

**ENVIRONMENTAL POLICY AND
"THE IDENTITY PROBLEM"**

by

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Abstract

This paper reviews the debate surrounding the "Identity Problem" or "The Paradox of Future Individuals". It argues that the 'problem' follows logically from assumptions concerning the concept of harm and the concept of personal identity. It concludes that these assumptions do not lead to the conclusion reached by some philosophers that we have no obligations to future generations.

1. INTRODUCTION

Since Antiquity philosophy has abounded with provocative arguments in which what appear to be relatively simple and indisputable assumptions lead to unexpected and often baffling conclusions. Zeno's paradoxical arguments against the existence of motion (e.g. Achilles will never catch up the tortoise), or the "Liar Paradox" which undermines our belief that propositions must be either true or false, or Berkeley's argument against the existence of matter, are just a few examples.

In contemporary discussion of the terms of intergenerational justice, which arises out of our concern with environmental problems and our sense of obligation to leave the world to our successors in an inhabitable state, we encounter one particular argument which - very much like those time-honoured arguments mentioned above - appears to reach highly paradoxical conclusions. From rather simple assumptions, which we might be inclined to accept, we unexpectedly arrive at conclusions which most of us would be inclined to reject since they seem to violate deeply engrained convictions, or common sense, or our moral intuitions. Several authors have discovered this particular argument, which is now known in the literature as the "Identity Problem", or "the Non-Identity Problem" (both names come from Parfit), or as "the Paradox of Future Individuals" (as Kavka calls it).¹ The Identity Problem leads to the conclusion that, whatever policy we adopt towards the future, we are not harming future people. Therefore, we have no moral obligations towards them and we are free to choose any policy we like. Whatever choice we make, future generations would have no grounds for complaint even if we left them a very depleted world or exposed them to risks, such as the risks of nuclear radiation.

There is no need to emphasize the possible practical significance of this conclusion if we were to accept it and to allow it to provide moral guidance. Much of the environmental debate involving economists, philosophers, politicians, and environmental activists would become pointless. It would no longer be morally relevant whether we leave to our successors enough natural resources and a clean and safe environment. Most of the major environmental questions (including the question of our moral obligations to future generations) discussed today would seem a waste of time. In a sense, therefore, the Paradox of Future Individuals is a prior problem as regards the problem of inter-generational justice. Only if it can be circumvented is there much point in pursuing further other aspects of inter-generational justice - e.g. whether one should adopt a Rawlsian framework, or a Utilitarian framework, or whatever.

¹ It has been discovered independently by Robert M. Adams, Derek Parfit, and Thomas Schwartz, as Gregory Kavka points out in his article "The Paradox of Future Individuals", Philosophy and Public Affairs, Vol.11, 1982.

One of the most interesting aspects of the apparently morally inadmissible Paradox of Future Individuals is that it does not follow from any assumptions about our selfishness, or our lack of concern about the future, or even from a belief in the priority of the needs of the present generations over those of future ones. Rather it claims to follow logically from certain assumptions concerning the concept of harm and the concept of personal identity. It is the purpose of this paper to discuss these assumptions and to argue that they do not, in fact, lead to the conclusion that we have no obligations to the future generations.

2. OUTLINE OF THE "IDENTITY PROBLEM"

The first assumption is that there is no harm where there are no persons harmed. As Parfit puts it: "Wrongs Require Victims: Our choice cannot be wrong if we know that it will be worse for no one".² This assumption is an inherent part of a more general view about morality known as "a person-affecting view" or "an identity-specific view". According to that view, actions are morally good or bad if they are good or bad for those people whom they affect.³

The second assumption is that the sameness of the genetic makeup is a necessary and sufficient condition of personal identity. In other words, a distinctive necessary property of each person is that of having grown from the particular pair of cells from which this person did, in fact, grow. If any given person had not been conceived at the time when he was in fact conceived, he would never have existed.⁴ That implies that any change in the exact conditions of conception (who conceives and at what time) results in bringing into existence people with different identities -i.e. different people⁵.

Taken together the above two assumptions give rise to "The Paradox of the Future Individuals", which can be best explained through examples. We shall consider here some of the most commonly used (e.g. as in Parfit, Kavka, Fishkin, Heyd and others).

Example 1: Suppose we have a choice between a "Depletion" policy and a "Conser-vation" policy, where "Depletion" indicates a significant depletion of natural resources and a deterioration in the environment, and "Conservation" indicates the opposite. Suppose that, as a result of the

² D.Parfit, "Energy Policy and the Further Future: The Identity Problem", in Energy and the Future, D. MacLean and P.G.Brown, (eds), Rowman and Littlefield, 1983, p. 169

³ As Derek Parfit puts it: " This part of morality, the part concerned with human well-being, should be explained entirely (our italics) in terms of what would be good or bad for those people whom our acts affect", Reasons and Persons, Oxford, Clarendon Press 1984, p.394. Jan Narveson first advanced this view in his pioneering article "Utilitarianism and New Generations", Mind, 76, 1967. In his later article he expresses the person-affecting view as follows: "Duties must always be duties to someone: if no person is affected by an action, then that action (or inaction) cannot be a violation or fulfillment of a duty.", J. Narveson, "Future People and Us" in R.I. Sikora and B. Barry (eds), Obligations to Future Generations, Philadelphia:Temple University Press, 1978

⁴ Parfit, Reasons and Persons, op.cit., p.352

⁵ We shall not discuss here the possibility that although one's genetic endowment may well be a necessary condition of one's identity it may not be a sufficient condition. If personal identity was defined so that the creation of personal identity was not finished at the time of conception but rather was in the process of formation until some time after birth (a view discussed by Heyd) then perhaps we would be able to say that different experiences during people's life time determined (together with their genetic makeup) who these people were. In that case, it could be argued that had it not been for such and such particular experiences, such and such particular people would not have existed. On the person-affecting view, and under the wider definition of self-identity, we would be able to say that no one was harmed by,say, the experience of having an alcoholic father since had the father not been an alcoholic a different personal identity of his child would have been created.

