An Error About the Doctrine of Double Effect

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It would appear that an error concerning the interpretation of the Doctrine of Double Effect (DDE), made by a variety of philosophers[1] over the past twenty years, has gone virtually unnoticed. This misinterpretation has even been enshrined in recent accounts of deontological moralities[2], where the DDE is invoked as a guiding principle or 'root-idea'[3]. This erroneous interpretation has also begun to attract a large secondary literature, in which either the DDE is defended[4] as a moral guide, or else the defences themselves are criticized[5].

[1] See Mackie, John, 'Consequentialism and Deontology' in his *Ethics, Inventing Right and Wrong* (Penguin Books, 1977), pp. 161–2; Foot, Philippa, *Virtues and Vices* (Basil Blackwell, 1978), pp. 19–32; Nagel, Thomas, 'War and Massacre' in *Consequentialism and its Critics*, ed. S. Scheffler, (Oxford University Press, 1988), pp. 54–62; Fried, Charles, *Right and Wrong*, (Harvard University Press, 1980), p. 21; Kagan, Shelly, *The Limits of Morality*, (Oxford: Clarendon Press, 1989), pp. 128–82; Kamm, Frances, 'Non-consequentialism, the Person as an End-in-Itself and the Significance of Status', *Philosophy and Public Affairs*, Vol. 21, 1992, pp. 354–89, esp. pp. 376–81; Quinn, Warren, 'Actions, Intentions and Consequences; the Doctine of Double Effect' in *The Philosophical Review*, Vol. 99, 1990, pp. 131–55; Davis, Nancy, 'The Doctrine of Double Effect: Problems of Interpretation' in *Ethics: Problems and Principles*, ed. J. Martin Fischer and Martin Ravizza, (Harcourt Brace Jovanovich College Publishers, 1992), pp. 199–212, at p. 211; Reibetanz, Sophia, 'A Problem for the Doctrine of Double Effect', *Proceedings of the Aristotelian Society*, Vol. 98, 1998, pp. 217–23 is the latest example.

[2] See Nagel, T., *The View from Nowhere* (Oxford University Press, 1986), p. 179; see also Fried, 1980, pp. 7–28.

[3] Darwall, S., Review of Nagel's *View from Nowhere*, in *Ethics*, 1987, p. 150; see also Davis, p. 200 who speaks of the expansion in Nagel's and Fried's accounts of the DDE's role from 'casuistical principle to deontological bedrock'.

[4] Thus Quinn, in seeking an independent rationale for the DDE, construed as a criterion of wrongness for actions, argues that intentionally harming, or killing, an innocent person is forbidden by the DDE because the agent thereby treats his victim as a mere tool for the achievement of his own purposes.

[5] Reibetanz (op. cit.) attempts to show that Quinn's suggested rationale

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The error is to represent the DDE as primarily a source of *condemnation* of actions which, in involving the intentional (as opposed to the merely foreseen) infliction of harm (whether as a means or an end) are deemed so intrinsically *bad* that they must not be performed *whatever the consequences*. To give just one example of many, Foot (pp. 20–21[6]) takes the chief purpose of the DDE to be to prohibit us absolutely from, for instance, 'aiming at the death of an innocent man', even when we could thereby prevent more innocent deaths. In what follows, I will attempt to show that this view of the DDE is indeed erroneous, why it has gone unnoticed, and suggest reasons for the error in current concerns with the structure of Deontological Moral Theories.

1. The Traditional Construal of the DDE

Now the DDE has traditionally been understood, as even a cursory glance at the relevant literature will show, as at least ostensibly concerned with the *permissibility*, or *justification*, of certain intrinsically *good* (or at least indifferent) actions with both good and bad effects. Mangan, for instance,[7] in a detailed and scholarly account of the historical development of the DDE from its origins in Thomas Aquinas, sets out the doctrine clearly as four jointly sufficient conditions for the permissibility of actions with these mixed effects:

(1) That the action in itself from its very object be good or at least indifferent;

[6] See amongst other examples, Reibetanz's representation (op. cit., p. 217) of the DDE as 'a criterion of wrongness for actions' and Davis's (1992, p. 211) as 'a test of whether a proposed course of action is impermissible'; Fried (1980, p. 21) states that the DDE applies 'whenever bringing about a particular result is condemned as categorically wrong'. Kamm (p. 354) speaks of the distinction between intention and foresight with which she identifies the DDE as one of 'two prominent proposals' for characterizing the constraints which structure a non-consequentialist moral theory.

