Chapter 1: Five Plausible Premises and One Implausible Conclusion

1.0 overview. Our actions sometimes have an effect not only on the quality of life that people will enjoy in the future, but on which particular people will exist in the future to enjoy it. In cases where this is so, the combination of certain assumptions that most people are inclined to accept can yield conclusions that most people are inclined to reject. When this happens, we have a problem. The problem seems to have been discovered independently in the late 1970’s by Derek Parfit, Thomas Schwartz, and Robert M. Adams, and is now most closely identified with Parfit, whose 1976 article “On Doing the Best for Our Children” was among the first to report it, whose seminal 1984 book Reasons and Persons, contains its fullest and most influential treatment, and whose work gave it the name by which it is now most commonly known: the non-identity problem. This book is about that problem. In Chapter 1, I explain what the non-identity problem is, why the problem matters, and what criteria a solution to the problem must satisfy in order to count as a successful one. In Chapters 2 through 6, I use these criteria to argue against the many solutions to the problem that have thus far been proposed in the sizeable literature that the problem has generated. In Chapter 7, I defend an alternative solution.

1.1 what the problem is. The non-identity problem arises from a tension between the plausibility of certain general claims and the implausibility of certain specific conclusions that seem to follow from them. The problem is therefore best introduced by means of particular examples. Since the problem is subject to what I will call a direct and an indirect version, I will begin with an example of each.
1.1.1 the direct version. Consider first the case of Wilma. Wilma has decided to have a baby. She goes to her doctor for a pre-conception checkup and the doctor tells her that there is some good news and some bad news. The bad news is that as things now stand, if Wilma conceives, her child will have a disability. The doctor cannot say precisely what the disability will be, but she can tell Wilma three things about it. First, it will be the kind of disability that clearly has a substantially negative impact on a person’s quality of life. This could be because of features intrinsic to the disability itself, because Wilma’s society discriminates against or fails to sufficiently accommodate people with the disability, or because of some combination of these reasons. Second, if it is possible for a life to be worse than no life at all, this particular disability will clearly not be so serious as to render the child’s life worse than no life at all. So while the disability will be considerably far from trivial, the child’s life will nonetheless clearly be worth living. Finally, the disability will be irreversible. There will be no way to eliminate it or to mitigate its effects.

The good news is that Wilma can prevent this from happening. If she takes a tiny pill once a day for the next two months before conceiving, her child will be perfectly healthy. The pill is easy to take, has no side-effects, and will be paid for by her health insurance. Fully understanding all of the facts about the situation, Wilma decides that having to take a pill once a day for two months before conceiving is a bit too inconvenient and so chooses to throw the pills away and conceive at once. As a result of this choice, her child is born with a significant and irreversible disability. For purposes of the example as I will use it in this book, I will stipulate that Wilma’s child is incurably blind and that had Wilma taken the pills before conceiving, her child would instead have been sighted. I use
the example of blindness here both because blindness is one of the most commonly employed examples in the literature on the non-identity problem and because while blindness is widely believed to be a quite serious disability, it is never viewed as so serious that it could make a person’s life worse than no life at all. Readers who are skeptical of the claim that blindness is a particularly bad condition to be in can simply assume that it is not the blindness itself that makes things substantially worse for Wilma’s child but rather her society’s treatment of blind people. Or, if they prefer, they can simply substitute some other disability for blindness in the discussion that follows. What matters is simply that whatever condition Wilma’s child has, it is one that has a substantially negative impact on the child’s quality of life, and that had Wilma simply taken the pills for two months before conceiving, her child would not have had this condition and would have enjoyed a substantially higher quality of life.

With this understanding of the case in mind, it seems clear to most people that Wilma has done something morally wrong. But there is a seemingly sound argument that apparently demonstrates that what Wilma has done is not morally wrong. The argument begins by pointing out that if Wilma takes the pill once a day for two months before she conceives, the child she conceives will not be the same child as the child she would conceive if she instead threw the pills away and conceived at once. This is because the sperm and egg that would come together if she conceives two months from now would be different from the sperm and egg that would come together if she conceives now and because the child’s identity is a function of the sperm and egg whose coming together result in its existence. For purposes of illustration, it may help to suppose that if Wilma conceives now she will have a girl and name her Pebbles, and that if she takes the pill once
a day for two months before conceiving she will instead have a boy and name him Rocks. It is not the case, then, that whatever choice Wilma makes the same child will exist and will either be blind or not blind. Rather, either Pebbles will exist and be blind, or Rocks will exist and will not be blind.

It is not immediately obvious that this feature of Wilma’s situation is morally relevant. But the argument that gives rise to the non-identity problem, and which I will refer to in this book as the non-identity argument, maintains that it is morally relevant for the following reason: when Wilma chooses to conceive at once rather than take the pills once a day for two months before conceiving, her choice does not make Pebbles worse off than she would otherwise have been. If Wilma had waited two months before conceiving, after all, then she would not have conceived Pebbles in the first place. She would instead have conceived Rocks. And since the significant and irreversible disability that Pebbles is born with does not cause Pebbles to have a life that is worse for her than never having been conceived at all, it follows that Wilma’s choice does not make Pebbles worse off than she would otherwise have been. I will call this first premise of the non-identity argument P1:

P1: Wilma’s act of conceiving now rather than taking a pill once a day for two months before conceiving does not make Pebbles worse off than she would otherwise have been

This claim is the foundation of the argument that gives rise to the non-identity problem.

The argument conjoins to this claim what seems to be the common sense understanding of what it is to harm someone, namely: if your act harms someone, then it makes that person worse off than they would have been had you not done the act. That this is a widely accepted view of harm seems to be confirmed by the fact that if a person is accused of causing harm to someone, it is standardly taken as a sufficient rebuttal to the
claim if they can establish that they have not made their alleged victim worse off than they would otherwise have been. This claim can be represented more formally as:

\[ P2: \text{If A’s act harms B, then A’s act makes B worse off than B would otherwise have been} \]

From P1 and P2 we get:

\[ C1: \text{Wilma’s act of conceiving now rather than taking a pill once a day for two months before conceiving does not harm Pebbles} \]

The argument then adds a further stipulation: that Wilma’s act does not harm anyone other than Pebbles either. In many real life cases, of course, the addition of a disabled child to the world probably does impose costs on someone. If nothing else, another blind child in the classroom is likely to require additional resources and thus to raise the total costs that must be borne by the taxpayers. But adding this stipulation to the argument is reasonable nonetheless. When people respond to the case by thinking that Wilma’s act is morally wrong, after all, they do not say to themselves, “oh, the poor taxpayers; what a terrible thing that Wilma has done to them.” In deciding whether they believe that Wilma has done something morally wrong, that is, people do not first demand information about whether Wilma’s choice will impose unwanted costs on third parties. Since it seems clear that their belief that Wilma has done something wrong is independent of any beliefs they might have about whether Wilma’s act harms anyone other than Pebbles, it seems clear that what people believe it that Wilma has done something morally wrong even if she has harmed no one else. It therefore proves useful to stipulate that Wilma’s act has harmed no one else and to see whether this stipulation will prevent us from justifying the conclusion that her act was morally wrong. In short, we have reason to accept, even if only for the sake of the argument.
P3: Wilma’s act of conceiving now rather than taking a pill once a day for two months before conceiving does not harm anyone other than Pebbles

