

3-11-2013

Why 'Nonexistent People' Do Not Have Zero Well-Being but No Well-Being at All

Ori J. Herstein

Visiting Assistant Professor, Cornell Law School, 2010-2012, ori.herstein@kcl.ac.uk

Follow this and additional works at: <http://scholarship.law.cornell.edu/facpub>

 Part of the [Law and Society Commons](#), and the [Legal History, Theory and Process Commons](#)

Recommended Citation

Herstein, Ori J., "Why 'Nonexistent People' Do Not Have Zero Well-Being but No Well-Being at All" (2013). *Cornell Law Faculty Publications*. Paper 500.

<http://scholarship.law.cornell.edu/facpub/500>

This Article is brought to you for free and open access by the Faculty Scholarship at Scholarship@Cornell Law: A Digital Repository. It has been accepted for inclusion in Cornell Law Faculty Publications by an authorized administrator of Scholarship@Cornell Law: A Digital Repository. For more information, please contact jmp8@cornell.edu.

Why “Nonexistent People” Do Not Have Zero Well-Being but No Well-Being at All

ORI J. HERSTEIN

JOURNAL OF APPLIED PHILOSOPHY (2013)

This is the pre-peer review version of the following article: Ori J. Herstein, Why “Nonexistent People” Do Not Have Zero Well-Being but No Well-Being at All, *Journal of Applied Philosophy* (2013) which has been published in final form at <http://onlinelibrary.wiley.com/doi/10.1111/japp.12013/abstract>

ABSTRACT. *Some believe that the harm or benefit of existence is assessed by comparing a person’s actual state of well-being with the level of well-being they would have had had they never existed. This approach relies on ascribing a state or level of well-being to “nonexistent people,” which seems a peculiar practice: how can we attribute well-being to a “nonexistent person”? To explain away this oddity, some have argued that because no properties of well-being can be attributed to “nonexistent people” such people may be ascribed a neutral or zero level of well-being, setting the baseline for comparatively assessing the harm or benefit of coming into existence. However, this line of argumentation conflates the category of having zero well-being with the category of having no well-being. No Φ , unlike a zero level of Φ , is not comparable to levels of Φ – neutral, positive, or negative. Considering the nature of well-being and the fact that “nonexistent people” cannot (metaphysically or conceptually) have well-being determinative properties, it follows that “nonexistent people” have no well-being rather than zero well-being.*

1. Introduction

My aim here is to reject the notion that “nonexistent people” have any level of well-being, including a zero or neutral level. The significance of whether or not “nonexistent people” have a state of well-being prominently arises in the context of assessing whether being brought into existence can be harmful or beneficial and whether existence-determinative actions and events can harm or benefit those individuals they bring into existence.

The leading method for approaching such an assessment relies on the prevalent comparison-based conception of harm, under which act or event y , taking place at time t_1 , harms person Q only if y causes (or allows) Q to be worse off at some later time t_2 than Q would have been at t_2 had y not taken place. Assessing harm and benefit requires, therefore, comparing the well-being of an individual in two states of affairs: one in which the action or event (y) takes place and one in which it does not. By assessing and

comparing that person's well-being in both states of affairs, we determine whether the action or event improved or worsened that individual's overall lot, thereby concluding whether the act or event harmed or benefited that person.

When employed for the purpose of assessing the value of existence and of the harmfulness and benefit of existence-determinative actions and events, the comparison-based conception of harm and benefit requires that we compare the well-being of the person who was brought into existence in two states of affairs: one in which the existence-determinative event took place – and hence the person was brought into existence – and a second in which the existence-determinative event did not take place – and hence the person was never brought into existence. In order to yield a result, this method for assessing the harm/benefit of existence-determinative actions and events (for those they bring into existence) must assume that “nonexistent people” have a state of well-being.

It is important to point out that existence-determinative events neither harm nor benefit the person they bring into existence by affecting some *particular* aspect of that person's life, be the effect positive or negative. Rather, such events function as necessary causal conditions for that person's very existence. The object of assessment is, therefore, not any particular moment or aspect of one's life but rather the overall value one's existence has for one, which is assessed in relation to the overall value of one's life. In other words, we look to a person's well-being: to how well his or her life is going (or has gone) overall. Under such a comparison-based approach to harm, if a person is deemed overall better off existing than not (i.e., existing as she is and having the life she has) it follows that the existence-determinative acts and events in her prenatal or preconception past benefited her. In contrast, if a person would have been overall better off not existing than existing (as she is), such acts and events harmed her.