Depletion policy adopted today, the quality of life over the next two hundred years would be higher than it would have been had we adopted the Conservation policy but that it would start falling rapidly afterwards and make people poorer than they would otherwise have been, perhaps even poorer than we are today. Can we say that by adopting that policy we are harming the people who will be living in more than two hundred years? ⁶ And would they be justified in reproaching us for doing so ?

It is perhaps worth distinguishing between different possibilities whose moral significance possibly might not be the same. First, that the people living in two hundred years time would be becoming poorer than ourselves. Secondly, that although they would be becoming poorer than those who lived shortly before them and poorer than those who would have lived had the policy of Conservation been adopted, they would still be richer than we are today. We shall concentrate here on the first possibility since it is probably the least questionable example of what most people would call "harming future people". But the second possibility is perhaps more interesting from other points of view. We shall not discuss a third possibility, namely that the Depletion policy made all future generations better off than under the Conservation policy as a result of the depletion of natural resources having permitted a more than offsetting accumulation of man-made capital (in the widest sense, including education and technical knowledge). Some economists maintain that this is the most plausible scenario, but this issue lies outside the scope of this paper.

Example 2: Suppose we have a choice between a "Safe" and a "Risky" policy (e.g. as regards nuclear energy production and the resultant accumulation of nuclear waste the disposal of which in the distant future may entail serious risks of radioactive damage). If the Risky policy is adopted the standard of living would be higher over the next two hundred years than with Safe policy, but then a major catastrophe might happen which would kill a lot of people. Can we say that we are harming those affected by the Risky policy?

The intuitive answer that most of us would give to the questions in both examples is "Yes": we are harming those future people living in over two hundred years and affected by the Depletion policy or the Risky policy. On the identity-specific view, however, the answer is "No". For, it is argued, the choice of a policy affects not only the quality of life of the future people but also the very identity of people who are born as a result of it. This is because whatever policy is chosen affects directly or indirectly - e.g. by influencing the pattern, pace and geographical distribution of economic development - the precise conditions of conception (who conceives and when the

⁶ see Parfit, "Energy Policy and the Further Future", op.cit. p.170).

conception takes place). It must therefore influence who is born. The people born as a result of the Depletion policy will be different from those who would have been born as a result of the Conservation policy, and, similarly, those born as a result of the Risky policy will be different from those who would have been born had the Safe policy been adopted. Therefore, those who are born as a result of any particular policy cannot be said to have been harmed by it since their very existence was causally dependent on that policy. They would not have been born without it! ⁷

As Fishkin clearly puts it, "The ordinary way to conceptualize damages within tort law is to imagine returning the injured party to the position he or she would have been in had the injury not occurred. But in this case that position is nonexistence."⁸ There is usually a proviso added to the above conclusion, namely that we cannot talk about harm being done to the people born as a result of any particular policy as long as their lives are worth living in the sense that it would not have been better for them not to have been born. So as long as their lives are worth living they cannot be said to have been harmed by the policy that contributed to their coming into existence. Parfit, who believes that, in causing someone to exist who will have a life worth living we are benefitting that person,⁹ points out that on the identity specific view, we might say that the choice of the Risky policy which leads to a catastrophe killing thousands of people "is not only not worse for those people, it benefits them", since (i) they owe their existence to it, and (ii) their lives prior to the catastrophe were worth living.¹⁰

So the argument seems to be that we cannot talk about a harm being done to people when avoiding the harm would be equivalent to preventing them from coming into existence. The implicit assumption here is that it is better for them to exist (and suffer all the consequences of depletion or of the nuclear risk) than not to exist. In other words it is claimed that those who would be victims of the aforementioned policies would at the same time be their beneficiaries in some very fundamental sense, namely in the sense of being given the "benefit of life". And since that benefit is of utmost importance to its receivers, it cancels out all the harms that might possibly accompany it.

⁷ Normally people are not aware of the "identity factor" (that is the causal link between the choice of a policy towards the future and the self-identity of the people who get born as a result of it) and they falsely assume that those affected by the Depletion Policy would be the same people as those affected by the Conservation Policy. Therefore they conclude that the Conservation Policy would be better for those people.

⁸ J.S. Fishkin, "Limits of Intergenerational Justice" in P. Laslett and J.S.Fishkin (eds), Justice Between Age Groups and Generations, Yale University Press, New Haven and London 1992, p.65

⁹ Parfit, Reasons and Persons op.cit., p.394

¹⁰ Parfit, "Energy and the Further Future" in Mac Lean and Brown, op.cit., p.169

On similar grounds one might argue that by depleting the resources we are not violating any rights of those affected by it ¹¹. The argument is as follows. Suppose we believed that all generations had rights to an equal range of opportunities or an equally high quality of life ¹² But suppose we follow a Depletion policy, and the people born as a result have a lower quality of life than would otherwise have been the case. If, however, we had chosen a different policy, those particular people would not have been born. Therefore "Since their rights could not be fulfilled, we may not violate their rights".¹³

There are other striking examples of the application of the person-affecting claim which help us realize its full implications for social policy.

Example 3: Consider the question of whether we are morally obliged to prevent the birth of handicapped children, which is an issue in the so-called "wrongful life cases". These are cases where parents of a child born with a genetic defect and who had wanted to have a healthy child sue their doctor for incompetence or for negligence in carrying out his duty to warn the mother of the risk of giving birth to a handicapped child. On the person-affecting view, the child has not been harmed in any way by being born with a defect (on the assumption that despite the defect its life is meaningful and preferred to nonexistence), since the defect constituted part of its identity. Although a child conceived, say, two months later might have been perfectly healthy, it would no longer be the same child.

