmed

because that child's life is not worth living. Put broadly, if someone's life is not worth living, and if our actions intentionally determined both that existence and the low welfare, then we have harmed that person, we have an account of that harm, and this harm easily generates the wrongness of the action. However, this explanation of wrongness is insufficient when it comes to non-identity cases. Non-identity cases focus on a specific welfare window. Outside of this window, there are those who, on the one hand, come into existence before this time and are not worse off than those who would have existed otherwise; and, on the other hand, there are those who come into existence much later and have lives that are not even worth living. Within this window are lives with welfare lower than those who would have existed otherwise, but not so low that these lives are not worth living. A complete account of wrongness must explain what is wrong with the action even if we focus only on this window. Thus, the aim of any solution to the non-identity problem will not be to find just any account of wrongness. We are not looking for a reason per se to call the act in question "wrong." What is needed is an account that explains why it is wrong even if we only consider the window wherein no one who is created is positively worse off.

If you are tempted to conclude that it is never wrong to conceive a child with a life worth living, note that the comparative account of harm does not entail this. Consider the following case.

> *Sarah*:* Sarah is on medication for a minor issue. Halting the medication would involve only a small sacrifice for Sarah. As it turns out, she wants to conceive, but the doctor tells her that if she conceives now, she will give birth to Trig—a child with a significant birth defect. If she waits and continues on her medication, she will give birth to Track, who will also have a significant birth defect due directly to her continuing her medication. Finally the doctor tells her that if she immediately stops using her current medication and instead takes a tiny pill for two months, she

will give birth to Track*—a perfectly healthy child. Track* would have the same overall identity as Track, but Track* would lack the birth defect.

So, Sarah has three choices: she could bring about a certain combination of existence and welfare in Trig, or in Track, or in Track*. Our intuitions tell us she should conceive Track*. This is because Track* will be a perfectly healthy child. But note that Trig cannot exist without the defect, whereas Track can. So, if Sarah knowingly conceives one child with a significant birth defect, then she harms her child—because she has made Track worse off than he otherwise would have been—but she does not harm her child if she knowingly conceives Trig with his defect, for Trig is not made worse off than he otherwise would have been. Thus, assuming the truth of the comparative account of harm as it stands, we can ground the wrongness of conceiving a child with a life worth living when that same child could be made better off, but not when that child would not exist otherwise. This highlights some of the strangeness within the non-identity problem. We may conclude that it is perfectly acceptable to conceive one child with a defect when you could have conceived a healthy child, but that it is far worse to conceive another child with a defect when you could have conceived a healthy child. Thus, if to harm is to make someone worse off than he otherwise would have been, Sarah is not harming her child when she conceives Trig with a defect, but she is harming her child when she conceives Track with a defect. This is a perplexing outcome of the comparative account of harm, and it suggests that this account requires modification.

If the outcome of *Sarah** seems incorrect, then perhaps one might claim that it is just a brute fact that if Sarah knowingly conceives a child with a significant defect, she has done something wrong. If this were so, then it would always be wrong to do this. But that does not seem to be the case either. Suppose the doctor told Sarah that *any* child she conceives will have a significant birth defect, but not so significant that the child's life would not be worth living. In this

case, Sarah will decide between a child with a defect and no child at all. Suppose, for example, she has a condition that ensures that she can only conceive blind children. If she chooses to conceive a blind child in this case, we probably do not have the same intuitions about wrongness via harm, especially if she is equipped to care fully for a blind child. Many have the intuition that it does not seem either harmful or wrong to conceive a child who will have a life worth living when you are unable to conceive a perfectly healthy child. Therefore, the choices available do matter, at least in generating our intuitions. If our intuitions are in fact tracking important moral properties, then we need to respond to these divergent intuitions.

1.4 HOW TO RESPOND: PERSON-AFFECTING VS. IMPERSONAL APPROACHES

Recognizing the principles at work will help to outline available avenues leading to potential solutions to the non-identity problem. There are two overly simple responses to avoid, at this point. First, someone could claim that while Sarah does make the worse choice when she decides to conceive Trig, she does not go so far as to actually commit a wrongdoing. However, it should be noted that, to generate a problem, we need not makes as strong a charge as *wrongness* in order to arrive at a counterintuitive conclusion. Perhaps you think that Sarah only makes the worse choice, but that she does not do something positively wrong. If this is the case, you might think that Sarah does something *better* for her child when she chooses the healthy child over the disabled child, but that it is not actually wrong to choose to have a disabled child. But this in itself is not enough to solve the problem of having reasonable principles and a counterintuitive conclusion. From the formulation of the argument so far, it turns out that there is *no one* affected for the worse. No one is worse off if Sarah gives birth to Trig. In fact, one could even argue that both Sarah and Trig are benefited in this scenario. Sarah would receive the small benefit of not

having to take a tiny pill for two months. And Trig would receive the arguable benefit of coming into existence. Therefore, even if you have the intuition that Sarah's choice is not positively wrong, you would also have to agree neither choice is worse for *anyone* involved because none of the moral subjects would claim that Sarah should have acted differently for his or her sake. So, it is still not clear why that choice would be better for her child. Even if we grant for the sake of argument that the act is not wrong, one of Sarah's choices seems less harmful than the other, and we still have no explanation of that.

Perhaps, however, you think that the members of the community who are burdened with the care of a disabled child can claim to be made worse off, and this is what makes one choice better than the other. If so, then the second response to avoid is the following. One might think that the reasons to choose Track over Trig involve the drain on resources and energy that a disabled child would bring to the family and the community. Disabled children tend to require additional accommodations when it comes to their rearing and education. Yet this is presumably ad hoc. It is likely not the case that, if you thought there was a problem with Sarah's decision, then you had these concerns for the family and the education system in mind.[6] Most people are not considering the school system when intuiting a problem with Sarah's case. They are concerned for her child. And recall that the mother, Sarah, prefers this option, so the added familial strain should not matter. Most people intuit that considerations regarding the child himself are enough to generate a problem. And we certainly do not think that the drain on resources and energy is itself enough to justify not having a child in other cases. Suppose Sarah could only conceive a child with a defect, and that she was deciding between having a child with a defect and not having a child at all. If she chooses to have a child in this case, the drain on resources and energy would not be enough to

[6] David Boonin noted this while teaching a graduate seminar on the problem.

generate a problem. Likewise, any child born will be some strain on her family and on the school system. But when someone decides to have a (presumably healthy) child rather than no child at all, we tend not to lament additional resources and energy that will then be used to raise this child.[7]

Person-Affecting Principles

Since many of these intuitions are driven by concern for the child himself, what might be needed to solve the problem is what Parfit calls a "Person-Affecting Principle," or PAP.[8] All else equal, a PAP says that a choice will be worse if it makes people worse off. We may cash out the PAP in either a narrow or wide sense, and the sense will determine whose welfare should be weighed and how.[9] A *narrow* PAP would state that a choice is worse if it makes some *individual* worse off than she otherwise would have been. This identity-dependent, comparative principle is how we commonly construe straightforward cases of harm to individuals. Again, if I steal one thousand dollars from you, I make you worse off than you otherwise would have been, and I thereby harm you in a narrow, person-affecting way. This harm can then ground wrongness, perhaps because it violates your rights.

Some have claimed that the child's rights have been violated in non-identity cases, and that narrow, rights-based concerns ground wrongness.[10] However, these rights-based solutions are often forced to stray from the traditional structure of rights discourse when facing the non-identity problem. Though this does not mean that they are necessarily unsuccessful, it is reason to explore

[7] I will return to more complex versions of these types of considerations later, as they do have some traction with certain formulations of the problem. But it should be noted that the problem cannot be so easily dismissed with a casual appeal to the drain on families and educational systems.

[8] Parfit 1984: 370 & 2011: 219.

[9] Parfit 1984: 379, 396.

[10] See Tooley 1983, Woodward 1986, Smolkin 1999, and McBrayer 2008, for example.

other views that could account for both harm and rights-violations in commonsense terms. Typically, one must have interests that are violated in order to make a rights-based complaint. But no actual person in non-identity cases can make such a complaint, and, importantly, those who do not and will not exist do not have rights that can be violated by virtue of their non-existence. If rights-based approaches are indeed inadequate, and if the narrow PAP turns out to be the only relevant principle, then non-identity cases do not actually present moral problems—instead, they merely present challenges to our intuitions. The main problem with non-identity is that none of the individuals who exists is worse off than individuals otherwise would have been. So, if we restrict ourselves to only a narrow PAP, we might be forced to bite the bullet and conclude that our intuitions are incorrect and that there is nothing wrong in non-identity cases.

That biting the bullet leads to counterintuitive conclusions is not by itself reason not to bite the bullet. It is, however, reason enough to explore other senses of the PAP. A *wide* PAP would entail that a choice is worse if it makes things worse for people in a more general sense.[11] In Chapter Two, I examine and expand upon this wide sense of the PAP in order to set up my approach to the non-identity problem.

Impersonal Approaches

Given our intuitions about harm to future children or future generations, one could attempt to solve the problem through appeal to a PAP. Given the problems with many PAP-driven approaches, one might try to solve the problem by appealing to better and worse states of affairs, and not to the effects on any given individual—an impersonal approach. This could be done either by assessing the consequences of the different choices, or by assessing the character of the agent

[11] Parfit 1984: 396 & 2011: 219-220.

in question. If we are assessing the agent's character—as a virtue ethicist would do—perhaps we will find that the act is wrong due to the agent's acting from a bad character, regardless of the effect on moral subjects. If this is so, we can avoid appealing to a person-affecting account of harm and ground the wrongness elsewhere. This view cannot justify the intuition that Sarah harms her child—which, admittedly, may not be necessary for successfully determining wrongdoing, but which is nonetheless a virtue of a completely explanatory solution to the non-identity problem. The other avenue is the consequentialist approach. Even if no individual is harmed, the state of affairs where a disabled child is conceived is worse than the state of affairs where a healthy child is conceived, all else equal. This, too, would avoid an appeal to the comparative account of harm, but it is also beset with famous problems and may require significant revision in order to be a well-rounded solution to the non-identity problem. The two most important problems with the approach, for our purposes, are the Mere Addition Paradox and the Repugnant Conclusion, outlined by Parfit.[12] These are familiar objections, and while I do not wish to outline these concerns (or the many interesting responses to these concerns) in a detailed way here, I do wish to note that I aim in this work to bring personal considerations into my analysis and to shift the focus away from the effects produced—whether they be person-affecting or impersonal effects. Thus, I look elsewhere for a successful solution, though I do not deny the possibility that an acceptable impersonal solution is possible.

1.5 AN OVERVIEW

After encountering the non-identity problem, we are left with many important questions. When it is morally acceptable to conceive a child with a significant defect and when it is not? Is it

[12] These are outlined in detail in *Reasons and Persons*. See Parfit1984.

morally acceptable to harm the environment when this produces future generations with lower welfare over others with higher welfare? We also need to determine which people matter to *us* insofar as we are responsible agents, and how much. We need a clear account of what it means to harm someone, and we need to pinpoint harms that can generate wrongs. Finally, while there have been many proposed solutions to the non-identity problem, most bring with them some prohibitive factor, such as highly counterintuitive implications, the inability to solve more than one version of the problem, or the charge of being ad hoc.[13] The problem requires a solution that meets the above needs without falling prey to the common objections.

In the following chapters, I will demonstrate that my view meets the relevant criteria and provides an approach to the non-identity problem that allows for an intuitive, useful, and morally robust solution. I argue that there should be something more to the morality of creating certain lives than that they are *merely worth living*. By highlighting a crucial metaphysical distinction, I demonstrate that we are obligated to improve the lives of future persons over whom we hold a certain kind of responsibility—that is, responsibility over offices or positions that moral subjects will come to fill. Office caretakers, such as parents or leaders of state, are obligated to improve the lives of their charges, *whoever they might be*. When they fail to do so, they commit what I call a "*de dicto* harm," even if no individual is harmed. Thus, the most salient feature of non-identity cases is the fact that someone of moral status will come to occupy a position over which some moral agent now holds the relevant kind of responsibility.

I note here that it is possible that there is more than one successful solution to the non-identity problem. That is, it is possible that the harm or wrongness of the acts in question is in fact overdetermined. So, while I do aim to provide a comprehensive approach to the non-identity

[13] See David Boonin's forthcoming book on the non-identity problem.

problem that does not fall prey to the types of objections aimed at other solutions, I do not mean to suggest that I have thereby ruled out all other possible solutions. However, I do wish to analyze carefully and respond to solutions that draw on factors present in my solution, but which are nonetheless importantly flawed.

In Chapter Two, I examine other attempts to formulate approaches centered on responsibility that involve variants on portions of my view and take into account considerations of roles, definite descriptions, and generalizable others. This helps to set up the requirements for a successful *de dicto* solution and to segue into my view, outlined in the following chapter.

In Chapter Three, I outline a role-based approach that does not fall prey to the problems outlined in earlier attempts, and that meets the criteria for generating a successful solution. I explain the distinction between *de re* and *de dicto* senses of harm, and I examine which kind of harm is most relevant to non-identity cases. I arrive at the conditional conclusion that if harm does occur in non-identity cases, it must be *de dicto* harm. I provide positive reason for adopting a *de dicto* reading of harm in these cases by arguing that *de dicto* harm obtains when we stand in the right responsibility relation to offices that moral subjects will come to fill. I also respond to objections in this chapter. These objections help to formulate supporting views, such as a theory of how to weigh *de re* harm against *de dicto* harm.

In Chapter Four, I apply my solution directly to future generations cases, focusing specifically on environmental issues, and I examine the practical and theoretical implications within that application. Since I have taken as my core case a simple procreation problem, it is important to spend time on the unique problems found within larger-scale future generations cases. I address the valuations entailed by various environmental positions and isolate those that generate the non-identity problem. Since my view is able to ground the prescriptions given by those

positions, I argue that such a solution is essential for validating much of the ethical posturing present in environmental activism and policymaking. I also uncover a crucial difference between simple procreation cases and large-scale future generations cases by responding to objections about who has a responsibility to act as steward to future generations.

In my final chapter, I assess our responsibility to species, both human and non-human. I adopt a very broad definition of species, and I examine whether we have special responsibilities over certain species offices. I also uncover parallels between issues in species ethics generally construed and the non-identity problem itself. It turns out that my role-based view allows for a useful method of analyzing these kinds of cases, and I apply that method to relevant questions in both bioethics and animal ethics. These applications all rely on an appeal to responsibility-relations between moral agents and generalizable others, so let us turn now to an exploration of these responsibility-based approaches.

CHAPTER 2: GENERAL PERSONS AND RESPONSIBILITY APPROACHES

We appeal to a false dichotomy if we claim that a solution to the non-identity problem must be either person-affecting or impersonal. There is an argument to be made for a middle-ground approach. But what should a middle-ground approach look like? There are, as we will see, considerations to which we can appeal—but not considerations of actual persons, and not of overall utility. Instead, these are considerations of generalizable others. As we saw in Chapter One, there are narrow senses of the PAP and wide senses of the PAP. The narrow sense relies on an assessment of harm to actual individuals, but the wide sense relies on a more general assessment, and this generality leads to a useful and intuitive middle-ground approach.

2.1 GENERAL PERSONS

Parfit explores two possible senses of the wide PAP. The first he calls the "No-Difference View" or ND.[14] According to ND, the fact of whether the persons affected are the same persons who would otherwise be affected makes no moral difference. We should be looking at how the decision affects persons, but the individual identities of the persons affected do not matter morally. That is, if the choice is worse for one person or group of people than it would be for another person or group of people, the different identities in the different outcomes do not matter *at all*. What matters is that the choice was worse for persons, but not that it was worse for any particular person. Notice that an appeal to ND would solve the non-identity problem, because Trig would be worse

[14] Parfit 2011: 219.

off than Track, even though Trig would not be worse off than he otherwise would have been. Similarly, the future generations who would result from our realizing *Business-as-usual* would be worse off than those future generations who would be the result of our not realizing *Business-as-usual*. Since people are *generally* worse off—that is, worse off than those people in the alternative scenario, even though no one in particular is worse off—we can then claim that this grounds wrongness, assuming that the particular identities in question do not matter morally. This wrongness could then solve the two non-identity problem cases formulated in Chapter One. But the ability to solve these versions of the non-identity problem cannot be our only criterion for a solution to the non-identity problem. We must examine whether the principle holds water independent of this fact. Consider the case of the doctor:

> *Doctor*: A doctor is, for whatever reason, deciding which set of patients she is willing to take on. She may either take on very sick people and improve their health significantly—though she will leave them far short of being fully healthy—or she may take on only minimally unwell patients and quickly restore them to full health.

Clearly, if this doctor opts for the latter choice, she is not being a particularly good doctor. But according to ND, her choice is the right choice, or at least the better choice. It does not matter who her individual patients are. All that matters is that her patients are better off now than her patients would have been had she made a different choice. This cannot be a wholly satisfying principle, then, for we know that a good doctor would not restrict her services to only healthy people. Thus, it looks as though, at least in some cases, ND fails to delineate successfully when it is important to consider moral subjects individually and not generally.

This type of concern causes Parfit to entertain the "Two-Tier View," or TT, as an alternative.[15] According to TT, we have *pro tanto* reasons to make things better for future people, but these reasons are weaker if they only make things generally better and not better for individuals. When I use the term 'generally better' here, I am referring to the idea of a general person as suggested by Parfit. According to him, we are referring to a general person when we talk about 'her child' or 'the doctor's patients.' We are able to talk about these offices in a general sense without talking about the individuals who come to fill them. Parfit writes,

> Such uses of 'her child' and 'him' refer, not to a particular person, but to what we can call a general person. This phrase is merely an abbreviation. Like the Average American, a general person is not a person. A general person is a large group of possible people, one of whom will be actual…According to the Two-Tier View, we have stronger reasons to avoid doing what would be worse for particular people. We can here suppose that, on this view, these reasons would be twice as strong, so that, compared with benefits or burdens to particular people, benefits or burdens to general people matter morally only half as much.

So, considerations of particular people and general people are tiered, with particular people garnering approximately twice as much considerability, according to Parfit's TT view. This tiered approach may generate the intuitively correct conclusion regarding the *Doctor* case. The benefit to 'her patients' in general matters under TT, but it matters much less than the benefit she could provide to actual people who are sick. Though, generally speaking, her patients would enjoy higher welfare if she took on only the minimally unwell, her patients would enjoy far greater benefit individually if she takes on the very sick. Similarly, it would be generally beneficial to her patients if the doctor stayed abreast of the latest developments in her field; however, if she pursued this to the degree that she was unable to care properly for her actual, individual patients, then she is acting

[15] Parfit 2011: 219.

wrongly. However, the TT view remains rough around the edges, and the underlying principle requires further examination.

While Parfit assumes for the sake of argument that particular person concerns are approximately twice as strong as general person concerns, he does not provide any reasoning to support this specific weight distribution; though he does leave open the possibility that the weight may be otherwise distributed. For our purposes, it is enough to focus on the claim that particular concerns outweigh general concerns to some degree. So, Sarah's choosing to have an unhealthy child isn't worse for that child; however, according to TT, she harms her general child more if she chooses to have that unhealthy child rather choosing than to have a healthy one. Throughout his examination, Parfit entertains reasons that might sway someone who is enticed by TT, though he in fact overall favors ND.

Here is why Parfit believes that some will be inclined to reject ND and favor TT. Consider the case of the *Medical Programs*:[16]

> Program A: We test already pregnant women and cure the disease their children would have had. Those children who would have had the disease will not have to suffer the disease.
>
> Program B: We test women who will be pregnant and prevent the disease their children would have had. They have their children later—after the testing—and therefore they have different children than they would have had we not tested them for the disease.

Program A would benefit primarily particular people. The actual children are made better off. Program B would benefit primarily general people. This program would make it the case that

[16] Parfit 2011: 221. I present simplified versions here.

whoever the children would be will be better off, because it would affect who will be conceived, not merely the welfare of those already conceived. Which program should be adopted? For Parfit, the answer depends on analyzing the effects on the moral subjects. He says, "[i]f there is a moral difference between these programs, this difference must depend on how these programs would affect these children."[17] So, let us stipulate some effects, and analyze the cases through the lenses of both ND and TT.

Case One

Either

A: 1000 people live for 70 rather than 50 years, or

B: 1000 people live for 70 years rather than another 1000 people who would live for 50 years.

If we choose option A, then particular people will be benefited—namely, those particular people who get to live twenty extra years. If we choose option B, then only general people would be benefited—different people will come into existence and live for seventy years, and they will not be those people who would have existed for only fifty years. Through the lens of ND, both A and B are equally worthwhile, for if it makes no difference who in particular exists, then the fact that either option entails twenty extra years for the people in question makes it the case that the options are morally on par with each other. Through the lens of TT, A is clearly more beneficial than B. Since the benefit is the same (i.e., twenty extra years), it matters more (roughly twice as much, according to Parfit) that we benefit particular people than that we benefit general people. But now consider a second case that Parfit presents wherein the benefits to particular and general people are not equal under ND.

[17] Parfit 2011: 222.

Case Two

Either

A: 1000 people live for 70 years rather than 50 years (same as above), or

C: 1000 people live for 70 years rather than another 1000 people who would live for 40 years

On the one hand, a proponent of ND will claim that Program A should be canceled, because general people will enjoy a net benefit of thirty extra years rather than only twenty extra years. On the other hand, a proponent of TT will claim that Program C should be canceled. If Parfit's version of TT is correct, and the benefits to general people matter only half as much, then adding thirty years of life for general people under Program C is equivalent to adding fifteen years of life for particular people. When compared to the benefit of twenty years that the actual people enjoy under Program A, we find that Program C should be canceled because it generates less overall benefit. Parfit believes that some might find this to be compelling reason to accept TT over ND. In the face of this possibility, he presents a third case that he believes will make it harder for those people to accept TT.