2. The Attribution Problem

The difficulty in applying a comparison-based analysis of harm to assessing the harmfulness of an existence-determinative event (y) is clear: the person whose well-being we are trying to measure only exists in the actual world, in which act or event y takes place; person Q does not exist in the world in which y has not taken place. How can we compare the state of Q 's well-being in the actual world with her well-being in a possible world *in which she does not exist*? It seems that we cannot. As John Broome puts it, “...if she had never lived, *there would have been no her* for it to be worse for, so it could not have been worse for her.”¹ David Heyd refers to the notion of comparing life with “non-life” as absurd and argues that it does not make sense.² The existence of the person whose state of being better or worse off is under assessment appears a necessary condition for making the comparison. And “nonexistent people” obviously do not exist. This difficulty is sometimes referred to as the “attribution problem.”³

According to the attribution problem a (theoretical) person *Q*, who does not, never has, and never will exist, simply cannot have a state of well-being. Well-being is always attributed to some *Q*, and in the case of individuals to *someone*. In a world in which *Q* never exists the idea of a state of well-being *of Q* (in that world) is muddled.

The implication of the attribution argument for the comparative approach to assessing and conceptualizing the harm/benefit of existence is devastating. Without the ability to assess or even make sense of the idea of how a person fares when s/he does not exist, we cannot speak meaningfully of the value of existence or of being brought into existence in terms of making a person better or worse off than s/he would have been otherwise. Therefore, it seems to follow that under a comparison-based conception of harm, existence-determinative actions and events never harm nor benefit the people they bring into existence; regardless of the value those individuals' actual lives have for them.

Not everyone agrees, however, with these implications of the attribution problem. In what follows I introduce (section 2) and reject (section 3) one such approach designed to demonstrate that “nonexistent people” *do* have a state of well-being, namely a zero or neutral level of well-being.⁴ My aim is to protect the position that “nonexistent people” do not have a level of well-being, and by extension to defend the notion that under a comparative conception of harm being brought into existence never harms nor benefits one. To clarify, I do not ascribe to the view that existence-determinative actions and events never harm or benefit those they bring into existence, only that such harm is not captured within an approach based on assessing harm in the comparative terms of making those individuals brought into existence better or worse off.⁵

3. The Argument for Ascribing “Nonexistent People” With a Zero Level of Well-Being

There is considerable support in the literature for the position that nonexistence entails a zero level of well-being. Several philosophers have argued for this view,⁶ as have some legal theorists attempting to set a baseline for assessing the harmfulness of coming into existence as a tool for determining the harm/damages involved in legal claims, such as “wrongful life” claims.⁷

For example, Krister Bykvist considers an approach (which he later rejects) according to which the state of nonexistence has neutral value for “nonexistent people” because being “‘neutral for’ only expresses the mere lack or absence of any instantiation of the relation of being good for and being bad for,” and because nothing is neither good for nor bad for “nonexistent people,” everything has neutral value for “them.”⁸ Here the fact that “nonexistent people” lack any well-being determinative properties is exactly the reason for ascribing “them” with zero well-being.

The argument for ascribing “nonexistent people” with a level of well-being – namely a zero level of well-being – may even profess to accept the attribution argument: it is exactly because no properties vest in “nonexistent people” (after all, there is no “one” in whom properties may vest) that “nonexistent people” have zero well-being (in the world in which “they” do not exist). Well-being is a function of having certain properties and lacking others, and where no well-being-determinative properties vest at all there is zero well-being. Here it is not some constellation of well-being-determinative properties that “adds up” to neutral or zero well-being – as is the case of an actual person whose life happens to be overall neither good nor bad – but rather it is the *lack of any* well-being-determinative properties that entails zero well-being. In this approach, ascribing “nonexistent people” with zero well-being supposedly does not attribute any property to “them” – as is the case of the actual person whose life is of neutral value overall – but is merely a function of “nonexistent people” having no well-being determinative properties at all (at least not in the world in which “they” do not exist). Thus, having zero well-being is not a property a “nonexistent person” has but a product of the lack of well-being-determinative properties. According to this line of reasoning the attribution argument does not pose a problem for ascribing a zero level of well-being to “nonexistent people,” because in doing so we do not ascribe “nonexistent people” with any property (in the world in which “they” do not exist). As Melinda Roberts puts this point

