

Contraceptives or Mosquito-Nets: The Non-Identity Problem in the Context of the Zika-Virus

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Abstract

When pregnant women are bitten by mosquitos and get infected by the Zika-Virus, the newborn is likely to face severe disabilities. To prevent this from happening, South American health organisations have the choice of providing mosquito-nets or contra-ceptives. The Non-Identity Problem (NIP) arises because of the conflict between the intuition that overall welfare should be promoted in such occasions and the Narrow Deontic Principle which states that an act is morally false/right only if someone is made worse/better off. The NIP is a challenge for giving a preference to the more cost-effec-tive contraceptives. As chapter 2 shows, this is so because due to later conception, a *different* child will be born than the one who would face the disability. In contrast to mosquito-nets, contraceptives cannot be said to make the disabled child better off. This is because it would not exist if the mother used contraceptives.

The NIP could be solved by rejecting the Narrow Deontic Principle. In chapter 3, I argue that the attempts to reject it fail. I do so by defending the three premises the principle is based on. Therefore, I conclude that one should rather let go of the intuition than of the principle. In chapter 4, I return to the Zika-Virus case. I maintain that health organisations should provide mosquito-nets to already pregnant women, only. There are no moral obligations to provide mosquito-nets or contraceptives before conception has taken place, as this will affect the identity of the future child. Similarly, women only have a moral obligation to protect their foetus by using mosquito-nets, when al-ready being pregnant.

SECTION I: Introduction

The Zika-Virus received worldwide attention in 2015, when Brazil declared a national health emergency. The world health organization declared a Public Health Emergency of International Concern in early 2016 (Savulescu et al. 2017, p. 175). Infected human adults suffer from minor symptoms. However, if a pregnant woman is infected, the fetus is likely to contract microcephalia (Des GbR 2018). This is likely to result in phys-ical and psychological damage to the child's development. The Zika-Virus is mainly transmitted through the bite of Aedes and Culex Mosquitos (Savulescu et al. 2017, p. 178).

To prevent the fetus from being infected, two methods have been employed. The first method is providing mosquito-nets. This prevents pregnant women from being infected which protects the fetus. The second method is providing contraceptives. This enhances the possibilities for women to delay their pregnancy until the peak season of the mosquitos is over. In fact, some Latin American countries have given women the advice to delay their pregnancy for up to two years (Savulescu et al. 2017, p. 178).

Providing contraceptives is more effective in producing healthy children (Savulescu et al. 2017, p. 177). Two questions arise from this fact. First, should becoming mothers protect their fetus by using contraceptives instead of mosquito-nets? Second, should health organizations prioritize providing contraceptives over mosquito-nets? Chapter 4 reveals that these questions are in fact more different from another than they seem at first sight.

The intuitive answer to both questions seems to be “yes”. This paper aims at showing that this answer is false. This is so because of the Non-Identity Problem (NIP). Derek Parfit came up with the NIP in *Reasons and Persons* (1984, p. 359). The essence of the NIP is the following: If we accept that an action is right only if someone is better off by it (Narrow Deontic Principle), we get to counterintuitive implications in many cases. This is because although the overall outcome is better in one scenario, no one can be said to be better off by it. As this concerns the question of the goodness of outcomes, the NIP is mostly seen as a problem within consequentialist theories. Therefore, I am taking a consequentialist perspective in this paper, defining consequentialism as a theory that states that the rightness of an action depends on the goodness of the consequences of this action (Vallentyne 2006, pp. 21-22).

Apart from the introducing and concluding chapters, there are three chapters in this paper. In chapter 2, I illustrate the NIP in the context of the Zika-Virus and formulate the argument for the Narrow Deontic Principle, which implies the NIP. In Chapter 3, I argue that there are good reasons to accept the argument. Chapter 4 entails the implications of the argument being true in the Zika-Virus case.

SECTION II: The Non-Identity Problem

The NIP can be explained easily by using a sample case. Therefore, I illustrate first how the NIP arises in the Zika-Virus case. Next, I examine the structure of the problem.

