

THE PRINCIPLE OF THE ‘DOUBLE EFFECT’

by Brian Lewis*

The so-called principle of the double effect has long been known to students of moral theology as both difficult to grasp clearly and elusive to apply in practice. The principle evolved in the 16th and 17th centuries in the Salamanca School of theology in Spain as an attempt to resolve the complex situation where there are both good and bad effects resulting from one and the same action.

The claim is that one is sometimes morally justified in causing such a bad effect in the pursuit of a good result, even though it would be morally wrong to cause such a harm as a deliberate object of intention in order to realise the good effect. The basis of the principle occurs in St. Thomas Aquinas's discussion of self-defence, but Jesuit moral theologian, Jean-Pierre Gury is credited with giving the principle its standard modern formulation in the middle of the 19th century.

Although this now well-known ethical rule of thumb was long confined almost exclusively to Roman Catholic moral theologians, in recent decades it has been much discussed by philosophers and put into service by ethicists of all persuasions in tackling difficult ethical dilemmas.

Understanding the Principle

1. To Aquinas is attributed the first use of the principle in his discussion of the morality of self-defence in his *Summa Theologiae*, 2a-2ae, Question 64, article 7. He maintains that it is wrong to intend deliberately to slay an aggressor, but he raises the question whether and in what situation one may be morally justified in killing an attacker, leaving aside the issues of capital punishment and killing in a just war.



Thomas Aquinas, Benozzo Gozzoli, Wikipedia

His argument runs as follows. ‘Nothing, he says, prevents one act from having two effects, only one of which is intended, the other beside the intention’. He then recalls one of the fundamental tenets of ethics: ‘Moral acts are specified by what is intended, not by what is beside the intention.’ This basic principle he then applies to a person's act of self-defence, which may have two effects: ‘one the preservation of one's own life, the other the killing of the aggressor’. What is intended in this act is the preservation of one's own life, something which ‘is not unlawful, since it is natural for any living being to preserve its life as far as possible’. The death of the aggressor is not what is intended in the act of self-defence; it is ‘beside the intention’.

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However, as Aquinas stresses, the lawfulness of self-defence is not unconditional. It is possible for an act springing from a good intention to become immoral if it is disproportionate to the end intended. 'Therefore, if one in self-defence uses more violence than is necessary, it will be unlawful, whereas, if one repels force with moderation, the act of self-defence will be lawful'.

2. Deriving from Aquinas's discussion of the case of self-defence, the standard formulation of the principle of the double effect states in general terms that under certain conditions it is morally licit to do something for a good purpose, namely, the good effect, even though one foresees that a bad effect, for example, the death of an innocent person, will inevitably result from it. The required conditions set limits to the evil that may justifiably be done in quest of the good. They may be expressed as follows:

- i) the act done must be ethically good or at least ethically indifferent in itself, that is, it must not be evil from its object;
- ii) the bad effect must not be intended as an end in itself (it is often said to be only 'indirectly' intended);ⁱ
- iii) the good effect must not come about by means of the bad effect. That is, the good consequence of the action must flow at least as immediately (in the order of causality, not necessarily in the order of time) as the evil consequence. Otherwise one would be using a bad means to a good end, which is never lawful.
- iv) there must be a proportionate reason for causing the harm, that is, the good effect must be equal to or predominate over the bad effect. A consequence that benefits or harms society is more weighty than what affects merely an individual; an effect of a moral nature has more importance than one that affects only material things.ⁱⁱ

The first two of these conditions are general rules of ethics. A person is never justified in performing a morally evil action. Nor may one ever positively intend an evil consequence of an action, even though the act would otherwise be lawful. The third and fourth conditions apply specifically to the principle of the double effect.

Each of these conditions has at times been somewhat controversial.

The first condition is obviously not accepted by those ethicists who object against moral absolutes, such as utilitarians and proportionalists (see my article on this site on some 'Major Ethical Theories').

The second condition assumes the distinction between directly intending a consequence and merely foreseeing it. Some ethicists argue that if an outcome is foreseen it must be intended and thus one is morally responsible for it. Others look for some criterion for the distinction. The distinction between what is deliberately intended and what is beside the intention (*praeter intentionem*) arose out of the common experience that there is a difference between what a person intends or aims at in acting, for example, relief of severe pain through the use of drugs, and what results from the action as an unintended by-product, for example, hastening the suffering person's death.

It may be of help to reflect on the fact that this difference is commonly recognised in everyday life. For example, in taking an anti-histamine a hay fever sufferer intends

the relief of this condition and is prepared to put up with the drowsiness that may result. The latter is incidental to the purpose of taking the medication and is certainly not intended either as a means to some other end or as an end in itself, although of course it may well be foreseen. A law may be good in its purpose even though, incidentally, it may have some damaging consequences and these may be foreseen. So it is important to realise that the fact that an evil effect is foreseen does not necessarily make it an object of intention.

The third condition rests on the principle that we may never do evil in order that good may result from it. Many find this unacceptable, for example, those who argue for the lawfulness of embryonic stem cell research in the hope that the intentional destruction of the embryo may lead to the discovery of cures for at present incurable diseases. Those who argue in this way, however, probably do not consider the embryo a living human being but rather just a mass of cells, so they may not see anything wrong in destroying it.