And from P3 and C1, it follows that

C2: Wilma’s act of conceiving Pebbles does not harm anyone

At this stage of the argument, a basic moral principle is invoked, one that most people seem to accept. In its simplest form, it is the idea of “no harm, no foul,” the thought that if an act harms no one, then the act is not wrong. For purposes of analysis, however, it is useful to break this claim down into two parts: the claim that if an act harms no one, then it wrongs no one, and the claim that if an act wrongs no one, then it is not morally wrong. The first part maintains that if an act does not harm a particular person then that person has no legitimate moral claim against the act’s being done. The second maintains that if an act is such that no particular person has a legitimate moral claim against its being done, then it is not wrong to do the act. That the “no harm, no foul” principle is widely accepted seems amply confirmed by considering how commonly people accused of having done something wrong respond by trying to show that their act didn’t harm anyone and by how frequently proponents of so-called victimless crime laws attempt to show that the crimes in question really do harm someone.

With this basic moral principle in mind, the non-identity argument concludes as follows. First, we set out the first part of the “no harm, no foul” principle:

P4: If an act does not harm anyone, then the act does not wrong anyone

From P4 and C2 it follows that

C3: Wilma’s act of conceiving Pebbles does not wrong anyone

The argument then adds the second part of the “no harm, no foul” principle:

P5: If an act does not wrong anyone, then the act is not morally wrong
From P5 and C3 we are then entitled to conclude that:

C4: Wilma’s act of conceiving Pebbles is not morally wrong

Because the conclusion represented by C4 seems so implausible, I will refer to it in this book as the Implausible Conclusion. The premises seem right. The premises entail the Implausible Conclusion. The Implausible Conclusion seems wrong. That’s the problem.

1.1.2 the indirect version. The case of Wilma involves a choice that directly determines the identity of the person who will exist after the choice is made. For this reason, I will refer to the version of the non-identity problem that is illustrated by such cases as the direct version of the problem. But there can also be cases in which a choice has consequences that initiate a complex chain of events that eventually have an equally decisive effect on the identity of the people who exist after the choice is made. I will refer to the version of the problem that is illustrated by such cases as the indirect version of the problem. Here is an example. A wealthy society is running out of the fossil fuels that have made its affluence possible, and it is choosing between two sources of energy to replace them. One option is a source of energy that would enable its citizens to continue to enjoy a high standard of living and which would have no negative impact on future generations. The second option is a source of energy that would enable its citizens to enjoy a slightly higher standard of living but which would generate a significant amount of toxic waste. The waste could be safely buried for a long period of time, but it is certain that after 500 years, the waste would leak out and painlessly kill tens of thousands of innocent people once they reached the age of forty. For that reason, I will refer to the first option as the safe policy and the second option as the risky policy.
Although the difference in terms of the quality of life that the two policies would make possible for the current members of this society is relatively minor, over time it is enough to have a significant impact on a variety of choices that indirectly determine which people will be conceived in the somewhat distant future. The choice of one energy source over the other, for example, will eventually have an impact on how many children people decide to have and on when they decide to have them. It will also have an impact on where people decide to work, play and live, all of which will have an impact on who they meet and when they meet them, which will in turn have an impact on who they decide to have children with, on whether they decide to have any children at all, and so on. Over time, the effects of these subtle differences will be enough to generate two entirely distinct sets of possible people: the set of people who will exist 500 years from now if the safe policy is selected, and the completely different set of people who will exist 500 years from now if the risky policy is selected.

Knowing that the risky policy will generate toxic waste that will painlessly kill tens of thousands of innocent people in the future, the current members of the wealthy society nonetheless decide to select that option because doing so will enable them to enjoy a slightly higher quality of life. As a result of their choice, the toxic waste that they create and bury leaks out 500 years later and painlessly kills tens of thousands of innocent people once they reach the age of forty.

As in the case of Wilma, it will seem clear to most people that the members of the wealthy society have done something morally wrong. But, again as in the case of Wilma, there is a seemingly sound argument that apparently demonstrates that what the wealthy society has done is not morally wrong. Indeed, it is essentially the same argument. The
innocent people who are killed as result of the leaking toxic waste are not made worse off by the wealthy society’s choice of the risky policy because if the wealthy society had instead selected the safe policy, those innocent people would never have existed in the first place. And living for forty years and then being painlessly killed is not worse than never living at all. If harming a person requires making them worse off than they would otherwise have been, then the wealthy society’s selection of the risky policy does not harm the people who are later killed by the toxic waste. Since the choice of the risky policy seems morally wrong regardless of whether it harms anyone other than the people who are later killed by the toxic waste, it is reasonable to assume for the sake of the argument that no one else is harmed by the choice of the risky policy either. This means that the wealthy society’s choice of the risky policy, like Wilma’s choice to throw away the pills and conceive at once, harms no one at all. But if, as in that case, an act that harms no one wrongs no one and an act that wrongs no one is not morally wrong, then the wealthy society’s act of selecting the risky policy rather than the safe policy is not morally wrong. The premises again seem right. The conclusion again seems wrong. This is the non-identity problem again, this time in its indirect version.

The distinction between the direct and indirect version of the non-identity problem is worth noting at the outset because at least some of the solutions to the problem that have been proposed in the literature turn out to work better for one version of the problem than for the other. A solution that appeals to the special obligations that parents have to their children, for example, may be promising in the case of the direct version of the problem but irrelevant to the indirect version. A fully satisfactory response should enable us to solve both versions of the non-identity problem. But even
if a given proposal turns out to solve only one version of the problem, that will still be a significant accomplishment. In Chapters 2 through 6, I will argue that none of the alternatives to my solution can solve either version of the problem. In Chapter 7, I will argue that my solution solves both.

1.1.3 same number cases and different number cases. Two additional ways in which non-identity cases can differ from one another also merit attention. The first arises from the distinction between what Parfit calls “same number” and “different number” cases. Wilma, for example, is choosing between conceiving a child now and conceiving a child two months from now. The world will therefore contain the same number of people regardless of which option she chooses. The only difference is whether that number will include Pebbles or Rocks. This makes the case of Wilma a same number case. But suppose that Wilma was instead choosing between conceiving blind twins now or a single sighted child two months from now. In that case, her choice would determine not just which people would exist in the future but how many people would exist. That would make the case a different number case.