2.1. The Non-Identity Problem in the Zika-Virus Case

Consider the following cases.

Maria. Maria lives in a location where the danger of being infected by the Zika-Virus is high. She wants to have a child. *After* having become pregnant, she decides to protect her foetus by using mosquito-nets from now on. This is why she is not infected during pregnancy. After nine months she gives birth to healthy Luiz.

Laura. Laura lives in the same area as Maria. However, *before* becoming pregnant, she decides to protect her foetus by delaying becoming pregnant by six months after the peak season is over. Due to the small possibility of being infected at that time, healthy George is born 15 months after Laura having decided to delay her pregnancy.¹

For the sake of the argument, I assume that both mothers would have given birth to a disabled child if they had not used the prevention method. Furthermore, I assume living with this disability as worse than living without it, yet life is worth living either way.²

The similarity between the two cases is that the result seems to be the same: a healthy child is born instead of a disabled child. However, there is also a crucial difference. The case of Maria is less complicated. She was already pregnant, when deciding to protect her foetus by using a mosquito-net. Thus, Luiz would have been brought to existence no matter whether Maria decides to use the mosquito-net. If Maria refrains from using the mosquito-net, Luiz will be born with a disability. If she does use it, Luiz will be born without the disability. Therefore, Luiz is better off if Maria uses the mosquito-net.

This is not so in the case of Laura. If Laura does not delay her pregnancy by using contraceptives, a child is born who does not suffer from the disability. This child, however, is not *George*, but (let's call her) *Silvia*. This is because the identity of future beings depends on the exact time of conception. If our parents had had sexual

¹ This paper does not regard the question on how the becoming mother is affected by the decision. For the sake of the argument it is assumed that the mother does not care on behalf of personal reasons, when birth takes place. Another option, abortion, is not regarded, either.

² In this case, as the disabilities include reduced brain and eye function (Salvuescu et al., 2017, 176), I believe that these children will face disadvantages, as society privileges people without this disability. Thus, no matter whether someone understands disability as a medical, social, or cultural concept, from a consequentialist perspective it seems plausible to state that the child will be worse off, if disabled. For the discussion on the different definition of disability, consider Kittay et al. 2010; Waldschmidt 2017; Dederich 2010 among others.

intercourse few hours (even minutes or seconds) later, we'd probably never have existed. Parfit calls this the *Tine-Dependence Claim* (1984, p. 351). This means Laura did not have the decision between healthy George and disabled George. She had to decide between healthy George and disabled *Silvia*.

While Maria improves the life of her child by using the mosquito-net, Laura does not do so by using contraceptives. It is false to say that George's life is better due to Laura delaying her pregnancy. George has been threatened to be disabled at no time. If Laura had refrained from using contraceptives, George would not have been born. George exists in only one of the two possible scenarios. If he does not exist, there is no person, "George" could refer to. The relations *better off* and *worse off* need at least two relata they can refer to. Thus, to say that one of the two scenarios is better *for George*, he needs to exist in both scenarios. If this is the case, we can say: If Laura uses contraceptives, George is better off than if she refrains from doing so. However, as he exists only if she does not use contraceptives, he cannot be said to be better off. Similarly, we cannot say that refraining from using contraceptives is worse for Silvia than using them. This is so, because Silvia only exists in one of the two scenarios. Therefore, refraining from using contraceptives is neither worse *for Silvia*, nor is using contraceptives better *for George*.

Could we say that Laura using contraceptives is better for *Laura's child*? This is to confuse the distinction between *de dicto* and *de re*. "Laura's child" is nothing but a relation to Laura (*de dicto*). A relation cannot be better off, only identities (*de re*) can (Parfit 1984, p. 359; Heyd 2014, p. 6).