...when we say that Nora [a “nonexistent person”] has zero well-being at *B*, we should eschew the idea that we are attributing to her the property of having at *B* some level of well-being: be it a negative, positive or zero level of well-being. We are, rather, denying that she has at *B* any properties at all. Since Nora has no properties at *B* at all, all the properties – that empty set – that she does have at *B* add up [to] a zero level of well-being.⁹

At this juncture the proponent of the attribution argument may object to the ascription of zero well-being to “nonexistent people” on the grounds that it runs afoul of the attribution argument. Because claiming that a “nonexistent person” has zero well-being is, in and of itself, an ascription of a property to that “person.” Namely the property of “having zero well-being.” And according to the attribution argument it is metaphysically impossible to ascribe “nonexistent people” with any properties whatsoever, certainly not in the world in which “they” do not exist.

But even if the view that “nonexistent people” have zero well-being amounts to ascribing “nonexistent people” with the property of having some well-being (in the world in which “they” do not exist), the rejection of this view on the grounds of failure in attribution is too quick. The disagreement may arise not from the fact that one party does not fully appreciate the breath of the attribution argument, but rather from a divergence in deeper metaphysical commitments. In fact, one way to frame the disagreement between

those who believe that “nonexistent people” have zero well-being and those committed – on the grounds of the failure in attribution – to the view that “nonexistent people” have no well-being at all, is in the terms of the broader metaphysical divide between actualism and possibilism.

The attribution argument assumes actualism, according to which “[i]f an individual exemplifies a property or stands in a relation in a world, it must exist (i.e., be actual) in this world.”¹⁰ Thus, if Q does not exist in some world then Q neither has any properties nor stands in any relation in that world. Actualism, therefore, disallows ascribing any properties whatsoever – including zero well-being – to “nonexistent people.”

But while actualism is a leading position in the metaphysics of modality, it is not uncontroversial.¹¹ Possibilists hold that possible entities – even if non-actual or nonexistent – may nevertheless have certain properties and relations even in the world in which “they” do not exist.¹² In fact, it is not implausible to read Roberts’ claim that “nonexistent people” have zero well-being as assuming a rejection of the actualism imbedded in the attribution argument in favor of some form of possibilism. According to such a view, while “nonexistent people” may lack any and all well-being determinative properties (in the world in which “they” do not exist), we may still ascribe “them” with certain other properties, such as with the property of having zero well-being (which is supposedly what a complete lack in well-being determinative properties amounts to).

For our purposes, thankfully, we may sidestep these deep metaphysical issues. My position against the ascription of zero well-being to “nonexistent people” does not rely on taking sides in the age-old metaphysical debate between actualists and possibilists. Unlike the argument from attribution, my argument relies on the nature of well-being and not on an actualist assumption concerning the nature of nonexistent entities. This essay aims to defend the implications of the attribution argument from its critics without committing to the attribution argument’s potentially controversial metaphysical assumptions. Thus, what I must demonstrate is that “nonexistent-people” do not have zero well-being regardless of whether or not actualism is correct.

4. Why “Nonexistent People” Do Not Have Zero Well-Being But Rather No Well-Being at All

A person has various properties that are determinative of his or her state of well-being. For example, one may have meaning in life, be moderately successful in one’s endeavors, have good friends and valuable relationships, suffer from some malady etc. All these and other relevant properties and how these various properties “hang together” form the state of one’s well-being. In some cases the relation between “negative” and “positive” well-being-determinative properties may cancel each other out or create, in conjunction, a life that is of neutral or zero well-being. The position that “nonexistent people” have zero

well-being is based on the problematic notion that a lack of any well-being-determinative properties similarly must culminate in a state of zero or neutral well-being. What is confused here is thinking that having none of the type of properties that determine well-being necessarily culminates in a zero or neutral level of well-being rather than in *no well-being at all*. I will argue that it is a mistake to treat the case of the “nonexistent person” similarly to that of an actual person whose state of well-being happens to turn out neutral.

