

A HARM-BASED SOLUTION TO THE NON-IDENTITY PROBLEM

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1. Introduction

Many of us agree that we ought not to wrong future people, but there remains disagreement about which of our actions can wrong them. Can we wrong individuals whose lives are worth living by taking actions that result in their very existence? The problem of justifying an answer to this question has come to be known as the *non-identity problem*.¹ While the literature contains an array of strategies for solving the problem,² in this paper I will take what I call the *harm-based approach*, and I will defend an account of harming—which I call the *existence account of harming*—that can vindicate this approach.

Roughly put, the harm-based approach holds that, by acting in ways that result in the existence of individuals whose lives are worth living, we can harm and thereby wrong those individuals. An initially plausible way to try to justify this approach is to endorse the *non-comparative account of harming*, which holds that an event harms an individual just in case it causes her to be in a bad state, such that the state's badness does not derive from a comparison between that state and some alternative state that the individual would or could have been in. However, many philosophers argue that the non-comparative account of harming is inadequate,³

1. The term, “non-identity problem” was coined by Derek Parfit (1987), but the fundamental tensions that constitute the problem were identified, somewhat independently, by Parfit (1976), Robert Adams (1972), Thomas Schwartz (1978).

2. For helpful overviews of proposed solutions, see Melinda Roberts (2013) and David Boonin (2015).

3. Philosophers who argue that the non-comparative account is an inadequate account of harming include Matthew Hanser (2008), Judith Thomson (2010), and Ben Bradley (2012). Also, for reasons I don't discuss in this paper, some philosophers argue that the concept of non-comparative harming will not actually solve the non-identity problem, as it is advertised to do. These critics

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and one might be tempted to infer from this that *any* harm-based approach to the non-identity problem will fail. My proposal, which I call the *existence account of harming*, will show that this inference is faulty: we can vindicate the harm-based approach without relying on the non-comparative account of harming.

I will begin in Section 2 by setting forth the non-identity problem in more detail. I will then explain why the non-comparative account of harming gets the right results in non-identity cases but the wrong results in other cases. In Section 3, I will explain the existence account of harming, and I will show how it also gets the right results in non-identity cases. Finally, in Section 4, I will argue that the existence account of harming gets the intuitively correct results in other cases that the non-comparative account could not handle. I will conclude that the existence account of harming can not only vindicate the harm-based solution to the non-identity problem, but it is also a satisfactory account of harming in its own right.

2. The Non-Identity Problem and the Non-Comparative Account of Harming

Consider the following two cases:

Case 1. During her pregnancy, Alice takes a drug that she knows will cause her child, whom she names Alex, to develop poor health. Despite his poor health, Alex has a life worth living. He would have had a higher level of well-being if Alice had not taken the drug.

Case 2. Barbara uses *in vitro* fertilization and screens the embryos for a particular gene that causes poor health. When she finds an embryo with that gene, she implants it and discards the rest. The selected embryo becomes a child named Billy, who develops poor health. Having poor health causes Billy to experience exactly the same hardships, pain, and suffering that having poor health causes Alex to experience. However, like Alex, Billy has a life worth living.

Intuitively, both Alice's action and Barbara's action are objectionable. The objection to Alice's action is that she has clearly harmed her child. Since Barbara's action is similar—it affects Billy in almost the same way that Alice's action affects Alex—we might be tempted to think that the objection to Barbara's action is also grounded in harm.

include Fiona Woollard (2012), Derek Parfit (1987), and David Boonin (2015). I defend my harm-based approach against the latter line of objection in my unpublished manuscript, *On the Strength of the Reason against Harming* (2015).

Nevertheless, there is a difference between Case 1 and Case 2. The difference is that, although Alex would still have existed had his poor health *not* been induced, Billy is *non-identical* to anyone who would have existed, had his poor health not been selected for. After all, if Barbara had not selected for poor health, then either she would not have had a child, or else she would have implanted a different embryo, and a different person would have come into existence.

Many philosophers argue that this metaphysical difference makes a moral difference. According to the *counterfactually worse-off condition* on harming, an action harms someone only if it makes her worse off in at least some respect than she would have been, had the action not been performed. Alice's action satisfies this condition: Alex is worse off in many respects than he would have been, had Alice not induced his poor health. However, Barbara's action does not satisfy this condition. Billy's life is worth living, and plausibly, having a life worth living is not worse for Billy in any respect than not existing; therefore, Billy is no worse off in any respect than he would have been, had Barbara not selected for poor health. Thus, the counterfactually worse-off condition implies that Barbara does not harm Billy.