The distinction between same number and different number cases can also be applied to the case of the wealthy society. When I refer to that case in the rest of this book, I will assume that no matter which of the two energy policies the wealthy society chooses, in 500 years the earth will contain 10 billion people. The difference will be which 10 billion people will exist and whether tens of thousands of them will be killed by leaking toxic waste when they turn forty. This makes the case of the wealthy society a same number case as well. But we could instead suppose that if the wealthy society chooses the safe policy there will be 10 billion people 500 years from now and no leaking toxic waste.
and that if it chooses the risky policy there will be more than 10 billion people 500 years from now, tens of thousands of whom will be killed by leaking toxic waste. That would make the case a different number case.

The distinction between same number and different number cases is important for the same reason that the distinction between the direct version of the non-identity problem and the indirect version is important: some solutions turn out to work better in one kind of case than in the other. Different number cases, in particular, introduce complications that are not present in same number cases. A consequentialist solution that explains why it would be wrong for Wilma to conceive a blind child rather than a sighted child, for example, might not be able to produce satisfactory results in the case where Wilma chooses between conceiving blind twins and conceiving a sighted child. As in the case of the distinction between the direct and indirect versions of the non-identity problem, a fully satisfactory response to the problem should produce satisfactory results in both same number and different number cases. But, again as in the case of that distinction, if a given proposal turns out to solve only the same number version of the problem, that will still be a significant accomplishment. In Chapters 2 through 6, I will argue that none of the alternatives to my solution are successful even in same number cases. Since a solution to the non-identity problem cannot succeed in different number cases if it cannot succeed in same number cases, I will not explicitly discuss different number cases in those chapters. In Chapter 7, I will argue not only that my solution solves both the direct and indirect version of the non-identity problem, but that it is successful in both same number cases and different number cases.
1.1.4 bad condition cases and bad event cases. A final distinction is less frequently noted in the literature. This is the difference between cases that involve the creation of people who are already in bad conditions and cases that involve the creation of people to whom bad things subsequently happen. If Wilma makes the choice that is a bit better for her, she will conceive a child who is blind rather than a different child who would have been sighted. Blindness is a bad condition to be in, but we need not assume that any bad things will subsequently happen to her blind child as a result of Wilma conceiving her that wouldn’t also have happened to her sighted child if she had conceived him instead. If the current members of the wealthy society make the choice that is a bit better for them, then 500 years later there will exist a particular set of 10 billion people rather than a different set of 10 billion other people. None of the 10 billion people who exist will be in a bad condition as a result of the wealthy society’s choosing the risky policy. But tens of thousands of them will subsequently be killed by the leaking toxic waste when they reach the age of forty, while no one would have been subsequently killed by leaking toxic waste if the wealthy society had chosen the safe policy. The case of Wilma is therefore a bad condition case while the case of the wealthy society is a bad event case.7

Most examples of the direct version of the non-identity problem in the literature involve bad condition cases and most examples of the indirect version involve bad event cases. But there is no necessary connection between the two distinctions. Suppose that the leaking toxic waste in the case of the wealthy society would not kill tens of thousands of people in the future, but would instead alter the time at which those people later conceived and cause them to conceive blind children rather than sighted children. In that
case, the wealthy society example would be a bad condition case rather than a bad event case. Similarly, if Wilma’s conceiving now rather than two months from now would have no effect on the health of the child she would conceive but would somehow cause her body to produce a toxic substance that would leak out decades later and kill her grown child, then the case of Wilma would be a bad event case rather than a bad condition case.

The difference between bad condition cases and bad event cases, then, is indeed an additional distinction. And it is important for the same reason that the distinction between the direct and indirect version and between same number and different number cases is important: some solutions turn out to work better in one kind of case than in the other. An account on which your act can harm someone by causing them to incur a loss even if the act does not make them worse off than they would otherwise have been, for example, may prove successful in bad event cases but inapplicable to bad condition cases. As in the case of the distinctions between the direct and indirect version and between same number and different number cases, a fully satisfactory response to the non-identity problem should produce satisfactory results in both bad condition cases and bad event cases. But, again as in the case of those other distinctions, if a given proposal turns out to solve only one version of the problem, that will still be a significant accomplishment. In Chapters 2 through 6, I will argue that none of the alternatives to my solution are successful in bad condition cases or in bad event cases. In Chapter 7, I will argue not only that my solution solves both the direct and indirect version of the non-identity problem and that it is successful in both same number cases and different number cases, but that it is also successful in both bad condition cases and bad event cases.
In the end, then, there are eight kinds of case that can give rise to the non-identity problem: direct same number bad condition cases, direct same number bad event cases, direct different number bad condition cases, direct different number bad event cases, indirect same number bad condition cases, indirect same number bad event cases, indirect different number bad condition cases, and indirect different number bad event cases. The thesis of this book is that the solutions to the non-identity problem that are currently on offer fail to solve the problem in any of these kinds of cases and that my alternative solution satisfactorily solves the problem in all of them.

1.1.5 worseness and wrongness. Before moving on to consider what would be involved in trying to solve the non-identity problem in any of these cases, it is important to make one final point about just what the problem is supposed to be. I will put the point here in terms of the example of Wilma, but the same could be said about the case of the wealthy society or about any of the variants of either of these cases that I referred to in the previous two sub-sections. So notice first that in the case of Wilma, there are two distinct claims about her choice that an argument based on the non-identity of Pebbles and Rocks might attempt to force us to accept:

The Worseness Claim: Wilma does not make the morally worse choice
The Wrongness Claim: Wilma does not make a morally wrong choice

In some contexts, these two claims would be coextensive. Suppose Wilma’s choice were between killing a bunch of innocent people and not killing a bunch of innocent people. In that case, if she killed a bunch of innocent people, she would make the morally worse choice and she would make a morally wrong choice. But it is not at all obvious that every time someone makes the morally worse choice they thereby make a morally wrong choice. If there are, as common sense morality supposes, acts that are supererogatory, then there
are acts that it is morally better to do than not to do but that are nonetheless not wrong not to do. A person who chooses not to do a supererogatory act rather than to do one, on this account, makes the morally worse choice, but does not make a morally wrong choice.

Since making the morally worse choice and making a morally wrong choice need not amount to the same thing, it is important to be clear about what, precisely, the problematic claim is that the non-identity argument is supposed to force us to accept. Is the Implausible Conclusion that generates the problem supposed to claim that Wilma’s act is not morally wrong? Or is it supposed to claim that Wilma’s act is not morally worse than the alternative? Is the non-identity problem a problem about worseness or a problem about wrongness?