[7] Mangan, J. T., 'An Historical Analysis of the Principle of Double Effect', *Theological Studies*, Vol. 10, 1949, pp. 41–61, at p. 43.

(see note 4 above) would yield counter-intuitive moral judgments, but she never appears to question the prior claim that the DDE is a criterion of wrongness for actions. Jonathan Bennett (*The Act Itself*, Clarendon Press, Oxford, 1995, pp. 200–13) who also criticizes Quinn's rationale assumes that the interdiction on intentionally inflicting harm as a means, contained in the DDE, 'stands on its own feet'.

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(2) That only the good [or 'first'] effect, and not the evil [or 'second' effect], be intended;
(3) That the good effect be not produced by means of the evil [or 'second'] effect;
(4) That there be a proportionately grave reason for permitting the evil effect.

Aquinas, in what later came to be regarded as the original application of the DDE (*Summa Theologiae*, 2a2ae.64,7), discussed an act of self-defence by an innocent person which, though having as its intended effect saving the person's own life, also has an unintended effect, the foreseeable death of the assailant.

He claimed that since 'it is natural to every being to want to preserve its life as far as possible', this action was at least 'not illicit'. Hence the first of the above conditions is satisfied. He further observes that only the good effect of saving the innocent person's own life is intended (as an end in itself). It therefore also appears to satisfy the DDE's Second Condition. In so far as this good effect is not produced by means of the foreseen bad effect, the action survives Aquinas's interdiction on 'intend[ing] to kill another *in order to* defend [one]self' and so, effectively, the DDE's Third Condition. The action meets Aquinas's version of the Fourth Condition provided that the bad effect is 'proportioned to the [good] end intended'. By this, Aquinas seems to mean that a person defending himself must not use more force than is absolutely necessary to repel the attack. If however the force necessary results in the assailant's death the action, though involving killing, can be justified.

These early uses of the DDE did not however take the form of applying any *general* principle to a particular instance of a given type of action, such as those with mixed effects. Still less was it ever (either in its earlier or later history) invoked, as it has recently been, as a theoretical device for avoiding irresolvable moral conflict in an Absolutist Deontology, by limiting the scope of absolute prohibitions to the *intentional*, as opposed to the merely foreseeable, bringing about of bad effects. On the contrary Aquinas, who is primarily concerned with reconciling contradictory Scriptural texts involving various instances of killing, draws attention to the fact that an action may have two effects, an intended and an unintended, only in the attempt to justify the specific act of killing in self-defence.

It was only later that writers, expressing the Fourth Condition rather differently (see Mangan above, or Anscombe's statement, that 'the balance of the total effects' must be 'on the side of the

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good'[8]) generalized the use of the DDE to cover any action with mixed effects, and not only killing in self-defence. For instance, bombing enemy munitions plants next to civilian dwellings is now standardly held to be justifiable under the DDE in so far as its intended good effects outweigh its unintended bad effects. In the medical context, the DDE has been used to permit a doctor to give morphine to a terminally ill patient in order to stop her pain, knowing that it may well also lead to her death, provided that the good to be achieved—the cessation of pain—outweighs the foreseen but unintended bad effect of possibly hastening her death[9].

It would seem to follow that there is at least a *prima facie* disparity between the traditional account of the DDE's use as a *justificatory* procedure for intrinsically good, or indifferent, actions with mixed effects, and the account given by recent writers, who see the DDE as principally a source of *outright condemnation* of intrinsically bad actions.

However it may still be suggested that all that recent writers have done, in placing the emphasis on the DDE's prohibitive function, is to bring to the fore what is in fact one of the background assumptions on which the DDE rests, and to make it the explicit content of the DDE. Perhaps it would have been better to acknowledge that the DDE has its *raison d'être* in a tradition that determined intrinsic wrongness in other ways, whilst being itself invoked specifically in the attempt to justify actions with both intended good and unintended bad effects. But despite the emphasis presently placed upon its prohibitive use, it is not denied that the DDE has a justificatory function. Indeed, the precise nature of the actions that the DDE rules out *whatever their consequences* is frequently contrasted with the actions it justifies (Foot, p. 24), or it is said to distinguish between what is absolutely prohibited and what may be permitted (Nagel, 1988, p. 58; Fried, p. 21; Davis, p. 201). It would surely seem therefore that the DDE is left in all essentials intact.

We shall now see however, by examining examples[10] offered by these writers of the DDE's justificatory role that this is not so. The

[8] Anscombe, G. E. M., *The Collected Philosophical papers of G. E. M. Anscombe*, Vol. 3, (Basil Blackwell, 1981), p. 58.