Scales that measure different degrees of some Φ do not necessarily denote a zero level of Φ in cases in which *no* Φ -determinative factors vest at all. Rather, where an object does not have any Φ -determinative properties, the Φ scale often simply does not apply to that object, entailing that Q has *no* Φ . The significance of distinguishing between “zero Φ ” and “no Φ ” for a comparative conception of harm and benefit is that zero Φ is comparable to other states of Φ – such as positive or negative Φ – while *no* Φ is incomparable with any state of Φ . While in the first case we are in a position to compare different levels of Φ in the second case we have one level of Φ with nothing to compare it to.

The view that any case of no Φ -determinative properties is a case of zero Φ (rather than of no Φ) commits one to some unnatural locutions. Consider, for example, the notion of a rock’s IQ. Personal intelligence is understood as a function of various intelligence-determinative properties, such as the ability to solve problems, to think critically, abstractly, quickly, insightfully etc. Does an entity such as a rock, which does not possess any of these cognitive abilities (at whatever level or quality, since it cannot think or feel at all), have an IQ of zero? Or rather perhaps IQ (or any other scale for measuring intelligence) simply does not apply to rocks (as we know rocks to be)? Because rocks lack any properties determinative of having any level of IQ, the position committed to ascribing zero Φ to all entities that lack all Φ -determinative properties appears committed, at least on its face, to accepting that rocks have zero IQ. Under this view the “intelligence of a rock” is comparable to the intelligence of, for example, persons. Allowing for such comparisons opens the door for some very peculiar locutions, such as: “this rock is not as smart as that boy” or “all rocks are equally dim.”

Adopting the distinction between the state of *zero* Φ – which is commensurate with and open to comparison with other levels of Φ – and *no* Φ – which is not on a scale of Φ and therefore not open for such comparisons – dissolves unintelligible comparisons such as that between the intelligence of a rock and a person. Accepting that rocks have *no* IQ – as opposed to a *zero* IQ – clarifies that rocks simply cannot be assessed in terms of IQ.

A second example is the measuring of profit and loss. A corporation that spent or lost as much as it earned will end the quarter with zero profits. However, do all

“nonexistent entities,” which obviously have neither income nor any expenses, end each quarter with zero profit? Does the fact that attributing profit and loss as a function of the balance of transactions allow us to claim that an entity, which has no financial activity whatsoever, has a level of profit and loss? I think not. The terms “loss” and “profit,” as well as the scale used to measure them, simply do not apply in the case of entities that do not generate income or incur expenses at all. A “nonexistent entity” does not generate more or fewer profits than an actual corporation, but rather “it” simply has no level of loss and profit.

Of course the examples of the “intelligent rock” or of the “profitless nonexistent corporation” do not prove that for every Q the lack of Φ -determinative properties denotes having no level of Φ rather than having a zero level of Φ . Perhaps there are cases wherein the lack of Φ -determinative properties does amount to a zero level of Φ . What the examples do demonstrate, however, is that at least on occasion the category of “no level of Φ ” better captures instances of Q having no Φ -determinative properties than the category of “zero level of Φ .”

Broome has apparently expressed the position (in personal communication with Holtug) that having zero value is not the same as having no value, claiming that logic has no temperature colder than the ocean.¹³ Holtug accepts Broome’s example on the grounds that it is sensible to ascribe temperature only to objects that have certain molecular properties that allow for having temperature.¹⁴ However, Holtug argues that Broome’s example is not analogous to the ascription of well-being to “nonexistent people” because “there are cases in which it is the absence of certain (positive) properties that makes an ascription of zero value correct.”¹⁵ Perhaps Holtug is right that at times a lack of certain properties can entail that a person has zero well-being. But that is neither here nor there, because the issue for us is not whether there are occasions wherein the lack of properties amounts to a person having zero well-being but rather whether this is ever the case for “nonexistent people.”

So when does Q , who lacks all Φ -determinative properties, have zero Φ and when does Q have no Φ at all? A partial answer is to articulate a conditional for when Q – who lacks any Φ -determinative properties – may have zero Φ . That is, a condition for the applicability of Φ to any Q that has no Φ -determinative properties. I believe that Q being able to or being the sort of entity that can have Φ -determinative properties is such a condition. Where Q not only does not have the properties determinative of some level of Φ , but also is incapable (in the relevant sense) of having such properties, it seems false to relate any level of Φ to Q , including a zero level. In such cases the appropriate category to describe Q in terms of Φ is that Q as “no Φ ” at all. An entity incapable of having any Φ -determinative properties is simply not the sort of entity that can have any level of Φ , including zero. The Φ metric or scale simply does not apply to such an entity.