Parfit’s discussion in *Reasons and Persons* is not entirely clear on this point. In the context of one of the cases he discusses, for example, he says that the problem is that we think the potential mother in question “ought” to wait and conceive later. In other places, he says that we would have an “objection” to her choice not to wait to conceive. These locutions seem more like the kind of thing we would say if we thought it would be positively wrong for the woman to conceive now than the kind of thing we would say if we merely thought it would be better for her to wait, though strictly speaking they seem consistent with either view. At still other points, he says that she would have a “moral reason” to wait. This seems more like simply saying that it would be morally better for her to wait, though it is consistent with the view that it would be positively wrong for her not to do so.

But when he identifies a principle that he thinks might be able to ground a partial solution to the problem, the principle that Parfit introduces is cashed out in terms of
worseness rather than in terms of wrongness. This is what Parfit calls “The Same Number Quality Claim” or simply Q: “If in either of two possible outcomes the same number of people would ever live, it would be worse if those who live are worse off, or have a lower quality of life, than those who would have lived.” Parfit writes that although “Q is plausible, it does not solve the Non-Identity Problem. Q covers only the cases where, in the different outcomes, the same number of people would ever live. We need a claim that covers cases where, in the different outcomes, different numbers would ever live. The Non-Identity Problem can arise in these cases.” Although he does not explicitly claim that Q does solve the non-identity problem in same number cases, this claim is implied by the fact that the only reason he gives for saying that Q does not solve the problem across the board is that it does not apply to different number cases. Since Q makes a claim about worseness but not about wrongness, Q could solve the non-identity problem in same number cases if the problem is avoiding the Worseness Claim, but it could not solve the non-identity problem in same number cases if the problem is avoiding the Wrongness claim. This strongly suggests, though again does not strictly entail, that Parfit thinks of the problem in terms of worseness rather than in terms of wrongness.

Perhaps Parfit does not think there is an important difference here. But this would be a mistake. The non-identity argument poses a problem because it generates a conclusion that strikes most people as implausible from premises that strike most people as plausible. To the extent that common sense moral beliefs oppose both the claim that Wilma does not make the morally worse choice and the claim that Wilma does not make a morally wrong choice, an argument for either claim would suffice to pose a serious problem. But while the argument presented in section 1.1.1 makes clear how one can seem to be forced into
accepting the Wrongness Claim by arguing only from premises that strike most people as quite plausible, there is no parallel argument for accepting the Worseness Claim. In order for an argument to convince us that the Worseness Claim was true, we would have to replace the “no harm, no foul” principle embodied in P4 and P5 of the non-identity argument with something importantly different. Instead of saying that if the choice of one act over another harms no one, then the act is not morally wrong, the argument would have to depend on the claim that if the choice of one act over another harms no one, then the act is not the morally worse of the two choices. But the latter claim, unlike the former claim, is not a part of common sense morality. Indeed, common sense morality clearly rejects it. As already noted, common sense morality recognizes the category of supererogatory acts. If such acts exist, then there are many cases in which you can choose between two acts, neither of which harm anyone and neither of which is morally wrong, but one of which is nonetheless morally better than the other. And if one act is morally better than the other, then the other act must be morally worse.

While common sense morality in ordinary cases does seem to endorse the claim that if the choice of one act over another harms no one then the choice is not morally wrong, then, it does not endorse the claim that if the choice of one act over another harms no one then it is not the morally worse of the two available choices. The non-identity argument can generate the non-identity problem, therefore, only when it is construed as an argument against the apparent wrongness of Wilma’s choice, not as an argument against its apparent worseness. For the purposes of this book, then, this is how the non-identity problem will be understood. When I refer to the Implausible Conclusion that gives rise to the problem, I will mean the claim that Wilma’s act is not morally wrong, not the claim that
Wilma does not make the morally worse choice. Indeed, for the purposes of this book, I will simply concede that it would have been morally better for Wilma to have waited and conceived Rocks. The problem is that even if we agree that it would have been better if she had waited, we seem unable to justify the claim that she did something positively wrong by failing to do so.

To say that the non-identity problem is a problem about wrongness and not a problem about worseness, it is worth adding, is not to say that the presumed worseness of Wilma’s choice cannot be used to account for its presumed wrongness. There are a number of ways in which we might try to show that Wilma’s act is wrong by appealing to a principle on which an act is wrong because it produces a worse outcome. These approaches to solving the non-identity problem will be considered in Chapter 6. Rather, it is to say that the problem that such an argument would have to solve is the problem of accounting for the wrongness of Wilma’s act, not the problem of accounting for its worseness. It is not the belief that Wilma’s act is worse than the alternative that was available to her that gives rise to the non-identity problem. It is the belief that Wilma’s act is morally wrong.

1.2 why the problem matters. At this point, some readers may already be convinced that the non-identity problem is important. But other readers may not. They may agree that the argument that gives rise to the problem is interesting, but they may find themselves inclined to think of it more as a clever puzzle than as a serious matter worthy of sustained philosophical investigation. None of us, after all, seem likely to find ourselves in the position that Wilma or the wealthy society find themselves in. And the circumstances
involved in the cases may seem so contrived that nothing larger turns on how we respond to them. So it might be thought that we have no reason to be concerned by the apparent difficulty of accounting for the presumed moral wrongness of the choices that Wilma and the wealthy society make. Before subjecting the non-identity problem to a sustained philosophical investigation, then, it is worth saying a few words about why the significance of the problem cannot be so easily dismissed.

1.2.1 practical applications. One reason that the non-identity problem is important is that despite its esoteric appearance, it has a direct bearing on a number of important moral dilemmas that confront us in the real world. One of the most hotly contested topics in the area of bioethics, for example, concerns the moral status of research that aims to develop the ability to successfully clone human beings. Virtually all of the arguments against the moral permissibility of conducting such research have the following general structure: if a human clone is produced, this will cause significant negative consequences for the clone, and the causing of these significant negative consequences renders it morally wrong to attempt to produce the clone for whom the consequences would be negative. The most common version of this argument maintains that evidence from non-human mammalian cloning shows that many of the human beings who would be produced by cloning would have serious physical disabilities. Other versions point to the psychological difficulties that clones would be likely to encounter as a result of the unusual family dynamics they would almost certainly confront or because of the anxieties they would likely experience about their individuality and identity.

But none of these arguments against the development of human cloning technology maintain that the life of a clone would be worse than no life at all. And assuming that it
would not be worse, the non-identity problem threatens to undermine all of these arguments against cloning research at once. A couple that was choosing between producing a child by cloning or by natural reproduction, after all, would be in a position that was relevantly similar to that of Wilma. If they decided to clone and, as a result, created a disabled child rather than a child who was not disabled, for example, the disabled child would not be made worse off by their choice than it would otherwise have been because if they had decided to conceive by natural reproduction rather than by cloning, the disabled child would not have existed at all. Some other child would have existed instead and that other child would not have been disabled. The argument that seems to show that Wilma’s act is not morally wrong would therefore seem to show that their act was not morally wrong either. And if their act would not be morally wrong, then the most common arguments against permitting the development of human reproductive cloning technology would have to be rejected.