[9] On relief of pain in terminal illness, see 'The Papal Address to Doctors', *Catholic Medical Quarterly*, Vol. 10, 1957. On causing the death of non-combatants, Henry Davis, S. J., *Moral and Pastoral Theology*, Vol.I (London and New York: Sheed & Ward, 1959), p. 14.

[10] Example 1 is taken from Nagel, 1988. 2a and 2b are adapted from Foot. Mackie, discusses only 2a, Reibetanz, only 2b. Fried, offers a variant of 2a and 2b. For our purposes here, I assume that, in 2a, the full term foetus on the point of birth has the moral status of a human being.

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traditional justificatory role has been so whittled away in the attempt to make it cohere with its allegedly more important prohibitive role, that the crucial requirement that the intended good effect be balanced against the unintended bad effect has largely been overlooked. Moreover, even considered as a radical revision of the DDE's original justificatory role, this account is untenable since, as will become clear, the actions considered are not in fact in need of any justification at all.

Were the DDE on the other hand to be construed as combining a justificatory role, in which its Fourth Condition is fully recognized, with the supposed prohibitive role, this would make the doctrine, we shall finally suggest, both impossibly cumbersome and damage its internal cohesion.

2. The Examples

Example 1

> A doctor, whom we have no reason to suspect of being discriminatory, gives the only available single dose of medicine to only one of two sufferers from a disease, with fatal consequences for the one not receiving it.

Example 2

(a) A doctor decides to let a mother die, rather than save her life by crushing the head of her unborn baby so that it can be removed from the birth canal.

(b) Faced with the decision whether to save five people by transplanting the vital organs of a sixth into them, or to let the five die, we choose to let the five die.

There are two noteworthy and troublesome features of these examples. The first is that, though none of the decisions made seem in need of a moral justification, they are offered as not merely capable of, but as virtual paradigm cases for, justification under the DDE.

Consider Example 1, discussed by Nagel in the context of Absolutist Deontology. It is difficult to see why even those who, like most of us, recognize the existence of certain absolute prohibitions, should possibly question the moral permissibility of a doctor's saving only one of two people when only one can be saved, and where the only alternative is to let both die: the shortage of medicine itself amply explains the one death.

For Nagel (1988, p. 58) however it is the very fact that 'no matter what [the doctor] does some innocent [person] will die as a result' which makes the appeal to the DDE so necessary. If, he argues, 'the

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absolutist prohibition forbad doing what would result in the deaths of innocent people ... nothing one could do [in such situations] would be morally permissible'. In order to avoid this conclusion we must invoke the morally relevant distinction which 'Catholic moral theology … seeks to make precise ... in a doctrine known as the law of double effect'. This is a distinction between bringing about or permitting the death of an innocent person deliberately, either as an end in itself or as a means' and bringing it about or permitting it as a side effect of something else one does deliberately'. According to Catholic theology, the first course is absolutely prohibited though the second may be permissible.

Now this distinction, as Nagel prefers to construe it, is essentially between 'things we do to people' and 'things happening to them as a result of other things we do'. He thus extends the DDE's supposed prohibitive role to encompass certain actions, such as direct killing, even when it is not intentional, as well as certain intentional omissions, such as deliberately allowing someone to die.

But the doctor in the scarce medicine scenario, Nagel argues (p. 60), does not kill the patient to whom he denies the medicine nor even deliberately allow him to die. Hence the patient's death does not count, according to him, as something the doctor 'does', but is merely something that happens as a result of what he does. The doctor's action therefore falls within the category of actions the DDE permits, as opposed to those it absolutely prohibits, and Nagel thus reaches the moral conclusion which one would have expected to be obvious from the outset.

Consider now Examples 2a and 2b. Letting the mother, or again the five sick people, die, being the only alternative to transgressing a prohibition ordinarily regarded as absolute (intentionally killing an innocent human being), would seem to be not merely morally permissible, but morally *required*. If anything therefore, it would seem even less in need of a moral justification than the doctor's decision in Example 1.

The writers however who discuss Examples 2a and 2b take the doctor's decision in both cases to need a moral justification specifically by the DDE, though they differ as to why they think the appeal is necessary, and what exactly they think is established by it.

Mackie (pp. 162–63) for instance, describes the doctor's situation in 2a, rather as Nagel described that of the doctor in Example 1. It is one in which 'if we do not invoke the principle of double effect we shall have to say that whatever the doctor does, even if he does nothing, he is morally responsible for the death of one innocent person'. He even hints that the doctor might be considered a murderer.