But if Barbara's action does not harm Billy, then we seem to be at a loss to justify the intuition that, in much the same way that Alice's action is objectionable, Barbara's action is also objectionable. Case 2 is thus an example of a *non-identity case*: it is a case in which we find it difficult to explain why an individual appears to be wronged by an action that is the condition of his or her own worthwhile existence. The problem of either accounting for this appearance that the individual was wronged or explaining it away is the *non-identity problem*.

Here I want to clarify how I am using the term "wronged." Some people hold that when an action "wrongs" an individual, the action is all-things-considered wrong. However, many philosophers who have written about the non-identity problem do not hold that in *every* non-identity case, the procreative action is all-things-considered wrong.⁴ Therefore, the sense of "wronged" to be explained in a non-identity case is weaker. What must be explained, more precisely, is the intuition that there is a *moral reason* against the procreative action, where that reason

4. There is some disagreement on this point in the literature. For example, Harman (2009) describes non-identity cases differently than I do, and she contends that the intuition about such cases is that the action is all-things-considered wrong. She writes, "A 'non-identity case' is a case in which an action affects whether some people exist, and it appears (either to everyone, or to some people) that the action is wrong in virtue of harming these people, although they have lives that are worth living" (2009: 140). On the other hand, Parfit provides two different definitions of "non-identity problem" that are somewhat imprecise, but which support my claim that the intuition to be explained is that there is a *reason* against the action, not that the action is always all-things-considered wrong. He first claims that the non-identity problem is the problem of determining what is the "objection" to a 14-year-old girl's decision to have a baby (1987: 359). He later invokes a case he calls "Depletion" and states that the non-identity problem is the problem of answering the question, "What is the moral reason not to choose Depletion?" (1987: 363).

has something to do with mistreatment of the individual whose existence is conditional on the action. I will assume that if we can account for the existence of and the strength of this reason—or if we can successfully explain away the intuition that there *is* such a reason—we will have solved the non-identity problem.

A *harm-based approach* to the non-identity problem is any approach that attempts to solve the problem by rejecting the counterfactually worse-off condition on harming. Those who opt for the harm-based approach hold that an action can harm and thereby wrong an individual even if it fails to make her worse off in any respect than she would have been, had the action not been performed.

It is tempting to think that, if *harmful actions* need not make anyone worse off, then *harms*, too, need not be worse for anyone than various alternatives. For example, Elizabeth Harman offers a list of states that she thinks can qualify as bad even if they are not worse for the victim than other states. Her list includes “pain, mental or physical discomfort, disease, deformity, disability, or death” (139). I will draw upon this notion of a “bad state” to formulate the following generic account of harming:

The Non-Comparative Account of Harming⁵

Harming (def.): An event, E, harms an individual, S, if and only if E causes a state of affairs that is a harm for S.

Harm (def.): A state of affairs, T, is a harm for an individual, S, if and only if T is a bad state of affairs for S.⁶

The non-comparative account of harming seems to justify the claim that in Case 2, Barbara harms Billy. After all, Barbara’s action causes discomfort and disease, and

5. As I have formulated it, the non-comparative account of harming combines multiple ideas, a subset of which many philosophers endorse, but it is not an exact statement of any one philosopher’s view. Philosophers who critique but do not endorse something like the non-comparative account of harming include Matthew Hanser (2008), Judith Thomson (2010), Ben Bradley (2012), and David Boonin (2015). A philosopher who endorses something like the non-comparative account as a complete analysis of harming is Seana Shiffrin (1999). Finally, Elizabeth Harman (2004; 2009) and Fiona Woollard (2012) hold that there is a *conception* of non-comparative harming that serves as a sufficient but not a necessary condition for harming.

6. There is a subtle difference between causing *what is* a bad state of affairs for someone and causing someone *to be* in a bad state. For example, the state of affairs in which someone dies before the age of 30 seems to be a *bad state of affairs* for that person, but it’s not clear that she is *in* that bad state. Harman seems to alternate between claims about causing a bad state of affairs and causing someone *to be* in a bad state. For example, she writes, “One harms someone if one causes him . . . death” (2009: 139). But she also says that her view, more generally, “is that an action harms someone if it causes the person to be in a bad state” (2009: 139). If we think that when you are dead, you are not *in* a bad state, then Harman’s view is inconsistent. However, Harman could avoid the inconsistency by changing her view so that it holds that an action harms someone if it causes *what is* a bad state of affairs for the person (whether or not he is *in* it). That is why I have used the latter claim in my generic formulation of the non-comparative account.

both discomfort and disease are bad, at least on Harman's account. More precisely, we might say that the state of affairs in which Billy experiences disease is a bad state of affairs for Billy, and Barbara's action causes that state of affairs. Thus, the non-comparative account of harming seems to get the right results in non-identity cases.