We have to accept that by using contraceptives, no one (neither Silvia nor George) is made better off. In contrast, by using the mosquito-net, Luiz is made better off. However, as George would be better off than Silvia, it seems intuitively plausible that Laura should bring George rather than Silvia into existence although no one is made better off. However, many believe in what Parfit called the Narrow Deontic Principle, which states that an act is morally false, only if someone is made worse off. Parfit called the problem arising from the conflict between this intuition and the Narrow Deontic Principle, the Non-Identity Problem (1984, p. 362). If we want to avoid the NIP, we are left with two options. Either we get rid of the intuition or we reject the Narrow Deontic Principle. Let us have a look at the structure of the Narrow Deontic Principle.

2.2. The structure of the Narrow Deontic Principle

David Boonin formulates the argument for the Narrow Deontic Principle in his essay *How to Solve the Non-Identity Problem* (2008):

P1: If P's act does not make Q worse off than Q would have been had P not done the act, then P does not harm Q.

P2: If P's act does not harm Q, then P's act does not wrong Q.

P3: If P's act does not wrong anyone, then P's act is not wrong (*ceteris paribus*).

C: If P's act does not make Q worse off than Q would have been had P not done the act, then P's act is not wrong (*ceteris paribus*) (Boonin 2008, pp. 132-133).

C matches Parfit's definition of the Narrow Deontic Principle: "An act cannot be wrong if this act would be worse for no one" (2017, p. 120).

In our example, it would not be morally wrong to bring Silvia into existence, instead of George. This is because neither Silvia nor George would be worse off by Laura's decision. However, Maria would act morally false if she refrained from using mosquito-nets, since this would make Luiz worse off. In order to reject the Narrow Deontic Principle and avoid the NIP, one can attempt to reject the premises. Chapter 3 provides a defence of each premise.

SECTION III: Defence of the Narrow Deontic Principle

3.1. Defence of Premise 1

If P's act does not make Q worse off than Q would have been had P not done the act, then P does not harm Q.

In *Harming Future People* (1990), Matthew Hanser argues, contrary to P1, that it is possible to harm someone without making her worse off. According to Hanser, I can harm a being if this being suffers *more* pain because of my act.

H: "An act does not harm someone in the morally relevant sense unless its consequence is that that person is harmed more than he would have been had the act not been performed" (Hanser 1990, p. 55).

Hanser understands H, as that the act is wrong because in one scenario Silvia experiences harm, in the other, it is not the case that there is Silvia experiencing harm. Therefore, it is better if Laura uses contraceptives.

According to Boonin, H is severely counterintuitive. Consider the fact, that every life entails various harms. Even the most privileged person will eventually experience hunger, timidity or boredom. According to H, it would be wrong to bring this person into existence. If she is not brought into existence, it will not be the case that

there is a person experiencing harm. Thus, by existing, there is more harm experienced by this person than if she does not exist. H implies that it is wrong to bring anyone into existence who will experience even the slightest bit of harm (2008, pp. 138-139).

I agree with Boonin. H can explain why we should not bring Silvia into existence. If she exists, there will be more harm experienced by her than if she does not exist. However, H cannot explain why Laura should bring George into existence, instead. If he exists, it will be the case that he will experience harm (fears, hunger etc.), which would not be the case if he does not exist. Hence, H implies that neither Silvia nor George should be brought into existence. This is not a solution to the NIP. Therefore, H fails; P1 endures.

3.2. Defence of Premise 2

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

The intuition that I can wrong someone else without harming her seems quite strong. There are two main objections against P2.

The first objection appeals to the importance of intention. We can wrong someone, if we have the intention to harm this person. Consider that Laura did not want to delay her pregnancy because she just did not care how healthy her child will be. This carelessness towards her child seems to wrong Silvia or Luiz even if they are not harmed by it. Boonin responds to this objection that considering that Laura is fully aware of the NIP, her intention would not be to harm Silvia or George if she brings Silvia into existence. Since she agrees with P1, she does not believe that her child can be harmed by refraining from delaying her pregnancy (Boonin 2008, pp. 140-141). I believe Boonin's defence fails. His argument assumes that Laura is fully aware of the NIP. But suppose that Laura did in fact want to harm her child or that even Maria wanted to harm Luiz by using mosquito-nets. Boonin's defence cannot explain why Maria's act to use mosquito-nets would be morally right, although the intention was bad. The same is true for Laura.