Accepting this conditional permits ruling out many odd locutions that derive from ascribing a zero level of some Φ to a Q that has no Φ -determinative properties. Such as “the number 5 has zero contribution to the good in the world,” “this poem has zero shades of green,” or “*modus ponens* is not as cold as the Indian Ocean.” Considering that the number five, poems, and rules of formal logic, are not the type of entities that can, respectively, contribute to the good in the world, have shades of color, or temperature, they have *no* such contribution, color, or temperature rather than a *zero* or *neutral* level.

In contrast, where Q is a type of thing that *can* (in the relevant sense) have Φ -determinative properties, then the lack of any such properties *may* entail that Q has a *zero* level of Φ rather than *no* Φ at all. For example, if one of many backup musicians played an entire concert with his/her electric instrument turned off, s/he could be said to have had a zero contribution to the performance (assuming s/he did not have a negative contribution by omission).¹⁶ Because in failing to add the sound of his/her playing to the concert the musician’s playing made no contribution – negative or positive – to the performance. It is because the musician *could* have had such a contribution that it seems permissible (and in this case I think appropriate) to say that the musician’s playing had *zero* contribution to the performance, and “zero contribution,” unlike “no contribution,” is comparable to the contributions – be they neutral, negative, or positive – of the other musicians.

This is not to say that for any Q that can have Φ -determinative properties the lack of any such properties necessarily constitutes a zero level of Φ rather than no Φ . I only claim that the possibility or capacity of Q to have Φ -determinative properties is a necessary condition for Q to have a zero level of Φ where Q has no Φ -determinative properties. I do not claim that the capacity to have Φ -determinative properties is a sufficient condition for having zero Φ ; it remains *possible* for any Q that can have Φ -determinative properties yet happens to lack any such properties to have *no* Φ (as opposed to zero Φ).

The nature of the modality distinguishing between a case wherein one *can* have Φ -determinative properties – the proposed (necessary yet not sufficient) condition for having zero Φ – and a case wherein one *cannot* have Φ -determinative properties is not entirely clear. For example, did or could have the ballplayer who stood all day in right field doing nothing, because no balls were hit in his direction, contribute to the game? Could he have contributed to the game? And what about the player who sat on the bench for the duration of the game? Under some sense of the term “can” the players could have made a contribution and under other senses they could not have.

The vagueness of the modality notwithstanding, what is clear is that the modality of *being able to* have Φ -determinative properties as a condition for having a level of Φ – positive, negative, or zero – entails or demands at least (and probably more than)

metaphysical or conceptual possibility, which are perhaps the broadest and least strict modal categories. Conceivably the modal condition for the applicability of the “zero well-being” category (or any other level of well-being) to Q is actually stricter than mere metaphysical or conceptual possibility, requiring for example some form of practical possibility. Regardless, what is self-evident is that for Φ to apply to Q it must *at least* be metaphysically or conceptually possible for Q to have Φ -determinative properties. In other words, comparability and measurability in terms of Φ – even in terms of zero Φ – is conditioned on being the sort of entity that can – at least metaphysically or conceptually – have Φ -determinative properties.

What of the well-being of “nonexistent people”? Given that “nonexistent people” have no well-being-determinative properties, the question is do “nonexistent people” pass the hurdle of the modal condition for the applicability of the category of “zero well-being”? That is, are “nonexistent people” the sort of entity that at least metaphysically or conceptually can have well-being determinative properties? I think not.

Well-being is a measure of a life as a whole or at least of a component (e.g., one’s career) or a period (e.g., one’s time at university) in a life.¹⁷ The value of a life as a whole, that is one’s well-being, depends on how various events in or relating to one’s life aggregate and correlate to each other in forming “what might be called their narrative or dramatic relations,”¹⁸ what is figuratively one’s “life story.” Conceiving of well-being as a measure of the value of a life *as a whole* is certainly the conception of well-being assumed in the attempt to assess the harm and benefit of existence through ascribing “nonexistent people” with zero well-being: comparing the overall value of one’s actual life – that is of one’s well-being – to the zero well-being one would have had had one never existed.