Case Three

A:	Tom: 70	Dick: 50	Harry: never exists, or
B:	Tom: 50	Dick: never exists	Harry: 70

Again, according to ND, these options are equally good. Whoever exists in either case lives the same overall number of years. And, according to TT, B is worse than A, because it is worse for a particular person (Tom), and it is also not better for anyone in particular.

At this point, Parfit continues with further cases of Tom, Dick, and Harry that lead us deeper into an analysis of the question of whether and to what extent the considerations of general

persons matter. While this is an extremely important question, he leaps from one sort of case to another without acknowledging crucial factors at play. While he favors ND, I claim that his challenge to TT is actually a challenge to the scope of ND. Sometimes ND will be appropriate, and sometimes it will not, and we should actually be considering whether we have reason to be indifferent or partial—not positing arbitrary tiers. Parfit fails to assess this question properly by taking an overly abstracted approach to the answer and focusing only on the *effects* produced for the general and particular subjects. However, as many have noted, it matters *who* is producing these effects, and this is a factor that Parfit leaves utterly unexplored.

Note the differences between the two sorts of cases he entertains—medical program cases and cases of the generic creation of people. Those first cases involve a commonly recognized role of someone enacting programs that benefit people—a role that many in power occupy. Those who enact programs tend to have a responsibility to benefit. However, he then switches to highly generic cases about people who merely pop into existence, and asks the reader to consider whose benefits matter. These cases muddle our intuitions not, I believe, because TT (as stated) really presents useful challenges to ND, but because we do not have important information about who is doing the deciding, and therefore we have lost a guiding principle.

As Rahul Kumar notes, what one *does* is morally significant and independent from what *happens* as a result of what one does.[18] Kumar, too, believes that we have obligations to generalizable others, but unlike Parfit, he thinks it is highly important to look at the position the agent is in with respect to the subjects, and not merely at the effects produced for the subjects, generalized or particular. Caspar Hare also argues that agents have stronger moral obligations to generalizable others when these agents' job descriptions require that they maximize general

[18] Kumar 2003.

benefit. An agent's role matters morally, and role-centered considerations are worth serious examination. Let us begin with Kumar's analysis of the moral considerations generated by an agent's contract with generalizable others.

2.2 CONTRACTS WITH GENERAL PERSONS

Kumar claims that the comparative account of harm favored in generating the non-identity problem is misguided. What matters are not comparisons, rather, what matters are *expectations*. We should, then, be asking: what are the subjects' expectations, and what are they justified in expecting from the agent? Assuming that future persons can be cast as tokens of a specific type, we may bear a relationship to that type—a relationship that is distinguished by a cluster of expectations. If we fail to meet those expectations, then we fail to respect this type of subject, and, for Kumar, this constitutes a moral failing.

Reconsider the Tom, Dick, and Harry case in light of this analysis. It would be very strange to presume any particular set of expectations on the part of the subjects. This is because no one in particular is acting so as to affect the subjects. Now reconsider the Medical Program cases. In these cases, we are envisioning a social program aimed at benefiting future children. Politicians or policymakers commonly enact these programs, and we have a good basic understanding of what to expect of those who fill such roles. In fact, we often think that politicians and policymakers have a very general responsibility to whoever ends up under the umbrella of their policy (or law, statute, etc.), which is some explanation of why ND seems to be the best way to approach *Case One*, and perhaps might be why Parfit himself overall intuitively prefers ND. While Parfit thinks that the Tom, Dick, and Harry case is evidence that we should favor ND over TT, it is actually fairly weak in this respect. The intuitions this case generates are not particularly clear cut, and certainly less

strong than those generated by *Case One*. However, this weakness in the Tom, Dick, and Harry case is itself evidence that our moral conclusions in creation cases are based at least in part on our expectations regarding the role of the agent, and absent any role considerations, we are left with a dearth of relevant information. Kumar's analysis corroborates this, but is his view strong enough to take on the non-identity problem?

Kumar's conclusion relies heavily on the claim that a wrong can occur without a concomitant harm. Thus, he explicitly rejects the "no harm, no foul" intuition that helps to generate the problem in the first place. Consider a scenario wherein someone fires a gun at an innocent bystander (who is ignorant of this threat), but the gun jams and no one is hurt. We still think that the would-be shooter has done something wrong, even though no harm results. It is not obvious that Kumar's reliance on this claim is particularly useful, given that risking harm is often wrong without being harmful. Nonetheless, let us continue with the argument at hand. Kumar writes:

> One person may wrong another without leaving that person worse-off through such things as insults, humiliations, intentional slights, "looking through a person," expressions of a lack of trust, many kinds of paternalism, and, in general, interfering with an aspect of a person's life over which she rightly has sole sovereignty. For though one may not have made the other worse-off, the way in which one has related to the other may still express a failure to have appropriately recognized and taken account of a person's value as capable of rational self-governance. A person can be wronged, then, simply in virtue of how she figures, or does not figure, in how one is rationally disposed to relate to her.[19]

Given these claims, Kumar argues that the focus should not be on what *happened*—or on better or worse effects on the subject. Rather, the focus should be on what was *done* by the agent. In the gun case, what ultimately happened was utterly benign, but what was done was clearly wrong. And we can focus on what-was-done through a principled approach to this analysis that

[19] Kumar 2003: 109.

Kumar believes captures the wrongness of non-identity cases, and this is the *contractualist* approach.

There is a *type* of person with whom we should enter into a morally binding contract of mutual respect, and that is the type of person who is capable of rational self-governance. When we fail to respect this type of person properly, we do something wrong even if no one is made worse off. And we do not need to know anything particular about persons of this type to know what (certain of) their expectations will be. All we have to do is consider what interests the type of person with rational self-governance with whom we stand (or will stand) in a relation will have, and then act according to those expectations. This sort of type/token distinction is important, given that Kumar is attempting to solve the non-identity problem. Since parents can know, generally speaking, what distinctive cluster of expectations their child type will have with respect to the parent/child relationship, they can meet—or fail to meet—those legitimate expectations before their token child even exists. There may be a temporal gap between the parental action and the point at which the child has enough rational self-governance to formulate a complaint, but this gap is irrelevant, according to Kumar, given that the parents already know what type their token child will be.

There are two main problems with this approach. The first has to do with the formulation of a complaint by the token child. Kumar concludes that the particular, token child has a particular complaint. That child can say, "I have been wronged" and be referring to him-or-herself with this use of 'I.' First of all, this is strange. The alternative for the child in non-identity cases is non-existence. Insofar as that child's life is good enough, a *personal* complaint seems not to follow. Though Kumar's focus is on what the parents have done and not on comparing outcomes, it is still the case that the parents failed to live up to the expectations of a child type, and not of a token

child. And this leads to a greater concern than mere strangeness. The expectations of the token child cannot contain an expectation not to be born with a serious defect or ailment, for that individual child could not exist without the defect. Of course, this is merely stipulated in non-identity cases, but if there were an option for the child to exist without the defect, then the comparative account would neatly explain wrongness via harm, and the case would fail to qualify as a non-identity case. Thus, even if the child reaches a state of rational self-governance and a full understanding of the contract in question, the child cannot say "I have been wronged," even if the parents have failed to bring into existence the better off child.

This criterion of rational self-governance leads to the second problem with Kumar's account. For obvious reasons, contractualist obligations do not obtain if the parties do not consent in the requisite way to the contract, and consent requires some degree of rationality and self-governance. Kumar believes that the child can consent once a state of rational self-governance is reached, and I do not disagree. However, central to these procreative non-identity cases is the possibility that parents bring into existence children with serious defects or disabilities. Such children could easily have lives worth living while failing ever to reach the requisite capacity for rational self-governance. Therefore, Kumar's account, as stated, can only account for a specific class of non-identity cases wherein the moral subjects reach rational self-governance; and it cannot account for cases involving many marginal humans. Clearly then, this could be, at best, an incomplete solution. Furthermore, it is evidence that there is intuitively something *else* at work making the actions in non-identity cases wrong, aside from contractualist concerns—which would fail to explain wrongness in many non-identity cases. While Kumar claims to shift the focus from what happened to what was done, he still retains enough of an emphasis on the particulars of the child to generate serious concerns with his approach. Nonetheless, he claims that the focus should

be on generalizable responsibility, and we can still explore whether other such approaches may work.

2.3 CONFLATING *DE DICTO* AND *DE RE*

Perhaps there is an easily identified equivocation at play in non-identity cases, and addressing this equivocation will help to uncover important factors related to responsibility. In earlier work, David Boonin makes a crucial discovery on this matter.[20] Given the standard characteristics of non-identity cases, it is actually quite easy to equivocate between the *de re* and *de dicto* senses of, say, 'her child.' Literally translated, *de re* means "of the thing," and *de dicto* means "of what is said." The *de re* sense refers to the actual, particular individual. The concomitant referent in the *de dicto* sense is a sort of definite description rather than an ostensible entity. So, the *de dicto* sense of 'her child' refers to the occupant of the office of 'her child,' whoever that person might be. For example, there is an office of president of the United States. Barack Obama currently fills this office and is the *de re* individual referred to when I say "the president has two daughters." However, when I say, "the president is commander in chief of the military," I may be referring to anyone who fills the office of president, because *whoever* who is president is also commander in chief. A *de dicto* interpretation separates the general nature of the office in question from the various particular, actual subjects who ultimately fill that office. *De dicto* reference tells us that there is an office of 'her child' or 'the president,' but it also tells us that different individual children or presidents could fill these offices, depending on which subjects actually end up in those offices.

[20] Boonin 2008.

With this distinction in mind, let us look to an argument presented by Boonin suggesting that the *de re* reading is the only morally relevant reading of non-identity cases. Boonin provides some reason to dismiss the non-identity problem by arguing that, due to the fact that it is easy to conflate the *de re* and *de dicto* readings of the phrase 'her child' in, say, the *Sarah* case, we actually intuit a problem where none exists.[21] He attempts to bolster this hypothesis by testing our intuitions in what he claims is a morally analogous case that avoids conflation of the two readings and makes evident the sense in which the *de re* reading is the morally relevant one.[22]

> *Barney case:* Barney has the choice to save one of two women, both of whom have recently had sex. These sex acts will lead to their very shortly conceiving children. One child will be incurably blind, the other sighted, and Barney knows this. It is also minimally inconvenient for him to save the sighted child because his mother is further away. Barney saves the woman who will have the blind child because it is more convenient for him to do so.[23]

According to Boonin, Barney's act should be just as harmful under a *de dicto* reading as Sarah's act is in the *Sarah* case, and just as innocuous under a *de re* reading. What is relevant in these cases is the *de re* reading—the consideration of the actual persons involved. We are not, therefore, tempted to impose a *de dicto* reading on this case. Barney saves the particular woman who will bear a particular blind child over the particular woman who will bear a particular sighted child, and a *de re* reading captures the moral force of this action. Since most people would not intuit that Barney's action is morally wrong, and since, according to Boonin, this example is

[21] Boonin 2008: 146-7.

[22] Boonin 2008: 148. I present a simplified version of this case.

[23] Boonin actually begins with a simpler case, which I have omitted here due to considerations of length and because Boonin claims that this first case and the Barney case are also analogous. Interested parties should consult the article in question.

morally analogous to the pregnancy case; it must be the clear separation of the *de re* and *de dicto* factors that corrects our intuition. Therefore, Sarah's actions in the original example were not morally wrong, and we have reason to reject our intuitions regarding the conclusion of the non-identity problem.

Yet, the Barney case does not rest on the moral judgment on which Boonin claims it rests and therefore is not appropriately morally analogous to the *Sarah* case, making it a poor explanation of our intuitions and insufficient justification for adopting a *de re* reading of non-identity cases. When stating the parallels between the Barney case and the pregnancy case, Boonin writes,

> [i]n both cases, the person chooses to do the act that results in an incurably blind child being conceived after the choice has been made, and a sighted child not being conceived who otherwise would have been conceived. And in both cases, the person makes the choice simply because it is more convenient for them to do so.[24]

Actually, this discussion of the cases is oversimplified, and the Barney case involves greater moral consideration than the analogy can sustain. His is not a case of simple life creation. This is because the lives of the unconceived future child *and* the mother are at stake. When intuiting blame or praise in this case, we must consider the morally relevant question of whether or not we should avoid saving someone's life merely because her nearly-conceived child will be blind. This is clearly not analogous to the *Sarah* case in a morally relevant way. Our intuitions in this case arise out of our aversion to letting a woman die simply because of the blindness of her possible child. If a woman conceives a blind child, it is not as if her life becomes less valuable in some way. Consider someone who sees both women shouting for help. He swims past the first woman, and as he passes, he (clairvoyantly) says, "I won't save you. The child you are about to conceive will

[24] Boonin 2008: 151.

be born blind." This sort of action is clearly unlike Sarah's action. Her pregnancy dilemma does not entail the consideration to end a life in order to save another. Thus, this example is morally disanalogous and cannot provide us with a useful assessment of the *de re* and *de dicto* factors within non-identity cases. But an important point remains to be explored. It appears as if this distinction is highly relevant to the non-identity problem, and indeed it seems as if we may easily conflate the two senses when encountering non-identity cases. Let us examine whether a careful separation of these senses is needed to ground a role-based approach.

2.4 PARTIALITY TOWARD GENERAL PERSONS

Caspar Hare's middle-ground approach appeals to a kind of impersonal responsibility through reliance on the *de re/de dicto* distinction. Hare eschews the standard comparative account of harm to individuals in favor of a particular assessment of states of affairs. The focus is not on the whole of a state of affairs, but on whether a state of affairs is *de dicto* better or worse. Sometimes, it is our impersonal responsibility to make things *de dicto* better. This is contrasted with the standard comparative account of harm, which asks whether we have made some*one* (not some state of affairs) *de re* better.

To make something *de dicto* better is to make sure that an office is filled by an occupant who is better off than an occupant otherwise would have been. Hare claims that it is appropriate to focus on *de dicto* betterness when two factors obtain. First, it is appropriate when we are *partial* to the office in question. For example, Sarah is surely partial to the office of 'her child,' and so she ought to care about *de dicto* bettering that office. Second, it is appropriate when the partiality-based concern has no *de re* expression. That is, what is *de re* better for the person(s) in question can have no guiding role in decision-making. So, when we are partial to offices but not to the *de*

re occupants of those offices, then we ought to consider how to make things *de dicto* better. To illustrate he gives the example of the safety officer.[25]

> *Safety Officer:* It is Tess's job to reduce the severity of automobile accidents in her state. So, she tightens seat belt regulations (so to speak) and is pleased to discover that this greatly reduces the severity of automobile accidents in her state.

Given the fact that automobile accidents usually happen in a mere matter of seconds, and given the fact that it takes people at least that long to belt up, it is likely that most people who were in automobile accidents after the regulations were put into place would not have been involved in an accident otherwise. Thus, Tess harms the victims of automobile accidents in the *de re* comparative sense. The actual individuals are worse off than they otherwise would have been, because Tess's regulations determined that *they* suffered accidents instead of *other* people suffering accidents. However, she also makes the accident victims *de dicto* better because she makes the victims, whoever they might be, better off than the accident victims otherwise would have been. It seems clear that Tess has strong reason to be partial to the office of 'accident victims,' given her job description, and it is also the case that, given the nature of the regulations, her partiality has no *de re* expression. There are no particular, individual people whom she intends to benefit—that is, she would certainly not be aiming to benefit, say, the individuals Anne and Ramon specifically, and not Maria and Jared specifically. She is considering how best to convey benefits more generally. Similarly, Sarah is partial to the office of her child, given her role as parent, and given that office has no *de re* expression since her decision is made at a time before her actual child exists, and since either choice will avoid *de re* harm. But is this enough to solve the non-identity problem?

[25] Hare 2007: 516. I present a simplified version of the case.

As it stands, Hare's view is inadequate because he both fails to motivate properly his claims about partiality and because he requires the absence of *de re* concerns, which leads to counterintuitive implications. His view also falls prey to similar concerns outlined above about the child's supposed complaint to which Kumar's view fell prey. Hare states that the child can say, "you failed to show appropriate *de dicto* concern for your child, and I am your child," thus the child would seem to have a legitimate complaint.[26] But this is clearly an equivocation on precisely the distinction that Hare wishes to highlight. The first instance of 'your child' in the above quote should be given a *de dicto* reading, and the second a *de re* reading. And under the appropriate interpretations, the individual child still does not have a personal complaint because that child was not *de re* worse off as a result of the decision. As I will argue in the next chapter, we do not need a personal complaint from the child in order to generate harm in these kinds of non-identity cases. We do need something like Hare's partiality criterion in order to successfully generate claims of harm, but as it stands, Hare's account of partiality is inadequate.

Hare claims that, in some cases, partiality, or a "focused concern for…a person or group of people," should play a guiding role in decision-making.[27] But upon reflection, requiring mere partiality can lead to charges of arbitrariness and a failure to generate obligations. Surely parents are in fact partial to their children and safety officers are in fact partial to their citizens, but what if I develop a focused concern for other people's children, or for citizens of another state? That is, what if I develop a focused concern for some office when I do not stand in a particularly relevant relation to that office? Suppose I meet a stranger who confides in me that she plans to conceive a child. Upon hearing this, I become, for whatever reason, very partial to the office of her child.

[26] Hare 2007: 38.

[27] Hare 2007: 32.

Now, given that I am partial to the office of her child, and given that this office has no *de re* expression, I now have an obligation to make things *de dicto* better, given Hare's argument. But clearly I do not have this obligation. Of course it might be nice (albeit rather odd) if I tried to help this stranger better the office of 'her child,' but that is not all that Hare can be concluding, because that would be insufficient to ground wrongness in non-identity cases. It would be nice if Sarah had the fully healthy child, but this in itself would not make it positively wrong for her to choose the alternative. Perhaps Hare intends that we have obligations to make things *de dicto* better not when we become partial on a whim, but when we become partial in cases where we *should* be partial. Parents should be partial to their children; safety officers should be partial to their citizens, etc. Yet this creates a puzzle for Hare's solution, because now we need an account of when we should be partial and when we should not. When, for example, should we be partial to future generations? On a more charitable interpretation, Hare means something stronger or more precise when he talks of partiality, but without a clear account of what generates obligations in these sorts of cases, we still do not have an adequate approach to the non-identity problem. I take up this task in the next chapter, and my analysis is ultimately inclusive of *de re* considerations, so let us take a moment here to explore Hare's take on *de re* considerations.

Recall Hare's assertion that the partiality concerns can have no *de re* expression in order for *de dicto* betterness to matter morally. This, he thinks, is what makes *de dicto* concern appropriate. And I agree that the absence of certain *de re* considerations—coupled with justified partiality concerns—do render *de dicto* betterness morally important and appropriate. But this is not the only place where such concerns are important. We can have appropriate *de dicto* concerns even while these concerns have a relevant *de re* expression. Suppose Tess is facing a choice as a safety officer, and suppose that that choice will affect the same *de re* individuals—either for better

or for worse. By choosing what is *de re* better for the citizens, she is also choosing what is *de dicto* better for them because she is still making the office of 'her citizens' better off than it would have been had she opted for the alternative. She still has reason to be partial to her citizens, and these are still *de dicto* reasons—that is, reasoning that applies primarily to general persons—but it is simply that in this case her *de dicto* partiality to this office requires that she consider *de re* harm and benefit at this time. She still has reason to make things *de dicto* better even when the offices have relevant *de re* expressions. Thus, Hare is wrong to suggest that *de re* expressions or concerns must be absent or irrelevant in order for this approach to be appropriate. Requiring this is too strong, and it fails to capture the nuance of many responsibility-relations. Responsibility (or partiality) to generalizable others does not disallow simultaneous responsibility to particular people.

Hare's is an attempt to provide positive reason to adopt *de dicto* concerns that he has uncovered as morally important, but far more work needs to be done in order to properly motivate and justify this type of approach. In the next chapter, I propose a middle-ground approach that, like Parfit's, Kumar's, and Hare's, requires that we consider the moral status of generalizable others. I appeal to responsibilities that agents incur by virtue of their filling certain roles. These roles generate responsibility-relations between agents and subjects. These responsibilities may have both *de re* and *de dicto* expressions, and they do not entail that individuals who are not *de re* harmed can make a personal complaint. I provide an account that explains how our role-based responsibilities arise and, importantly, when we ought to be partial. My account also allows that we have obligations to benefit those we create even when they lack rational self-governance. After presenting the particulars of my view, I entertain potential objections and flesh out important components of this analysis. Under a general, *de dicto* interpretation, we may arrive at the

intuitively correct accounts of harm and benefit, but we must first find adequate motivation for this approach. One might worry about certain cases wherein *de dicto* harm and benefit seem morally irrelevant. Thus, the real challenge lies in establishing our responsibility to generalizable others, which will allow us to delineate precisely when *de dicto* concerns are morally relevant.

CHAPTER 3: A ROLE-BASED VIEW

There is a middle-ground approach that allows for general-person concerns, grounds our moral obligations, includes moral subjects with varying degrees of rationality, and successfully establishes a baseline for the relevance of *de dicto* concerns. This approach to the problem coheres nicely with many moral intuitions—not just those related to the non-identity problem. To understand this approach, we must first separate carefully the senses by which we refer to moral subjects. These different senses can generate different moral obligations, depending on the roles of the agents and subjects in question. Like Kumar, I claim that it is important to recognize our relationships to generalizable others, but I reject his contractualist approach.[28] The roles themselves generate what Hare calls "*de dicto* concerns." Given certain roles that we undertake, and certain positions that moral subjects fill, it turns out that we can indeed commit harms with respect to those whose lives are worth living, and who would otherwise not exist. Here, I provide a detailed account of the specific harms and potential wrongdoing involved in non-identity cases. I argue that the responsibility borne by certain roles dictates the rightness or wrongness of many actions. I then respond to several important objections to my view. These responses help to flesh out precisely which factors are at work in non-identity cases, and they help to determine how we ought to go about assessing our role-based responsibilities.