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The DDE, according to Mackie, resolves what otherwise would be an irresolvable moral conflict, by providing a justification for one (and only one) of the two courses of action, namely for letting the mother die. Generalizing the DDE's function, Mackie writes that, given the DDE, 'I can refuse to kill an innocent person though I know that others will die as a result of my refusal'.

Foot (pp. 20–21) appears to recognize that for proponents of the DDE allowing the mother to die in Example 2a would ordinarily be regarded as morally *required*, and not merely as morally *permissible*. Thus whereas, as we have seen, Mackie holds only that, given the DDE, we *can* allow this unfortunate outcome to occur, Foot writes that 'The doctrine of double effect is … used to show why we may not operate but *must* let the mother die'.

Her treatment of Example 2b suggests a further difference from Mackie. She offers the example as one of a pair. The other, effectively a variant of Example 1, concerns the decision to withhold a scarce drug from one patient, who needs the full dose to survive, in order to divide it between five patients, each of whom can be saved with only one fifth of the full dose. She raises the question why, given that 'we feel bound' in this case to let the first patient die, 'we [do] not feel justified in killing [a person] … to obtain … spare parts for grafting on to those who need them'. And again she asks: 'why cannot we argue from the case of the scarce drug to that of the body needed for medical purposes?' Her answer is that 'Once again the doctrine of double effect comes up with an explanation. 'In one' (the transplant case) 'but not the other' (the scarce drug case), 'we aim at the death of an innocent man', but for her this is absolutely prohibited by the DDE.

Thus where Mackie took being morally *permitted* to let the mother die to *follow from* an application of the DDE, rather than being independently assertable, Foot takes being morally *required* to let the five die as obvious to ordinary moral intuition. She then invokes the DDE to explain and buttress these intuitions, rather than to take their place. Reibetanz (p. 218), discussing Example 2b, sometimes speaks more strongly, like Foot, of the DDE's implication that it is *wrong* to save the five, and at other times more weakly, like Mackie, of the *permission* which she believes the DDE ought to grant us 'to decide not to remove the one person's organs' even in order to save the five. She also seems to adopt a position midway between Mackie and Foot in treating our ordinary moral intuitions and the DDE as mutually corroborative of one another.

So far we have limited ourselves to observing that the decisions made in these examples do not require the DDE to justify them. The second troublesome feature of these examples, and of their treat-

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ment by these writers, is that the test used to justify the decisions is simply a matter of determining which side of the distinction (with which these writers identify the DDE), between what is absolutely prohibited and what is permitted, a course of conduct falls.

In Example 2a, for instance, since only by intentionally killing an innocent person, can the doctor save the mother, the decision to do so is apparently absolutely prohibited by the DDE. On the other hand, since the death of the mother would merely be a foreseen but unintended consequence of the refusal to kill an innocent person, allowing the mother to die is apparently permissible according to the DDE.

But as such this test is scarcely recognizable as the standard four condition procedure of justification with which at the outset we identified the DDE. Furthermore if we tried to apply the DDE, as standardly construed—in particular the instruction to balance the 'first' or intended good effect against the 'second' or unintended bad effect—we should get some very peculiar results. Either, as in Example 1, we should get the *wrong* result or, as in Examples 2a and 2b we should be led into incoherence.

Consider again Example 1. If any moral justification *were* to be required for the doctor's action, here at least it would seem, are all the necessary ingredients for an appeal to the DDE: an intended good effect for one patient, an unintended bad effect for the other, and an agent, the doctor, foreseeing that in saving the life of the one patient, he cannot help but let the other die.

Suppose however we were to try to apply the DDE's Fourth Condition to the doctor's action, by attempting to balance its intended good, against its unintended bad, effects. An action, as we saw, could satisfy the Fourth Condition only if 'the balance of the total effects [was] on the side of the good'. But there is nothing in favour of keeping one person alive in preference to the other; indeed since both are equally worthy of receiving the medicine, it is an equally bad outcome whichever dies. It would seem to follow that, strictly speaking, the balance would not here be 'on the side of the good', raising doubts, absurdly, about the very permissibility that should have been taken for granted at the outset.