“Nonexistent people” lack well-being or well-being determinative properties. Existence or actuality is a condition for having a life. “Nonexistent people”, therefore, obviously never have, do not, and never will live (at least not in the world in which “they” do not exist). As we saw, well-being is a function of aspects of one’s life and is a feature of and is conditioned on having a life. Considering this feature of well-being and seeing that “one” who does not exist has no life, it follows that “nonexistent people” lack any and all well-being and well-being determinative properties.

Seeing that “nonexistent people” lack well-being and well-being determinative properties, do “nonexistent-people” have *zero well-being* or *no well-being at all*? Upon judging “nonexistent people” against the modal condition suggested above for ascribing zero Φ to entities that lack Φ -determinative properties, we must conclude that “nonexistent people” do not have zero but rather no well-being at all. This is because the reason for why “nonexistent people” lack any and all well-being and well-being

determinative properties is not contingent, but derives from “their” very nature as nonexistent. It is a conceptual or metaphysical truth that life is a necessary condition for well-being and existence is a necessary condition for a life. And as “their” moniker stipulates, a necessary and defining feature of “nonexistence people” is that “they” do not exist. Therefore, “nonexistent people” cannot – metaphysically or conceptually – have well-being. Accordingly, “nonexistent people” have no well-being and not zero well-being.

Proponents of the view that “nonexistent people” have zero well-being should eschew the instinct to turn to possibilism for salvation. As just explained, actuality or existence is a condition for having a life. And having a life is a feature of actual persons (in the world in which they exist). Thus, even if actualism is a misguided view and it turns out that people may have certain properties in a world in which “they” do not exist, life is not one of those properties.

What about imaginary or mere possible people? Can we not say that Gandalf, the legendary wizard of the Lord of the Rings trilogy, had a valuable *life* or that Voldemort, the evil wizard of the Harry Potter series, led a miserable *life*? And, if so, does it not follow that “nonexistent people” can have well-being? We may in fact refer to the well-being of imaginary people, saying, for example, that the Wizard Merlin led an exemplary life. The fallacy in using practices of ascribing “life” and “well-being” to imaginary people in support of the view that such people actually live and have well-being is that it is a line of argument that is purely semantic, exploiting two different meanings of the terms “life” and “well-being” than the meanings employed throughout this paper. Clearly a mere possible or an imaginary person is not “alive” in the same sense as is an actual person. Not surprisingly, the nature of the moral significance we ascribe to these two types of “lives” varies drastically. The well-being deriving from the life of an actual person is of intrinsic moral value or significance, while the well-being deriving from an imaginary “life” lacks any such value. “Nonexistent people” do not have a life in the world in which “they” do not exist; certainly not in the sense of the term “life” I care about here.

Claiming that “nonexistent people” have a zero level of well-being fails as a means for defending the comparative-based account of the harm/benefit of coming into existence. The category of having zero Φ where there is a lack of any Φ -determinative properties seems to presuppose at least a metaphysical or conceptual possibility of the instantiation of such properties. “Nonexistent people” do not have *zero well-being* but rather *no well-being at all* because “nonexistent people” categorically never live and therefore “they” *cannot* – metaphysically or conceptually – have any well-being-determinative properties whatsoever. Well-being is for those who live, and thus for those who exist.

Ori J. Herstein, King's College London Dickson Poon School of Law, London WC2R 2LS, ori.herstein@kcl.ac.uk. For their comments, I am grateful to Michael C. Dorf, David Enoch, Robert A. Ferguson, Kent Greenawalt, Miguel Herstein, Uri D. Leibowitz, Joseph Raz, the participants of the staff seminar at the King's College London Centre for Medical Ethics, and the referees for the *Journal of Applied Philosophy*.

NOTES

1 John Broome, *Ethics out of Economics* (Cambridge: Cambridge University Press, 1999) p. 168.

2 David Heyd, *Genethics: Moral Issues in the Creation of People* (Berkeley: University of California Press, 1992) pp. 30-31, 121.