Nevertheless, the non-comparative account does not seem to constitute an adequate account of harming in its own right, for it seems to get the wrong results in other cases. The first kind of case is one in which it seems intuitively true that an individual has been harmed, but the non-comparative account implies that she has not been harmed. Consider, for example, the following:

Loss of Fortune. Jeeves was once a world-renowned physicist with extraordinary intellectual abilities. He then had a stroke and suffered brain damage. The brain damage left him with average intellectual abilities.⁷

Intuitively, the stroke harmed Jeeves. However, the non-comparative account of harming would most likely imply that it did not harm him. After all, Harman does not include *having average intellectual abilities* on her list of states that count as bad, and that seems right: having average intellectual abilities does not seem to be bad in the way that pain, death, physical discomfort, and disease are bad. But if the state of affairs in which Jeeves has average intellectual abilities is not bad for Jeeves, then the stroke did not put in him a bad state, so it did not harm him.

Loss of Fortune is not a counterexample to Harman's own view because Harman takes non-comparative harming to be a sufficient but not a necessary condition for harming. However, Loss of Fortune *is* an apparent counterexample to the non-comparative account of harming. Insofar as we are seeking, not just a sufficient condition for harming, but a complete analysis, we have a problem.

Indeed, even if we consider the adequacy of the non-comparative account as a sufficient condition for harming, new problems arise. Consider this example:

Dim Vision. Jones has been blind for many years as a result of retinal damage. Recently, Dr. Smith has developed a surgical operation that can repair some but not all of the damage. Dr. Smith operates on Jones and improves his vision from a state of blindness to a state in which Jones can see, but not very well: Jones now has what we will call *dim vision*.⁸

7. This case is also appears in my (2015) chapter, and it is modeled upon the Bertrand Russell case in Jeff McMahan (1996), the case of the Nobel Prize winner in Hanser (2008), and the case of stealing a dollar from a billionaire in Boonin (2015: 72).

8. This cases also appears in my (2015) chapter, and it is an adaptation of cases that appear in Thomson (2010), Hanser (2009), Harman (2009), and Boonin (2015).

Since Harman includes disability on her list of bad states, and since dim vision would probably qualify as a disability, it appears as though Dr. Smith has caused Jones to be in a bad state. Nevertheless, the commonsense intuition about the case is that Dr. Smith does not harm Jones when he operates.

A proponent of the non-comparative account of harming might respond to both of the above examples by suggesting that we revise Harman's list of bad states. Perhaps we could find a criterion for badness that would imply that having average intellectual abilities *is* a bad state for Jeeves, whereas having dim vision is *not* a bad state for Jones. Shiffrin (1999), for example, suggests that a state is a harm when it conflicts with an individual's will. However, such a criterion conjoined with the non-comparative account of harming would imply that nonhuman animals cannot be harmed unless they have a will. And even if some animals have a will, a dog whose sense of smell is damaged may not be aware of the damage, in such a way that she could will it away. But if you damage a dog's nose, you still harm her.

Harman suggests an alternative way to explain why the entries on her list of bad states count as harms. On her view, bad states "are those states that are worse in some way than the normal healthy state for a member of one's species" (2009: 139). However, this criterion still gets the wrong results in both *Loss of Fortune* and *Dim Vision*. Moreover, there is a third kind of case that raises problems for any view on which harm is species-relative:

Goat. A team of biologists have created a continuum of genetically engineered embryos, such that human embryos are at one end and goat embryos are at the other. As one moves from the human end to the goat end of the continuum, the embryos contain less and less human DNA and more and more goat DNA. The biologists are wondering whether it would be morally permissible to cause the embryos in the middle of the continuum to develop into adults.⁹

Imagine an embryo that is roughly in the middle of the continuum. There is either an answer to the question of what species it belongs to, or there is not. If there is no answer, then the species-relativized non-comparative account of harming cannot tell us whether causing the embryo to develop would constitute harming or not. This scope limitation is a significant problem for the species-relativized non-comparative account of harming; if the account cannot tell us whether we are harming individuals who are not determinately of one species or another, then the account will be of little use when it comes to real and pressing questions about

9. This case is loosely modeled on the "everworse continuum" thought experiment in Greene and Augello (2011).

whether, say, genetic engineering is harmful.