There is a better response. First, recall that the NIP is a problem within consequentialist ethics. Thus, if intentions play a role, this role is minor. Second, even if someone can be wronged without being harmed, it seems clear to me that this person must exist to be wronged. Even if we accept that we wrong a dead person by disrespecting her grave, we can appeal to a person that has existed. But it is very implausible that we can wrong someone who will *never* exist. We can ask: "Who did we wrong?". Even if Laura's intention was to harm George by bringing Silvia into existence, she cannot wrong him, as he will never exist. It is true that Laura could be said

to wrong Silvia if her intention is to harm her. However, this can be so every time someone is brought into existence. As mentioned above, even Maria could be said to wrong Luiz by having the intention to harm him by using mosquito-nets. This is a separate problem of deontological theories that has nothing to do with the NIP.

A second way to reject P2 is an appeal to rights. Someone can be wronged, if her rights have been violated even if she is not harmed by the action. Lying behind someone's back is wronging someone even if this person will never be harmed by this lie (Nagel 1970, p. 77). As a child has a right to a healthy life, one should bring the child into existence that is healthy (Woodward 1986, pp. 810-812). But can we say that George's or Silvia's rights have been infringed by Laura refraining from using contraceptives? Whose right has been infringed? It cannot be George's. This is because George does not exist if Laura does not delay her pregnancy. It is implausible that someone's right can be infringed who will never exist. If this was so, the number of right bearers would be infinite, as there are infinite beings who do not exist. Can Silvia's right have been infringed? Recall that Silvia's life is worth living, despite the disability. If we say that her rights are violated by bringing her into existence, we would have to say that bringing any person into existence that will have a below-average welfare will be violating their rights. And why stop there? Every person experiences rights violations throughout her life. Is it wrong to bring anyone into existence? I believe not. The mistake is to confuse *de dicto* with *de re*. It seems like "Laura's child's" rights are violated. Yet, just like a relation cannot be harmed, a relation does not possess rights that could be violated. I conclude that an appeal to rights does not solve the NIP as no one's rights are infringed in our example. Even if they are, this cannot be a strong enough reason to avoid their existence.

3.3. Defence of Premise 3

If P's act does not wrong anyone, then P's act is not wrong (ceteris paribus).

A common objection is to appeal to what has been called the Impersonal Total View. There are intrinsic goods in the universe such as happiness or health that need to be promoted, independently of whether a person benefits from this. What matters is that there are more healthy beings if George exists instead of Silvia. It is irrelevant whether George will be better off (Singer 2013, p. 165).

There are two main objections to the Impersonal Total View. First, if the Impersonal Total View was true, there are two counterintuitive implications. First, it leads to the Repugnant Conclusion. This states that a universe in which hundreds of billions of people with a welfare level just above 0 exist is better than a universe with a few

billion people having high welfare, because overall welfare would be higher in the first population (Parfit 1984, p. 391). Secondly, it would be morally required to bring children into existence if this enhances overall welfare in the universe. This is counterintuitive.

A second objection relates to an earlier mentioned point. The moral object of ethics is people or living beings, not entities like stones or free flowing happiness. I cannot wrong stones; I cannot wrong happiness; I can only wrong other living beings. If we do not want to give up the language of morally wronging someone, then this is an essential point. Laura is not wronging George by bringing Silvia into existence, as George will not exist, which is a necessary condition in order to be wronged. I do not believe that Laura can morally wrong “global happiness” by bringing Silvia into existence. “Global happiness” cannot be a moral object. Therefore, I reject the Impersonal Total View.

I conclude chapter 3 by maintaining that the main objections to the premises of the Narrow Deontic Principle fail. I claim that we should let go of the intuition leading to the NIP, as the Principle is justified. Therefore, I agree with Boonin in saying that the Non-Identity Problem is in fact not a problem, but a Non-Identity Argument. Chapter 4 shows the implications this has on the Zika-Virus case.