3 For accounts of the attribution problem in the context of comparing the value of existence and nonexistence see Broome op. cit., p. 168; Melinda Roberts, 'Can It Ever Be Better Never to Have Existed At all? Person-Based Consequentialism and a New Repugnant Conclusion', *Journal of Applied Philosophy* 20, 2 (2003): 159-185, at pp. 171-172; Clark Wolf, 'Person-Affecting Utilitarianism and Population Policy or, Sissy Jupe's Theory of Social Choice' in N. Fotion and J.C. Heller (eds.) *Contingent Future Persons, On the Ethics of Deciding Who Will Live, or Not, in the Future* (Dordrecht: Kluwer Academic Publishers, 1997), pp. 108-109; Nils Holtug refers to this problem as the "metaphysical argument," Nils Holtug, 'On the Value of Coming into Existence', *The Journal of Ethics* 5, 4 (2001): 361-384, at p. 371. In the debate surrounding the value of death, this problem is known as the "existence requirement." See e.g., J.M. Fischer, 'Introduction' in J.M. Fischer (ed.) *The Metaphysics of Death* (Stanford: Stanford University Press, 1993). See also David B. Hershenov, 'A More Palatable Epicureanism,' *American Philosophical Quarterly* 44, 2 (2007): pp. 171-180.

4 The terms "neutral" and "zero" are used here interchangeably.

5 For a discussion of alternative conceptions of harm in the context of existence-determinative actions and events see Ori J. Herstein, "The Identity and Legal Rights of Future Generations," *George Washington Law Review*, 77,1173 (2009): 1205-1214.

6 Roberts (2003) op. cit., pp. 171-172; Peter Vallentyne, who endorses Roberts' position, Peter Vallentyne, 'Melinda Roberts, Child versus Childmaker: Future Persons and Present Duties in Ethics and the Law', *Nous* 34, 4 (2000): 634-647; Fred Feldman, who stipulates that the well-being of Q in a world in which s/he does not exist is zero, Fred Feldman, 'Some Puzzles About the Evil of Death', *The Philosophical Review* 100, 2 (1991): 205-227, at p. 210; Ben Bradley, who analogizes his argument for the possibility of ascribing the dead with a zero level of well-being to "nonexistent people," Ben Bradley, *Being and Death* (Oxford: Oxford University Press, 2009), p. 110; Nils Holtug, who argues that the state of an actual person who has a zero level of well-being – because no positive or negative values befall her – is equivalent to the state of well-being of a "nonexistent person" to whom no negative or positive values apply, Holtug op. cit., p. 381. For a compelling response to Holtug rejecting the position that nonexistence has neutral value for a "nonexistent person" see Bykvist op. cit.

7 See e.g., 'A Cause of Action for Wrongful Life: A Suggested Analysis,' *Minnesota Law Review* 55 (1970): 58-81, at pp.64-66; Thomas K. Foutz, "'Wrongful Life': The Right not to be Born', *Tulane Law Review* 54 (1980): 480-499, at pp. 496-98; Mark Strasser, 'Wrongful Life, Wrongful Birth, Wrongful Death, and the Right to Refuse Treatment: Can Reasonable Jurisdictions Recognize All but One?', *Missouri Law Review* 64 (1999): 29-76, at p. 63.

8 Bykvist op. cit., pp. 343-344.

9 Roberts (2003) op. cit., p. 178.

10 Krister Bykvist, 'The Benefits of Coming into Existence', *Philosophical Studies* 135, 3 (2007): 335-362, p. 339.

11 For a survey of the debate between the actualist tradition and the possibilist tradition see Menzel C., "Actualism", *The Stanford Encyclopedia of Philosophy* (Winter 2008 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/entries/actualism/#ActualistResponses>>.

¹² COCCHIARELLA, NINO B. (1998). Property theory. In E. Craig (Ed.), *Routledge Encyclopedia of Philosophy*. London: Routledge. Retrieved September 11, 2012, from <http://www.rep.routledge.com/article/Y031SECT3>

13 Holtug op. cit., pp. 381-382 n. 38.

14 Ibid.

15 Ibid.

16 The distinction between contributing and not contributing does not derive from the distinction between action and omission. One can contribute zero through action and contribute negatively or positively through omission.

17 For an account of well-being as denoting the overall value of a life see Joseph Raz, *The Role of Well-Being*, *Philosophical Perspectives Ethics* 269-294 (2004).

18 David Velleman, *Well-Being and Time*, *72 Pacific Philosophical Quarterly* 48-77, 49 (1991).