Example 4 Imagine a choice between two different population policies, (i) a laissez-faire policy of non-intervention in the procreation process, which leads to a rapid growth of population and disastrous impoverishment, and (ii) a restriction policy, limiting the growth of population and resulting in prosperity. On the identity-specific view no one is harmed in the first scenario, since, had the laissez-faire policy not been adopted, the people who suffered poverty would not have been born.¹⁴ Therefore, since there are no victims of the laissez-faire population policy, we are morally justified in adopting it even if it leads to poverty.

¹¹ Parfit, Reasons and Persons op.cit., p.365

¹² see B. Barry, "Intergenerational justice in energy policy" in Mac Lean and Brown, op.cit.

¹³ Parfit, Reasons and Persons op.cit., p.365

¹⁴ As Fishkin points out in the above-mentioned article, "Limits of Intergenerational Justice" (op.cit.), the smaller population in the second scenario would not be a proper subset of the expanded population in the first scenario. To support that claim, which is quite essential for the validity of the conclusion that no one is harmed by the laissez-faire policy, he refers to Thomas Schwartz's demonstration that the expanded population and the small population would not overlap. See T. Schwartz, "Obligations to Posterity" in Sikora and Barry, op.cit.

3. WHAT DOES THE IDENTITY PROBLEM IMPLY?

The conclusion of the identity-specific view seems morally disturbing as it seems to legitimize any policy with regard to future people. The proviso that the lives of those born as a result of it are to be worth living, or meaningful, in the sense of being preferred to non-existence does not seem to prevent us from adopting quite ruthless policies towards future people, since it is not clear at what point life is no longer worth living, and it is not clear in what sense the proviso should restrict our freedom to adopt any policy we like. As we have seen (in Parfit's examples) the proviso that the lives of those born as a result of a given policy are to be worth living does not prevent us from depleting the resources or risking a nuclear disaster. It is possible to interpret the concept of the "life worth living" in such a way that, even in extreme misery, people may find their lives worth living in a meaningful way - e.g. on account of their personal relationships with other people. Therefore we could condone almost any atrocity in our policy towards the future by arguing that it does not totally deprive future people's lives of their meaning or value.¹⁵

Is the person-affecting claim self-contradictory?

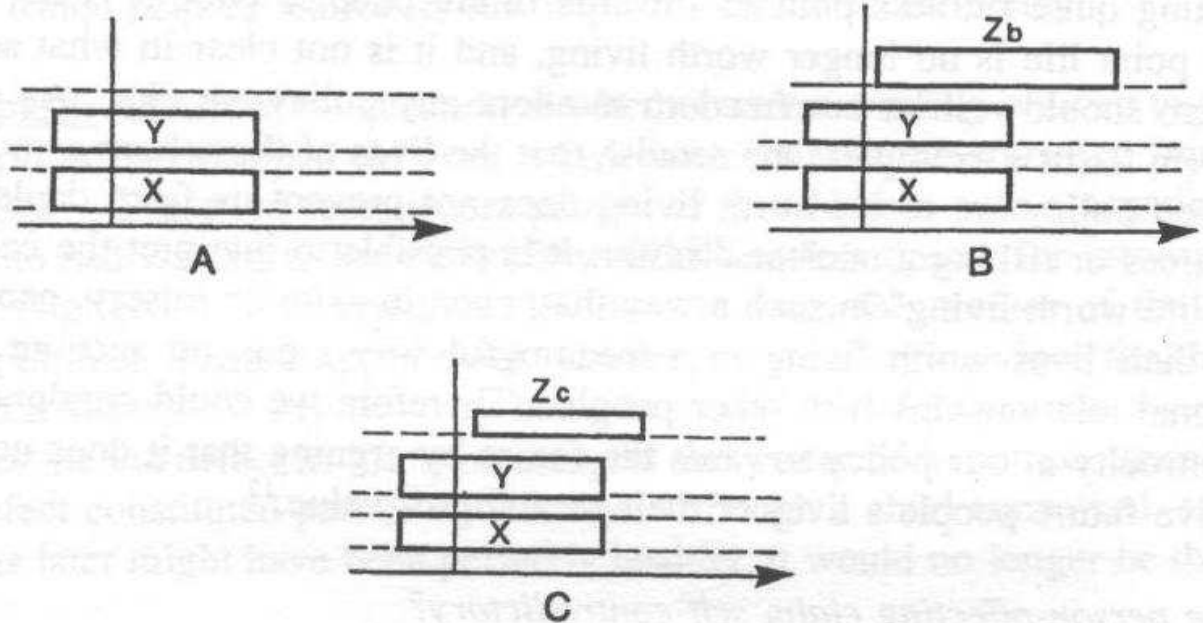
One way of resolving the paradox would be to undermine its basic logic. It is therefore worthwhile considering the attempt by John Broome to show that the person-affecting view expressed in the first assumption is self-contradictory.¹⁶

In the following diagram, which is reproduced from Broome, the horizontal dimension represents time and the vertical dimension represents the wellbeing (or utility) per unit of time accruing to the individuals in question¹⁷. (For purposes of discussion I have added my own symbols: X and Y and Z_b and Z_c to represent individuals). Three alternative situations are represented, A, B, and C. Thus, in situations A and B, individuals X and Y have the same total wellbeing over their whole lives. But in situation B there is also individual Z who has wellbeing Z_b. In situation C, X and Y again have the same total wellbeing, but individual Z has less wellbeing (Z_c) than in situation B.

¹⁵ Parfit seems to realize the ambiguity of that proviso but then does not seem to want to go into its full implications when he says: "We can first ask, "Could a life be so bad - so diseased and deprived - that it would not be worth living? Could a life be even worse than this? Could it be worse than nothing, or as we might say "worth not living?" We need not answer this question." (Parfit, "Energy Policy and the Further Future", op.cit., p.168).

¹⁶ See John Broome, Counting the Cost of Global Warming, Cambridge, The White Horse Press, 1992, p.124-125

¹⁷ ibid., page 124.



Source: J. Broome (1992) *Counting the Cost of Global Warming*, White House Press: Cambridge.