If, on the other hand, there is a determinate answer to the species question, then there must be a distinct cut-off line that distinguishes humans with goat-like qualities from goats with human-like qualities. There will also be two possible embryos, one on either side of the line, that will be almost qualitatively identical in terms of their future phenotypes and levels of well-being. Assuming that the level of well-being that is normal for humans is higher than the level of well-being for normal goats, and assuming that the level of well-being of the two individuals in the center of the continuum will be somewhere in between these two norms, it follows from the species-relativized non-comparative account of harming that causing one embryo to develop would constitute harming, whereas causing the other embryo to develop would not. This result is objectionably arbitrary.¹⁰

More generally, the problem is that although the non-comparative account of harming gets the right results in non-identity cases, it is not a fully adequate account of harming: it is ill-equipped to tell us whether someone has or has not been harmed in a wide range of other cases. If the non-comparative account of harming is inadequate as a full account of harming, one might be tempted to infer that the whole harm-based approach to the non-identity problem is also doomed to failure. However, as we will see in the next section, the harm-based approach need not rely upon a non-comparative account of harming.

3. The Existence Account of Harming

So far, I have argued that although the non-comparative account of harming seems to offer a promising solution to the non-identity problem, it fails as a general account of harming. In this section, I will defend an alternative account of harming that not only vindicates the harm-based approach to the non-identity problem, but also gets most of the right results in the cases that stymied the non-comparative account. I will begin by stating the account in full and clarifying some of its tenets. I will then show how the account vindicates the harm-based approach to the non-identity problem. Finally, I will argue that the account gets the right results in the cases that made trouble for the non-comparative account.

Here is the full account:

10. I have adapted this objection from an argument that Greene and Augello (2011) employ against objections to selecting for disability. Greene and Augello describe the continuum that stretches from humans to goats as an “everworse continuum,” and they stipulate that as you move towards the goats, well-being gets ever worse. I think that such a stipulation is unnecessary, so I have left it out.

The Existence Account of Harming

Harming (def.): An event, E, harms an individual, S, if and only if E causes a state of affairs that is a harm for S.

Harm (def.): A state of affairs, T, is a harm for an individual, S, if and only if

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

Notice, first, that I define harming as causing harm, just as the non-comparative account of harming does. This is a natural way of thinking about harming, and even some proponents of the counterfactually worse-off condition on harming agree that ‘to harm’ is a causal verb.¹¹

Notice, second, that clause (i) in the definition of harm refers to a condition *with respect to which* S can be intrinsically better or worse off. This clause is formulated so as to make the existence account compatible with most substantive accounts of well-being. More precisely, I am presupposing some account of well-being that specifies *respects* in which an individual can be intrinsically better or worse off. Nevertheless, clause (i) is neutral about what these respects might be. For example, the existence account of harming is compatible with the claim that someone can be intrinsically better or worse off with respect to her health, her happiness, her interpersonal relationships, her reputation, having her desires satisfied, some combination of these, or something else altogether.¹² Nevertheless, some people might think that it is implausible, for example, that how well *you* are doing is a respect in which *I* can be worse off. We might hold that if I die and you grieve for me, your grieving, itself, is not a harm for me, even if it is true that had you not grieved, I would not have died when I did, and I would therefore be better off.¹³ Clause (i) in the existence account of harm blocks the implication that your grief is then a harm for me: if we think that your grieving is not a condition with respect to which I can be intrinsically better or worse off, then according to the existence account of harm, the state of affairs in which you grieve for me is not a harm for me.

The second clause in my definition of harm is the most important because it does the most work to solve the non-identity problem. To see why, we can compare

11. See, for example, Thomson (2010).

12. For more on intrinsic harms, see Bradley (2012) and Klockslem (2012). Bradley attributes the original distinction between intrinsic and extrinsic harms to Feinberg (1984).

13. I thank Alastair Norcross for raising this point.

the existence account of harming to an account that entails the counterfactually worse-off condition on harming. Consider, for example, the following formulation of a necessary and sufficient condition for harming:

The Counterfactually Worse-Off Account of Harming:¹⁴

Harming (def.): An event, E, harms an individual, S, if and only if, had E not occurred, S would have been better off in some respect.