[28] Kumar 2003.

3.1 REFERRING TO THOSE WE CREATE

Much of the discussion of the non-identity problem focuses primarily on the moral subjects who do not yet exist (children, future generations, etc.) and secondarily on the agents who act so that future individuals exist with certain levels of welfare. The direction of this approach runs from the subjects to the agents. We *find out* whether the agent has done something permissible when we ascertain the effect on the subjects. This approach reaches its simplest form in Parfit's discussion of general people and the drawbacks of TT and ND (outlined in the previous chapter). By the time we get to *Case Three* with Tom, Dick, and Harry, all we assessing are the potential effects on the people created. When there is no mention of *who* is doing the creating, this leads to significant difficulties and conflicting or confounding intuitions. However, as Kumar and Hare allude, these difficulties arise because it in fact matters who the agents are—more specifically, it matters what roles they fill and oversee—and leaving these agents in anonymous abstraction obscures a useful approach to the problem.

When I talk of roles, positions, or offices, I am appealing to *de dicto* claims about descriptions that moral subjects can meet with respect to offices that can be filled. This can, of course, be contrasted with *de re* claims about the actual individuals who come to exist. As we saw, others have recognized this distinction and its relevance to the problem at hand.[29] However, these other views fall prey to important objections—objections that my view can avoid. *De dicto* claims may seem problematic because they appear to be clearly relevant in some cases and utterly irrelevant in others. Appealing *to* their relevance without delineating what *makes* them relevant will quickly set one up for serious objections. I provide a criterion for determining the moral

[29] See Hare 2007 and Boonin 2008.

salience of *de dicto* claims. This is the criterion of responsibility over offices. It provides independent support for my appeal to *de dicto* claims within this approach to the non-identity problem.

To uncover this criterion, let us return to the initial *Sarah* case. Originally, we were working with two possible referents of Sarah's 'future child': (1) the person who would exist if Sarah took the pills and (2) the (other) person who would exist if Sarah did not take the pills. (1) and (2) are both *de re* referents. That is, they mean to refer to the actual individuals who would come into existence if a given course of action were taken. There is, however, another way to refer to the 'Sarah's child.' This is the *de dicto* sense of 'Sarah's child.' Recall that the *de dicto* sense refers to (3) any occupant of the office of 'her child,' whoever that person might be. An office in this sense is an abstract entity that can be described in specific ways and could be filled by various subjects, given differing circumstances. Importantly, moral agents may oversee these offices.

When considering a person who might or might not exist, it is, as Boonin noted, easy to conflate or ignore this distinction between *de re* and *de dicto* senses of 'Sarah's child.'[30] To see the difference in non-identity terms, consider the following. If I say of a wealthy friend who I know has just given birth, "her child will be well-off," I am referring to her actual child. If I say of a wealthy friend who has not even conceived but plans to conceive at some point, "her child will be well-off," I am then referring to her child more generally as anyone who comes to fill the office. When assessing the simple non-identity case that generates the problem, we should be aware of whether we are referring to one *de re* child, another *de re* child, or to the *de dicto* sense of someone's child in general. This awareness, it turns out, is crucial for justifying claims of harm and benefit.

[30] See Boonin 2008.

According to the comparative account discussed earlier, to harm or benefit someone in the *de re* sense is to act such that a particular individual is made worse or better off, respectively. On the other hand, to harm or benefit in the *de dicto* sense is to fill the office in question with someone who is worse off than an office holder would have been—that is, in *de dicto* cases of harm or benefit, we can arrive at Welfare Determination before or without Identity Determination. Thus, we may now make an important addendum to the comparative account of harm. Recall the original formulation:

> *Comparative Harm*: P's act is harmful if P's act causes Q to be worse off than Q otherwise would have been.

Extrapolated here are the two components of the comparative account:

> *De re* sense*:* Q refers to an actual, particular individual (or individuals).
>
> *De dicto* sense*:* Q refers to the generalizable office holder (or holders).

With the *de dicto* sense, we do not harm some*one* in particular. Instead we commit a more abstract harm by failing to fill the office appropriately, thereby making an office holder worse off (in the *de dicto* sense) than an office holder could have been. A closer examination of these senses will help to illuminate this distinction.

The *actual* individuals who ultimately constitute the future children we have in mind are things themselves—or *de re* entities.[31] Such things, insofar as they exist, are fully determinate with respect to their physical properties. If *Sarah* is realized, then her child will be an actual person who will have at any given point a perfectly specific height, weight, hair color, genetic makeup, etc. The *de dicto* sense of 'her child,' however, need not turn on these material considerations. A *de dicto* entity may or may not exist in the physical world, and the office it would fill supersedes any

[31] The idea of "things themselves" is taken from a discussion of offices by Pavel Tichy. See Tichy 2004.

physical attributes.[32] Keep in mind that a *de dicto* entity is not accessible by ostension. The *de dicto* sense is a sort of definite description that allows us to associate actual entities with the abstract, or conceptual, characteristics for which they qualify. Consider Sarah's child. While the actual, physically determinate child is a concrete subject, nothing about the child's material measurements is a prerequisite for its occupying the office of 'Sarah's child,' save, perhaps, for the fact that a physical person must occupy this office in order for the office to be filled at all. As long as the future person in question is a person, it matters not what his height, hair color, etc. is. Something or other will be the case regarding his material measurements, but no specific measurement will by itself qualify or disqualify him as Sarah's future child.

Thus, there are inherent and non-inherent attributes of a *de dicto* entity. The inherent attributes are whatever qualifies a thing to fill the office in question. For our purposes, the office of 'her child' must be filled by a person to be filled at all, just like the office of 'my car' must be filled by a vehicle with parts that match the description of a car, insofar as it is filled at all. Non-inherent attributes are any of the variable physical properties that can be expressed by the things that fill these offices, for example, the weight of a future person at t_1, or the make and model of my car. Notice that the inherent attributes are subject to *de dicto* restrictions. That is, the parts that make up my car could be disassembled, widely dispersed, and certain parts could be melted down to make other objects. Thus, my car would no longer exist, not because the physical parts of my car no longer existed, but because these parts fail to fit the description of a car.

This difference between inherent and non-inherent attributes demonstrates that an individual's physical properties and *de dicto* properties are actually closely intertwined. To talk

[32] That its occupant is physical is often a prerequisite for a *de dicto* entity, but any further specification of its physical properties usually is not.

about individuals in a meaningful way, we must employ some *de dicto* considerations. Without them, physical objects are what Tichy calls "pure individuators" that are "bare and colourless."[33] That is, without *de dicto* considerations, the *de re* sense would merely pick out or lay bare actual objects, but this individuation would not allow us to ascertain important senses of those objects. Suppose you ask me to pick up your child at the playground. I then go to the playground and am able to individuate several children. However, this individuation is pointless unless I know which child fills the office of 'your child.' Only when the relevant *de dicto* criteria are met does the individuation matter in this case. Similarly, suppose that I do not have a car. It would be deeply misguided to infer from this that a certain car of a specific make, model, and color does not exist. How could we even know the make, model, and color of my non-existent car? However, it is perfectly comprehensible to say that my car does not exist, in this case, as long as the office of 'my car' is unoccupied. The *de dicto* sense allows us to ascertain that the office of 'my car' is not currently filled, and that much is clear. So *de dicto* considerations matter because it matters whether the objects we are discussing can in fact fill various offices. While it is certainly the case that the objects of discussion in non-identity cases fill certain offices, the features of non-identity cases render the *de dicto* sense of harm more apt than *de re* sense of harm. The *de dicto* considerations may take over specifically when non-identity concerns arise because the *de re* entities do not yet exist in non-identity cases, and these considerations provide independent motivation for the importance of the *de dicto* reading. This is likely what Hare had in mind when he stipulated that *de dicto* betterness matters when there is no *de re* expression available.

Recall the limitations of *de re* considerations discussed above. In effect, these limitations allow that particular qualities individuate an entity, but much of what is interesting about the

[33] Tichy 2004: 717.

individual comes from our apprehending it in the *de dicto* sense. We can pick out a car of a certain make, model, and color; but without *de dicto* considerations, we would have no way of ascertaining whether it fills the office of my car or your car or a stranger's car. In non-identity cases, before the decision in question is made, the opposite occurs. We know that the office of 'her child' will be filled, but we do not yet have the means by which we can point to the actual persons who will come to fill the office of 'her child.' And it is certainly not the case that no important considerations relevant to a given case can arise from a solely *de dicto* interpretation. If you turn sixteen and overhear that your parents have bought you a car, then you may be excited even though you have no *de re* knowledge about your actual car.

Thus, we have some reason to prioritize the *de dicto* reading of non-identity cases precisely because the *de re* referent of 'Sarah's child' does not exist at all, and this lack of existence is in fact a prerequisite for the problem to arise. Note that this is only *some* reason, though not by itself sufficient reason. *De dicto* considerations are not guaranteed to be morally relevant; Sarah may have *de dicto* concerns about someone else's child, but, *prima facie*, these cannot match her *de dicto* concerns about her own child in moral relevance. The point is that too often we only address the *de re* reading of non-identity cases, and it is the *de re* reading itself that generates the problem. The problem cases always involve offices that *de re* persons will come to fill but have not yet filled.

Since we are looking for way to solve to the non-identity problem, and since the parameters of the problem require that the future person does not yet exist, it is misleading to refer to the future person (or persons) only in the *de re* sense. If we are going to appeal to *de re* considerations in a robust manner, we must decide upon one person or the other to refer to. But it is unknown who will be an actual individual and who will end up as merely possible, and equivocating between *de*

re referents creates confusion. We do, however, know which office or position will be filled, and we can use that knowledge to determine harm and benefit—and thereby what the right course of action will be—*without* assuming that harm or benefit must be conditional on the existence of one *de re* entity or another. Therefore, these epistemic and temporal considerations render *de dicto* reference clearly worth considering in non-identity cases specifically. We can indeed analyze the *de dicto* reading in addition to the *de re* one, and I will show why we are justified in giving moral priority to the *de dicto* analysis when encountering non-identity cases that contain a responsible agent, some *de dicto* referent, and no concurrent *de re* entity filling the office in question.

3.2 PRIORITIZING *DE DICTO* HARM

One may, at this point, object in the following way. All I have shown is that, at the time before the decision is made, *de re* considerations are not the only factors, due to the temporal and epistemic restraints—that is, we do not yet know who will actually come into existence. I have highlighted the *de dicto* considerations without providing substantial reason to adopt them over *de re* considerations specifically in non-identity cases. And without positive reason to do this, and with the assumption that the comparative account of harm is viable, we are left with two possible alternatives. Either there is harm in non-identity cases, and it must therefore arise from *de dicto* considerations; or there simply is no harm at all, and thereby no wrongdoing, and our intuitions have led us astray.

The question we should now ask is whether we have sufficient reason to morally prioritize the *de dicto* harm (which obtains) over the *de re* harm (which does not obtain, again, assuming the

comparative account of harm) when assessing non-identity cases.[34] Parfit himself originally implies that the answer is no. He arguably rejects the *de dicto* reading in his earlier work with his example of a general in a war:[35]

> *General:* We seem warranted in deeming someone a good general if he is always on the winning side. However, this estimation is not actually warranted if the general always switches to the winning side right before the battle ends, making him only *de dicto* a good general.

The suggestion that follows is that if we ought to favor a *de re* reading of the *General* case, then we ought to favor a *de re* reading of the *Sarah* case.

In response to this example, Hare rightly notes that "it does not follow from the fact that *de dicto* betterness is not always morally significant that it is never so."[36] He then gives the example of Tess the safety officer, which we encountered in the previous chapter. Tess is what I call an "office caretaker." It is her role to better the office of 'accident victims,' whoever they might be. What matters, then, in at least the Tess case, is the *de dicto* reading of the harm.

Given the above case and the original case, it is now clear that, at times, a *de re* reading is morally relevant—say, the *General* case—and that, at times, a *de dicto* reading is morally relevant—say, the *Safety Officer* case. We need to decide which is the morally relevant reading for non-identity cases. If the *de dicto* reading is indeed morally relevant, then we can account for harm in a way that previously seemed unavailable. I claim that both harm and our intuitions of

[34] The following analysis of this question is taken directly from an article in which I assess our responsibility to those who do not exist. See Haramia 2013.

[35] Parfit 1984: 360.

[36] Hare 2007: 516.

wrongness can be grounded in legitimate moral concern arising from *de dicto* considerations coupled with our responsibilities as office caretakers.

3.3 THE RESPONSIBILITY CRITERION

We are now in a position to examine carefully the responsibility criterion, which will allow us to delineate the moral relevance of *de dicto* harm through appeal to our responsibilities as office caretakers. By exploring certain cases that are analogous to non-identity cases in an important respect, I will show that *de dicto* harm is morally relevant harm in cases where we do not know (or need not know) at the time of the action the identities of the persons involved. In cases such as these, we often have moral reason to make things better for the office holders in general, whoever they might be. The cases presented below are clearly *de dicto* relevant, and they highlight our ability to prioritize *de dicto* considerations.[37] While I do not mean to present cases that are in fact fully analogous to any given non-identity case, I do wish to provide cases that will highlight at least (and sometimes at most) the relevantly related *de dicto* considerations of harm and benefit. Consider the following:

> *De Dicto* Relevant Cases
>
> *College Fund:* You and your partner begin setting aside money for your children's education before you even have children. The individual identities of the children you have are irrelevant. What is relevant is that anyone who comes to fill the office of 'your children' has the opportunity for higher education, thus making things better for any office holders who become 'your children.'

[37] Both sets of cases that follow here are taken from an earlier article. See Haramia 2013: 253-254.

> *School Teacher:* You are a schoolteacher preparing next year's lessons. Suppose, as may often be the case, that you know neither the number nor the identities of the students you will have in the coming year. Suppose, in fact, that the administration has not yet even determined which students will be in your class. Nonetheless, you plan your lessons with the intent to benefit your students, whoever they might be, thus making things better for any office holders who become 'your students.'
>
> *Leader of State*: You are a leader of state faced with an important environmental decision. You could choose to sign on to a protocol that would require certain sustainability practices, thereby providing the future citizens in your state with better lives than they otherwise would have had. The alternative is to forgo the signing of the protocol and ensure that the resulting effects on the climate will have adverse effects on the future citizens of the state. You sign the protocol, thereby making things better for any office holders who become 'future citizens.'

Cases like these have something in common. In all of these cases, we have agents who are responsible in some important and recognized way due to a certain powers they possess as a result of a role they have undertaken. That is to say, we have expectations for people whose role it is to better the lives of those who fall under their umbrella of responsibility. Because it is often not up to them precisely which *individuals* fall under this umbrella, we think that they ought to consider how best to benefit anyone who comes to fill the office of, say, 'my child' or 'my student' or 'future citizens.' If they ignore this responsibility, then we may say that they harm the office holders in the *de dicto* sense, just as Tess would harm accident victims if she failed to enact certain seatbelt regulations.

Take note that these *de dicto* concerns obtain in cases where there both are and are not *de re* instances of the moral subjects. Since in some of these cases the actual people who will be affected exist, there is the potential for *de re* harm to manifest alongside the *de dicto* harm. This would be a problem for Hare's account, because he requires a lack of *de re* expression, which is too strong. This is not, however, a problem for my view, as I do not restrict the senses in such a way. I will return to this issue shortly, as it arises in the analysis of competing harms. For now, the point of the above analogies is to demonstrate that the *de dicto* considerations in these cases arise at a time *before* individuals come to fill certain offices—and therefore before *de re* considerations arise—and they arise from the type of responsibility that is also present in the *Sarah* case. The *de dicto* considerations are relevant because the responsibility is present even as the people affected are not present. This *de dicto* responsibility justifies our intuitions of harm and benefit. Thus, we may recognize that there are indeed cases that entail justified considerations of *de dicto* harm, as well as role-based reasons to morally prioritize these considerations.

Note that when the responsibility criterion does not obtain, *de dicto* considerations often diminish in relevance. Consider the fact that, in our everyday lives, we harm people in the *de dicto* sense all of the time. This harm is usually morally permissible insofar as we do not stand in a relevant responsibility-relation to the persons who come to fill the office in question. Let us look at the following cases that I have deemed *de dicto* irrelevant cases. Note that this does not mean that they do not or could not have *any* moral relevance. Rather, I claim that the *de dicto* components of these cases are clearly irrelevant when it comes to moral decision-making, given the context of the situations:

De Dicto Irrelevant Cases

Movie Theater: Imagine that there is a sold-out showing of a very popular movie. You are very excited to see this movie, so you arrive early. You do not sit in back of the theater, off to the side, in order to benefit those who come into the theater after you. Instead, you take the best seat.

$20 Bill: You are walking down the street. No one is nearby when you spot a $20 bill lying on the sidewalk. You do not leave it where it is for someone else to find. Instead, you pick it up and put it in your pocket to spend later.

Pie: You are eating at a diner, and you order a slice of pie. The server tells you that you are in luck because that is the last slice of pie they have that day. You do not retract your order so that someone else may enjoy the pie. Instead, you order and enjoy the delicious dessert.

Should *anyone* arrive at the diner after you, eager for pie, your decision to order the last piece of pie will entail a *de dicto* harm. You made it the case that whoever wants pie from the diner that day will not get any. Similarly, your decision to pocket the twenty dollars makes any person who would have spotted the money had you not picked it up worse off than that person otherwise would have been, for that person could have been twenty dollars richer. Likewise, you *de dicto* harm those in the movie theater. Anyone who arrives after you is forced to sit elsewhere than the optimal seat in which you yourself chose to sit. Yet, the *de dicto* harm—even if it obtains—is clearly outweighed by the fact that you have no responsibility to avoid harming the subjects in these cases, whoever they might be. To be fair, you would arguably *de re* harm the actual people in these examples as well because you make the particular individuals who end up harmed worse off than they otherwise would have been had you not acted. However, that this *de re* harm obtains is not itself reason to ignore the *de dicto* harm that also obtains. And, importantly, neither sense of

harm carries enough weight to matter morally in these scenarios, which entails that the *de dicto* harm is not relevant enough to factor in the moral analysis of these cases.

It will be useful here to remember an important feature of harm itself. Harm does not by itself generate wrongness, and this is true for both *de re* relevant and *de dicto* relevant situations. Again, 'harm' as we are using it is not an already morally loaded term, though claims of harm do provide us with some reason to investigate whether the harm was indeed wrongful. Put simply, making someone worse off than she otherwise would have been is not always impermissible. Likewise, making some office holder worse off than an office holder would have been is not always impermissible. But when the responsibility criterion obtains, we can appeal to *de dicto* harm, and this allows us to analyze potential wrongdoing in non-identity cases *in terms of harm*, which we seemed unable to do at the outset. This renders the role-based approach morally useful for both non-identity cases in particular, and also for other, non-creation cases involving responsibility relations between agents and offices that moral subjects fill.

The intuitions generated by the *de dicto* irrelevant cases might explain why Parfit takes issue with the type of solution I am offering. As we saw, Parfit posits a "general person"—which is akin to *de dicto* offices—and he states that, under TT, the general person matters only about half as much as actual—or *de re*—individuals.[38] But he does not explore the claim that they should matter less, and he not only entertains the possibility that we should assign less weight to general people (or, to these *de dicto* concerns), he is also proposing a principle that assigns them a uniform weight and applies it across the board without first assessing whether certain factors could make the weight of *de dicto*—or general person—concerns more variable. Perhaps he is actually envisioning only *de dicto* irrelevant cases like the ones above as he entertains TT, for it is true that

[38] Parfit 2011: 220-21.

de dicto considerations often matter less, or not at all, in a fairly consistent way. However, this is not true for all *de dicto* relevant cases involving offices, positions, or general persons; and we should not treat all *de dicto* relevant cases equally. I have provided a criterion of responsibility that draws a clear line between the relevant and irrelevant cases and renders utterly unjustified the assumption that *de dicto* considerations simply matter less across-the-board.

As we saw in Chapter One, much of the literature on the non-identity problem can be separated into either person-affecting or impersonal views. Person-affecting solutions require that the wrongness of the act stem from its effect on an individual. Impersonal solutions require that we choose the better state of affairs over the worse one, regardless of whom the act effects. Both come with problems. Person-affecting views generate the non-identity problem itself, because it is precisely the harm to an actual individual that is missing in non-identity cases. When these cases are formulated so that we harm individuals without making them worse off, we run into several entailment problems. Often these nuanced views entail that we wrongfully harm someone in cases that seem intuitively to involve permissible harm, or they entail that we are allowed to commit acts of intuitively impermissible harm.[39] While each has its merits and drawbacks, the bottom line is that person-affecting views have substantial trouble solving the non-identity problem. Impersonal views, on the other hand, need not rely on claims of harm to individuals. However, such views famously tend to entail worrisome outcomes, and they fail to take into account the unique position of the agent.[40]

This middle-ground approach suggests that we ought to assess states of affairs, but only insofar as we are assessing the states for office-holders in general. And unlike Kumar and Hare, I

[39] See Hanser 1990, Harman 2004, and McBrayer 2008, for example.

[40] That is, advocates of the impersonal approach must answer to the Repugnant conclusion and the Mere Addition Paradox (Parfit 1984), as we saw in Chapter One.

concede that the child born with a defect can make *no* personal complaint about being born. Such complaints seem to align these views too closely with a person-affecting approach and the resultant drawbacks of appealing to *de re* comparative harm. While my view has, at its core, a concern for moral subjects, it is importantly different from what Parfit had in mind when he suggested the PAP. My view is person-affecting not in our claims about who in particular has been made worse off, but rather in our claims about responsibilities over offices that *persons will come to fill* and the importance of recognizing the *de dicto* concerns that arise in these cases. Thus, I suggest it is most fitting to describe my and other middle-ground views as "role-based." To decide on the wrongness of certain acts, we need not focus on the effects on either individuals or states of affairs. All we need to do is ascertain what agents' *de dicto* responsibilities (and personal capabilities) are, given their roles, and then determine from that what they ought or ought not do. These role-based, *de dicto* responsibilities only arise when we stand in a morally relevant relation to offices that must be filled by moral subjects to be filled at all, and they may be assessed before anyone has filled the office in question. And my account of role-based responsibilities provides a satisfying solution to many non-identity cases without an appeal to contracts or to a too-vague account of partiality, as we saw with Kumar and Hare's views. We may do something wrong when we fail in our responsibilities to generalizable others, even if these others cannot reach a state of rational self-governance. And we need not be merely partial to those generalizable others under consideration either. Instead we must stand in a legitimate responsibility relation to the office itself in order for strong moral obligations to obtain.