Broome's argument is as follows: Since A and B are equally good for the two people X and Y who exist in both situations then the two situations are equally good. "The wellbeing of the person who exists only in B does not affect the comparison".¹⁸ The same can be said about the two situations A and C, since they are equally good for the two people X and Y who exist in both. Now, since the relation "equally good" must be transitive, then from the fact that A and B are equally good, and also A and C are equally good, it follows that B and C are equally good. But that conclusion contradicts the claim that B is better than C, which we could make on the grounds that B is better for one of the three people who exist in both B and C, namely Z (and equally good for the other two people).

If valid, Broome's conclusion that the person-affecting claim is self-contradictory in such a case would greatly help resolve the identity problem. Unfortunately, it seems to be open to the following objection.

On the person-affecting view things are morally good or morally bad when they are good or bad for the people whom they affect. In other words, when it is stated that things are good or bad it is

¹⁸ *ibid.*, p.124

always for someone and not in any general way. There-fore, when we compare A and B, and we say that A and B are "equally good for X and Y" who exist in both, this is exactly what we mean, namely A and B are equally good for X and Y, and not "equally good" in some general sense, as Broome's argument seems to require. The same applies to the comparison of A and C: they are "equally good for X and Y" and not "equally good".

In other words, although it is true, as Broome says, that the relation "equally good as" must be transitive, it does not lead to any paradox in the case of A compared to B, B compared to C and then B compared C, since the objects for which these three comparisons are made, are not the same in all three operations. In the first two comparisons it is person X and Y that we considering, while in comparing B and C, we are considering persons X,Y and Z. In other words, it is the very "person-affectedness" of the person-affecting view that saves it from self-contradiction.

4. HEYD'S "ACTUAL" AND "POTENTIAL" PEOPLE

One important recent attempt to avoid the paradoxical and counter-intuitive conclusion of the Paradox of Future Individuals has been proposed by David Heyd¹⁹. Heyd retains the person-affecting condition and believes that choices concerning the welfare of future persons should be guided exclusively by reference to the moral claims of "actual" people, and, in this sense, remain within the scope of ethics. When these choices do not affect actual beings, they should be treated as "lying beyond the grip of moral judgment" (p.194). However, he suggests extending the definition of "actual" persons to include not only those who exist already but also those whose future existence can, in some sense, be taken for granted²⁰. For example, he argues, when a couple is considering whether or not to have a child, their child is a potential person for them because its existence depends on their choice. But when, say, US policies are being formulated on the assumption that the Mexican population will reach 120 million in the twenty first century, their existence is regarded by the USA as a given fact (p98). They are "actual" people as far as the USA is concerned although they do not yet exist.

Heyd's suggestion of redrawing of the boundary line between "actual" and potential people is an attractive one and, if sustainable, might greatly help resolve related ethical issues. Unfortunately, as Heyd himself admits, the distinction raises a whole host of new conceptual difficulties.

- (i) First, the distinction is not ontological but is relative in the sense that it is meant to express the dependence of the existence of one person on the choice of another. That sometimes leads to confusion. For example, Heyd claims (p.100) that "a future person X may be potential for me (having to decide whether to create him) but actual for you (having no control over the matter)". However he later says (p.102) that "as long as you have not decided to bring the child into the world, I cannot relate to it as actual", which leaves the reader with the difficult task of reconciling the two statements.
- (ii) Secondly, superimposed on the relativity of the distinction in terms of existence - and hence opening up scope for a large variety of combinations - is relativity in terms of another two parameters, namely number and identity. For example, a deliberate population policy would make the people to be born "potential" (for the policy makers) with respect to their number, but insofar as no genetic intervention is envisaged as well, the people to be born would be "actual" with respect to their identity.

¹⁹ D.Heyd, Genethics: Moral Issues in the Creation of People, University of California Press, 1992,

²⁰ "Actuality is the status of people who do not owe their existence to a human choice," Heyd, ibid pp.97-98.

- (iii) A final difficulty is that if the object of the distinction between actual and potential people is to delineate the scope of our moral obligations then clearly we can, to some extent, extend or restrict the range of people covered by our moral obligations according to the degree to which we can intervene in the process of procreation.

In the light of these various difficulties, therefore, Heyd's formulation of the person-affecting view does not seem to provide a fully convincing route for avoiding the counter-intuitive and paradoxical conclusions to which this view -by contrast with, say, an impersonalist view - seems to lead. We must, therefore, continue to look elsewhere.

5. PARFIT'S IMPERSONALIST APPROACH

Another way of avoiding the conclusion of the identity specific view is to reject the whole framework, especially the person-affecting assumption (the first assumption in our presentation of the identity problem) which commits us to consider goods and harms in strict relation to the identities of people whom they affect - and to adopt an apparently straightforward utilitarian ethical injunction to maximise utility irrespective of whether the individuals whose utility one is maximising have been harmed or not by our actions.

In daily life this might well be the approach that the average person would adopt. For example, he might prefer a scenario under which his great great grandchildren, if there are to be any, will be better off as a result of some action he might take (such as making certain financial provisions for his heirs) even if he is persuaded that his action will affect the identity of the great great grandchildren. More generally, and more formally, one might have a utility function that includes, as arguments, the welfare (or utility) of future generations irrespective of who they are and of whether their identity will be affected by our policies, environmental or other. Utilitarianism is the elevation of the maximization of such a function to the status of an ethical injunction. It is an identity-independent ethical principle, since the utilitarian principle of maximizing happiness (or pleasure or utility) is invariant with respect to whose utility is to be maximized. As far as future generations are concerned, our moral duty is simply to maximise a utility function the arguments of which are the utilities of present and future generations. These utilities may be believed to depend on a wide variety of variables but we do not attach weights to them according to whether or not future generations can logically claim to have been harmed by our adoption of certain environmental policies without which they would not have been born.