Both the counterfactually worse-off account of harming and clause (ii) of the existence account of harming invoke counterfactuals, but the antecedents of those counterfactuals are different. The antecedent of the counterfactual in the counterfactually worse-off account picks out the possibility that E does not occur. On the other hand, the antecedent of the counterfactual in the existence account of harm picks out the possibility that S exists and the upshot of E does not obtain.¹⁵

Because of this difference in how the antecedents are formulated, the existence account of harming allows for the possibility that in Case 2, Billy's having poor health is a harm for him; however, the counterfactually worse-off account rules out such a possibility. To see why, suppose that the following claims can both be truthfully asserted by Billy:

(B1) If my mother had not selected for poor health, then I would not have existed at all.

(B2) If my mother had not selected for poor health, then I would not have been better off in any respect.

B2 is true *in virtue* of B1. The conjunction of B2 and the counterfactually worse-off account of harming implies that Billy's having poor health is not a harm. But now consider two more counterfactuals:

(B3) If I existed but did not have poor health, then I would have received somatic cell gene therapy after I was born.

(B4) If I existed but did not have poor health, then I would have been better off in many respects.

14. This account is similar to the counterfactual accounts of harming discussed by Bradley (2012) and Hanser (2008), and is loosely modeled on Thomson's (2010) account.

15. Note that the antecedent of the counterfactual in the existence account picks out the possibility that the individual *ever* exists at all, not that she exists at some particular time. Thus, the sense in which I am using "existence" makes the following counterfactual true: "If Bertrand Russell existed and died in 1930, then he would have been worse off in some respect."

Notice that B_4 is true *in virtue* of B_3 . Assuming that at least some of the respects in which Billy would be better off fall within the scope of the correct substantive account of well-being, B_4 satisfies clauses (i) and (ii) of the existence account of harm; thus, Billy's having poor health is a harm. Since Barbara caused Billy to have poor health, Barbara harmed Billy. The result that she harmed him can then explain why, intuitively, it seems as though she wronged him.¹⁶ By establishing a plausible justification for the intuition that she wronged him, the existence account of harming solves the non-identity problem.

Notice that my definition of harm does not require us to deny the truth of B_1 or B_2 . Indeed, we can suppose that B_1 , B_2 , B_3 , and B_4 are *all* true. However, B_2 is true in virtue of one counterfactual state of affairs, and B_4 is true in virtue of another; we might say that B_3 and B_4 refer to a possible world that is more distant than the world that B_1 and B_2 refer to. The mistake that proponents of the counterfactually worse-off condition on harming were making is that they were making comparisons to the *wrong possible world*. They were imagining how things would have been if the *cause* of Billy's poor health hadn't obtained. Instead, they ought to have considered how things would have been *for Billy* if *Billy's poor health* hadn't obtained.

One might object that condition (ii) in my definition of harm is *ad hoc*. What fuels the non-identity problem, in the first place, is the fact that Billy would not have existed if Barbara had not selected the embryo on the basis of its gene for poor health. The objection contends that on my account, we need not consider this fact at all in assessing whether Barbara has harmed Billy.

In response, I contend that this fact really *doesn't* matter to our commonsense judgments of harm, and that it therefore shouldn't matter to our commonsense judgments of harming. Consider, for example, someone who has a genetic disease like cystic fibrosis. If you were asked whether such a condition were harmful, it is likely that you would answer *yes*, and that your reasoning would involve a comparison between how life is for the individual with the disease and how life would be if she didn't have it. Without cystic fibrosis, the individual could fall asleep at night instead of continually struggling to breathe. She could attend more social events instead of winding up in the hospital. She could eat the foods she wanted to eat without getting sick. And so on. These comparisons inform the judgment that cystic fibrosis is, after all, a *disease*, and they help to justify the resources we devote to finding more effective treatments. The fact that the sufferer would not have existed if the cause of her having the disease (namely, the event of her parents' procreating) had not occurred does not seem to matter to how harmful we think the disease is or how desirable it would be to find a cure.

16. Recall from Section 2 that I am using the word "wronged" to indicate a slight that may or may not be all-things-considered wrong.