So, by comparing the *de dicto* relevant cases to the *de dicto* irrelevant cases, we can see that *de dicto* responsibility (or lack thereof)—not mere partiality or rational self-governance—makes a moral difference. Clearly, the examples that have given rise to the non-identity problem

fall under the category of *de dicto* relevant cases because we are responsible in a relevant way to our children, future generations, etc., whoever they might be. This evident *de dicto* responsibility supports the claims that we ought to adopt a *de dicto* reading of non-identity cases, recognize those whose roles entail *de dicto* responsibilities, and posit wrong action when the resulting harm is in fact wrongful. Whether the harm is in fact wrongful will depend on the particulars of the given case, but that my approach allows for an analysis of harm renders it best-equipped to fully explain our intuitions regarding non-identity cases. But this view is not free of challenges. I turn our attention now to a few key aspects of my view in order to respond to what I take to be the most important concerns surrounding this sort of approach.

3.4 IS *DE DICTO* HARM REDUCIBLE TO *DE RE* HARM?

First of all, a critic might claim that, under this view, *de dicto* harm is simply reducible to *de re* harm. That is, when we feel justified in our appeal to *de dicto* harm, it is due to epistemic constraints, not metaphysical ones. We simply do not *know* who the actual individuals will be in the *College Fund*, *Teacher,* and *Leader of State* cases. But perhaps what makes the *de dicto* harm morally relevant is the result that actual individuals will be made worse off. For example, there will be some specific child who will either have a college fund or not, depending on the parents' actions. Suppose the parents' decision does not ultimately affect the identity of the specific child in this case. The harm in this scenario can very simply be cashed out in terms of later, *de re* harm. This *de re* harm, according to this critic, could be all that is morally relevant in the above cases. And if we need actual *de re* harm to ground the relevance of *de dicto* concerns, then we no longer have a useful approach to the non-identity problem. This is, of course, because there is no *de re* harm in non-identity cases. If all relevant *de dicto* harm is simply reducible to *de re* harm, and if

de re harm is absent in non-identity cases, then it would seem that *de dicto* harm must be absent as well.

The concern, then, is the following. I claim that the harm in non-identity cases can be explained through appeal to *de dicto* considerations of a failure to meet one's role-based responsibilities. I also claim that *de dicto* harm can occur without *de re* harm. However, it would seem that the only kinds of cases that could possibly illustrate *de dicto* harm without any eventual *de re* harm are non-identity cases themselves. So, perhaps I am presupposing the wrongness of non-identity cases in order to motivate my approach to the problem, thereby begging the question against the critic who does not agree that there is a problem in the first place.

To see why this is not so, let us compare my claims with the critic's. I claim

(1) that there is wrongness in some non-identity cases,

(2) that the best explanation for (1) is that mere (i.e., without eventual *de re*) *de dicto* harm can be wrong when coupled with our role-based responsibilities, and

(3) that therefore in some cases mere *de dicto* harm is wrong.

The critic will claim, to the contrary,

(1*) that there is no wrongness in non-identity cases,

(2*) if (1*), then mere *de dicto* harm cannot be wrong when coupled with our role-based responsibilities, and

(3*) that therefore there is no case in which mere *de dicto* harm is wrong.[41]

Support for (2) may come through the rejection of other attempted solutions to the non-identity problem, and the critic would presumably endorse this project, given (1*). I will grant

[41] There is a suppressed premise at work here; namely, that the only cases that could give rise to *de dicto* harm without *de re* harm are non-identity cases, given their essential features. I am willing to grant this, though I suspect that there may be viable counterexamples to this claim.

(2*). This means we face a decision between (1) and (1*). In the Moorean spirit, I now ask: for which do we have more overall evidence? I agree that I cannot appeal to (3) to support (1), because that would indeed beg the question. Of course, the critic likewise cannot appeal to (3*) to support (1*), and presumably would not. The critic must either find some reason to deny (1) that does not depend just on the denial of (3), or find some reason to support (1*) that does not depend just on the affirmation of (3*). This appears to be a difficult task for the critic, but I can avoid begging the question without similar difficulties. I do not appeal to (3) to support (1). Instead, I appeal to the widespread intuition that non-identity cases involve both harm and wrongdoing. Our widespread intuitions provide more overall evidence for (1), thus I can avoid the charge of question begging and transfer the burden of proof onto the critic to defend a highly counterintuitive claim.

I also wish to highlight two other independent reasons to believe (3) in order to further challenge the question begging charge that stems from my reliance on the responsibility criterion. Recall the two sets of *de dicto* cases—the relevant and the irrelevant. If you agree that the harm in the first set is morally relevant and the harm in the second set is morally irrelevant, then we have some reason to believe that *de dicto* harm is not always reducible to *de re* harm, because any relevant *de dicto* harm is tied to *de dicto* responsibility. If *de dicto* harm is reducible to *de re* harm, then there is reason to think that *de dicto* responsibility is reducible to *de re* responsibility, and we have lost a useful way of describing the intuitive difference between the two sets of cases. As we saw, the responsibility criterion explains the moral difference between the two sets of cases, but the responsibility in either set is not *de re* responsibility. The agents in the two sets are not simply responsible only to certain actual individuals. In the first set they are responsible (for, say, providing educational benefit or a healthy planet) to *anyone* who comes to fill the office over which they are caretakers. And in the second set, the agents are not responsible (for, say, gustatory

pleasure or optimal viewing) regardless of the particulars of the individuals who experience the effects of their actions. This *de dicto* responsibility or lack thereof leads to *de dicto* considerations that do not appear to be reducible to *de re* harm, because the responsibility does not appear to be reducible to *de re* responsibility. If *de dicto* harm were always reducible to *de re* harm, then the *de re* harm in both sets of cases would be the bottom line, and there would be no need to distinguish the two sets of effects. But given our differing intuitions about the two sets of cases, *de dicto* harm and responsibility stand apart as means of explaining of those divergent intuitions. This is further evidence that *de dicto* harm is not simply or always reducible to *de re* harm.

So, in non-identity cases, wrongness can arise from the *de dicto* harm borne by a responsibility-relation between an agent and an office that moral subjects fill. This is not just an ad hoc appeal to something that conveniently solves the problem I have set out to solve. I have provided independent reason to employ this two-place responsibility relation. Obviously, we can appeal our strong intuitions in classic cases that responsibility over offices exists. It *seems* as if parents have unique responsibilities to not only their actual children who actually exist now, but also to anyone who becomes their child at any time, regardless of actual identity. This is similarly true with safety officers, leaders, policymakers, etc. But we can appeal to more than widespread intuitions about such cases. Not only does it seem that these relations obtain, but it is also true that our ability to refer to them is *indispensable* for both common discourse and for acquiring moral knowledge. For example, without the concepts of offices, we could not have meaningful discussions about upcoming presidential elections, or hold workshops on how to become better teachers, or debate labor laws, or bestow championship titles, or engage in any number of practical, commonplace conversations. Given that our ability to refer to the offices of ‘president’ or ‘student’ or ‘laborer’ or ‘champion’—and *not* just to the individuals who meet these descriptions—is so

generally indispensable, I am justified in appealing to offices when addressing particular non-identity cases. Furthermore, the two-place relation between office caretaker and office is profoundly useful in uncovering our responsibilities and thereby acquiring moral knowledge. Without it, we could not talk about any moral imperatives embedded in the *roles* of parent, president, police officer, judge, etc. We could only talk about actual individuals' actions in relation to other actual individuals, and this would be deeply unsatisfying not only in non-identity cases, but also for *all* role-based discussions of responsibility, including those wherein the moral subjects exist and are filling certain offices. Thus, a denial of my appeal to role-based responsibilities over offices not only allows for highly counterintuitive responses to the non-identity problem, it also threatens the very structure of common moral and practical discourse. The same way that the success of mathematics is some evidence for numbers, the success of our office-discourse is some evidence for offices. And if we successfully talk about obligations to office-like entities, such as future generations or species (a point I will return to later), then this too is evidence that we can stand in responsibility-relations to offices and commit *de dicto* harms without considering *de re* harms.

3.5 RETAINING THE MORAL WEIGHT OF *DE RE* HARM

Just as *de dicto* harm is not merely reducible to *de re* harm, *de re* harm can have moral weight independent of related *de dicto* considerations. One might object to my role-based view through a supposed counterexample that purports to demonstrate an appropriate level of responsibility with inappropriate considerations of *de dicto* harm. Consider the following case:

Adoption: You wish to adopt a child and you go to an adoption agency. The agency gives you the choice to adopt one of two children. One of the children is blind, the other sighted. You choose the blind child, and she becomes your child.

This may be considered a counterexample to my view because you have the opportunity to adopt a sighted child. This would arguably *de dicto* better the office of 'your child' because your child would not have to endure certain limitations. According to my view, then, you should take into consideration the *de dicto* harm of making your child a blind child, and you should adopt the sighted child. However, this does not seem intuitively correct. We do not think you do anything wrong when you adopt the blind child, in fact we might even be inclined to praise such behavior. So, is responsibility over offices not always a sufficient condition for the obligation to benefit the office of 'your child?'

Let us examine this question by analyzing the *Adoption* case more carefully. Unlike the *Sarah* case, it involves persons who already exist. Like the *Sarah* case, no harm occurs to the person who comes to fill the office of the child in question as a result of filling the office, regardless of whether one chooses to adopt a blind child or a sighted child. In fact, in the *Adoption* case, you would likely benefit the blind child if you chose to adopt her, and this would be a *de re* benefit her. In the *Sarah* case, no *de re* harm occurs *at all* as a result of either decision. There is no one individual who is harmed in this case. However, in the *Adoption* case, you can harm a particular individual if you make a certain decision. Specifically, you can *de re* harm the blind child at the time of the action (by depriving her of a home) if you chose not to adopt her. The potential for *de re* harm is clear-cut here, whereas it is absent in the *Sarah* case. However, the obviousness of the harm is not yet enough to claim that it trumps *de dicto* considerations. For, as we saw in the other *de dicto* relevant cases, sometimes *de re* harm is present and it is simply not relevant.

In some of those other types of cases, we are able to consider immediately the *de re* effects of our decision. But the *Adoption* case is importantly different. The *Adoption* case would, for example, *not* be akin to the original *School Teacher* case, but rather to a case wherein a school teacher picks certain favored students to be in her class while leaving others out. In that case, the teacher is benefiting the office of 'her students' by putting in those she likes, but she might then harm the individuals she chooses to deny. Her *de dicto* considerations are importantly altered when they arise *alongside* her *de re* considerations. Likewise, we are not required to prioritize *de dicto* considerations of bettering the office of 'one's child' when, at the same time, we have good reason to consider whether to benefit or harm a particular individual or particular individuals. Selecting actual individuals to fill an office or position carries with it moral considerations that differ importantly from non-identity considerations. But this challenge still leads us to an important point.

How we go about prioritizing *de dicto* considerations matters. It is not as if these considerations always trump any other moral consideration so long as the requisite responsibility is present, therefore *de dicto* responsibility is not always a sufficient condition for generating the obligation to increase the welfare of someone under your care. Specifically, we often should not *de dicto* benefit someone at the cost of *de re* harming another at the time of the action. If I drastically improve the office of 'my child' by murdering a rich person and taking all of his money (thereby gaining the ability to provide my child with all she might need to become successful), this would not be morally acceptable even though it prioritizes the *de dicto* considerations regarding the office of 'my child.' Anyone who fills that office will be benefited. Yet, I am not permitted to harm a particular individual in this way simply because I have a responsibility to benefit my child. Likewise, Tess should not be allowed to reduce the severity of automobile accidents by forcing

half of all drivers to drive no faster than 15mph. This unfairly harms particular drivers at the time of the Tess' action. Returning to the *Adoption* case, you are, at the very least, allowed to take into account the *de re* considerations of the child you wish to adopt and of the child you ultimately reject.

Similarly, benefiting those who already exist can outweigh the harm of bringing others into existence to benefit them. Suppose your choice was between adopting a blind child and conceiving a sighted child. Adopting the blind child may constitute a *de dicto* harm, because you are making it the case that you fill office of your child with someone who is (arguably) worse off rather than better off. Yet, given that the blind child already exists to be *de re* benefited, and given that *de re* harm or benefit for the non-existent child is not a factor unless it comes into existence, the *de re* benefit of adopting the blind child could presumably outweigh the *de dicto* harm of filling the office of your child in that way. If the *de re* benefit outweighs the *de dicto* harm, and if the other child is neither harmed nor benefited, then it is clearly acceptable to adopt the blind child rather than to conceive a sighted child (assuming you have the resources to care for such a child – a point I return to later in this chapter). Furthermore, if the blind child will not be adopted unless you adopt, there is important *de re* harm to consider, which could (depending on the extent of the harm) make it the case that you ought not conceive the sighted child when you could adopt the blind child. However, suppose you know that someone else will adopt the blind child and take just as good care of it as you would have. In that case, the *de re* benefit to the blind child is guaranteed, and it would again be morally acceptable to choose either option. The bottom line is that *de dicto* considerations are still situated within the greater nexus of moral principles, and *de re* harm and benefit still matter.

One might now think that the following is an unappealing implication of this view. Suppose you have no intention to conceive a child, but rather you wish only to adopt. You are at the adoption agency and you are choosing between adopting a child with a serious defect and adopting a perfectly healthy child. Suppose also that if you adopt the healthy child, the next couple who comes to the agency will adopt the child with a serious defect and care for that child exactly as well as you would have. The *de re* benefit to the child with the defect is the same no matter what you decide, but you have the opportunity to *de dicto* better the office of your child by adopting the perfectly healthy child, therefore, perhaps you have a moral obligation to do so. Yet, that you would have a moral obligation to adopt the healthy child in this scenario seems counterintuitive. However, my view does not entail that this is in fact a case of moral obligation. My view does entail that adopting the child with a defect would lead to *de dicto* harm, and that you as a parent have reason to prioritize this harm given both your role-specific responsibilities and the lack of *de re* harm. But harm itself—*de dicto* or otherwise—is not always wrong. I maintain that you have good reason in this case to consider the moral weight of this *de dicto* harm insofar as you are considering how best to fill the office of 'your child' according to your role as parent. In this case, however, it would be quite reasonable to conclude that the *de dicto* harm, as it stands, does not carry enough weight to generate the wrongness of incurring that harm. That you stand in a responsibility relation to an office that a moral subject will fill means that you have a moral obligation to weigh the *de dicto* harms that will result from your choices, but it does not mean that such harm will always generate wrongness. The particulars of a case strongly affect whether *de dicto* harm is permissible or impermissible. In this case, your responsibilities as a parent probably do not include the requirement that you avoid this *de dicto* harm, given how minimal this harm is, and given the assurance of *de re* benefit to the other child. I claim that role-specific responsibilities

require that the agent prioritize *de dicto* harm in certain cases, but the prioritization itself does not automatically generate wrongness. It does, however, provide us with a viable account of harm to consider in non-identity cases—and in any cases involving responsibility-relations between agents and offices—and my view thus retains its value as an approach to solving the non-identity problem by uncovering morally relevant harm where there originally appeared to be none. This analysis does, however, lead to an important question of what the extent of parental (and other) responsibilities should be, and I will address that concern shortly.

Returning to the original concern, the *Sarah* case and certain other *de dicto* relevant cases do not contain *de re* considerations of the type that we find in the *Adoption* case, or that we find in the case where you murder someone to benefit your child. In cases like the *Adoption* case, we should indeed weigh the *de re* considerations, but it is precisely this added weight that makes the *Adoption* case morally disanalogous to the *Sarah* case. Because of this, the *Adoption* case is not a counterexample to my view. It does indeed expose important limitations to the relevance of *de dicto* considerations overall, but these are simply limitations regarding the weight we should place on such considerations in the face of other moral considerations—and these are the kind of limitations that come with almost every moral principle. Nonetheless, when we have cases wherein the requisite responsibility obtains and *de re* harm does not occur alongside the action, we are justified in giving weight to the *de dicto* considerations. Since the original non-identity case falls under this description, we are warranted in appealing to our *de dicto* concerns regarding the office of 'her child' when positing harm.

This analysis highlights one way in which my view differs importantly from Hare's. Hare claims that we have a *de dicto* duty—or responsibility—when the interest we have in serving

certain groups has no *de re* expression.[42] But this is far too narrow. We can have *de dicto* responsibilities even when *de re* considerations are present as well. Wasserman picks up on this problem in Hare's work as he exposes what he calls a "critical" difference between cases which entail interests that have no relevant *de re* expression (*Safety Officer*, *School Teacher*, etc.) and those in which there is no *de re* expression at all (*Sarah*, *Leader of State*).[43] He notes that, in the *Safety Officer* case, Tess intentionally creates a benefit and only incidentally affects who receives that benefit. On the other hand, the mother in the standard non-identity cases creates a benefit while intentionally ensuring that a certain individual will come into existence to receive that benefit. Wasserman seizes on this distinction in order to outline why a *de dicto* solution must grapple with the problem of a responsible agent who fills the office under his care with actual individuals who happen to already be well off while disregarding other actual individuals who are less well off. That this is a problem requiring a response can be seen in the *Adoption* case presented above. Sometimes our *de dicto* duties are not as morally salient as other duties.

But both Hare's and Wasserman's analyses of these concerns are inadequate. We need not assume that *de dicto* responsibilities have relevance only when there is no *de re* expression. The *School Teacher* case demonstrates that much. And we need not throw up our hands when we encounter *de re* considerations arising alongside *de dicto* considerations, as we just saw. Let us for the moment return to the *de dicto* relevant cases I outlined earlier. In the *School Teacher* case, the act does not determine that certain individuals will come into existence over others. Instead, it determines what the (learning-specific) welfare level will be for the already existing individuals who will become that teacher's students, whoever they turn out to be. In the *College Fund* and

[42] Hare 2007: 519.

[43] Wasserman 2008: 532.

Leader of State cases, the identity of the subjects is determined as a result of the act that affects the welfare of whoever fills the office of 'future citizen' or 'future child.'[44] However, this does not mean that these cases are on par with the original pregnancy case, and this disanalogy uncovers precisely why *de dicto* relevant cases are more fine-grained than Wasserman presents.

Wasserman wants to draw the line between cases in which agents only incidentally affect the *de re* expression of the consequent welfare (*Safety Officer*) and those cases in which agents intentionally affect the *de re* expression of the consequent welfare (*Sarah*, or any standard non-identity pregnancy case). But notice that the *College Fund* case and *Leader of State* case have more in common with the *Safety Officer* case than the *Sarah* case on this account. While saving for your children's future and signing protocols can indeed determine that some individuals will come into existence over others, this determination is purely incidental—like Tess' act—and not intentional, like Wasserman would claim of Sarah's act. The larger point is this. We would not think that the moral status of the parents' acts in *College Fund,* or the obligations of the leader in *Leader of State*, would change if we tweaked the cases to make their *de re* determinations utterly intentional—that is, if they actually intended to bring certain people into existence over others, rather than simply foreseeing that their acts would have this effect. Furthermore, the *Safety Officer* case does more to determine the *de re* identity of the affected subjects than the *School Teacher* case, because Tess' act determines—albeit incidentally—who is affected, whereas a teacher will often get the same students no matter how he prepares—he simply does not know who the actual individuals will be. Clearly, what matters most in all of these cases is *not* the particulars regarding incidental vs. intentional acts and existence vs. non-existence. What matters most are the *de dicto* responsibilities

[44] Though it is probably not *guaranteed* that the agents determine that certain individuals come into existence over others in these cases, let us feel warranted in stipulating that this is the case, given the good probability that such acts will have such consequences.

that these agents possess. And the specifics of a given role as office caretaker are crucial for how we compare our *de dicto* responsibilities against our *de re* responsibilities. Therefore, uncovering all of the fine-grained differences between the various *de dicto* relevant cases, while interesting, does little to challenge the role-based approach. We are, however, still left with Wasserman's important concern regarding how responsible agents ought to fill the offices over which they are caretakers.

3.6 A METHOD FOR WEIGHING HARMS

There is an important concern stemming from the acknowledgement that *de re* and *di dicto* consideration are both morally important. I have argued that the responsibility criterion renders *de dicto* harm morally relevant while also maintaining that *de re* harm—where it obtains—has the potential to matter morally as well. Retaining the commonsense, counterfactual account of *de re* harm is useful because it neatly avoids many of the thorny problems that arise in nuanced, non-counterfactual accounts of harm. We do not have to adopt an ad hoc or convoluted account of harm in order to solve the non-identity problem. We simply need to recognize that the commonsense, counterfactual account has *de dicto* components in addition to *de re* ones. But merely recognizing the two components still leaves certain questions unanswered. Specifically, is there a particular method by which we should proceed when both *de re* and *de dicto* concerns arise together?

This question matters when considering cases—like the *Adoption* case—wherein the *de re* and *de dicto* components themselves generate conflicting prescriptions. Recall the *Doctor* case from the previous chapter:

> *Doctor*: A doctor is, for whatever reason, deciding which set of patients she is willing to take on. She may either take on very sick people and improve their health

> significantly—though she will leave them far short of being fully healthy—or she may take on only minimally unwell patients and quickly restore them to full health. If she chooses the former, the office of her patients will have much higher welfare than if she chooses the latter, thereby seemingly satisfying her responsibility to avoid *de dicto* harm.