Parfit rejects the person-affecting claim precisely on such identity-independent grounds - i.e. that although the choice of the Depletion policy may not be bad for anyone, we still consider it generally bad. What we ought to take into account in our choices is not only their effects on the people who would be born as a result of them but also possible effects on people who might have lived if a different policy -had been adopted. According to Parfit, the claim which ought to provide some guidance in our choice between alternative policies is that "It is bad if those who live are worse off than those who might have lived".²¹ That claim proposes to consider the welfare of future people independently of their identities and to choose, out of the alternative policies available, that one which makes people happier than some other people might have been under

²¹ Parfit, "Energy Policy and the Further Future", op.cit., p.174-175

any alternative policy. In other words, on moral grounds we ought to reject the Depletion policy since it would make people less happy than some other people might have been under the Conservation Policy policy.

However, even on this view the Conservation policy may not always be the better outcome. On most interpretations of classical utilitarianism we ought to maximise total utility rather than average utility. And under certain circumstances it is quite possible that the Depletion policy would lead to higher total utility than the Conservation policy even if average utility were lower. This could be the case, for example, if population grew faster under the Depletion policy than under the Conservation policy.²²

In fact, when the size of the population is a variable, both the identity-specific view and total utilitarianism may lead to the same conclusion, namely that the Depletion policy is not objectionable on moral grounds. On the identity-specific view it would not be objectionable because "no one is harmed"; and on the utilitarian view it might not be objectionable because it may be the best way of maximizing total utility, even at the cost of lower average utility. Indeed, under these circumstances the total utilitarian system implies not only that the Depletion policy is unobjectionable but also that it would be morally obligatory.

But, as is well known, when the maximization of a utility function is accepted as having moral force, and the size and identity of the populations in question are variable, this utilitarian ethical system also runs into difficulties. First, "it would justify any increase in population - even if, as result, the lives of most people were not very happy - as long as some increase in total utility were produced".²³ Parfit goes as far as to describe this implication of total utilitarianism as a "Repugnant Conclusion".

Secondly, it imposes too strict a moral duty on people in the area of procreation, in which, normally, a considerable amount of freedom is left. On the total utilitarian view one would have a moral obligation to beget a child so long as its being brought into the world produced more utility than disutility!²⁴ As Fishkin rightly points out this is certainly a bizarre result, which suggests that consistent reliance on the impersonalist viewpoint would lead to unacceptable constraints on

²² That would be a very good substantiation of Fishkin's suggestive metaphoric statement that in utilitarianism people are vessels carrying utility and it is the utilities that matter not the vessels. In the example discussed above, the greater the number of vessels the more they carry together although each of them may be carrying very little.

²³ J.P. Sterba, "The Welfare Rights of Distant Peoples and Future Generations: Moral Side-Constraints on Social Policy", in Social Theory and Practice, vol.7, No 1, Spring 1981, p.108.

²⁴ Paradoxically, it might also be interpreted as providing a philosophical justification for the "permissive society".

peoples' freedom of choice as regards procreation.²⁵

A third objection to total utilitarianism, is what Fishkin calls the "Problem of Replaceability". For example, in Fishkin's imaginary scenario it would be possible to replace one set of actual existing people with another set who are better "utility maximizers". "In fact, if we are utilitarians and the replacement scenario would increase utility, we could be obliged to kill everyone and replace them with a new population of better utility maximizers."²⁶

But although, therefore, the impersonalist utilitarian view runs into serious difficulties when we allow changes in the size and composition of the population to be affected by our actions, we have seen that reliance on the identity-specific view also leads to bizarre results. As regards the policy of procreation its implications would be opposite of those of utilitarianism. If the latter restricts our freedom of choice in matters of procreation, the identity-specific view broadens it excessively (e.g. seeing no objection to not refraining from producing disabled children).²⁷

The conclusion Fishkin draws from his comparison of the impersonalist approach and the person-affecting approach is that "Each of these familiar and coherent approaches that work well enough in ordinary life, yields unacceptable results for the interests of future possible people".²⁸ Parfit seems to reach a similar conclusion.²⁹ On the one hand, he wants to reject the identity specific view as leading to morally unacceptable conclusions.³⁰ On the other hand, he recognises that the impersonalist view as embodied in classical utilitarianism leads to the "Repugnant Conclusion", which also runs counter to our moral intuitions. Although, in his Reasons and Persons, Parfit set himself a goal of finding a theory of beneficence (he calls it theory X) which would both solve the Identity problem and avoid the Repugnant Conclusion, he is forced to concede in the concluding chapter that he has not yet found such a theory and that therefore these conclusions are unwelcome since they undermine our beliefs about our obligations to future generations.³¹

²⁵ Fishkin, op.cit.,p.71

²⁶ Fishkin, op. cit.,p.67

²⁷ Fishkin, op.cit., page 70

²⁸ Fishkin, op.cit. page 71

²⁹ Parfit, Reasons and Persons, op.cit., esp.Part IV, "Future Generations"

³⁰ "There must be a moral objection to our choice of the Risky Policy or Depletion", Reasons and Persons,p.451

³¹ Furthermore, the admission of failure in finding theory X leads Parfit to an amazing practical conclusion, that "In the meanwhile we should conceal this problem from those who will decide whether we increase our use of nuclear energy. These people know that the Risky Policy might cause catastrophies in further future. It will be better if these people believe, falsely, that the choice of the Risky policy would be against the interests of the people killed by such a catastrophe. If they have this false belief, they will be more likey to reach the right decision." Reasons and Persons, p.452. As has been argued in this paper, the Risky Policy would in fact be harmful to those affected by it.

Nor does a switch to average utilitarianism - i.e. that it is average utility that should be maximized - seem to provide a satisfactory escape route, although it would certainly avoid the Repugnant Conclusion. First, on the average principle, one would still be under a moral obligation to produce children if it were known that their lives would increase average utility per head. That result seems intuitively wrong. Even more wrong would be the case where society could raise utility per head by cutting off a lot of heads! Secondly, another bizarre implication of the objective of maximizing average utility would be that the growth of the population would only be desirable if, as result, average utility were not to be reduced.³²

These objections to the escape from the Identity Problem by adopting an impersonalist utilitarian view may not, however, be insuperable provided one is prepared to accept a plurality of top-level moral objectives. In that case, maximisation of utility subject to certain constraints, may allow one to escape from some of the difficulties. For example, one might want to maximise utility per head subject to the constraint that we do not cut off any heads. But the incorporation of side-constraints into utilitarianism leads into wider issues that lie outside the scope of this paper. The main point being made here is simply that an impersonalist ethical system is by no means an easy escape route from the apparent implications of the identity problem.