Cloning research represents one instance in which the direct version of the non-identity problem has important practical implications. There are many others. Couples are often urged to undergo genetic screening before they attempt to conceive, for example. But at least in cases where the genetic conditions in question would clearly leave any child they might conceive with a life that is not worse than no life at all, the common belief that it would be wrong for them not to undergo such screening is threatened in the same way that the arguments against developing human cloning technology are threatened. If failing to undergo genetic screening leads the couple to conceive a child with such a defect, after all, their failure will not have made the child worse off because if they had instead undergone the screening, that child would not have existed in the first place.
A recent study of in vitro fertilization, to take one more biotechnological example, reports that 3 percent of the clinics that perform the procedure have allowed prospective parents to use genetic screening to select in favor of deliberately implanting embryos with a selected for disability, with deafness in cases of deaf parents apparently being the most common example. Most people believe that it is immoral for parents to deliberately create a deaf child when they could easily create a hearing child instead, but the non-identity problem threatens to undermine their position as well. The parents who deliberately create a deaf child rather than a hearing child in this manner, after all, do not make that child worse off than that child would otherwise have been. Indeed, depending on one’s view of personal identity, the non-identity problem could also threaten to undermine the claim that it would be wrong to genetically manipulate an embryo after it was selected in order to cause that particular embryo to develop into a disabled child rather than into a non-disabled child.

The features that give rise to the direct version of the non-identity problem in cases of genetic screening, in vitro fertilization, and cloning research, moreover, appear in a variety of more mundane contexts. A number of women have chosen to become single mothers in recent years, for example, prompting a common complaint that their acts are morally wrong because children are better off being raised by two parents rather than one. Opponents of same-sex couples who become parents through pregnancy or surrogacy arrangements typically object that children are better off with a mother and a father rather than with two of one and none of the other. Elderly men who become fathers are often criticized because they will not be around long enough to play a meaningful role in their children’s lives. Older women who try to conceive are frequently subject to the same kind
of criticism, along with the additional concern that older women are more likely to give birth to children with birth defects such as Down syndrome. Indeed, some countries have prohibited or restricted fertility treatments for older women for just this reason. Girls who become mothers at a very young age are often criticized because they will not be able to give their children as good an upbringing as they could provide if they waited until they were older. Religious people are often told that it is wrong to marry outside of their faith because it is confusing for children to be raised in a household where two religions are practiced rather than one. Similar considerations are sometimes raised as arguments against marrying outside one’s racial or ethnic group. Prohibitions against incest are frequently defended on the grounds that incestuous partners are more likely to conceive children with disabilities. None of these are unusual or exotic cases. Many of them are quite familiar. And in all of them, the common argument for the wrongness of the choice in question is an argument for the wrongness of creating a child whose life is not worse than no life at all and who would not exist if the choice had not been made. The argument that seems to show that Wilma’s act is not morally wrong therefore seems to show that none of these acts are morally wrong either. Indeed, the more one reflects on the fragility of the circumstances that lead to any particular act of conception, the more one sees the non-identity problem as virtually ubiquitous in cases involving even the most ordinary reproductive decisions.

On the plausible assumption that at least some non-human animals have at least some moral standing, moreover, the direct version of the non-identity problem also turns out to be of practical importance in resolving a number of debates about how it is permissible to treat them. Many popular arguments against various forms of animal
breeding, for example, or against developing the technology to produce hybrids of different
animal species, turn on the claim that the techniques are, or would be, bad for the animals
that result from their employment. But, at least in cases where the animals in question have
lives that are clearly not worse than no life at all, such arguments again run into the same
problem that arises in the case of Wilma. If the use of a particular contested technique
results in the existence of a less happy animal than would otherwise have been produced,
the technique still would not have harmed that less happy animal because if the technique
had not been used, the less happy animal would not have existed in the first place.27 As in
the case of human beings, the problem can arise in the context of advanced reproductive
technology but, again as in the case of human beings, the problem can also arise in more
mundane contexts. A number of people have criticized those who breed bulldogs, for
example, on the ground that bulldogs have been bred to select for features that cause them
to experience a variety of health problems. But someone who breeds bulldogs rather than
golden retrievers does not make the bulldogs worse off than they would otherwise have
been because if the breeder had bred golden retrievers instead, the bulldogs would not have
existed at all.

The story about the wealthy society may seem even more far-fetched than the story
about Wilma. And so it may seem that the indirect version of the non-identity problem is
practically irrelevant even if the direct version is not. But even the indirect version of the
non-identity problem turns out to have important implications about controversial moral
issues. The problem can be applied, for example, to questions about our obligations to
conserve resources now, or to reduce carbon emissions, on behalf of distant generations.28
It can even arise in such mundane contexts as debates over tax policy. Many people, for
example, think that significantly lowering tax rates for ourselves is wrong when doing so passes a greater tax burden along to future generations. But since lowering our tax rates can change people’s behavior in ways that would over time lead to the conception of different people, the future people who would pay higher taxes as a result of our choice would not otherwise exist and so would not be harmed by our passing a greater tax burden on to future generations rather than a lesser burden.

And the problem creates difficulties when we attempt to answer questions about obligations that we might have to rectify injustices that were committed in the past. One of the most widely discussed topics in the area of ethics and race, for example, concerns the question of whether the United States owes reparations to the current generation of black Americans because of the injustices that were committed against earlier generations of black Americans through the institutions of slavery and Jim Crow. One of the most forceful arguments in defense of reparations appeals to the claim that contemporary black Americans suffer lingering negative consequences as a result of these earlier wrongful actions. But on the assumption that the lives of contemporary black Americans are nonetheless not worse than no life at all, the indirect version of the non-identity problem threatens to undermine this argument in the same way that the direct version threatens to undermine the arguments against developing human cloning. A descendant of slaves who makes a claim for reparations, after all, is not worse off than he would have been had slavery never been practiced. Had slavery never been practiced, his ancestors would not have conceived at the same time, with the same people, and in the same numbers, and so had slavery never been practiced, the descendant of slaves would not exist at all. Even if one insists that an intellectual puzzle must have significant practical implications in order
for it to be worth taking the time to resolve it, then, trying to solve the non-identity problem is well worth the trouble.