So, *de re* considerations suggest that she ought to take on the sick people, and *de dicto* considerations seem to imply that she ought to choose the other set. Obviously, doctors have *de dicto* responsibility to their patients because their role is to improve the health of *anyone* who fills the office of 'their patients' (to the best of their ability). But this is consistent with the doctor taking on only minimally unwell patients, because she is filling the office of her patients with individuals with higher welfare, thus minimizing *de dicto* harm. However, this is clearly not the appropriate thing to do. We seem to be missing some key factors at work in cases of harm. This is due to the fact that simply looking at the *level* of welfare—while ignoring progress—is often an incomplete approach. *De dicto* responsibility may require the agent to consider *net* welfare, not merely the level at which the welfare line is drawn.

Let us say that 0 units of welfare is the point at which a patient is so unhealthy that life is not worth living, and that 100 units of welfare is the point at which a patient has reached full health. Suppose, on the one hand, that the doctor takes on patients who have 20 units of welfare and increases their welfare to 80 units. On the other hand, suppose the doctor takes on patients who have welfare of 95 units and increases their welfare to 100 units. The level of welfare is clearly better in the latter case. But the net gain of 60 units of welfare in the first case is surely a more significant improvement than the net gain of 5 units in the latter case. Given these considerations, a doctor who generates the most improvement in her patients is fulfilling her *de dicto*

responsibilities best, and this aligns nicely with our intuitions about what makes someone a good doctor. Thus, to suggest that *de dicto* responsibility entails that a doctor must take on patients with relatively high welfare is to misunderstand how certain office caretakers should measure the welfare of those who fill offices over which they have responsibility.

Notice, however, that this appeal to progress cannot be made in non-identity cases. I concede, unlike Kumar and Hare, that the child has no personal complaint in the *Sarah* case, regardless of her decision. We are not able to compare benefits in the *Sarah* case because no individual is made better off than he otherwise would have been. In non-identity cases, the only available metric is the level of welfare. While looking only at the level of welfare in the doctor case is an incomplete approach, it is so because that type of case includes factors of *de re* progress and benefit—factors that are simply absent in non-identity creation cases. And the fact that progress concerns are absent in creations cases seems to make a moral difference. Intuitively, Sarah ought to increase the baseline level of welfare her child enjoys in a creation case by filling the office with a better off individual when it is easily within her power to do so, and intuitively the doctor ought to consider how best to make progress in the health and welfare of her patients, given her role as doctor *and* the fact that they already exist to be harmed or benefited by her decision. Progress is a factor when *de re* considerations exist alongside *de dicto* responsibilities, and it is not a factor when the case in question constrains our choice to either existence at one level of welfare or existence at another level of welfare. If, however, once Sarah's child was born, she failed to take certain measures to contribute to progress in her child's welfare, we might say that she has done something wrong. But determining whether a given act of benefit is morally required is a separate question, to which I now turn.

3.7 EXTENT OF BENEFIT

When weighing *de dicto* harm against *de re* harm, we must consider the responsibility criterion, compare the harm (and benefit) correctly, and recognize that *de dicto* harm is not necessarily reducible to *de re* harm. Once we do this, we find that the obligations borne of *de dicto* responsibility correctly explain the harm and wrongness of certain non-identity-related actions. We have moral reason to better the lives of those for whom we are responsible in ways that are appropriate to the given offices over which we are caretakers. And we should think carefully about whether and to what extent *de re* considerations compete with *de dicto* ones. A doctor has a responsibility to make her patients healthier, but often the *de re* components of this responsibility will compete with the *de dicto* components, and this is why progress is the important metric in those cases. However, a mother has a responsibility to her child, but unless this child already exists, there are no available *de re* considerations that compete with her *de dicto* ones. So, *de dicto* benefit in accordance with parental responsibility is the important metric in these cases.

But now we must ask to what extent parents are obligated to benefit the offices of 'their children,' for certain kinds of cases make it clear that the threshold should be something short of maximal. The first case of this sort raises questions regarding the limitations of the office itself, and the second involves the competing interests of the office caretaker. Let us start with the first kind of case. If a mother, like Sarah, is choosing between conceiving a healthy child and conceiving an impaired child, then both our intuitions and my view lead us to claim that she ought to conceive the healthy child. But what if there is no option for a perfectly healthy child? Is it simply wrong to conceive a child with a serious impairment? Consider the following case:

> *Mrs. Robinson*: Mrs. Robinson wants to have a child. She goes to the doctor and the doctor tells her that any child she conceives will become blind by the age of

eight. So, she can either conceive a child as planned – call him "Ray Charles" – or she can opt not to conceive a child at all. She conceives Ray Charles.

Has she done something wrong by conceiving Ray, knowing as she does so that he will be visually impaired? Most intuit that this is not wrong, given that there was no option for her to conceive a fully functioning child. Any solution to the non-identity problem must contend with this kind of case, and, ideally, it will be able to account for our intuitions in both this case and the original case. My view is equipped to handle this challenge in the following way.

While it is likely true that Sarah ought to conceive the healthy child, and though my role-based view explains this prescription; Mrs. Robinson has no such responsibility. It is not that she is failing to meet a *de dicto* responsibility to the office of 'her child,' instead she is merely constrained by the limitations of her child's office. It is impossible that she conceive a perfectly healthy child, and we are not beholden to impossibilities when considering our *de dicto* responsibilities. In the same way, we cannot be held responsible if we do not conceive only children who are wholly resistant to cancer—even though this would greatly improve the office of 'our children'—because it is impossible to conceive such children. Thus, the limitations of a given office are integral in our determination of what, as office caretakers, we ought to do.

Other considerations can arise that legitimately temper the extent to which we are required to benefit those under our care, and this leads to the second kind of case that challenges the maximal threshold of benefit. While we cannot be expected to do the impossible when we are office caretakers, one might think that parents still have an obligation to do everything that *is* possible to better the offices for their children. However, this condition seems to be far too strong. Consider the following case:

> *Car Seat*: Suppose you are a parent shopping for a car seat for your child. You have narrowed it down to two options, both of which are equally safe. There is a cheaper car seat that will be less comfortable for your child, and there is an expensive car seat that will be more comfortable. You opt for the cheaper car seat, so that you can spend the money you save on a fancy dinner.[45]

While the best thing to do in the interest of your child's welfare would have involved buying the expensive car seat, it does not seem that you act wrongly in this scenario, even though you fail to benefit maximally a moral subject who is under your umbrella of responsibility. This result obtains in cases far less trivial than the car seat one as well.

> *Eugenics*: Suppose you are planning to have a child through IVF. Suppose also that you are somehow able to ensure whether your child will be attracted to the same sex. Because you want your children to have the highest welfare possible, you instruct the doctor to implant only fertilized eggs that will not become same-sex attracted individuals, because you have good reason to believe that a heterosexual child will experience higher welfare, given the rampant discrimination against homosexuals in your society.

This is just one fantastical example of many sorts of cases that could skirt the line of eugenics. If you have a responsibility to better the office of your child, and if you have good reason to believe that certain characteristics will lead to greater hardships, then you have some reason to avoid having children with those characteristics. The cases I have in mind here are importantly different from the original *Sarah* case involving a major medical condition. Medical conditions that severely limit functioning, life span, or quality of life are permissibly avoided in non-identity

[45] Credit to David Boonin for proposing this counter example.

cases when those sorts of problems are inherently limiting. But eugenics-type cases that involve merely social harms are not inherently limiting, they are contingently so. There is nothing in and of itself harmful about being attracted to the same sex. The harm results from reactions and restrictions that depend entirely on the individual's social environment. In an ideally functioning society, there would be nothing harmful *per se* about being born homosexual (or female, interracial, intersex, etc.). Of course, one might think that an ideally functioning society would also provide as many accommodations as possible to ensure that those with limited functioning are not harmed by their state, in which case many medical conditions could be (and often are) merely contingently harmful as well. Setting aside the precise conditions for this distinction between medical and social harms, we can, at least superficially, separate medical harms that are inherently harmful from social harms that are contingently harmful and which stem from present injustices.[46]

Clearly, social factors and science can and do collude to create harmful and unjustified imbalances of welfare. Yet, I reject the claim that we *always* have a responsibility to create those who will be most well off given the state of society, because this can reinforce and reproduce unjustified stereotypes and prejudices. We do have a responsibility to those we create, but we also have significant obligations not to perpetuate systematic injustices. I will return to this point in Chapter Five, where I discuss bioethical concerns about genetic manipulation more specifically, but for now this case is evidence that the role of parent does not entail the prescription that they must always (*de re* and *de dicto)* benefit their children maximally. They must also consider whether they are contributing to societal harms and injustices and weigh those considerations accordingly.

[46] Some medical disabilities carry with them contingent harms based on our excluding or stigmatizing the ability-impaired. These would bring with them similar concerns regarding eugenics.

These points are also further evidence that my view is not an exhaustive account of morality, and that it ought not be so. Not all moral cases involve *de dicto* responsibilities, and not all of morality hinges on our recognizing such *de dicto* responsibilities. That my view cannot account for the wrongness of every impermissible act is no shortcoming. I aim to address here only what is harmful or impermissible given our *de dicto* responsibilities.

I admit that many moral concerns have little to do with *de dicto* responsibilities, and I leave it to the other areas of morality not covered in this work to enumerate the wrong-making features of those cases. For example, suppose the *Sarah* case is tweaked, and that she does not know what will happen when she conceives now versus later. Instead I know that she will conceive a child with a serious defect if she conceives later, but not if she conceives earlier. I then slip her a pill to ensure that she does not conceive now, and that she conceives a child with a serious defect later.[47] I do not have the commonly recognized *de dicto* responsibilities borne of a parent/child relationship, because I am not the parent of her child. Thus, appealing to *de dicto* responsibilities cannot explain what is wrong with my act. But there are plenty of other, viable explanations of what makes my act wrong in that case. I certainly violate the mother's autonomy, and I administer drugs without her knowledge or consent. And unless she would have preferred a child with a serious defect, I make her worse off than she otherwise would have been without just cause, thereby harming her in the *de re* comparative sense. And there may be even more features of my act that make it wrong, regardless of my lack of parent/child borne *de dicto* responsibilities in this case. Recognizing role-centered *de dicto* responsibility can indeed be sufficient to determine the harm in an act—and these harms are sometimes wrong, though the responsibility itself is not sufficient to determine wrongness—but this responsibility is not necessary in order for an act to

[47] Thanks to David Boonin for presenting me with this case.

be wrong, given the weight of certain other moral concerns not generated by *de dicto* responsibility.

3.8 VOLUNTARINESS AND POTENCY

Let us now look carefully at what, precisely, comprises the responsibility criterion. Given the above analysis, we can elicit two conditions within this criterion: (1) *voluntariness* and (2) *potency*. The voluntariness condition means that one should consent to or volunteer for the role or position in order for *de dicto* responsibilities to be generated. The potency condition requires that one must have enough power to effect the changes or benefits entailed by the respective *de dicto* responsibilities in order to be morally bound by those responsibilities.

Why voluntariness? Consider the classic parenting cases. In these cases, the parents have *decided* to have children, thereby consenting to the responsibilities generated by that role. Suppose you have no intention of becoming a parent, but you open your front door one day to find a baby in a basket on your doorstep. Now, if you still have no desire to become a parent, then you are certainly not required to take on the responsibilities of parenting in this case simply because you have the opportunity to do so. You would, of course, have some very general *de dicto* and *de re* obligations toward this child (the details of such obligations I will discuss in depth in the next chapter), i.e., duties not to harm and to transfer safely to the proper authorities; but you do not have parent-specific responsibilities to this child precisely because you explicitly reject that role. Similarly, I do not have Tess's responsibilities because I have not taken a job as safety officer, nor do I have the president's responsibilities due (at least in part) to the fact that I have not accepted the job of president. I do, however, have responsibilities to my students whenever I agree to teach a class. We are able to choose our roles and professions in an important sense, and that we take on

our roles voluntarily is crucial for the generation of the ensuing responsibilities, both *de re* and *de dicto,* in many commonly recognized role-relations.

When someone volunteers to take on a qualifying role, *de dicto* responsibilities ensue. Therefore, meeting the condition of voluntariness is at least sufficient for generating role-based responsibilities, assuming the legitimacy of the role itself. But is it always necessary? First, we can agree that either the condition is necessary, or it is not. If it *is* necessary, then anyone who opts not to take on a role will incur none of the related responsibilities. In this case, a soldier conscripted for service will not have any new responsibilities if he does not also assent to the conscription. However, the necessity of the voluntariness condition need not preclude the claim that sometimes we *ought* to accept certain responsibilities even if we do not in fact assent to them. Importantly, there may be other principles at work dictating when it is morally permissible to eschew a responsibility and when it is not. I will look at this idea in more detail in the next chapter when I discuss our general responsibilities to future generations. If, on the other hand, voluntariness is *not* necessary for the generation of responsibilities, then we may still think that moral agents have *pro tanto* general responsibilities—as, say, soldiers, or citizens, or community members—and that context will determine the extent of those responsibilities in a given case, and the extent to which they include *de dicto* responsibilities.

The potency condition does similar work in generating role-related responsibilities. If I took on a role as office caretaker but somehow had no power to affect those who fill the office, if would be hard to see what my responsibilities might involve. Imagine a traffic officer who has been suspended from her duties. If she sees someone egregiously speeding, she does not (at that time) have the power to pull the speeding individual over and thereby lacks the responsibility to increase the safety of the others on the road. While it might seem trite to claim that we have no

responsibility to do what we cannot do, an important issue arises when we look at the gradations of power that office caretakers may possess. More power generates more *de dicto* responsibilities, and less power generates fewer responsibilities. I will return to this point as well in the following chapter as I discuss our responsibilities to distant future generations and to the environment, but the potency condition has short-term non-identity applications as well. Recall the *Adoption* case. Suppose you want to adopt the blind child, but raising blind children requires far more care and resources than you are capable of providing. If you manage to adopt the blind child in this scenario, you have failed in your *de dicto* responsibilities as a parent (as well as your *de re* ones). That is, you can best fulfill your *de dicto* responsibilities by filling a given office in certain ways. It might be better to adopt a blind child who already exists, but not if you are not able to care properly for that child.

One might worry that this implies that poor or disadvantaged people ought not fill the offices of 'their children' because they do not have the resources to care properly for a child. That is, if they cannot meet parental responsibilities, then they ought not become parents at all. But this is too quick. Surely, if there are important needs that cannot be met, then one ought not intentionally bring someone so needy under one's umbrella of responsibility. However, the actual features of poverty and disadvantaged status do not entail that important needs will surely not be met. Some poor or disadvantaged parents have extended-family networks in place that ensure that children are properly cared for. Furthermore, children born into poor families can, for a variety of reasons, end up with lives that have very high welfare levels. While there likely is a level of poverty that is so extreme that we can assume with a fair degree of certainty that parents having children under those circumstances are virtually guaranteed not to be able to meet their responsibilities, it is nevertheless important to note that there is not always a significant risk of low welfare for many

other poor parents. We might then assess what risks are involved in a parenting choice of this sort—and in all parenting choices, for none is risk free—but it would be deeply unfair to cast aspersions on poor parents simply because they are poor. And again, justice would require that we work to remedy any unfair social disadvantage that leads to poverty before we require a baseline level of welfare that the underprivileged will inevitably fail to meet, lest we risk furthering their disadvantaged status and committing egregious *de re* harms by perpetuating injustices.

The point is that, unless a child's basic needs cannot be met, parents are responsible for benefiting their children within the extent that their current position allows. It matters, then, what they *can* do—and here we see why the potency condition is crucial for generating responsibilities. Wealthy parents who do not set aside any money for education are *de dicto* harming their children, whereas poor families who cannot afford college in the first place are not making their children *de dicto* worse off than they otherwise would have been. Similarly, Sarah has a responsibility to conceive the healthy child because she can do so (and she can do so easily). Mrs. Robinson has no responsibility to conceive a fully healthy child because it is not possible for her to do so.

In the next chapter, I look to related questions of large-scale non-identity cases that affect society in general. Procreation questions allow for very personal concerns, whereas environmental questions are often socially motivated. Many claims in environmental ethics depend for their force on proof of a successful solution to the non-identity problem. With such a solution in hand, I turn now to an analysis of our responsibilities to this much larger set of future people whose potential welfare is currently in our hands.

CHAPTER 4: FUTURE GENERATIONS

Sometimes our responsibilities to society at large and our non-identity-related responsibilities to future persons are coextensive. That is, avoiding harm and increasing the welfare of future moral subjects is not always a personal matter of parenting or procreating. As we have seen, non-identity concerns may also be tied to the welfare of one's society, and it turns out that both the welfare and identity of future societies can hinge on our treatment of the environment, resources, and public goods. Many think that we ought not make things worse for future generations. This is the central concern of various environmental initiatives and protocols. But as we unpack this concern, we find that the aim is not so simple. As I have shown, the referents of terms such as 'future generations' can be ambiguous, and claims of harm and benefit will depend heavily on which sense of 'future generations' we adopt. I have argued that, in non-identity cases, we ought to adopt a *de dicto* reading of 'future generations' when assessing what morality would require of us. But these large-scale non-identity cases carry with them their own set of concerns that must be addressed.

In this chapter, I begin with a specific future generations case and apply my view as a solution. I then examine the differences in responsibility between these cases and simple procreation cases. The solution to simple procreation cases applies to a class of future generations cases that has parallel features. However, my view is precluded in another, more general class of future generations cases, and a separate analysis is required there. I turn to related questions of harm to the environment, ultimately dismissing certain accounts that are less well-equipped than my own. I tackle some of the more salient practical concerns that accompany our responsibilities

to the environment and to future generations. And I conclude that we have not only responsibilities to future generations given our respective roles, but that we also have a meta-responsibility to maintain certain sorts of roles, without which we cannot fulfill our obligations to future moral subjects.

I begin with the assumption that we ought to avoid certain harms to future generations. Not all environmental advocates aim to do this, of course. For some, avoiding harm to the earth itself is enough generate obligations, and any benefit to persons is secondary, if at all important. The non-identity problem does not arise for these theorists, because this problem turns on the existence, or lack thereof, of future persons—not on the environment alone. But for anyone who is motivated by a concern for future generations, this problem is surprisingly resilient. Recall the *Business-as-usual* scenario:

> *Business-as-usual*: We pollute the environment by intentionally not recycling, wantonly increasing carbon emissions, ruining the soil that grows our food, and using up our natural resources without regard for the future. As we do this, we find that our lives are full of ease, convenience and plentitude for several generations. It is also the case that the union of each egg and sperm that determine who exists in a given generation is very time-dependent. Such sweeping behavior will cause individuals to meet and couple at different times, creating different people than they would have otherwise. Thus, our acts are such that different people come into existence than would have existed had we not engaged in these practices. Unsurprisingly, after several generations, the welfare of the existing people drops precipitously because we have damaged the earth, radically altered the climate, and run out of many important resources. Yet, these future people have lives that are

still worth living. Importantly, their lives are worse than the lives would have been for the other people we would have had a hand in creating had we not engaged in the above practices.

Would it be harmful to realize the *Business-as-usual* scenario? Intuitively, it seems that it would be—but why? As with the *Sarah* case, the referent shifts as we discuss the courses of action available to us. Of course, the future generations in the *Business-as-usual* scenario must live in a world without many valuable resources and conveniences on a planet that has been ravaged. Yet, if those who come into existence in a world stripped of most resources still have lives worth living, then this scenario is not positively worse for those people in particular. If *Business-as-usual* is not realized, these people do not exist. If they would prefer their existence over nonexistence—which we may assume most people with lives worth living would prefer—then they themselves are not harmed *at all* by *Business-as-usual*, because every bad effect they suffer due to environmental degradation must be compared to nonexistence. If they would rather suffer that bad effect than not exist at all, they have not been made worse off. Thus, they have not been *de re* harmed. On the other hand, 'future generations' denotes a completely distinct *de re* referent in the scenario wherein *Business-as-usual* is not realized. Those who would have been better off than the future generations who actually come into existence do not in fact come into existence and therefore their assumed welfare level carries no moral weight. While we would not *de re* harm them either if we made it the case that they existed, we also cannot consider them harmed if we do not realize *Business-as-usual*, because those who do not exist cannot be harmed. Furthermore, *we* would actually be benefited today by the additional creature comforts.

No one in particular is harmed, and some people are benefited. Nonetheless, the claim that it is harmful to act in the manner of the *Business-as-usual* case can, in many cases, be grounded in

our role-based *de dicto* responsibilities to future generations. Such responsibility to generalizable others is clearly applicable to the sort of wide-scale decision-making one finds in these broader future generations cases. Suppose that I would not have existed had the founding fathers made different decisions that ultimately affected who was later born. As Ernest Partridge notes, I can still be judgmental about the decisions they *did* make—that is, I can be grateful for their adoption of the Bill of Rights and condemning of their failure to abolish slavery—even though neither decision made me in particular better or worse off than I otherwise would have been.[48] Similarly, when considering the ways in which past generations have worked to maintain certain public goods for our generation, Annette Baier writes, "it was, presumably, not for this generation *in particular* that public spirited persons in past generations saved or sacrificed" (emphasis mine).[49] Both Baier and Partridge recognized that responsibilities to future generations do not involve the sense that we ought to benefit any particular future individuals, but rather that we ought to *de dicto* benefit whoever will become part of future generations by making them better off than other generations would have been, to a reasonable extent. But this is notably a more general responsibility than, say, responsibility to one's child or to one's student. What exactly does such sweeping responsibility look like, and who actually possesses it?

4.1 DIFFERENT ROLES, DIFFERENT RESPONSIBILITIES

There are two important concerns regarding the claim that realizing *Business-as-usual* would be harmful because we have a *de dicto* responsibility to future generations. The first is that such responsibility is too broad to be morally compelling, which leads to a challenge involving the

[48] Partridge 2002.