More generally, many philosophers hold that well-being has two kinds of value. It has *personal value*, or value *for* the individual whose well-being it is, as well as *impersonal value*, or value that is distinct from the value it has for any individual.¹⁷ The concept of harm is linked to the *personal value* of well-being. That is, harm is always harm *for* someone.¹⁸ That is why it is not *ad hoc* to assess harm from the perspective of the individual who suffers it. In comparing the harm to its absence, we compare worlds where she suffers the harm to worlds where she *exists* but does not suffer it. We cannot assess the personal value of alterations in someone's well-being by making comparisons to worlds where the individual does not exist.

4. Revisiting the Problem Cases

In the previous section I introduced the existence account of harming, defended its tenets, and showed how the account can vindicate the harm-based approach to the non-identity problem. In this section I will first explain how the existence account of harming gets the right results in the cases that created trouble for the non-comparative account of harming. I will also consider another objection to the existence account. In response to this objection, I will defend a principle about the strength of the reason against harming. That principle, when conjoined with the existence account, will help diffuse the objection.

Here is why the existence account of harming is immune to the problems illustrated by Dim Vision and Loss of Fortune. Recall that in Dim Vision, Dr. Smith causes Jones to be in a state of dim vision. Such a state appears to be bad for Jones, so if the non-comparative account of harming is true, then Dr. Smith harms Jones. However, the existence account of harming does not imply that Dr. Smith harms Jones. Consider the following counterfactual:

17. A theory is committed to the existence of impersonal value if it holds, for example, that a state of affairs containing five people with headaches is *ceteris paribus* worse than a state of affairs containing five different people, only one of whom has a headache. The former state of affairs is not worse for any particular individual, so if it is worse at all, the worseness must be grounded in impersonal value. Utilitarianism, Rossian pluralism, and any other normative theories that enjoin us to consider aggregated well-being appear to be committed to the claim that well-being has impersonal value.

18. Indeed, the notion that consequentialists are generally concerned with impersonal value, rather than personal value, can explain why many consequentialists are reluctant to acknowledge either the existence or importance of harm at all. See Bradley (2012), who argues that our moral theories should do away with the concept of harm, and Norcross (2005), who writes, “for the purposes of ethical theorizing, harm and benefit do not have the kind of metaphysical grounding required to play fundamental roles in ethical theory, nor do judgments of harm or benefit make any distinctive contributions to reasons for action” (171–172).

(D) If it were true that both Jones existed and he did not have dim vision, then Jones would be better off in some respect.

D states a necessary condition for dim vision's being a harm for Jones. However, D is false. If Jones were to exist without dim vision, then Dr. Smith would not have operated, and Jones would be completely blind; that would result in Jones's being *worse off* in some respect. The state that Dr. Smith causes Jones to be in fails to satisfy a necessary condition for being a harm, and since it is not a harm, Dr. Smith does not harm Jones in causing it.

This result may seem worrisome, for as I noted in Section 2, the state of dim vision *appears* to be non-comparatively bad for Jones. However, it is easy to explain away the appearance of badness. What is *actually* bad for Jones is not dim vision, but the state of being unable to see very well. And sure enough, the existence account of harming can justify the claim that the state of being unable to see very well *is* a harm for Jones. Consider the following counterfactual:

(D₂) If it were true that both Jones existed and he were *not unable* to see very well, then Jones would be better off in some respect.

D₂ is true. To say that Jones is *not unable* to see very well is to say that Jones *is* able to see very well. And if Jones were to see very well, then he would indeed be better off in some respect. Assuming that Jones's ability to see very well is a respect in which he can be intrinsically better off, the existence account of harming implies that being unable to see very well is a harm, but Dr. Smith did not cause it. On the other hand, although Dr. Smith caused *dim vision*, dim vision is not a harm.

The existence account of harming is also immune to the objection illustrated by Loss of Fortune. Recall that in Loss of Fortune, Jeeves suffers brain damage that results in his having average intellectual abilities. The proponents of the non-comparative account of harming were at a loss to explain why having average intellectual abilities was a bad state for Jeeves, so they could not use that account to explain why the stroke harmed Jeeves. However, the existence account of harming can justify the claim that having average intellectual abilities is a harm for Jeeves, for the following counterfactual is true:

(J) If it were true that both Jeeves existed *and* he did not have average intellectual abilities, then Jeeves would be better off in some respect.

J is true because if Jeeves did not have average intellectual abilities, then he would not have had the stroke, and he would have retained his extraordinary intellectual abilities. Assuming that clause (i) is again satisfied, the existence account of harming implies that the stroke harmed Jeeves.