The fourth condition introduces the idea of proportionality and is, as might be expected, the only principle accepted by proportionalist moral theologians. This for them leaves the fourth condition, proportionate reason, as the key principle in determining the morality of an act. The presence or absence of a proportionate reason is alone finally decisive. The means may be a pre-moral evil, for example, the killing of a nonviable fetus, but in the context of the whole situation it is not morally evil if there is a proportionate reason for causing it. So, if termination of a pregnancy were necessary to save the life of a mother suffering from potentially fatal heart disease, the proportionalist viewpoint would justify it. But, for Catholic moralists generally and many other ethicists, as we shall see, this intervention is morally wrong.

Applying the Principle

The Principle of the Double Effect has many applications in the ethical field, in bioethics, in issues of life and death, in cases of difficult childbirth, in matters of justice, to name a few.

1. A doctor intending to hasten the death of a terminally ill patient by injecting a large dose of morphine would be acting immorally, because he intends to cause the patient's death. On the other hand, the same doctor who uses analgesics as the only way of easing intolerable pain in a dying patient and merely foresees that this will hasten death, would not be acting wrongly. (It is noteworthy, however, that often more is required of doctors in practice. A variety of substantive medical and ethical judgments influence the context: the patient is terminally ill, there is urgent need to relieve pain and suffering, death is imminent, and the patient or the patient's proxy consents). A similar judgment may be made about a surgeon treating a medical condition through surgery that will result in sterility. The sterility of the patient is foreseen but beside his intention.
2. A terrorist who throws a bomb into a crowded supermarket in order to create chaos among his enemy and undermine their resistance intends the deaths of civilians as a means to achieve his aim. A strategic bomber in a time of war aims at a military target but foresees that a small number of civilians will be killed in the process. This is beside his intention and is compensated for by the national benefit gained by the destruction of the objective. However, if the aim

of the bombing were to be the destruction of a very large number of non-combatants in order to break a nation's morale and force it to sue for peace, as was the case in the bombing of Hiroshima and Nagasaki by the Americans at the end of WWII, this would involve intending the mass destruction as an evil means to a good end.

3. For the same reason it would be morally wrong to throw a person onto the track in the hope of stopping a runaway train and prevent it mowing down five people trapped on the track. But it would not be unlawful to divert a train onto a track with one person on it and away from another track with five people on it. The death of the one person is not intended either as a means or an end and the bad effect of that person's death is not disproportionate to the good end of saving the five people.
4. A doctor who is opposed to abortion, even in order to save the mother's life, might nevertheless consistently conclude that it would be morally right to perform a hysterectomy in the case of a pregnant woman who is diagnosed as suffering from a cancerous uterus. A hysterectomy is not necessarily a bad thing - it is not in itself morally wrong, otherwise it could never be permitted. Secondly, it is the removal of the diseased uterus, not the death of the fetus, that is the means of saving the mother. Thirdly, the death of the fetus is not intended as the end or purpose of the operation (as it would be in a 'direct' abortion). Finally, saving the life of the mother, if this is the only way it can be done, is a good that balances if not overrides the evil effect of causing the death of the fetus (and of making the woman sterile), even though this will inevitably follow.

On the other hand, the principle could not validly be used to justify abortion in the case of a pregnant woman at risk from a potentially fatal condition, for example, heart disease, which would be lessened by the termination of the pregnancy. This would violate the second and third condition, because in this case the death of the fetus is directly intended precisely as the means of saving the mother's life. It is through the death of the fetus that the risk to the mother is removed. Today however, it would be rare that advances in medicine and technology could not be availed of to enable the mother to bear her child successfully.

5. Sacrificing one's own life in order to save the lives of others is not the same as suicide because the intention is not to kill oneself but to save others: so a soldier who falls on a live grenade intends to shield his mates from the blast and merely foresees his own death; by contrast, persons who commit suicide intend to terminate their life.ⁱⁱⁱ

Ordinary people frequently use the principle of the double effect in everyday life without being much aware of the technical formulation and conditions of the principle, going instead on common sense.

A test pilot who tests planes in order to improve aeronautic equipment but may crash and die as a result;

the doctor who treats people with contagious diseases and may finish up getting infected herself/himself;

the policeman who tries to capture an armed criminal at the risk of being himself injured or even killed; or

the fireman seeking to fight a serious bushfire who may be surrounded by the flames and die in the process.

All these actions are morally justified according to the principle of the double effect, because the evil consequences for their life and health that these operators may incur are foreseen as possible but are beside their intention and are outweighed by the great good their conduct bestows upon society.

Discussion, and even some controversy, about the principle of the double effect are ongoing. Rightly understood and judiciously applied, it would still seem to be of value in arriving at a reasoned and reasonable moral judgment in many difficult cases.^{iv}

ⁱ The terms 'direct' and 'indirect' in the moral context refer to the intention. What is intended in itself, whether as an end or as a means to an end, is called direct; what follows but is not intended in itself is said to be indirect.

ⁱⁱ For further reading see Joseph T. Mangan, 'An Historical Analysis of the Principle of Double Effect', *Theological Studies* 10 (1949) 41-61, Charles Curran and Richard McCormick, eds, *Readings in Moral Theology* No 1 (Paulist Press: New York/Mahwah, 1979), Charles Curran, 'The Principle of Double Effect', *Ongoing Revision: Studies in Moral Theology* (Fides: Notre Dame, 1975), pp.173-209

ⁱⁱⁱ See 'Doctrine of Double Effect', *Stanford Encyclopedia of Philosophy* (<http://plato.stanford.edu/entries/double-effect>)

^{iv} This principle has been widely employed in official teachings of the Catholic Church to disapprove of direct abortion, direct sterilisation, etc., but allow some flexibility in the application of strict moral prohibitions.