[49] Baier 1981: 173.

scope of the voluntariness condition. The second involves infamous collective action problems. Let us begin with the first concern regarding breadth of responsibility.

Practically speaking, is our responsibility to future generations too broad to be action guiding? The problem at hand extends well beyond prospective parents or safety officers. Those roles entail a comparatively small and far more personal set of moral subjects. And concerns regarding the broadness of our responsibility do not arise within the smaller-scale non-identity cases involving simple procreation. Parents who have accepted their roles as parents are clearly the most responsible for their children's welfare, and they are also best situated to be effective at improving welfare. But whether one has responsibility to all future generations everywhere, or even just to one's country, is a large-scale issue without a clearly delineated role. Do I myself have a role to play with respect to all of these future generations? And if I did, how could I ever take seriously such responsibility, given how ineffective I am at enacting large-scale positive change?

In answer to this, I argue that one's level of responsibility can and does vary in relation to one's potency. Given the potency condition of the responsibility criterion outlined in the previous chapter, we can conclude that with great power comes great responsibility. With gradations of power, there are degrees of responsibility that one can bear to future generations, and these are based on how efficacious one can be, given one's role in society. The more power you have, the more responsibility you bear to those under your care. Thus, political leaders and policymakers have a strong responsibility to future generations, given their roles. Political leaders qua leaders ought to care about their citizens in general (and not only about the citizens who currently exist), and they have far more power than the average citizen to effect change. Policymakers, too, must be very forward-looking by nature and must take seriously the predictable effects of various policies. A policymaker who paid no heed to the concerns of future generations would fail to meet

her job description. The roles of political leader and policymaker entail some very obvious responsibilities to avoid harm and even to benefit those affected by their decisions, and furthermore, the leaders equipped with this knowledge presumably accept those responsibilities whenever they accept those roles. Because these agents are aware that their jobs entail the power and potential for large-scale effects, and because their decisions will affect whoever fills the office of 'my citizens' both presently and in the future, these political leaders and policymakers have met the voluntariness and potency conditions and have a strong *de dicto* responsibility, given their assumed roles, to future generations—whoever they might be.

Their political responsibility to these charges is clear, but it should also be noted that their responsibility does not end there. Because we live in an increasingly globalized world, it is evident that the effects of their actions are often not restricted to their individual regions and the respective citizens or persons therein. Therefore, their responsibilities should not be so restricted as well, and due to the potential widespread effects of their actions, a more global responsibility becomes part of the role itself. I am not suggesting that global considerations must always trump when global and local interests compete. What leaders ought to do in those situations will depend on the particulars of the situations and roles and should not be determined here in the abstract. I am merely recognizing that we are becoming increasingly equipped to predict how our actions and policies will affect people both across borders and in the further future, and I am claiming that considering these effects is now part of the responsibilities found in the roles in question.

Evidently, then, leaders and policy-makers have strong responsibilities to future generations. These cases are analogous to the small-scale procreation cases discussed in the original formulation of the problem. Both the voluntariness and potency conditions have been met, and the ensuing *de dicto* responsibilities obtain. But can the same be said for cases wherein mere

individuals who might have neither the desire nor the power to effect sweeping change have a choice about how to treat the environment? To answer this, we must address in turn the scope of the potency condition and of the voluntariness condition. I will address the problems raised by a failure to meet the potency condition in a moment when I address collective action problems, but it should be noted that the voluntariness condition is primary; for without its being met, one's degree of potency is of little importance, given that the agent does not assume the role in question. Certainly there are cases in which people today either cannot or do not want to do what is better for future generations. The voluntariness condition, if necessary, requires that the office caretaker willingly accept his position and the ensuing *de dicto* responsibilities. If this occurs, those mere individuals who willingly accept a sense of responsibility for future generations have moral reason to engage in environmental improvement. But this responsibility is importantly different from responsibility based on narrowly identified roles.

It seems that one could just as easily decide not to care about the environment and future generations, and they would not meet the voluntariness condition. There is no narrower role-relation between these unwilling people and future generations other than that they are all members of the moral community. Parents who have children cannot permissibly abandon all responsibilities to those children, and the same is true for leaders and their state's citizens. This seems to be the case primarily due to the fact that they willingly took on these roles in the first place. For, an agent who decided to become a parent, but who then decided against becoming a parent before actually conceiving has not harmed their child in either sense—no *de re* child will exist to be harmed in that fashion, and this person willingly forwent the role that generates role-based responsibility. In non-identity cases, abandoning (or refusing to take on) a responsibility to future generations does not entail any *de re* harm. And, as I have shown in the previous chapter,

de dicto harm may not carry significant moral weight even when coupled with a role-based relation. So it might appear that, in these cases, our *de dicto* harming future generations does not matter morally, as long as we do not explicitly take on the responsibility of caretaker for future generations. However, we can account for the impermissibility of the harm to future generations for reasons that lie outside of my view on role-based obligations, but which still rely on a sense of *de dicto* responsibility to persons more generally.

There are some responsibilities that we ought *pro tanto* to accept. Commonsense morality often requires that we take on responsibility for other moral subjects in a very general way, even if we do not bear responsibility to them in a more commonly recognized role-relation, such as that of parent/child, teacher/student, leader/citizen, etc. Take, for example, Singer's shallow pond case. If I happen upon a child drowning in a shallow pond, it is my responsibility as a moral agent to go in and save this moral subject, even though I stand in no particular role-relation to this child. What matters is that a moral subject is in danger, and I am in a position to help without sacrificing anything of moral importance. And this is a *de dicto* responsibility as well, because it is not the case that I must save her *because* she is a particular individual (though there are certainly *de re* benefits to saving her). I have a responsibility to save *any* moral subject I might pass by who is drowning in a shallow pond because I have a general responsibility to prevent harm to moral subjects when doing so does not impose significant costs on me. Importantly, if I keep on walking past the child and allow her to drown, I have done something morally wrong. But the wrongness does not stem from my failure to accept a role. The wrongness stems from my failure to recognize a general responsibility to act—responsibility that can sometimes generate *de dicto* harm absent a role-relation. Because the future generations will have the inherent attribute of being persons and thereby moral subjects, we as individuals do indeed have moral reason to accept a very general

responsibility to future generations, and this entail that we should often do what we reasonably can to prevent certain harms to them, regardless of their particular identities. Thus, the moral prohibitions on ignoring a drowning child and damaging the environment arise from something other than role-based responsibility. They arise from our general responsibility not to commit certain *de dicto* harms that arises from commonsense morality rather than a given role-relation.

One could also argue that our increased knowledge about how and to what extent our actions affect the future generates moral responsibilities to future generations. Baier appeals to this epistemic facet of our relation to future generations when arguing for the claim that future generations have rights. Though there are serious challenges to the claim that non-existent people have rights, such challenges do not detract from her claims about the moral relevance of our increased knowledge. Those who participated in the industrial revolution did not know how damaging the effects of industrialization would be on future generations. Their lack of knowledge of the effects of their actions made it the case that they either (1) did not have obligations not to pollute or (2) cannot be culpable for their polluting actions. However we cash out this point, the fact remains that we are not now so ignorant of the effects of our actions, and we are thereby accountable, to the extent that our knowledge allows, for the effects of our actions on the future. And, as Baier points out, this accountability has nothing to do with the particulars of future people. Rather, it rests on the knowledge possessed by currently existing people, knowledge that includes the proposition that some future moral subjects will suffer—or enjoy—the effects of our current choices. Our job is not to ensure that any particular people come into existence. Our job is to make sure that whoever comes into existence is not *de dicto* harmed in ways that we can reasonably avoid.

The second concern regarding the claim that realizing *Business-as-usual* is wrong because we have a responsibility to future generations is the claim that, even when we have such responsibility, there is a collective action problem that prevents any one of us from generating the kinds of effects that will justify an obligation not to exploit or pollute the earth. Given my earlier claims about the importance of potency, one might note that, while I could be quite effective in saving the child in the shallow pond case, I might be far less effective in combating the harmful effects of climate change, resource consumption, and environmental degradation. As we saw above, individuals do in fact have a moral reason to accept *de dicto* responsibilities to future generations. But does our inability to effect sufficient change preclude our responsibility from being strong enough to generate moral obligations? For example, suppose I have the choice of driving to the store or riding my bike. Of course, this would not qualify as a non-identity case unless this choice also caused some people to exist instead of others, but as I have shown, our *de dicto* responsibilities extend over many kinds of cases and are not necessarily contingent on creation of persons, or lack thereof. If I choose to drive, I will add a small amount of pollution to the atmosphere, but the effect of this particular choice on future generations will be negligible at best. Certainly if everyone chose to bike instead of drive whenever possible, the effect could be quite positive for the environment and for future generations. But I do not have enough power to dictate everyone's choices. Thus, while I might have a *de dicto* responsibility not to harm future generations, any given action I choose to perform will probably not have an appreciable effect of harm (or benefit) on future generations, and I therefore seem to have no moral reason not to perform the minor act of polluting.

This is a problem not only for non-identity issues but also for environmental issues in general, and it is a pervasive problem to say the least. Collectively, our actions have important

global effects and generate serious harms, but any individual act is often so causally weak that, in and of itself, it seems not to matter at all. To combat this objection, I appeal to a Norcrossian-style response to collective action problems.[50] First, there is mounting evidence from climate scientists that environmental degradation and excessive resource consumption will impose very *significant* burdens on future persons in the form of coastal flooding, forest fires, erratic weather patterns, more frequent natural disasters, shrinking resources, increased risk of cancer and other diseases, etc. Thus, we should recognize that the harms that could be prevented by not realizing *Pollution* are in fact *serious* harms. We often believe that even small risks of serious harms are enough to justify moral obligations. This is why we think it is wrong not to buckle your child safely into his car seat every time you drive, and why we think it is wrong not to routinely check an aircraft's safety features, even though the chance that these things would be used in a crash is so small.[51] Though the probability that your individual act will contribute appreciably to climate change is small, given the seriousness of the harms, we may be justified in thinking that it is wrong even to take that small risk by withholding contributory actions.

Second, we can recognize that there is a threshold of environmentally sound actions below which there would be no relevant effect on the future and above which there would be a morally important effect on the future. Environmentally sound—or "green"—movements are growing in popularity, and people are recognizing the serious effects of our current behaviors. The importance of reaching and surpassing this threshold is becoming increasingly apparent, and the way to reach it is, in part, through individual action. Thus, even if your single action does not itself cross the

[50] Norcross 2004. In his famous article condemning factory farming, Norcross rejects the claim that causal impotence is an acceptable appeal when serious harms are at stake. This kind of solution, which I present a version of here, works well for solving many types of collective action problems.

[51] Norcross 2004: 233. These examples are taken directly from Norcross' article.

threshold, you are shortening the amount of time it would take to reach that threshold every time you act in an environmentally sound manner, and this should be the aim of anyone who bears responsibility to future generations. Therefore, we should be concerned about *de dicto* harm to future generations (1) when we should assume responsibility in relation to the moral subjects in question, (2) when we are in a position to seriously harm future generations over whom we have responsibility, and (3) because the justification of minimizing this risk while aiming for the threshold is enough to generate the moral obligation not to realize *Business-as-usual*.

4.2 THE OBJECTION FROM HARM TO THE ENVIRONMENT

Because my view can account for harm to future people, it can justify the intuitions of harm and wrongdoing we have when we encounter *Business-as-usual*. However, one might claim that the harm we do to the environment is sufficient for generating the wrongness of certain environmental policies, and thus we do not need to worry about how we harm the people involved. A deep ecologist or a proponent of the land ethic would be just such an objector. The deep ecologist would claim that the environment itself is the moral subject about which we should concern ourselves.[52] The harm or benefit to persons is largely irrelevant, except insofar as these effects are themselves harmful or beneficial to the environment. Without the worry about how to account for harm to persons, the problem is not generated—or, at most, it is immediately clear where the wrongness occurs. For the deep ecologist, the wrongness arises from harm to the environment, and that harm is easy to point to in cases of policies that allow environmental degradation and increased climate change. Similarly, the proponent of the land ethic could easily account for the wrongness

[52] See Heidegger 1977 and Naess 1989, for example.

of a given policy by appealing to the resulting harm to the environment. Persons do not have automatic moral priority under this view either.[53]

There are two ways to respond to these objectors. The first way is simply to accept their claims, but also to acknowledge that they would not carry much weight with anyone who agrees that there is a problem in the first place. If you encounter the non-identity problem of future generations, and if you are concerned about the conclusion that no persons are harmed, then simply pointing out the harm to the environment would do little to allay this concern. While there is certainly an argument to be made that the harm to the environment is important and ought to be taken seriously, this argument would not account for the fact that we also feel as if people are harmed. Without an explanation of the harm to people, all who found the problem compelling to begin with will still find it just as compelling.

Another related response to this objection involves moving away from claims of wrongness while still questioning our intuitions of harm. Perhaps the deep ecologist or proponent of the land ethic does not find anything particularly wrong or alarming about the harm that is experienced by humans. Nonetheless, if they have the intuition that harm occurs at all, they should be troubled by the fact that the way to account for that harm is not immediately obvious. This is a concern about accuracy rather than a concern about morality *per se*, but my view is equipped to handle both.

4.3 PRACTICAL CONCERNS

A different type of objection to my view involves the practical problems inherent to the workings of the policies and states in question. Stephen Gardiner would argue that such problems

[53] See Leopold 1966 and Callicott 1990, for example.

remain even as we successfully remove the theoretical worries.[54] He notes that climate change occurs neither immediately nor all at once. It is a resilient phenomenon that will continue to affect people as they come into existence, and will then affect who comes into existence. We know that many of the negative effects of our current actions on the climate will be deferred to future generations, whereas the present-day actors receive many benefits from our consumption of global resources. Furthermore, he asserts that we need not assume that all countries will look out for the best interests of their future generations in addition to the interests of their current ones. He concludes that we find ourselves in a tragedy of the commons. Gardiner thinks this tragedy is easiest to see if we consider a pure case wherein no generation overlaps with any other. In this way, all generations have a collective reason to want all other generations to conserve resources, however, no single generation would have rational reason to avoid, say, polluting and the benefits of polluting, given that countries will be biased toward their current generations.

This tragedy, however, turns on two major assumptions, each of which is problematic. The first assumption is that countries will not care about their future generations. This claim is both cynical and not well defended. Even if some influential individuals and agencies within a country prioritize current generations, this is not to say that the current generation as a whole, its leaders, or its constituents are indisposed to care about future citizens. In fact, the problem of future generations is a problem precisely because we intuitively *do* care about how we might affect future people, and because many leaders and activists do understand that their roles involve such considerations. If, by and large, no one cared about future generations, then no one would take that aspect of the non-identity problem seriously. But we do take it seriously, and I would claim that we do so because we recognize (although not necessarily in these terms) our *de dicto* responsibility

[54] Gardiner 2010.

as leaders, or simply as stewards, to future generations. Part of why we care is that these future generations are a general set of moral subjects to whom we bear responsibility.

Another important point is that there is in fact no definitive line between one generation and the next. We can often see the effects our actions have on future generations. This leads to the problem with the second major assumption that Gardiner makes. He assumes for the sake of clarifying this iteration of the tragedy of commons that each generation is discrete and distinct. Since generations are never in fact discrete or distinct, this simplification is hard to justify. Furthermore, it obscures the fact that we as humans, citizens, and members of the moral community care deeply about our children, grandchildren, great-grandchildren, etc., and about the fate of moral subjects in general. This includes descendants we will know personally and those we will never know, and it includes those who will exist no matter our actions, and those whose existence is contingent on our actions. Again, we have a general sort of responsibility to these people, and this responsibility is relevant to the *de dicto* considerations that help us to solve such problems. Because of this fact, it is even less clear why we should make either of Gardiner's assumptions at all, and we thereby have little reason to conclude that the intergenerational issues Gardiner posits will in fact result in a tragedy of the commons. Without the force of this problem, one might have trouble criticizing certain behaviors, given that many environmentally unsound behaviors will not lead to anyone being (*de re*) harmed. This helps to demonstrate why my view is so useful. Should we find that policymakers are unjustifiably prioritizing current generations, then my view provides moral reason to curb this behavior via *de dicto* considerations of harm to future persons. Even as corruption and indifference seep into the debate, the theoretical components of this solution equip us with moral grounding for our more practical aims.

Henry Shue points to a different and highly important practical problem concerning future generations. His focus is on fairness.[55] Shue notes that rich, industrialized countries have become so by contributing to precisely the climate change and environmental degradation they now (professedly) wish to combat. Combating this would mean that developing countries—countries that did not get the opportunity to benefit from the initial boom of industrialization—would be prevented from employing similar means to increase their wealth and welfare. This seems unfair and thereby wrong, given the assumption that radical inequalities are unjustified. Shue argues that developing countries should not have environmental restrictions imposed upon them until they are guaranteed the means to a specific, minimal level of welfare.

According to Shue, then, it would not be wrong for developing countries to *de dicto* harm future generations because the unfairness trumps the harm. However, Shue does not give a principled argument as to why, in any given case, considerations of fairness and equality trump competing considerations of harm. Without such an argument, and with my defense of the claim that *de dicto* harm does in fact occur, we are left without a positive reason to adopt Shue's conclusions. Nonetheless, I do think that he raises considerations of fairness that are *pro tanto* extremely important. By making the case that claims about radical inequalities do indeed carry some weight, Shue provides us with very good reason not to dismiss these claims out of hand. As I have stated, *de dicto* responsibilities are still situated within the greater nexus of moral principles. Thus, a practical solution to the problem should take very seriously both harm and the unfairness that together constitute a large portion of the moral concerns involved in welfare considerations of future generations. Added to these is the concern for the environment itself, outlined above. Given the power and efficacy contained within those roles, a morally responsible leader or policymaker

[55] Shue 2010.

should be motivated by a concern for *de dicto* harm to persons, by considerations of fairness, and by the imperative that we take seriously any obligations to the environment in and of itself.

Importantly, without an account of *de dicto* responsibility, a leader or policymaker would have moral reason to be motivated by unfairness and environmental harm, but not by the harm to future persons. Nonetheless, we feel intuitively as if this harm occurs. My view allows us to retain this intuition and also strengthens the moral sanctions against policies that would allow further climate change, environmental degradation, and harm. The implications of this are highly important, both theoretically and pragmatically. My solution provides theoretical grounding for person-based claims of wrongness with regard to these environmental decisions—a grounding that had appeared to be lacking in significant ways, due to the force of the non-identity problem. And this foundation is important in a practical sense as well because we have, *prima facie*, a strong aversion to harming moral subjects when harm can easily be avoided. If policymakers can *justifiably* appeal to this aversion when rejecting environmentally harmful policy decisions, then the argument for the morally correct policy becomes significantly more persuasive in a practical sense while at the same time increasing its theoretical integrity.

4.4 OUR RESPONSIBILITY TO MAINTAIN CERTAIN ROLES AND OFFICES

When the roles of these leaders and policymakers entail responsibilities to future subjects, it is clear that we ought to assess their leadership based on how well they fulfill their respective responsibilities. However, if there is no leadership role, or if the role were somehow eliminated, then the relevant responsibilities would likely not be met. Thus we must ask ourselves not only what the relevant responsibilities are for a given role, but also which roles ought to exist or be maintained in the first place.

The existence of many roles depends heavily on the state of the society in question. The acceptance of roles facilitates *de dicto* responsibilities. Yet, what if there is no role to accept? If a role disappears or is threatened, *de dicto* harms could ensue (as could other harms). If these harms could be wrongful harms, then we are left with a worrisome scenario. For example, the role of EPA chief brings with it various important responsibilities to future generations. Now, we can and should question whether a given chief is fulfilling these responsibilities appropriately. But there is a further imperative at work. If, say, the president were to wipe out the entire agency, then the role of EPA chief would not exist anymore. Without that role, we lack agents who are equipped to meet the related responsibilities. This could easily cause future generations to be worse off than future generations otherwise would have been, which constitutes a *de dicto* harm to future generations. Thus, to allow for the elimination or disintegration of certain roles may constitute a moral failing. That this is so should be clear, but it also raises an interesting question. While we might wrongfully harm future generations by eliminating crucial roles, are we at the same time obligated to benefit them by creating roles that do not yet exist that will be filled by individuals who bear even more responsibilities to future generations? That is to say, are all the roles that ought be actualized currently being actualized?

This is a very difficult question. We ought not ground the wrongness of failing to create certain roles in the *de dicto* harm that will result. Not only would it seem to involve circular reasoning for those cases where we intuit wrongful harm, it would also have to include cases in which the *de dicto* harm seems irrelevant (because we would not yet have the responsibility-relation in place to determine whether the harm is *de dicto* relevant or *de dicto* irrelevant). We can, however, assess whether we ought to create certain roles in light of other guiding principles—such as the aims of reaching justice or avoiding gratuitous harm—in consideration of a more

comprehensive morality that does not focus only on *de dicto* responsibility. The answers will depend in large part on the particulars of the society in question. If a society already collectively maintains environmentally sound practices, then there is probably no need to create the role of EPA chief, because the related moral concerns are not raising moral issues, though not because these concerns are not moral, importantly. If, however, a society refused to establish the role of, say, stamp collector, then the related concerns of stamps being left to deteriorate are not morally motivated, and there is likewise no need to create that role (though there is probably no need to mandate that it is not created either). This would not be a case of a responsibility-relation between a moral agent and a moral subject; rather it would merely be a responsibility relation between a collector and a collection of inanimate objects.