Furthermore, in any discussion of long-range environmental policy, issues of distributive justice cannot be avoided. And utilitarianism provides no satisfactory treatment of distributive justice in general, which is, of course, Rawls's main objection to utilitarianism. It is true that equality and liberty play a prominent role in the classical utilitarianism of Bentham, Mill, and others. But this was chiefly for their instrumental value - i.e. the extent to which they maximised utility. They did not possess independent end-value.³³

Indeed, as will be discussed at greater length in another paper, from the point of view of the contribution it may make to the problem of inter-generational justice, the Utilitarian-Impersonalist view provides no guidance at all. It shows provides no guidance as to how to trade off the interests of the future generations against those of the present generation.³⁴ But if future

³² Parfit would call it a "Mere Addition Paradox", see Reasons and Persons, pp.419-441

³³ For a full exposition of this see Amartya Sen, On Economic Inequality, Oxford, 1972, pp16ff.

³⁴ Again, following Parfit and other commentators on this particular problem, we are abstracting here from considerations of how one weighs up the benefits of future generations against the sacrifices that present generations may have to make by following a Conservation policy - i.e. we abstract from problems concerning the weights to be ascribed to benefits accruing in different time periods (as in the economist's practice of discounting the future)

generations are to enjoy a higher standard of living as a result of our Conservation Policy than they would have enjoyed had the Depletion Policy been adopted, then the question arises whether the present generation needs to make some sacrifice in order to adopt the Conservation policy. Of course, if there is no sacrifice to be made by the present generation whichever policy is adopted then the problem of intergenerational justice does not arise. It only arises if the present generation has to make some sacrifice in adopting a Conservation policy. But in that case one needs to know what the trade-offs are.

In other words, Parfit's claim that "it is worse if those who live are worse off than those who would have lived" should apply impartially to different generations across time. But this would then include the present generation, and it is not clear how the well-being of the future generations should be weighed against the well-being of a definitely existing present generation in the case of conflict between their interests. In the absence of some rule giving priority to the future generations in such cases, the maximizing principle that the best outcome is the one in which there will be the greatest quantity of whatever makes life worth living, clearly does not necessarily protect the interests of the future generations.³⁵ For example, if one were to assume that technical progress that has characterised society during the last century or more would continue into the future in spite of environmental deterioration, and faster than population growth, then the adoption of, say, the Rawlsian "Difference Principle" would justify earlier generations consuming their capital stock.

³⁵ This raises issue of distributive justice between generations that Parfit does analyse either in the quoted article or in Reasons and Persons, op.cit.

6. AN ALTERNATIVE ESCAPE FROM THE PARADOX OF FUTURE INDIVIDUALS

The weakest feature of the person-affecting claim is that it restricts the notion of "harm" in a way that seems open to challenge. As explained above, it implies that a policy does not cause harm to those affected by it if their coming into existence was causally linked to the adoption of that policy.

The alternative approach set out above, which is basically an impersonalist utilitarian approach, is to consider certain outcomes bad, and undesirable even if they do not harm any particular people.

It can be argued, however, that we are under no obligation to feel limited to the choice between those two approaches. We can claim that the notion of "harm" does not need to be as restricted as it is under the person-affecting view and that it can apply to those who suffer the results of some policy even if they would not have been born had a different policy been adopted. Such a claim would, of course, contradict the view that "the gift of life" automatically obliterates all harms that come together with that gift.

For example, it is quite possible to imagine a person living in a severely depleted world and believing that he and his contemporaries have been harmed by the policy that their predecessors had adopted. His argument would be as follows. "Though it is true that the policy that they chose contributed to my coming into existence, I would still have preferred that the world today had not been depleted even if it meant that it was a world without me". In saying this, the person in question is not necessarily expressing doubts about the value of his life. He is saying that he does not like the sort of life people have to live as a result of Depletion and he would have preferred it had this policy not been adopted. At the same time he does not believe he would have suffered any loss by not having come into existence. He may not even feel that he has suffered personally on account of the Depletion policy, but he may have preferred that the policy had not been adopted since its adoption may have violated his moral intuitions, which may include concern for the interests and standards of wellbeing of other people.

The problem which is obviously central here is a problem of comparing existence with non-existence (as opposed to death as a terminated existence). Does it make sense at all to say that non-existence might be better for someone who suffers as a result of being born? Obviously, there are extreme cases of severe disabilities where we would be inclined to say that it would have been better for a child with such disabilities not to have been born at all. But, as Heyd shows by analyzing a number of real-life court cases of "wrongful life", (discussed in Example 3), the general tendency of the courts has been to avoid the comparison of existence and nonexistence

on the grounds that it pertains to a sphere of knowledge to which judges do not claim to have any access.³⁶

Philosophers, who might be expected to provide some guidance in such matters, do not provide any clear answer to this question either, and tend to regard it as a rather slippery conceptual problem (although they often have views on the question whether one is benefitted by being born (e.g. Parfit challenges Narveson's views on the matter)³⁷ One might argue, for example, that even putting aside the comparison of existence marked by suffering, with non-existence - in which case one might be tempted to prefer non-existence - we might find it difficult to compare existence with non-existence. Suppose someone lives a happy life. Could we say that that person preferred to have come into existence rather than to have "remained" in non-existence given that there was no person who "remained" in non-existence? Perhaps some people might say that they value "the gift of life" and they feel benefitted by it, but others might take the opposite view. Although they could say they preferred continued life to dying, they might still not be willing to say that they preferred life to non-existence, simply because they could not imagine feeling any loss at not having been born.