SECTION IV: Implications of the NIP in the Zika-Virus case

Chapter 2 and 3 have shown that unlike contraceptives, the use of mosquito-nets makes the child better off. Now, it seems that mosquito-nets should be prioritized over contraceptives. Mothers should protect their foetus by using mosquito-nets instead of contraceptives. Health organizations should focus on providing mosquito-nets instead of contraceptives. Chapter 4 shows that it is not that simple.

4.1. The perspective of the becoming mother

The becoming mother has a moral obligation towards the foetus to protect it by using mosquito-nets. If she did not do so, a child would be worse off. What happens before conception, does not matter to the child if it affects its identity. Hence, there is no moral obligation to use contraceptives.

Interestingly, there is no obligation to use mosquito-nets *instead* of contraceptives, either. Consider that having read this paper, Laura would not delay her pregnancy, but use mosquito-nets instead. This results in Silvia existing instead of George. Therefore, this decision also affects the identity of the future child and will be better for no one. Mosquito-net protected Silvia cannot be said to be better off by this decision because she would not have been born if Laura had decided to use contraceptives.

Nevertheless, being pregnant with Silvia, Laura does have a moral obligation to use mosquito-nets. This is interesting because no matter whether Laura protects Silvia with mosquito-nets, this act is not worse or better than delaying the pregnancy and bringing Luiz into existence. Nevertheless, when being pregnant with Silvia she must use mosquito-nets.

4.2. The perspective of health organizations

Health organizations such as governments should focus on providing mosquito-nets to *pregnant* women. This makes children better off. However, there is no such obligation to convince women who are not yet pregnant to use mosquito-nets *instead* of contraceptives. As mentioned above, there is no benefit for the child if mosquito-nets are used instead of contraceptives, as this alters the identity of the child.

Interestingly, even providing not yet pregnant women who would have used mosquito-nets anyways is morally required. This too, could change the identity of the child. Consider that before being pregnant, instead of going to the supermarket to buy a mosquito-net, Maria goes to a public hospital where she can get the mosquito-net for free. This will affect the identity of the child as well, as this change of events is likely to affect the exact time of conception. Recall that our very own identity depends on a few milliseconds in which conception took place.

This leads to the counterintuitive implication that health organisations should provide neither contraceptives nor mosquito-nets to women who are not yet pregnant. The only moral obligation that remains is providing pregnant women with mosquito-nets.

SECTION V: Conclusions

The aim of this paper has been to argue for the relevance of the NIP and apply it on the Zika-Virus case. As the NIP relies on the Narrow Deontic Principle as well as the intuition that overall welfare matters in these occasions, one must either reject the principle or the intuition. Chapter 3 has shown that each premise within the argument for the Narrow Deontic Principle can be defended against its major critiques. Therefore, if we are serious about solving the NIP, we should get rid of the intuition.

The main implication of the NIP is that it is not of moral relevance to the future being what happens before she is brought into existence if this alters her identity. Therefore, I have argued in chapter 4, that in the Zika-Virus case, the focus should be on already pregnant women. If they are at risk of being infected, they should protect their foetus by using mosquito-nets because their child would be worse off otherwise. However, there is no obligation to use contraceptives, as no one will be better off by

the delayed pregnancy. Furthermore, there is no moral obligation to use mosquito-nets instead of contraceptives, as this changes the time of conception, as well. Similarly, health organizations should focus on providing pregnant women with mosquito-nets. Providing contraceptives or mosquito-nets to not yet pregnant women is likely to change the identity of the affected child and is therefore morally neutral.

Many might find the conclusions of this paper unsatisfying. It might seem counterintuitive to say that it does not matter whether a disabled child exists or another one that would be healthy. However, world history has shown that intuitions are not always trustworthy and universal. Sometimes, it is worth it, adjusting one's own intuitions to moral principles. Speaking of counterintuitions we must therefore ask, like the one saying that using contraceptives in our case is better than refraining from doing so: *for whom?*

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