1.2.2 theoretical implications. But let’s suppose that I have been mistaken about this and that the non-identity problem has no bearing at all on any issue of practical significance. Suppose, for example, that there turn out to be morally relevant differences between the cases of Wilma and the wealthy society on the one hand and all of the issues of practical consequence that I have referred to on the other. Even if this is so, the non-identity problem is still of great significance. This is because even if it puts no pressure on any of our beliefs about actual practical matters, it puts a great deal of pressure on some of our most widely accepted theoretical beliefs. And we cannot ignore a challenge to our theoretical beliefs merely because the challenge leaves our practical beliefs intact. If it turned out that a set of widely accepted beliefs entailed that it would be permissible to kill human beings as long as they were over ten feet tall, for example, the fact that no human beings are over ten feet tall would do nothing to blunt the force of the thought that something was seriously wrong with those widely accepted beliefs.

Suppose, then, that no one will ever be in Wilma’s position or in any position relevantly similar to it. But suppose also that theoretical beliefs that you currently accept entail that it would not be morally wrong to make the choice that Wilma makes if anyone ever did find themselves in Wilma’s position. And suppose further that you agree that this result is quite implausible. In that case, you have good reason to worry about your theoretical beliefs. And that is the position that most people find themselves in when they first encounter the non-identity problem.
The theoretical beliefs that are thrown into question, moreover, are far from trivial. If we are right in thinking that Wilma acts immorally, then we must be wrong about what it is for a condition to make a person worse off, wrong about the relationship between making a person worse off and harming a person, wrong about the relationship between harming a person and wronging a person, or wrong about the relationship between wronging a person and doing something wrong. Any one of these would represent a significant mistake. If we are making one of them, it is thus an important matter to determine which one it is. And so solving the non-identity problem would remain an important theoretical task even if it were not also an important practical one.

1.3 requirements for solving the problem. The non-identity problem arises because five plausible premises entail what I have called the Implausible Conclusion. Since if all five premises are true the Implausible Conclusion must be true as well, the only way to avoid the Implausible Conclusion would be to reject at least one of the premises. A successful solution to the non-identity problem, it therefore seems, must give us a reason to reject one of the premises of the non-identity argument. But not just any kind of reason for rejecting a premise will do. There are, in particular, three constraints that such a reason must satisfy in order for it to be capable of grounding a satisfactory solution to the non-identity problem.

1.3.1 the independence requirement. First, the reason provided for rejecting a given premise of the non-identity argument must be independent of the fact that rejecting the premise would enable us to avoid the Implausible Conclusion. I will refer to this as the independence requirement. P2, for example, maintains that in order for an act to harm a person, the act must make that person worse off than they would otherwise have been. One
way to justify rejecting this premise would be to provide a counterexample: a case in which it was clear that a given act did harm a particular person but also clear that the act did not make that person worse off than they would have been had the act not been performed. A number of possible cases of this sort will be considered in Chapter 3. If any of them prove successful, they will provide a reason to reject P2 that in no way depends on the fact that rejecting P2 would enable us to avoid the Implausible Conclusion. The reason would be a good reason to reject P2, that is, even if P2 played no role in generating the non-identity problem. It would therefore satisfy the independence requirement. But suppose instead that someone denied P2, admitted that they could find no plausible counterexample to it, and offered as a reason for rejecting P2 the fact that if P2 is false then we can avoid the conclusion that Wilma’s act is not morally wrong. In that case, the reason given for rejecting P2 would depend on the fact that we wish to avoid the Implausible Conclusion. It would therefore fail to satisfy the independence requirement.

The independence requirement imposes a reasonable constraint on a satisfactory solution to the non-identity problem because any reason for rejecting a particular premise that fails to satisfy the requirement fails to give a reason to reject that premise in particular. The fact that rejecting P2 would enable us to avoid the Implausible Conclusion, for example, gives us no reason to reject P2 rather than P1, because it is equally true that rejecting P1 would enable us to avoid the Implausible Conclusion, and it is true for the same reason: that doing so would deprive the non-identity argument of one of its premises. A solution to the non-identity problem must do more than simply tell us to reject some premise or other of the non-identity argument. To note that one of the premises of the argument must be rejected in order to avoid the Implausible Conclusion is simply to state
the fact that gives rise to the problem, not to solve the problem. A solution to the problem must tell us which particular premise to reject if the solution is going to help us to avoid the Implausible Conclusion. And no reason for rejecting a premise that fails to satisfy the independence requirement can do this.

A reason for rejecting a premise that does satisfy the independence requirement, moreover, can ground a successful solution to the non-identity problem precisely because it can reveal just where the flaw in the non-identity argument lies. If there really is a convincing counterexample to the claim that harming a person requires making that person worse off than he would otherwise have been, for example, then that counterexample provides a reason to reject P2 in particular, not simply a reason to reject some premise of the non-identity argument or other. And if there is a good reason to reject P2 in particular, then there is a good reason to reject the argument that gives rise to the Implausible Conclusion.

1.3.2 the robustness requirement. In order to underwrite a successful solution to the non-identity problem, then, a reason for rejecting a given premise of the non-identity argument must be independent of the fact that rejecting the premise would enable us to avoid the Implausible Conclusion. But while a reason’s being independent in this sense is necessary in order for it to solve the non-identity problem, it is not sufficient. Even if a reason is good enough to justify rejecting one of the argument’s premises, it might not be good enough to justify rejecting the argument’s conclusion. This is because some of the premises of the non-identity argument might turn out to be stronger than they have to be in order to justify the argument’s conclusion.
P4, for example, maintains that if an act does not harm a person, then the act does not wrong that person. Suppose that there turn out to be cases in which attempting to harm a person wrongs that person even if the attempt to harm the person fails. If this is so, then there are counterexamples that provide an independent reason to conclude that P4 is false. But while the wrongness of failed attempts to harm people would be enough to show that P4 is false, it would not be enough to show that it is, as it were, false enough. This is because there is no reason to think that Wilma’s act involves a failed attempt to harm Pebbles or anyone else. The proposed counterexample to P4 could be accommodated simply by revising P4 to say that if an act neither harms anyone nor involves attempting to harm anyone, then the act does not wrong anyone. And the route from this revised version of P4 and the original versions of the other premises of the non-identity argument to the Implausible Conclusion could be preserved simply by adding a further premise to the non-identity argument to the effect that Wilma’s act does not involve attempting to harm anyone.

A proponent of a solution based on the failed attempts counterexample to P4 might refuse to accept this additional premise. Such a critic might simply stipulate that in choosing to conceive now rather than take the pills once a day for two months, Wilma was attempting unsuccessfully to harm her child. Perhaps Wilma had not taken the time to consider the fact that delaying conception would cause her to conceive a different child and so acted on the mistaken belief that by conceiving now she could make Pebbles worse off than Pebbles would otherwise be. Nothing about my original presentation of the case rules out this possibility. And if we accept this stipulation, then the reason for rejecting P4 that is provided by cases in which an act is wrong because it involves attempting to harm someone
will indeed be a good enough reason to reject the claim that Wilma’s act is not morally wrong. Wilma’s act will be wrong even though it harms no one because it involves attempting to harm someone.