Hence, it is far from clear what answer we should give to the question of whether existence is to be preferred to non-existence. And it is far from clear whether the future people who owe their existence to the Depletion policy will know, if asked. And whatever the answer is, it does not necessarily remove our sense of harm having been done to them. Irrespective of how we resolve the problem of comparing existence with non-existence it is perfectly conceivable that the victims of the Depletion policy can have a strong sense of having been harmed (or at least some of them may, which is quite enough to make the point) in situations where preventing the harm would also have meant preventing their coming into existence.³⁸

Our view that a person born as a result of the Depletion policy might legitimately have preferred that the Conservation policy had been adopted instead, even if it meant that he would not have existed, is not merely speculation about the possible preferences of future people. Examples can easily be imagined that are closer to home. For the person-affecting line of argument as set out above should apply equally well to any possible actions or events that might have contributed to

³⁶ David Heyd, *op.cit.*, p.30

³⁷ Parfit, *Reasons and Persons*, *op.cit.*, p.394

³⁸ Incidentally, it is not certain whether our views on how to value existence compared with non-existence should have implications for our views about what is harmful to us and what is not. Conversely, our intuition on what is harmful and what is not, might have implications for our views on the comparability of existence and non-existence.

the one's coming into being. For instance, the argument would imply also that members of a generation born in a communist regime in Eastern Europe could not be said to have been harmed or disadvantaged by the imposition of that regime since had it not been for communism they would not have been born. But, in fact, most of us who have been born in what were the communist regimes of East Europe would have preferred that other, democratic, regimes had existed instead, even in the full knowledge that we would probably not have been born under different regimes. And this would be the case even if the force of circumstances had been such that our own personal positions under the communist regimes were favourable. For we might feel "harmed" insofar as the state of the society into which we have been born offends us - as in the preceding example concerning Depletion.

Thus it seems that we are under no obligation to accept the very restricted notion of harm that forms one of the two key assumptions of the Identity Problem. The person in the example above can say that he feels harmed by having been born into a life which he finds in many ways intolerable, not necessarily for himself only but also for other people, and he would not have objected (if only because he does not really have any conceptual grasp of the comparison of existence to non-existence) not having been born if that was a necessary implication of the Conservation policy. He could also claim that the Depletion policy was a violation of his moral intuitions (utilitarian or perhaps other) and, in this sense, it was harmful to him as an individual having such moral intuitions.

There is another way, however, in which the person-affecting claim unduly restricts the notion of harm. According to the first assumption, there is no harm where there are no persons harmed. By the "persons harmed" are meant the other people who are affected by the actions of some agent or agents - e.g. future generations who would be affected by our present actions. However, the notion of harm brought about by some actions can legitimately apply also to their agents, and not only to their "objects". If we accept the conclusion of the earlier discussion, namely that future people are going to be harmed if we embark on the Depletion policy then the realization that we are morally responsible for their misfortunes will adversely affect us as well.

One should not, of course, overdramatize the scope and power of our moral qualms at the thought that the policies we adopt will hurt future people. To make my point it suffices to say, as does Nagel, that "People care about their causal relations to the benefit and harm of others in various ways. Most of them, other things being equal, want to benefit others and avoid harming

them" (which may be called a principle of beneficence).³⁹ And if that causal link really exists, then we can say that other people's good is part of our good and that by harming them we in some way harm ourselves. This view is particularly well represented in Nagel's distinction between the impersonal and the individualistic standpoints within the individual. "The impersonal standpoint in each of us produces, I shall claim, a powerful demand for universal impartiality and equality, while the personal standpoint gives rise to individualistic motives and requirements which present obstacles to the pursuit and realization of such ideals".⁴⁰ It is this impersonal standpoint within us, which is very Kantian by nature, that is harmed when we undertake actions which we perceive as harmful to others.⁴¹ To the extent that our moral ideals are important to us, their violation affects us personally.

³⁹ T.Nagel,"Comment" in Altruism,Morality and Economic Theory (ed.E.S.Phelps), Russell Sage Foundation 1975. p.65

⁴⁰ T.Nagel, Equality and Impartiality, Oxford University Press 1991, p.4

⁴¹ Here the term "impersonal" means "impartial" and should not be confused with the word "impersonalism" used before, and meaning that goods and bads are considered not in a person-affecting fashion.

7. RECAPITULATION

In the light of the arguments presented so far it seems possible to challenge the conclusion of the Identity Problem - namely that a choice of a certain policy cannot be harmful to people affected by it if they owe their existence to it - on four grounds.

First, and most important, the concept of "harm" embodied in it is too narrow. For existence is not a value automatically preferred to non-existence (which is something quite different from death). Hence, a person can reasonably say he dislikes certain features of the life he has to lead as a result of the Depletion policy to the point where he would have preferred that an alternative policy had been adopted even if its adoption would have meant that he himself might not have been born. In this sense, therefore, a person might legitimately feel harmed by the policy. Such a person would not need to feel any existential anxiety at the thought that, had it not been for that policy, he would not have existed, just I do not feel any existential anxiety at the thought that, had communism not been introduced in Poland after the war, I would not have been born. Although the prospect of death is something that normally terrifies us, the "prospect" of not having come into existence does not have the same meaning to us.

Secondly, in a rather similar way, person X may feel harmed in the sense that the Depletion policy was contrary to his moral intuitions (e.g. of a utilitarian character) according to which it would have been preferable had the Conservation policy been adopted. In that case the violation of those moral intuitions would have person-affecting implications in the sense that it would disappoint person X who subscribes to them.

Thirdly, insofar as the present generation disapproves of the consequences for future generations of a particular policy on moral grounds of one kind or another it harms the present generation. The choice of the Depletion policy might violate our moral objective of creating a future happy world, rather than an unhappy world, or our moral ideal of inter-generational equity. Of course, that still leaves open the question of the extent to which we ought to sacrifice our well-being in the pursuit of that objective. The Kantian moral ideal of impartiality, which is reflected in Nagel's "impersonal standpoint", would perhaps be a good starting point for the consideration of that question.