We can think about which moral concerns are salient in a given society, and ask whether current caretakers qua moral agents are, in particular cases, obligated merely to avoid harm, or if they are also obligated to provide certain benefits. If a role already exists, then maintaining it will often entail avoiding harm, because extinguishing the vector for a given *de dicto* responsibility to future generations could mean that that responsibility cannot be met and the future generations will be worse off than future generations otherwise would have been. So, if the role *should* exist, then extinguishing it may involve some wrongful harm. Baier thought it was simply obvious that every generation has an obligation to leave "as much and as good" of the public good as it has received.[56] This is fairly uncontroversial, and my view allows for an explanation of why this comparative *de dicto* harm (leaving future generations worse off than we could have left them) is wrong. Yet the boundaries of our obligation to benefit future generations is less clear. I entertained some serious challenges to the claim that we have an obligation to benefit maximally those under

[56] Baier 1981: 175.

our umbrella of responsibility in the previous chapter, and a clearly delineated threshold of required benefit seems hard to come by. Creating roles that do not currently exist will in all likelihood entail a positive benefit (if the agent in question performs her role properly) because it will make future generations better off than future generations otherwise would have been. Sometimes this will seem supererogatory. If we sacrifice much of our welfare so that future generations can enjoy drastically higher welfare than we ourselves did, then this would probably be above and beyond the call of moral responsibility. But benefits to future generations cannot always be merely supererogatory. Suppose no roles existed that brought with them responsibilities to future generations. Any role created involving *de dicto* responsibilities would likely generate a positive (albeit potentially merely *de dicto*) benefit to future generations. But, intuitively, if there were *no* roles in place, then the benefits incurred by creating at least *some* qualifying roles would be obligatory. Therefore, we have some obligation to benefit future generations in addition to avoiding harm. The precise level of benefit must depend on the state of society and on the nature of the roles that already exist. Whatever the case, there is some threshold of welfare below which future generations ought not fall if we are properly meeting our responsibilities. This means that current people have a meta-responsibility to create and/or maintain the roles that will enable us to fulfill our general moral responsibilities.

In addition to creating and maintaining certain roles, we must ask whether we have a responsibility to create or maintain certain offices. This question is especially important at the species-level, and is becoming increasingly so given technological, medical, biological, and environmental developments. In the next chapter I examine the ways in which our actions might affect future subjects at the species level, and I examine *de dicto* considerations regarding non-

human animal species, the human species, companion animals, and species raised for consumption.

CHAPTER 5: SPECIES

There is no single, agreed-upon definition for the term 'species.' Species boundaries have been carved out in a myriad of ways—in terms of the ability to interbreed, in terms of ecological niches, phylogenetically, genetically, and morphologically, to name a few.[57] There is at the same time an important debate concerning whether species boundaries are real or mere conventions. Those who use divergent definitions are often doing so because they are working on particular projects that are best approached with one definition rather than another. For our purposes, we need not settle these debates. A very general and loosely sketched approach to defining species will suffice. I will use the term 'species' as a sort of catch-all that refers to a group of organisms who share some relevant features as well as common goals—a sort of natural kind. As such, my discussion of species could apply to subspecies, genera, and other groupings, but I will use the term 'species' for simplicity's sake, and, importantly, because discussions in species ethics often proceed in terms of responsibilities to generalizable others. What I want to focus on primarily is the office-like nature of these groupings, the parallels between species discourse and moral discourse, and the idea that our actions can affect which individuals fill a certain office of species or kind.

[57] See, for example, Sandler's analysis of these boundaries for further details. Sandler 2012.

5.1 MORAL WORTH

The most important aspect of this use of the term 'species,' for my view, is that moral subjects come to fill such offices. Throughout this work I have made reference to responsibility relations that obtain between moral agents and offices that moral subjects fill. Moral agents are those beings who can reason about morality and act according to that reasoning. Moral subjects are those beings for whom it matters morally how they are treated. It is uncontroversial to claim that all moral agents are also moral subjects. For all those who can reason about morality, it matters morally how we treat them. It is also not difficult to argue that there are many moral subjects who are not at the same time moral agents. For example, most would agree that dogs do not reason about morality. Nonetheless, it is equally clear that it matters morally how we treat dogs. Similarly, some severely mentally disabled people cannot reason about morality, and it nonetheless matters morally how they are treated. However, that moral subjects fill a species-specific office is not the only morally relevant factor when considering how we ought to treat them. Another morally relevant factor is whether the species itself has moral status independent of its constituents. For example, we might think that stepping on an individual ant is generally not a matter of moral concern, but we might at the same time think that the species *Camponotus americanus* (a species of carpenter ant) has moral worth, and that an analysis of whether to extinguish the species may treat the species itself as a moral subject. I will argue that a view centered on roles and *de dicto* responsibility is better equipped to grapple with the moral questions raised by species-specific issues.

First of all, a role-based view carries significant advantages over rights-based views when assessing moral questions surrounding species ethics. There are clear parallels between a species ethics critique of rights-based views and the ones found in the non-identity debate. Non-existent

entities are not the kinds of things that can have rights, because they are not the kinds of things that can possess interests. In the same way, while individual members of a species may have interests, a given species is not, on the whole, the kind of thing that can possess interests. Because the generation of rights is reliant on respect for an individual's interests, the inability of species to possess interests renders many rights-based views inadequate for assessing moral questions regarding species. Of course, we should not take this to mean that there are no morally relevant questions in the discussion of species, or that all of species morality must be reducible to questions about individual members of species, just as we ought not assume that there are no morally relevant questions regarding future moral subjects who do not exist. If this were so, then appealing to individual animals' rights would tell us nothing about why we should treat endangered species more carefully than non-endangered ones. This itself is evidence that a more complete approach to species ethics is needed—one that goes beyond the rights of individual members. Just as a role-based approach uncovered morally important factors in non-identity cases involving persons, so too can it uncover morally important factors in cases involving the creation, continuation, and extermination of species comprised by moral subjects or constituting a morally valuable class for which it matters morally how we treat it.

While there are clear parallels between rights-based concerns about classic non-identity cases and species-specific cases, there are also clear non-identity applications within species-specific cases, given that sometimes our actions can determine both how and whether certain species exist. It seems intuitively correct to claim that we have some *pro tanto* reasons not to decrease the welfare of species or extinguish them altogether, even if those members of the species who would have been better off never exist. So, why do we have these obligations to species? Joel

Feinberg appeals to our role as steward—or caretaker—for animals and species as an answer.[58] This is a role-based answer to the question of what grounds our obligations to animals qua species. Given our roles as stewards, we bear certain responsibilities to species. Yet, according to Lilly-Marlene Russow, this role-based approach begs the question. She takes the central question to be: why are species worth protecting? She does not disagree that they are worth protecting, rather, she wants to challenge the idea that pointing to a caretaker relationship can establish the worth of the subject in that relationship. Because caretakers are tasked with protecting that which is worth protecting, we have not yet answered that central question. Caretakers take care of those worthy of care, but how do we know whether a given species is worthy of care? The relation itself does not garner worth for the subject, according to Russow. While I agree that this approach as stated cannot establish the worth of subjects, this does not undermine the approach itself. That is, for our purposes, the worth of the subject might not be the central question.

In most cases that we have been discussing, the subject clearly has moral worth. The parent/child, doctor/patient, leader/citizen relations all have moral agents standing in responsibility relations to offices that will be filled by what are undoubtedly moral subjects. These sorts of relations generate clear responsibilities on the part of the agents, the particulars of which are determined by the role the agent has taken on. So what happens when the moral status of the subject itself is in question? At first glance, one might think that species have moral status insofar as they are comprised by individual moral subjects, e.g., the species *Orcinus orca*, or the species *Homo sapiens*. Yet, this does not tell us why species with less clear individual moral subjecthood might still be worth our moral concern. The moral considerations relevant to an act of, say,

[58] Feinberg 1978.

stepping on an individual ant expose very little about what is morally relevant about the extinction of the species *Camponotus americanus*.

Other attempts to answer questions about the moral status of species rely on claims about the value of species. Appeals to both intrinsic value and extrinsic value have been made toward this end. Species have extrinsic worth when they are instrumental in bringing about some good end. Honeybees have extrinsic worth at least partially because the existence of the various species of honeybee allows certain ecosystems to function normally through the pollination activities performed by the bees. Nonetheless, can extrinsic value sufficiently ground moral status for species? One problem with this approach, as noted by Russow, is that it presupposes a natural order that is both static and good.[59] However, there is not sufficient reason to suppose either of these things. To do so would not only ignore the dynamic nature of ecosystems, it would also commit the naturalistic fallacy. That a certain ecosystem functions a certain way does not mean that it ought to function only in that way, or that all changes to the ecosystem matter morally. Similarly, appeals to the extrinsic value of diversity are insufficient, because diversity alone is not always optimal or even desirable. Perhaps, then, an appeal to intrinsic worth can ground the moral status of those species with questionable moral worth.

Species can have intrinsic worth in virtue of the value inherent to members belonging to the species. Whether and to what extent species have intrinsic value is a rich and interesting analysis that deserves more space than I can afford it here. But there is one recurring problem with this view that is worth mentioning. It is extremely difficult to devise a non-arbitrary metric for determining which species have intrinsic value, which do not, and the degree of value that the

[59] Russow 1981: 473.

value-bearing species possess.[60] Assuming that intrinsic value is not always uniform in degree and kind, admitting that a species has value does not itself convey just how much value it has, or the particulars of the value. Because of this, appeals to intrinsic value are not equipped to provide us with much guidance when it comes to moral decision-making in particular cases involving particular species.

Can a role-based view of *de dicto* responsibility better answer this question of worth? By no means do I think such a view can *settle* the question of whether and to what extent species have worth, but it can nonetheless provide us with a useful method for addressing the question. Because this view shifts the focus away from the subject—a given species, in this case—and onto the agent, we are able to assess both the moral importance of extrinsic value *and* the moral importance of intrinsic value when making determinations about a given case. Standing in a responsibility relation to a species with extrinsic value can generate moral obligations. If the destruction of an ecosystem led to significantly more harm than maintaining it, and if the extinction of a species would bring about the destruction of that ecosystem, then we have a *pro tanto* moral reason not to bring about the extinction of the species insofar as our actions affect its existence. Preserving certain species and thereby certain ecosystems can cause both future members of the species and future human generations to be better off than other members otherwise would have been, and this matters morally.

So, even if we cannot use a role-based view to determine the intrinsic moral worth of species in borderline cases, we can use it as a general approach to questions in species ethics. Feinberg relies on role-based considerations for his analysis, but he claims that our responsibilities to future human generations are actually weaker than our duties to preserve non-human animal

[60] Russow 1981: 474.

species, given our roles of stewardship with respect to the world as a whole. His "inclination is to seek an explanation in terms of the requirements of our unique station as rational custodians of the planet we temporarily occupy."[61] However, this relation does not seem to be a question of weaker duties versus stronger duties. Not only are our obligations to future generations and our obligations to species often coextensive, but also it is also true that the role of steward to the planet will, in almost all cases, entail our obligations qua stewards to both future generations and future species.[62] Preserving and improving the planet is precisely the sort of aim that that those standing in a responsibility relation to future persons *and* future species should have, because that goal will typically serve to benefit humans and non-human animals alike who will inhabit the planet in the future.

Clearly, then, my view of roles and *de dicto* responsibilities can provide valuable insight into the question of whether we have moral obligations to species with extrinsic value. Additionally, it is not at all hard to argue that we have moral obligations to species with intrinsic value as well, given that beings with intrinsic value clearly possess moral worth to some degree or another. And if it is true that a species has intrinsic value, then a responsibility-based view provides a means by which we can assess our obligations to that species on the whole, without appeals to the individual members—a means that is unavailable in other approaches that rely on such factors as the rights or the rationality of the individual. So, while my view is not by itself equipped to tell us precisely what value species have, it is equipped to guide our decision-making with respect to species that in fact have value.

[61] Feinberg 1978.

[62] If humans at some point left planet earth, then such concerns would not generate coextensive obligations, but I set that prospect aside, as it is not particularly relevant to the discussion at hand.

Questions of value also lead to an important parallel between species and offices more generally. While neither species themselves nor offices themselves have interests or rights as they are commonly construed, they are both the kinds of things that can contain moral subjects who possess worth by virtue of their manifesting certain descriptions. If a species has value, then we may assess our moral responsibility over that office, and we may assess the weight of any *de dicto* harms or benefits we knowingly cause. When addressing the morality of species-specific cases, we can draw on the *de dicto* nature of the role-based responsibility view in order to sidestep concerns that require us to restrict interests and rights to individuals. While neither species nor offices have rights, they may generate moral worth, and we can rely on this worth to ground the responsibility to act in certain ways.

Of course, this worth comes from the stipulation that the individuals who comprise a species or office are moral subjects, so the parallel admittedly does not tell us how to delineate moral worth. Nonetheless, insofar as species have moral worth, *de dicto* moral considerations follow for those agents who stand in responsibility relations to these species. Furthermore, that we talk of species on the whole in ways that cannot be reduced to talk of individual members of the species is itself parallel to the way in which we talk of future generations or future children without having to reduce our claims to a discussion of actual individuals. The generalizable nature of these referents is indispensable for much of species discourse, and I claim that we need only ask whether the species or subjects have moral worth—and not whether some particular individuals or others will fill the office. And what matters most in many cases is that future office holders meet the description of moral subject. For that reason, I will focus my inquiries for the rest of this chapter on cases involving subjects who are widely agreed to be *moral* subjects, and the species-scale questions that arise from those relations.

5.2 HUMAN BEINGS

It is fairly clear that not only are individual human beings moral subjects, but also that what we may owe to individual members of the human species is not always coextensive with what we may owe to the species as a whole, especially when we are thinking about the future. For example, perhaps we should not condemn individuals' personal decisions to have children, but we may also owe it to the species as a whole to curb population growth insofar as it leads to harms via overpopulation.

Of course, human beings are not the only species with moral worth, given very compelling arguments against speciesism.[63] Nonetheless, *Homo sapiens* is among the set of species that have moral worth for reasons other than their species membership. So, let us turn to an exploration of what we owe to human beings more generally. That is, insofar as our actions predictably harm or benefit the species as a whole, what are our moral obligations? Not all role relations generate the same prescriptions. The particulars of a parent's responsibilities differ from the particulars of a safety officer's responsibilities, which differ from the particulars of a president's responsibilities, and so on. Some responsibility relations (like that of doctor/patient) permit more *de dicto* harm than others (like that of president/future citizens). In the same vein, standing in a responsibility-relation to your individual child generates different obligations than those generated by standing in a responsibility-relation to the human species. We can stand in responsibility-relations to many different offices, and the scale of our effects can determine the particulars of our responsibilities.

These wide scale concerns arise often in the study of bioethics, and they result in an important debate about parents', doctors', and policymakers' responsibilities to not only individual

[63] See, e.g., O'Neill 1997 and McMahan 2002 & 2005.

children and patient-type offices, but also to humanity writ large. Let us consider what they owe to the human species insofar as they are in control of the characteristics the future persons will come to possess. Advances in reproductive technology have enabled precisely such capabilities, and they hold promise for an even greater ability to dictate the makeup of future human beings. The ability to predict not only diseases and defects but also genetic traits is becoming increasingly likely, given medical advancements in gamete manipulation and in mapping and the full genetic blueprint of fetuses. If humans are someday able both to predict children's traits and to decide who actually exists in light of those predictions, then some people will have the ability to affect intentionally the trajectory of the human species. Of course, many such cases will involve no *de re* harm, but, as I have shown, *de dicto* harm is still morally relevant in just these sorts of cases. Immediately, this raises concerns regarding eugenics that stem from practices such as preimplantation genetic diagnosis, in-vitro fertilization, and selection for designer genes.

Notably, eugenics in a basic sense is not always automatically impermissible. Recall the discussion of the *Eugenics* case in Chapter Three and the distinction between social harms and medical harms. Ensuring that your child expresses only socially ideal traits is morally problematic and risks reinforcing injustices in that society. Yet, ensuring that your child does not have a serious disease that would make your child's life not worth living is intuitively permissible. If eugenics is simply manipulating the genetic make up of those we create in order to reduce harm to future persons, then, in a certain cases involving, say, prevention of disease, eugenics is not *prima facie* wrong. In order to decide whether certain practices that fall under the category of eugenics are wrong, we must assess whether our acts and omissions would lead to social harms, to medical harms, or to both; and we must figure out when and to what extent we are allowed to avoid risking social harms for the sake of combating injustice. The answers will depend on our roles.

If the harms and benefits at play are merely contingent on the present state of society, then the good news is that parents, doctors, leaders, and policymakers can work to change the state of society for the betterment of future children. However, this does not mean that this social change is the only imperative at work in any case of contingent social harm. Surely, the state of a society could be so unjustifiably harmful to future people with certain characteristics that, in addition to the imperative that we work to change the unjust conditions, it would also be impermissible to bring someone into existence who had those characteristics. Imagine a slave society whose privileged members enslaved all left-handed people and treated them extremely inhumanely. Of course, you would have good reason to work to combat the injustices of this society. But if you also knew you were going to conceive a left-handed child, the extreme state of this society would render the choice to conceive in this instance impermissible. In this case, you would have good reason to wait until you knew that conceiving this type of child would not entail such a gross assault on their basic rights.

What are our responsibilities when the potential social harms are not so extreme? I take as a tool for this assessment a case involving preimplantation genetic diagnosis, or PGD, presented by Robert Sparrow. PGD allows doctors to determine to some extent the genetic profile of an embryo—and, notably, even of unfertilized eggs and sperm in some cases—and thereby to predict the likelihood of certain genetic characteristics or diseases. Doctors may then provide this information to prospective parents so that they can decide how best to fill the office of 'their child.' So, what *de dicto* responsibilities arise in cases where parents choose whether to have children with non-socially ideal characteristics? Sparrow argues that parents in this situation are warranted in focusing more on how to improve their child's welfare regardless of what might be lowering

the child's welfare.[64] For the parent, what matters more is the level of welfare they can predict that their child will enjoy, and not the source of welfare. There is something to be said for this approach. If parents can predict that one choice will lead to lower welfare for their child and another will lead to higher welfare for their child, they have a *pro tanto* reason to opt for the latter in the interest of making things *de dicto* better for their child. However, I argue that these reasons can be overridden by other important moral factors, even in the face of *de dicto* responsibilities.[65]

Sparrow considers a particular kind of PGD case involving intersex conditions. An intersex individual is someone born with ambiguous sex characteristics, which prevent that person from being identified as either distinctly male or distinctly female. These ambiguities may manifest internally (in the chromosomes or gonads) or externally (in the genitals). One of the most important benefits of PGD is its potential to raise the level of welfare of children born to parents who carry a genetic risk of medically harmful conditions, and intersex conditions can indeed lead to medical harms in the form of pain and limited functioning. When the risk in question involves a medical harm, and when PGD is able to minimize bodily harm or potential fatalities and maximize bodily functioning, then its use is intuitively permissible. However, some of the risks of harm resulting from intersex conditions are purely social in nature. Intersex individuals simply do not fit into our socially constructed, binary categories, and this could cause an intersex individual to suffer socially as a result. These largely social cases raise intriguing questions. Sparrow suggests that parents may forgo meeting a certain amount of social responsibility in the interest of their child's welfare, because parents—in their roles as parents—have strong reason to consider preventing all low welfare in their children, even when the source of low welfare is injustice. In particular, Sparrow

[64] Sparrow 2013.

[65] Haramia 2013b. The following discussion is taken from my commentary in response to Sparrow (2013).

recognizes our aversion to practices that skirt the line of gender eugenics, but then points to several considerations that parents can appeal to as reasons in favor of PGD in merely socially harmful cases. While I agree that parents do have special obligations to their children by virtue of the role they have undertaken, and that parents are allowed certain considerations that, say, policymakers and researchers are not; I also challenge Sparrow's claims about the extent to which such social welfare considerations justify the parental decision to use PGD in merely socially harmful cases, even when these decisions *de dicto* benefit their children.

Again, one important feature of social welfare is that the harms and benefits at play are usually contingent on the present state of the society in question. If this is so, then parents (and others) have strong reason to adopt the goal of changing social conditions for the betterment of children's welfare. But this is not always easy. Yet, discouraging the birth of intersex children as an alternative can exacerbate the injustice and harm of sex and gender stereotyping. While Sparrow admits that parents should not aim to be hostile to diversity, he appeals to parents' lack of potency, to collective action problems, and to personal priorities as important factors in the justification of PGD use for cases that are merely socially risky (and not medically risky). I do not want to deny that parents' responsibilities often allow them to overlook (to a certain degree) the difference between social harms and medical harms, and I agree that parents have some reason to create certain children with higher welfare over different children who would be less well off, insofar as they are able. This is of course due to their *de dicto* responsibilities that arise from their roles as parents. But the social problems outlined by Sparrow are not as insurmountable as presented, and this analysis will help to demonstrate why parents' *de dicto* responsibilities are not restricted only to concerns about the level of their child's welfare that can be achieved through reproductive decisions.

Sparrow claims that the social terrain for those with intersex conditions is importantly different from the terrain for others who suffer social harm as a result of certain characteristics. Intersex individuals are often less visible and can sometimes pass in their society without their condition being detected, whereas, say, a dark-skinned African-American is easily marked out as "different." One thing Sparrow fails to recognize is that this lack of visibility could potentially diminish (some of) the harm from a socially hostile environment. Instead, he focuses on the claim that it is far more difficult for intersex individuals to form communities and generate benefits that counteract the harm and injustice of a socially hostile environment. So, Sparrow agrees that social conditions matter, but he also claims that parents should, at times, ignore eugenics concerns, given their unique responsibilities to their children. Importantly, he agrees that leaders, policymakers, doctors, and others would not be permitted to ignore those same eugenics concerns; and I would argue that this is due to the more social nature of their roles and the ways in which those roles differ from parental roles. Yet, Sparrow's conclusion is too quick, and he fails to explore other facets of parental agency. For example, while parents may recognize that there are indeed fewer communities that tout intersex solidarity than, say, racial solidarity, they ought nonetheless to consider the imperative that such a realization implies. This is the imperative that parents work to *create* such communities for intersex individuals—sometimes instead of, and sometimes in addition to, making different reproductive choices.