At this point, one might raise the following objection to my view. As the example of being unable to see very well illustrates, the existence account of harming seems to be compatible with the claim that states of affairs that are either positively described (being blind) or negatively described (*not* being able to see very well) can be harms. But if we allow states of affairs that are negatively described to be harms, then presumably, not having almost *anything* good would qualify as a harm. For example, it would be a harm for me that I do not have telekinetic abilities, since if I existed and I did *not not* have telekinetic abilities, I would be better off in some respect. Yet it is not a harm for me that I lack telekinetic abilities.

I have three responses to this objection. First, the implication that negatively described states of affairs can count as harms is not unique to the existence account of harming. Something akin to the counterfactually worse-off account of harming can also count negatively described states of affairs as harms.¹⁹ Suppose, for example, that Dr. Smith is driving to Jones's house to deliver a lifesaving medication. Jones's enemy Bloggs wants Jones dead, so he cuts down a tree and blocks the road to Jones's house. By preventing Dr. Smith from delivering the medication, Bloggs harms Jones. Nevertheless, the particular harm that Bloggs causes is a negatively described state of affairs: the harm to Jones is *not receiving the lifesaving medication*. Of course, it may well be that the negatively described states of affairs that will qualify as harms according to various cousins of the counterfactually worse-off account are less bizarre than those that might qualify according to the existence account. That is because states of affairs that *would* have obtained, had some event or other not happened, are generally less bizarre than some of the possible states of affairs that the existence account seems to count as harms. But all this shows is that negatively described states of affairs are not, themselves, the ultimate source of the objection; rather, *bizarre* states of affairs appear to be the motivation for the objection.

My second response is that, if we are worried merely that *bizarre* states of affairs will count as harms, then we can assuage this worry to some extent by appealing to clause (i) in the existence account of harm. Depending on what the correct substantive account of well-being turns out to be, clause (i) may well rule out some of the most bizarre negatively described states of affairs as harms: it might turn out that not having telekinetic abilities *is not* intrinsically worse for my well-being than having telekinetic abilities.

Even if the correct substantive account of well-being is permissive enough to include lack of telekinesis among the dimensions with respect to which I can be intrinsically better or worse off, my third response is that the intuition that not having telekinetic abilities is *not* a harm is not very robust, and consequently, we

19. Further, if proponents of the non-comparative account of harming held that negatively described states of affairs could qualify as non-comparatively bad states, then their view would also be subject to the objection.

should disregard it, since we otherwise have strong reason to accept the existence account of harming. The same would be true for our intuitions about the lack of other goods. Not having wings, not being able to live to the age of 200, not having the intellectual abilities of a telepathic super genius: these may, indeed, be harms for most, if not all, of us.²⁰

Nevertheless, we can still claim that any *reason* against causing these negatively described harms would be vanishingly weak. The justification for this claim comes from the principle that I alluded to at the start of this section.

Before I state the principle, I will introduce the following definitions:

Inevitability/Avoidability (def.): For any state of affairs, A, A is *more inevitable* (*less avoidable*), the more the world would be different if A did not obtain, and A is *less inevitable* (*more avoidable*), the less the world would be different if A did not obtain.

‘Inevitability’ and ‘avoidability’ are terms of art. In ordinary language, we tend not to think that ‘inevitable’ and ‘avoidable’ admit of degree. However, as I am using these terms, they do.

To see how these terms can be used, consider the actual state of affairs in which a human being wins the 2012 Presidential election. This state of affairs is more inevitable than the state of affairs in which Barack Obama wins the 2012 election, for the world in which a nonhuman (say, a goat or a chimpanzee) wins is more different from the actual world than the world in which a human being other than Obama (say, Mitt Romney) wins. Conversely, the world in which Obama wins is more avoidable than the world in which a human being wins.

With these concepts of inevitability and avoidability in hand, consider the following principle:

The Inevitable Harming Principle: Other things being equal, the reason against harming an individual is weaker, the more inevitable the harm.²¹

20. Cf. Thomas Nagel, who writes, “The question is whether we can regard as a misfortune any limitation, like mortality, that is normal to the species. . . . A man’s sense of his own experience . . . does not embody this idea of a natural limit. His existence defines for him an essentially open-ended possible future, containing the usual mixture of goods and evils that he has found so tolerable in the past. . . . Viewed in this way, death, no matter how inevitable, is an abrupt cancellation of indefinitely extensive possible goods. Normality seems to have nothing to do with it, for the fact that we will all inevitably die in a few score years cannot by itself imply that it would not be good to live longer” (1970: 80).