8. KAVKA'S NON-UTILITARIAN APPROACH TO THE PARADOX OF FUTURE INDIVIDUALS

Another proposal designed to avoid having to choose between the apparent implications of the person-affecting condition and of the utilitarian alternative, and that appears to fit easily into the above approach comes from Kavka, who puts forward two moral principles to be applied in intergenerational matters. The first is based on the notion of a "restricted life", which he defines as a "life that is significantly deficient in one or more of the major respects that generally make human lives valuable and worth living".⁴² The principle in question says that "other things being equal, conditions of society or the world are intrinsically undesirable from a moral point of view to the extent that they involve people living restricted lives".⁴³ Thus a policy that leads to restricted lives can be condemned as morally wrong. Depleting resources, polluting, or overpopulating the world would fall into that category.

Although the idea that we ought to prevent the creation of restricted lives may allow for a wide range of interpretations and in this sense be rather vague, it has considerable appeal to our moral intuitions. In fact, the challenge to the paradoxical conclusion which has been presented in the previous section of this paper would seem to complement the Kavka approach rather well. For it was argued above that, if one adopts a wider definition of "harm" than that which leads to the paradoxical conclusion, the people who come into existence as a result of the Depletion Policy (or the Risky policy) can, in fact, be said to have been harmed⁴⁴. In Kavka's terms we can express this by saying that they have been harmed in the sense that they are living lives that have been "restricted" (as defined above) as a result of having adopted the policy in question. And the present generation has a moral obligation not to create restricted lives. Therefore it ought to refrain from adopting either the Depletion or the Risky policy.

In terms of our value function, this could amount to adjusting the welfares of future generations according to how far we believe their lives have been restricted, or adjusting the weights in our value function along the lines indicated above in a way that recognises our moral obligation to prevent "restricted lives", or both.

The essential question regarding this principle is what we mean by "restricted lives". As Kavka

⁴² Gregory S. Kavka, "The Paradox of Future Individuals", *Philosophy and Public Affairs*, 11, 1982, p.105

⁴³ *ibid*

⁴⁴ Making the usual assumption, of course, to the effect that the Depletion policy makes the level of wellbeing of the distant generations lower than it would otherwise have been.

explains in a footnote, "restricted lives typically will be worth living for those who live them", so a life under the Depletion policy, although still worth living might be restricted and therefore the policy leading to it would be morally wrong. But that still does not explain when a life counts as restricted. Although Kavka does not say much about it, he links the notion of restricted life to some transgression of human dignity. And since he believes we share a fundamental belief in the value of human dignity, we feel under moral obligation to prevent, if we can, lives whose dignity would be violated.

The second principle that Kavka introduces is what he calls the "modified second form of Kant's categorical imperative" which "would forbid treating rational beings or their creation (that is their being brought into existence) as a means only, rather than as ends in themselves".⁴⁵ This modified Kantian imperative and the earlier principle of preventing restricted life, would each preclude the Repugnant Conclusion. The modified Kantian imperative would prevent it on the grounds that the Repugnant Conclusion treats the creation of human lives as means only ("vessels" in Fishkin's language), namely as means to the end of the maximized total utility. And that, according to the imperative, is forbidden. The other principle would prevent the Repugnant Conclusion on the grounds that, although the increase of the number of people would increase total utility the quality of individual lives might fall to the point that they could be considered restricted and as such should be prevented.

⁴⁵ G.S.Kavka, op.cit.,p.110. Kavka calls his imperative "modified" since in Kant's formulation there is obviously no mention of the "creation" of rational beings. What Kant says is as follows: "Act in such a way that you always treat humanity whether in your own person or in the person of any other, never simply as means, but always at the same time as an end." Immanuel Kant, Groundwork of the Metaphysics of Morals, transl.by H.J.Paton, N.Y. 1964 ch.II,p.96

9. CONCLUSION

As regards the effect on future generations of alternative environmental policies, the "Identity Problem" - as it is known - appears to lead to the paradoxical and counter-intuitive conclusion (known as "The Paradox of Future Individuals") that whatever policy we adopt we cannot "harm" future generations. For different policies - e.g. as regards depletion or conservation of resources - would lead to different future individuals who would not have been born if a different policy had been adopted. Hence, it is concluded, whichever policy is adopted the persons who come into existence cannot legitimately complain that they have been "harmed" by that policy.

If valid such a conclusion would imply that the choice of environmental policy should not be morally constrained in any way by the notion that we had any obligations to future generations. In a sense, therefore, if one conceived of the problem of inter-generational justice as being one of establishing the nature and status of such obligations, then the paradox in question would effectively preclude inter-generational justice as a legitimate subject for study. Hence, an escape from the paradoxical conclusion that appears to follow from the Identity Problem is an essential prelude to any attempt to establish the principles of inter-generational justice. One such escape route has been proposed above. This consists mainly of a challenge to the narrow concept of "harm" embodied in the Identity Problem. A simple formulation of an extended concept of harm in the context of a value function spanning generations has been suggested. A very similar escape route has been proposed by Kavka who develops an alternative specific concept of "harm". If one or other of these views is valid, therefore, inter-generational justice can remain on the agenda. It is hoped that the implications of this will be considered in a separate paper, which will cover related issues.

First, the proposed means of escaping from the "Paradox of Future Individuals" outlined above would be more attractive if one could show explicitly how they fit into the general framework of Kantian ethics. This is particularly important insofar as there are serious difficulties in applying the most widespread alternative ethical system, namely utilitarianism, to inter-generational justice, for reasons which have been briefly mentioned earlier and that will be also considered in more detail in the next paper. This will also analyse the main difficulties in applying to inter-generational justice the contractarian approach to justice as it has been developed by John Rawls, and which draws heavily on Kantian ethics.