To accept the state of society—injustices and all—and to care only about (*de dicto*) increases in one's child's welfare is insufficient not only with respect to one's responsibilities toward society, but also with respect to one's responsibilities toward one's child. Consider as a parallel the plight of housewives in the 1950s and 1960s. Before Betty Friedan's work, there was little solidarity among (admittedly, middle-to-upper-class white) women—similar to the lack of

solidarity that intersex individuals face today.[66] And the low overall welfare that these housewives enjoyed was a purely social harm. There were no medical harms stemming from their being female, but they nonetheless had social worth only in their ability to run a home, and that work itself was unpaid and undervalued by society at large.

Imagine now that these women were able to control the sex of their children at that time. Suppose that many decided to have only male children because they were worried about the low welfare that they had good reason to expect that their female children would experience. Would this be justified? It seems not, even though the mothers would have been primarily concerned with the welfare level of their children, and even though the mothers would have had good reason to think that their individual choices had little power to change their society from an unjust one to a just one. But, according to Sparrow, the a lack of community would have been good reason for these women to favor the eugenics of sex-selection in the interest of their role in promoting the welfare of their children. There were few groups or communities aimed at female solidarity at the time. These women were often severely isolated. And considering *de dicto* harm alone, parents ought to choose the option that avoids this harm. But, at least in the case of these housewives, a different strategy emerged, and that strategy is actually more consistent with parents' role-based responsibilities.

Women started forming consciousness-raising groups and created communities wherein they could find solidarity and discuss injustices.[67] And, to some degree, it worked. Though my historical account is oversimplified, many women born to those housewives are not suffering the low welfare of their mothers and have at their disposal various groups and communities through

[66] Friedan 1963.

[67] Bownmiller 1999.

which they can find solidarity. While the parallel is not perfect here—females are usually visible as females in our society, and there are far more females than intersex individuals—an important lesson remains. An unjust social atmosphere and a lack of community can be challenged through the creation of groups that support the socially disadvantaged. While PGD and sex-selective IVF carry with them the risk of perpetuating social injustices, the creation of communities to support those with low social welfare directly combats those injustices and carries with it the potential to increase the welfare of those who suffer social injustices. Furthermore, even though the population of intersex individuals may be lower than those of other oppressed groups,[68] parents and other concerned agents can strengthen those numbers by recruiting intersex allies who are willing to stand with intersex individuals, participate in these newly formed communities, and combat the social injustices related to these conditions.

Sparrow rightly notes that suggesting that parents ought to make decisions based solely on societal concerns would be just as morally problematic as the gender eugenics underlying the alternative. However, parents need not restrict their role-based considerations to *only* their child's welfare or *only* the likely effects of their childbirth choice on the social terrain. There is a better route for parents to take. This route involves a fair amount of work; it is no easy task to form groups where few exist and where social norms are entrenched. Therefore, I do not want to discount the Sparrow's point that individual parents have individual choices to make and must consider their efficacy within society—as well as their time, energy, and financial capabilities, I would add. But intentionally bearing only socially ideal children can play right into the hands of the present injustices. The oppressed will often fare better if they can gain a voice, and the louder it is the better they may fare. But diminishing their numbers can correlate directly to how much

[68] Fausto-Sterling 2000.

attention is paid to their cause, and childbirth choices can affect this. Of course, each given childbirth choice will have only a small effect, predictably, on the state of society or on the voice of the oppressed. This is why I agree that parents could, at times, have concerns that will outweigh the relevant justice concerns, especially in cases like the left-handed slave society mentioned above. How to weigh our responsibility over certain offices against our obligations to society at large is an important question. For my purposes, it is enough to point out that these social obligations still exist alongside our responsibilities as office caretakers, therefore minimizing *de dicto* harm is not necessarily the weightiest factor in a given creation case. When the harm is inherent to the condition, as it is in the *Sarah* case, *de dicto* responsibilities carry more weight. But when the harm is merely contingent on the state of society, the responsibility to better the office of those under your care carries less weight, and you have good reason under those circumstances to focus primarily on combating systematic injustices.

Importantly, combating social injustice can benefit one's children. But by successfully combating social injustice, we may not only benefit our own future children, we may improve the welfare of our species as a whole. In this way doctors, researchers, and policymakers have different responsibilities from those of parents. Parents have a more personal decision to make when it comes to their children's welfare, but these others have responsibilities that are far more sweeping and social in nature, and thus their responsibilities to society and the species are stronger and more consistent than parents'. They should aim to improve our species' welfare to the extent that they can, given their particular roles, even though the boundaries of our species (insofar as they can be outlined) are not what matter morally. Yet, this does not mean that the same considerations apply interspecies to all moral subjects, human or non-human; and we are allowed divergent *de dicto* considerations both among species and within our own species. Sandler writes,

> [i]n some situations, factual differences between people can be a basis for differential treatment of them, even when they have the same moral status. For example, women, but not men, should receive prenatal health care. The same is true of factual differences between species. For example, humans and bottlenose dolphins might both be due compassion, but it does not follow that we should release people into the open sea and give dolphins polio vaccinations.[69]

My view can account for these claims, because such prescriptions arise from our roles, and not directly from something like species membership or rational capacity. Recall that Kumar's argument relied on contracts between parties who will possess some relevant sense of rational self-governance. In effect, this restricted the scope of his view to only moral agents who have responsibility over other moral agents, because all those capable of rational self-governance are also moral agents. But to cover only one class of moral subjects is not only incomplete, it ignores some of the most compelling factors present in non-identity cases. As I stated earlier, Kumar's view cannot account for the morality of actions in non-identity cases where persons below a certain level of mental functioning fill the office in question, because such individuals would not be capable of rational self-governance. In the same vein, his view cannot account for the morality of non-identity cases involving non-human animals. However, there are many important non-identity cases and responsibility relations involving moral agents and non-human animals. The two main categories I will explore are, broadly speaking, cases of *companionship* and cases of *consumption*. Humans intentionally create various species of animal to serve as either pet companions or food. But how do these creation cases connect with our role-based responsibilities to the animals? I will begin with an exploration of pet companion cases—specifically, *breeding* of pet companions.

[69] Sandler 2012: 162.

5.2 NON-HUMAN ANIMALS

Breeding pedigreed pets often leads to severe health problems for dogs, cats, rabbits, and other pedigreed companion animals. These health problems can greatly inhibit normal functioning, such as mobility and breathing, and they often carry significant risk of shortened and painful lives. But what should we do with this knowledge? Many believe that this sort of selective breeding is morally wrong because it is harmful to our pets. Of course, the non-identity problem reveals a strong argument for the claim that many of these pets are not harmed. My view maintains that pedigreed breeding is in fact harmful—and that this harm can ground wrongness—but to arrive at that conclusion we must acknowledge not only *de re* harm but also, and more importantly, *de dicto* harm. I will focus here on dogs because pedigreed breeding of the species *Canis lupus familiaris* is far more widespread and commonly accepted than pedigreed breeding of other animals, though my argument applies to any species that could suffer due to our knowingly and willingly increasing the risk of health problems that result from a lack of genetic variation. I will focus also on pedigreed breeding because the reduction of genetic variation as a result of generations of inbreeding is a common effect of this practice.[70] However, the reduction in genetic variation is what motivates moral concern here, not breeding *per se*. So, insofar as certain types of breeding do not increase the risk of health problems due to lack of genetic variation, my argument will not apply. And insofar as any non-pedigree-focused practices increase that risk, my argument will apply. Consider for a moment, Sadie, my family's Golden Retriever. Sadie was adopted from a breeder as a puppy. She was well loved and well cared for. She lived into canine old age, and then she passed away. Sadie was a result of pedigreed breeding, but she was clearly not harmed by her

[70] Dobson 2013; Gough & Thomas 2010.

existence. But now one might think: what about the dogs who do encounter serious health problems as a result of their breeding? Suppose Sadie had been diagnosed with severe hip dysplasia resulting from her genetic makeup at age two and had to spend the rest of her life crippled and in significant pain.

How should we approach cases wherein a dog has been intentionally bred with a lack of genetic variation due to breed standards and is now suffering from some drastic health problem as a direct result? If we rely on only the *de re* comparative account of harm, these dogs are often not harmed. Given that the health problem in question is inextricably tied to the animal's genetic makeup, the particular animal could not exist without that problem. Therefore, if we aim to make a *de re* comparative claim of harm, we can only compare this animal's existence to *no life at all*. And in that case, as long as that dog has a life worth living, then no particular health problem or defect constitutes a harm to that animal.

This should give us pause, because even though there might be plenty of cases wherein the presence of certain health problems seems clearly preferable to no life at all, we should still resist the conclusion that it is perfectly acceptable to knowingly and willingly create animals who will suffer the negative effects of serious health problems—especially when we have the means to greatly reduce this health risk. And many people are intuitively resistant to this conclusion. When it is our job to care for those whose existence and welfare level are in our hands, the relevance of *de dicto* harm and responsibility arises, and distinct moral obligations emerge.

These moral concerns apply to breeders, but they also apply to those simply selecting a dog. For, how frequently we choose breeders' dogs determines how frequently they breed litters. Historically, we have bred dogs to be dependent on humans and to express traits that are non-optimal to survival and flourishing—often mere aesthetic preferences or capabilities to meet

obsolete needs. This has led to the aforementioned diminished genetic variation within breeds and created significant health problems for our pets. Though the individual Golden Retriever or Dachshund might be a wonderful pet with a life worth living, this decent welfare cannot justify pedigreed dog breeding. The practice of pedigreed breeding in general fills the office of 'our pets' with many dogs who ultimately suffer from health problems that our pets would not have had given more cross-breeding and genetic variation. Not only did we create this dependent set of moral subjects, but we are also now aware of the negative effect that breeding has on pedigreed dogs in general. Therefore, we have a specific responsibility as pet caretakers to create pets who will be, on balance, healthier, and who will have higher welfare by ceasing the practice of pedigreed dog breeding—even though this means that certain perfectly happy dogs will never come into existence.

Let us now turn to questions of *de re* versus *de dicto* harm surrounding the act of choosing or breeding a dog to become a pet. This analysis will make clear the analogy between pet-specific non-identity cases and traditional procreative non-identity cases.

First of all, it is important to note that, currently, any dog breeding harms many dogs in a strong *de re* sense. This is because too many dogs exist already—far more than can be adequately cared for. That is, there are more dogs now than there are offices of 'my pet' that dogs can fill. Thus, intentionally creating more dogs—pedigreed or otherwise—is, in most cases, tantamount to causing the premature death of as many shelter dogs as we create (because euthanasia is the most common solution to dog overpopulation). Anyone who wants to adopt a dog and who decides to fill the office of 'my dog' with a pet who was intentionally bred instead of a shelter pet is essentially allowing the death a dog somewhere. There is one exception, though it is still arguably morally problematic. If someone is only willing fill the office of 'my dog' with a pedigreed dog, then there

would be no potential for a shelter dog to fill this office. However, we can still question the moral integrity of someone who refuses to adopt a shelter dog, knowing the overpopulation problems that currently exist. Therefore, almost all dog breeding—pedigreed or otherwise—is *de re* harmful at this moment because it makes many actual, individual dogs worse off than they otherwise would have been. This is a straightforward sense of *de re* harm to dogs—and we ought to take it very seriously. However, *de re* harm does not arise in many other pet creation cases.

Suppose we suddenly fixed the overpopulation problem. Now all the dogs who currently exist have homes, and all the dogs who *will* exist *will* have homes. Have we fulfilled our responsibility to these companion pets, morally speaking? We have not, I argue, if we are still allowing the breeding of pedigreed dogs, because pedigreed dogs are on balance less healthy and less well off than mixed breed dogs. Given medical and veterinary advancements, we are now able to recognize breed predispositions and patterns of inheritance. These predispositions and patterns lead to many troubling conditions borne by our pets. For example, progressive retinal atrophy (which causes blindness) is common in many dog breeds. Cardiomyopathy is common in Boxers. The long bodies and short, thick legs of Bassett Hounds, Dachshunds and Corgis are actually the result of abnormal development of cartilage. Painful disk herniation occurs for many members of these breeds at a fairly young age. Hip Dysplasia is common in Golden Retrievers, Rottweilers, and many large breed dogs. English Bull Dogs, Pugs, Boston Terriers, Pekingese, Cavalier King Charles Spaniels, Shar-peis, French Bulldogs, Lhasa Apsos, and Shih Tzus can all suffer from Brachycephalic Syndrome. This ailment is a direct result of breeding and human intervention because our selecting for the exaggerated facial features representative of these breeds has resulted in serious respiratory difficulties for members of these breeds. For example, breed standards for the English Bulldog specify that the face should be very short, as should the distance between the

tip of the nose and where it is set deep between the eyes. It is not surprising, then, that this leaves little room for the functions involved in normal breathing. These are just some of the many problems our pedigreed pets face as a result of lack of genetic variation and of genetic patterns of inheritance.[71]

Most of these problems, however, are not so severe that the dogs who suffer from them have lives that are worse than no existence at all. Many of our pedigreed dogs have lives that are overall worth living, and they would not exist at all without such predispositions because, in that case, the dogs in question would be mixed breed dogs with utterly distinct genes and parentage. However, even though many pedigreed dogs are not *de re* harmed, we should not be tempted to find the practice of pedigreed dog breeding thereby morally acceptable. We must still consider the *de dicto* harm to our dogs and our related responsibilities. Just as Sarah harms her child in a *de dicto* sense by making it the case that whoever comes to be her child is far worse off than her child otherwise could have been, so too do we harm our pets when we knowingly create dogs who will be far worse off than our dogs otherwise could have been. Of course, some pedigreed dogs do not exhibit these harmful traits at all and do not suffer from their genetic status. However, there is still a very high risk that any given pedigree dog will indeed be one who suffers from a breed predisposition, and we would probably not find Sarah's actions any more acceptable if she had made it the case that there was a *high risk* (instead of a guarantee) of having a child with a serious birth defect when she could have had a healthy child. The responsibility criterion obtains when we stand in a responsibility relation to the office that moral subjects are filling or will come to fill. To fulfill one's role as an office caretaker, one must take *de dicto* harm seriously. With this in mind, let us assess our role as caretakers for the office of 'our pets.'

[71] These examples of predisposition and patterns of inheritance can be found in Dobson 2013; Gough & Thomas 2010.

I hold that companion pets are moral subjects. That is, I assume that it matters morally how we treat them. So, what kinds of moral responsibility do we have to our dogs? I claim that two kinds of responsibility-relations obtain—the first is a general responsibility and the other a more specific responsibility. Because humans themselves created the dependency on humans that canine pets now have, we are clearly responsible for the fact that they require our care. Thus, insofar as we are members of the human race, we have a general responsibility to all dogs everywhere, and to whoever these dogs turn out to be. We also have more specific responsibilities to our individual pets, and each person who accepts the role of a caretaker for the office of 'my pet' thereby incurs specific responsibilities. These responsibilities include avoiding both *de re* harm and, importantly, *de dicto* harm. We have strong obligations to care for our specific dogs, but we also have strong moral reason to avoid certain *de dicto* harms and to cease pedigreed dog breeding insofar as it leads to significantly lower welfare.

For those who take this argument to heart, there are two things to keep in mind. The first is that the bulk of these welfare concerns stem from a lack of genetic variation. Since the vast majority of breeding leads to precisely this state, I do wish to critique the practice of breeding as it currently stands. However, this does not rule out the possibility that reforming breed standards or practicing breeding such that we ultimately increase the general fitness of our pets could appropriately address these welfare-related concerns. In fact, further analysis might reveal that we are morally required to breed our pets to be as healthy as possible, if our medical and breeding capabilities surpass nature's ability to produce healthy animals. Second, it is important to keep in mind that these concerns do not apply to currently existing pedigreed pets who have lives worth living. The *de re* benefits of love and care and good welfare that these pets enjoy matter precisely because these pets already exist. I do not claim that anyone's beloved pedigreed pet should not

exist. However, I do claim we should think carefully about how to improve the welfare of the animals we ultimately bring into existence, and we should take seriously our *de dicto* responsibilities to those future animals.

The above assumes that these species-specific offices should exist at all, which is fairly uncontroversial with companion pets; but what about the animals we raise for food? The vast majority of cows, pigs, and fowl would not exist if we did not raise them for consumption. Factory farming is clearly morally abhorrent because the animals have lives well below the level that makes them worth living, and the *de re* comparative account of harm easily generates wrongs in these cases. But without a successful solution to the non-identity problem, it is hard to justify the claim that we ought to do any more than make farm animals' lives barely worth living. Given the likely features of a farm animal's barely-worth-living life, this conclusion is sure to be as counterintuitive as in the other non-identity problem cases.

The two most popular approaches to consumption animal ethics are the consequentialist approach and the rights-based approach. The consequentialist has an easy answer to questions of wrongness in animal farming cases—just as they have an easy answer to the non-identity problem—however, given the independent problems with this view referenced in the section on impersonal approaches, and given the prevalence of animal rights advocates, I turn to the unique shortcomings of the rights-based approach in animal creation cases. Again, this appears to be the sort of problem that a traditional rights-based view is fundamentally ill-equipped to handle. For Tom Regan, rights inhere in experiencing subjects of lives.[72] Yet, even granting that individual animals have rights, the animals who would have better lives do not exist in the scenario where the lives of farm animals are barely worth living, so we cannot say that those non-existent animals

[72] Regan 1983.

are experiencing subjects of lives whose rights have been violated. Similarly, we will have trouble talking about our obligations to farm animals qua species, given that species are not the sorts of things with rights either. Yet our actions clearly affect these animals at the species level, too. But as we saw above, a role-based view easily explains why we should aim for lives well above the threshold of barely-worth-living when we create animals, and it helps to uncover what we owe to these animals at the species level.

I will focus on an analysis of the potential responsibility relations between farmers/ranchers (hereafter 'farmers' for simplicity's sake) and those animals raised for consumption, though it should be noted that many others affect these animals indirectly with their choices as consumers, policymakers, etc. The farmers, however, are directly involved in the creation of animals, and their actions do predictably affect the welfare and identity of the animals under their care.

First of all, these farmed animals either qualify as moral subjects, or they do not. If, on the one hand, they do qualify—as many have argued they do—then we seem to have a clear case of *de dicto* responsibility on the part of the farmers. While the exact parameters of this role and the resultant responsibilities are debatable, it seems obvious that as office caretakers farmers ought at least to ensure that the animals who fill those offices have lives that are better than barely-worth-living. One could argue that they have this responsibility just by virtue of their occupying the role of farmers, but there is further support for this responsibility that parallels aspects of the pedigreed breeding cases. Animals raised for consumption exist in the numbers that they do and with the genetic makeup that they have because we have historically bred them in this manner. As with companion pets, we created these dependent sets of moral subjects with their unique characteristics, and this history grounds our responsibility to avoid committing *de dicto* harms when determining how these offices are filled. Of course, it is a further moral question to ask

whether it is permissible to kill and eat animals whose welfare meets or exceeds the threshold determined by the role of farmer. The answer will likely depend to some degree on whether those existing animals have a right to life, but that is beyond the scope of this work, and thus not a question I will attempt to settle here. However, it should be noted that the truth of the conclusion that it is impermissible to kill and eat animals leads to a proscription on raising them for food. If we ceased this practice, we would then need to ask whether we have a responsibility to continue creating these animals and providing them with high welfare, or whether we are allowed to permit entire species to wither away after we cease creating them for food. The answer will hinge on what we owe to species whose members possess moral worth, but, as with the eugenics cases, we must consider other broader and morally relevant effects of, say, using arable land for the cultivation and maintenance of certain species, and how this might compete with our other responsibilities.

Determining our role-specific responsibilities relies on a number of factors. Determining that we have role-specific responsibilities relies on arguments for *de dicto* harm and benefit and the recognition of the two-place responsibility relation between agents and offices that are filled by moral subjects. These features uncover a theoretically useful account of responsibility that, when applied to many practical cases, grounds our intuitions of harm and benefit, and provides a principled approach through which we can assess our obligations to both consumption and companion animals.

5.4 CONCLUSION: FINDING RESPONSIBILITY, FOUNDING HARM

My approach relies on the principles that agents can commit *de dicto* harms, and that the responsibility criterion is necessary—albeit sometimes not sufficient—for generating the wrongness of *de dicto* harm. The responsibility criterion is necessary because cases of *de dicto*

harm that do not contain a responsibility-relation do contain intuitively permissible *de dicto* harms. In fact, it appears that the lack of responsibility is precisely what generates the intuitions of permissibility. However, this criterion is not always sufficient to generate the wrongness of *de dicto* harm because some responsibility-relations involve roles that generate competing considerations that may defeat the reasons against *de dicto* harm in those cases. Thus, we may find that Sarah acts wrongly, but we must not conclude that all mothers who choose to commit *de dicto* harm act wrongly in parental cases. We can, however, debate the morality of a given mother's act in terms of her *de dicto* responsibility, and this is an important debate. It allows us to consider not only *de dicto* responsibility but also broader concerns regarding social justice, personal sacrifice, *de re* responsibility, and the like. Thus, my solution is useful not because I have proposed a principle that delineates precisely when a given act of creation is wrong, but because the feature of non-identity cases that generated the problem was our supposed inability to appeal to the comparative account of harm when assessing wrongness; and my view allows for an appeal to the comparative account of harm. Just as *de re* harm is not always impermissible, neither is *de dicto* harm always impermissible. To determine the permissibility or impermissibility of these harms, we must look at the cases themselves. I have provided a means of determining harm and thereby opened the door for an analysis of that harm. The real problem with non-identity cases was not simply that we could not tell Sarah that she has done something wrong. It was that we were blocked from even analyzing the case properly in the first place. I have uncovered a means by which we can usefully analyze creation cases, but its use does not end there. If these principles are true, they not only provide us with a sound approach to the non-identity problem, they also provide us with moral features to which we can appeal whenever we assess our roles and moral responsibilities to

children, future generations, society, species, and to the human race, regardless of the particulars of existence.

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