21. This is not intended to be a complete account of the strength of the reason against harming. There may well be other features that modulate the strength of the reason against harming, such as the magnitude of the harm, what would happen if the agent didn’t cause the harm, and so on.

We can now apply this principle to the cases of negatively described harms. For a Spalax mole-rat, being unable to see is a harm that is highly inevitable. That is because, in a world where such a mole-rat could see, there would be extraordinary developments in genetic engineering, and such a world is very different from our own. Given how inevitable blindness is for the mole-rat, the inevitable harming principle implies that, other things being equal, the reason against causing a mole-rat to be born blind is much weaker than the reason against causing a human to be born blind.

Moreover, not having extraordinary intellectual abilities is more inevitable for the average person than it is for Jeeves. Therefore, according to inevitable harming principle, the reason against causing the average person not to have extraordinary intellectual abilities is much weaker than the reason against causing Jeeves not to have extraordinary intellectual abilities. Compare two cases that are variations on Case 1 and Case 2:

Case 3. Alice is already pregnant with the fetus who will become Jeeves. She decides to take a brain damage-causing drug that will cause Jeeves to have average intellectual abilities instead of extraordinary ones. After he is born, Jeeves develops average intellectual abilities.

Case 4. Barbara is using *in vitro* fertilization. She would like to have a child who has average intellectual abilities, so she selects an embryo on the basis of a genotype associated with average intellectual abilities. After he is born, her child, whom she names Reeves, develops average intellectual abilities.

Having average intellectual abilities is more inevitable for Reeves than it is for Jeeves. Given that other factors are equal between the cases, the inevitable harming principle implies that the reason against what Alice does is stronger than the reason against what Barbara does.²² Since we can distinguish between the strength of reasons in this way, we need not bother with further distinctions implying that blindness is a harm for a human but not for a Spalax mole-rat or that not having extraordinary intellectual abilities is a harm for Jeeves but not for Reeves.²³

Notice that the inevitable harming principle adds a nuance to what the ex-

22. Indeed, for any action that causes an independently existing person to suffer a harm, it is likely that, according to inevitable harming principle, the reason against the action is strong. Consider a typical case in which an action causes a person who would exist regardless of the action to suffer a harm. In such a case, the harm is highly avoidable: if the harm did not obtain, the only thing that would be different would be that the action was not performed. Since the harm is highly avoidable, the reason against the action (other things being equal) is strong.

23. We might also think that blindness is less of a harm for a mole-rat than it is for a human because being able to see would not improve a mole-rat's well-being as much as it would improve a human's well-being. The existence account of harming is compatible with this explanation.

istence account of harming says about the non-identity problem. In Section 2, I compared Alice's action in Case 1 to Barbara's action in Case 2. I said that part of the problem was to justify the intuition that Barbara's action is objectionable in much the same way that Alice's action is objectionable. Now, conjoined with the inevitable harming principle, the existence account of misfortune does, indeed, imply that Barbara's action is objectionable in much the same way that Alice's is: both actions are instances of harming. Nevertheless, the inevitable harming principle also implies Barbara's action is objectionable to a lesser *degree* than Alice's is. After all, Billy's poor health is much more inevitable than Alex's, and so there is less of a reason for Barbara to refrain from causing it. I take it that this is the right result. Most people seem to have the intuition that what Barbara does wrongs Billy, but that it doesn't wrong Billy to the same degree that Alice's action wrongs Alex.²⁴

Finally, notice that the inevitable harming principle does not have objectionably arbitrary implications about what the biologists should do in Goat. Recall that in that case, the biologists were wondering whether it would be morally permissible to let the embryos in the middle of the continuum between humans and goats develop into adults. Since the existence account of harming does not endorse a substantive account of well-being, it does not answer the question about whether life as a half-human, half-goat is bad for the individual living it. Nevertheless, if such a life *is* bad for such an individual, the existence account of harming implies that the biologists will be harming the resultant individuals if they cause the embryos to develop. Moreover, the inevitable harming principle implies that the reason against causing such harm will be somewhat consistent in strength across most of the continuum, since existence as a part-human, part-goat will be equally inevitable for each individual on the continuum, excluding those on the very ends.

I conclude that the existence account of harming can not only vindicate the harm-based approach to the non-identity problem, but it can also serve as a plausible account of harming in its own right.

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24. Justin Weinberg (2013) also defends this intuition.

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