But this would clearly be an unsatisfactory approach to solving the non-identity problem. The Implausible Conclusion maintains that Wilma’s act as I have described it is not morally wrong. It does not claim that Wilma’s act as I have described it would not be morally wrong even if we added further facts to the case. There are a number of further facts that could be added to case that might well make her act wrong. We could add, for example, that her act was in violation of a democratically adopted law that she is morally obligated to obey, or that it ran counter to God’s command, or that it was done purely out of spite, or that it broke a promise she had made. But the non-identity problem is a problem precisely because her act seems morally wrong even in the absence of any such further facts. In order to solve the non-identity problem, then, a reason for rejecting a given premise must be a good enough reason to reject the Implausible Conclusion itself, not merely to reject a qualified version of the Implausible Conclusion that adds a further fact about Wilma’s act and then uses that further fact to show that Wilma’s act would be morally wrong. And the reason for rejecting P4 that is based on the claim that an act can wrong a person without harming that person by attempting to harm that person would clearly be unable to do this.

In order to underwrite a successful solution to the non-identity problem, then, a reason for rejecting a given premise of the non-identity argument must be strong enough to warrant rejecting any weakened version of the premise that would still be strong enough to generate the unqualified version of the Implausible Conclusion. I will refer to this as the
robustness requirement. If a reason for rejecting a particular premise is not sufficiently robust, it will show that the non-identity argument as I have initially formulated it is mistaken, but it will not prevent a suitably revised version of the argument from yielding the very same Implausible Conclusion. And since the problem posed by the non-identity problem is that we seem to be unable to avoid that conclusion, any reason for rejecting a particular premise that is not sufficiently robust will be unable to ground a successful solution to the non-identity problem.

1.3.3 the modesty requirement. In order to underwrite a successful solution to the non-identity problem, then, a reason for rejecting a given premise of the non-identity argument must be independent and it must be robust. But it must not be too robust. In particular, it must not be so robust that it generates implications that are even more implausible than the Implausible Conclusion that the reason is deployed to help us avoid. I will refer to this as the modesty requirement. A cure to the non-identity problem, according to this final requirement, must not be worse than the disease.

P5, to take one more example, maintains that if an act does not wrong anyone, then the act is not morally wrong. Suppose a reason is given to believe that there is a certain property that an act can have that is sufficient to render the act morally wrong even if the act does not wrong anyone. The reason for believing in such a property would provide independent support for the claim that P5 is false. Suppose further that the property picked out by the reason was a property of Wilma’s act of conceiving Pebbles in particular. In that case, the reason would also be strong enough to establish that Wilma’s act was morally wrong. It would therefore satisfy both the independence requirement and the robustness requirement. But suppose, in addition, that the property picked out by this reason was a
property of every human action. In that case, the reason for thinking that Wilma’s act is morally wrong would be a reason for thinking that every human action is morally wrong. But the claim that every human action is morally wrong is clearly more implausible than the Implausible Conclusion’s claim that Wilma’s act is not morally wrong. A response to the non-identity problem that appealed to this reason would therefore fail to satisfy the modesty requirement. The cure would be worse than the disease.

The modesty requirement constitutes a reasonable constraint on a satisfactory solution to the non-identity problem because considerations about intuitive plausibility are precisely what give rise to the problem in the first place. Anyone who rejects the modesty requirement because they do not think that the implausible implications of a particular solution should count against it, that is, should not be bothered by the Implausible Conclusion to begin with. The conclusion that is entailed by the non-identity argument is not self-contradictory. Nor can it be shown to be false as an empirical matter. The only reason the non-identity argument gives rise to the non-identity problem in the first place is that the argument’s conclusion seems so implausible. Since the problem that stands in need of a solution is the problem of trying to avoid being stuck with an implausible conclusion, a reason for rejecting one of the argument’s premises that commits us to an even more implausible conclusion cannot count as a satisfactory solution to the problem. If the only way to justify the claim that Wilma’s act is morally wrong turns out to commit us to the claim that every human action is morally wrong, for example, then the non-identity problem will turn out to be an even bigger problem than it might at first seem, not a smaller one.
Whether a particular implication of a particular solution is sufficient to establish that the solution fails to satisfy the modesty requirement is a function of how implausible the particular implication is and how implausible the Implausible Conclusion is. It is difficult to justify the assertion that one particular claim is more implausible than another other than by simply suggesting that most people will find it to be so. In the chapters that follow, then, whenever I claim that a particular solution fails to satisfy the modesty requirement, I will try to show that the solution has implications that I believe will strike most people as more implausible than the Implausible Conclusion. I will do this in part because the fact that most people would find a particular claim to be more implausible than the Implausible Conclusion strikes me as providing at least some support for the thesis that the claim really is more implausible than the Implausible Conclusion. But I will also do it because even if a particular reader denies the probative value of such collective judgments as a general matter, that reader will still be more likely to find a particular claim to be more implausible than the Implausible Conclusion if it is a claim that most people would find to be more implausible than the Implausible Conclusion. As long as you find a particular implication of a particular solution to be more implausible than the Implausible Conclusion, then, you should take that implication to establish that the solution fails to satisfy the modesty requirement even if you do not take the fact that most people would share your judgment to provide further support for this conclusion.

Regardless of whether the fact that most people would endorse a particular judgment gives the reader more reason to accept the judgment or simply gives me more reason to expect that the reader will already accept the judgment, establishing that a particular solution fails to satisfy the modesty requirement will ultimately involve two
things: identifying particular implications of the solution that really will strike most people as highly implausible and providing reasons to think that the Implausible Conclusion is less implausible than that. I take up the first task in a variety of places throughout Chapters 2 through 6 and reserve the second for the defense of my own solution in Chapter 7. In this sense, the success of my arguments against a number of other solutions to the non-identity problem is at least in part contingent on how successful the defense of my own solution is and the defense of my own solution rests at least in part on my arguments against the other solutions. Chapter 7 completes my case against the solutions that are discussed in Chapters 2 through 6, that is, and the analysis I provide of those solutions in Chapters 2 through 6 serves as the foundation for the defense of my own solution in Chapter 7.

Solving the non-identity problem by finding a way to avoid the Implausible Conclusion involves a kind of balancing act. What is needed is an argument that independently undermines a particular premise of the non-identity argument, that is strong enough to undermine any revised version of the premise that would be sufficient to generate the same problem in a different form, and that is weak enough to avoid generating any further problems that are even bigger than the problem it sets out to solve. The question raised by the non-identity problem is whether there is such an argument. The rest of this book is an attempt to answer that question.

2 This case is loosely based on Parfit’s Handicapped Child case (1982: 118).

3 This example is based on Parfit’s Risky Policy case (1984: 371-2).

4 See, e.g., Section 2.2.

5 In saying this, I do not mean to suggest that a fully satisfactory response must apply the same solution to both versions of the problem. A response that identifies one solution that solves the direct version and a second and distinct solution that solves the indirect version would still be fully satisfactory. But the point remains that the distinction between the two versions of the problem matters because if a particular solution only works on one version of the problem, the solution by itself cannot constitute a fully satisfactory response to the non-identity problem.

6 See, e.g., Section 6.1.

7 Strictly speaking, the non-identity problem could arise in cases that are neither bad condition cases nor bad event cases. Suppose, for example, that if Wilma conceives now her child will be perfectly typical in every respect but that if she takes the pill once a day for two months before conceiving, her child will be extraordinary in ways that will lead him to live a much better life than the life of a typical person. In this case, if Wilma conceives now she does not create a child in a bad condition or a child to whom bad things will happen, but she still makes things significantly worse for her child than they would have been if she had waited. And this seems to be enough to generate the non-identity problem.

While the distinction between bad condition cases and bad event cases is therefore not exhaustive, I will set aside these further sorts of cases for two reasons. First, while the claim that Wilma’s act is not morally wrong in the original version of the story strikes most people as highly implausible, the claim that her act is not morally wrong in this version of the story strikes many people as perfectly plausible and indeed true. So while the non-identity argument entails that Wilma’s act is not morally wrong in the revised version of the story just as it does in the original version, it is less clear that its having this implication generates a serious problem in the revised version. Second, while there are solutions to the non-identity problem that might work in bad condition cases but not apply to bad event cases and solutions that might work in bad event cases but not apply to bad condition cases, it is hard to imagine a solution that would work in this further kind of case without working in more typical cases. It therefore requires no separate consideration.

Finally, it might seem that there could be significantly more worrisome examples that are neither bad condition cases nor bad event cases. Suppose, for example, that we adopt a policy that leads people in the future to have a much lower quality of life than
they would otherwise have even though they do not suffer from any bad conditions like blindness and our act does not cause any bad events to happen to them like being killed by leaking toxic waste. In this case, unlike the modified version of the Wilma case, most people would probably agree that our act was morally wrong and that the case therefore generated a genuine problem. I am inclined to think that such cases should be considered as a version of the bad condition case. If people are born into a world with problematically limited resources, for example, then this should be viewed as a bad condition to be born into even if it is condition of the world and not of their bodies. But even if this does represent a genuinely problematic non-identity case that is neither a bad condition case nor a bad event case, the point remains that there is no reason to consider it independently because any solution that would work in typical cases would work in this case as well.

8 See, e.g., Section 3.2.

9 In subsequent correspondence with the author (August 18, 2011), Parfit clarifies that he intended to claim that it is a problem in both senses.


11 Parfit (e.g., 1984: 359).

12 See also Parfit (1982: 117, 119).


15 This is not to say that there are no interesting arguments for the Worseness Claim. Some people have argued, for example, that one state of affairs cannot be worse than another unless it is worse for some particular person. This claim might be used to support the conclusion that the state of affairs in which Wilma conceives Pebbles is not worse than the state of affairs in which she conceives Rocks, which could in turn be used to support the claim that Wilma’s act is not morally worse than the alternative that was available to her. But while this argument merits investigation, it is not a version of the non-identity argument.


18 Greene (2006) makes this point at least in the case of the arguments based on psychological harm. See also Roberts (1998: 179-216), Burley and Harris (1999) and more briefly Elsner (2006: 597-8). To say that the non-identity problem undermines the major arguments against cloning is not to insist that as long as the problem remains unsolved we must conclude that developing human cloning technology is not wrong. There may be other arguments against cloning that are not affected by the problem. In
addition, one could argue that in the absence of a solution to the problem, we should adhere to a kind of precautionary principle that would err on the side of not engaging in cloning. Davidson argues for this kind of approach in the case of applying the non-identity problem to the subject climate change in particular: even if our failing to reduce carbon emissions is relevantly similar to the wealthy society’s choosing the risky policy, and even if we have no good response to the non-identity argument’s claim that it is not wrong for the wealthy society to choose the risk policy, we should nonetheless adhere to an approach “in which climate damage is treated as if it were a wrongful harm to future generations” (2008: 482). Since the appeal to such a precautionary principle offers guidance in the absence of a solution to the problem rather than a solution to the problem itself, I will not consider the merits of this approach here.

19 This result might also generate Constitutional problems for laws that would prevent couples from conceiving in such circumstances. See, e.g., Dillard (2010). Relatedly, McCarthy (2001: 304) applies the non-identity problem to the controversy over sex selection and argues that the practice can’t be opposed on the grounds that it is bad for the resulting child because the resulting child would not otherwise have existed. Delaney (2011) applies the problem to the controversy over genetic enhancement and argues that the considerations that give rise to the non-identity problem can be used to justify the claim that genetically enhancing a person who would otherwise exist as an ordinary person without the enhancement can be wrong in cases where selecting a particular sperm and egg in order to create a person with precisely the same genetic characteristics would not be wrong.

20 Smolensky (2008: 300). See also Spriggs (2002) for an account of, and reactions to, a deaf couple who successfully worked to find a deaf sperm donor so that they could conceive a deaf child. Anstey (2002) argues against both selecting for and selecting against deafness.

21 Jonathan Glover, for example, refers to “screening to ensure that only a disabled child would be conceived’ as ‘monstrous”’ (2001; 438).

22 For this reason, Smolensky argues that disabled children who are brought into existence in this manner should not later be allowed to sue their parents for damages (2008: 301, 321, 335-6, 344). Lillehammer (2005: 34-7) offers a tentative defense of the claim that such choices are not wrong, at least in the case of deafness, though for objections to Lillehammer’s argument, see Shaw (2008).

23 Smolensky (2008) argues that the non-identity problem does not apply in such cases on the grounds that the same person will be born regardless of whether the genes of the developing embryo are manipulated. If that is the case, then the child is harmed by being caused to be disabled rather than not disabled. See Cohen (2008: 351-9), for a skeptical response to Smolensky on this point. If personal identity is a function of a person’s precise genetic make-up, then even a relatively minor genetic alteration of the embryo might be enough to result in a different person’s being born. And if that is the case, the non-identity problem will arise after all: tampering with the embryo to cause a disability
will not harm the person who is born because that person would not have existed had the genetic manipulation not taken place.

24 France, for example, prohibited post-menopausal pregnancies in 1994, and the British woman who gave birth to twins at the age of 60 in a highly publicized case had to go to Italy to receive fertility treatment because her case was rejected by a British ethics committee (Fisher and Sommerville (1998: 218)). de Wert argues that the “welfare of the prospective child” provides “compelling reasons” not to provide fertility treatment to couples over 60 (1998: 237).