If, incidentally, it is thought that these difficulties only beset the actions that Nagel represents as *passing* the DDE's test, and that the example (1988, p. 58) which he cites as *failing* this test does so as a result of a genuine application of all four conditions to it, this can be shown not to be so. Nagel's example of an action which fails to pass the DDE's justificatory test is bombing a village in which terrorists are hiding, with foreseen but unintended loss of civilian lives. For him, these foreseen but unintended civilian deaths, being

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the result of a direct assault fall, despite being unintended, into the category of things 'done' to the civilians. Hence for him, the bombers' action comes immediately and unequivocally under the axe of the DDE in its supposed prohibitive role. Balancing its intended good consequences against its unintended bad ones, as is required by the Fourth Condition, is once again simply redundant.

Now consider Examples 2a and 2b. Only Mackie, amongst the writers who cite these examples, attempts any kind of one-to-one correspondence with the original conditions. Even he however (p. 162) confines himself to stating that the DDE permits the doctor to let the mother die because her death is merely 'a second effect and not a means'. But if the bad consequences, ensuing upon the observance of the absolute prohibition on intentional killing, are being treated as the 'second' effect, what, we might ask, is being treated as the '*first*' effect? And how in this context is the requirement to balance the unintended good—or 'first'—effect against the unintended bad—or 'second'—effect to be interpreted?

It is difficult not to conclude that these writers either suppose that the avoidance of intentional killing itself is the good effect which outweighs the mother's death (or the five deaths in Example 2b), or are simply ignorant of the Fourth Condition with its requirement that we balance the first against the second effects: but the latter seems unlikely, since they all formally acknowledge the Fourth Condition. Admittedly some of them do so only in parenthesis, and as a seeming afterthought (Reibetanz, pp. 217–18) or as a preamble to the main argument (Foot, p. 22). Mackie (p. 161) however gives a detailed breakdown of the way the DDE standardly works to justify an action, citing St Thomas Aquinas's self-defence example.

Thus we seem forced to embrace the first alternative, and to suppose that these writers look upon the avoidance of intentional killing as *itself* the good effect which outweighs the mother's death (or that of the five in Example 2b). But then it seems as if they have failed to grasp that to appeal to the absolute prohibition on intentional killing is to remove the mother's death altogether from the moral weighing scales: a signal that nothing can counterbalance intentional killing, which is therefore forbidden *whatever the consequences*. Perhaps those writers, who have specifically discussed Example 2a, have been led astray by another obstetric case where the DDE is applicable. This is where a foetus dies as a foreseeable result of the removal of its mother's cancerous womb, and where the intended good effect of saving the mother's life may validly be invoked in the attempt to justify the unintended though foreseen bad effect of the foetus's death.

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The same however cannot be said for Fried (p. 21). He chooses as an illustration the operation of the DDE 'the Talmudic injunction against handing over a hostage to be killed or a woman to be molested'. This injunction, he maintains, holds 'even if the refusal results in a similar fate for a greater number of equally innocent people'. His ground is that 'the still more dire consequences' of not transgressing the absolute prohibition on surrendering the woman, being unintended by the agent, are 'not his responsibility'. But this admission that an absolute prohibition takes precedence over *every* consideration of consequences should of course have alerted him that the DDE's Fourth Condition (which he too formally acknowledges) just cannot intelligibly be applied in this case (any more than in Examples 2a and 2b). To say nothing of the fact that if, *per impossibile*, we were to go through the motions of applying it, it would apparently give the wrong result. For if observing the prohibition leads to a 'similar fate for a greater number of innocent people', and if this is a 'still more dire consequence' than surrendering the woman, then *ex hypothesi* the balance of total effects would not seem to be (in Anscombe's words) 'on the side of the good'.

Suppose however it is admitted that in Examples 2a and 2b, any semblance of *moral* conflict, as opposed to an acute feeling of regret that someone must die, could arise only from a failure fully to assent to the implications of the total prohibition on intentional killing *whatever the consequences*. Yet it is only against this 'absolutist' background that the discussion of the DDE takes place at all.

Suppose it is further admitted that the use of the DDE to justify these decisions leads to difficulties in applying the DDE's Fourth Condition since an absolute prohibition has already sanctioned refraining from action however dire the consequences. The idea that it requires an *additional* permission not to prevent these consequences from occurring is redundant.

Nevertheless we are only faced with this difficulty when, as in the above examples, the bad consequences, which the DDE in its prohibitive role allows us to ignore, are *the very same ones* which in its justificatory role it requires us to take into account. Surely therefore both roles could be retained provided it was clear that the DDE *prohibits* intrinsically bad actions (such as intentionally killing an innocent person), but *justifies*, as it has traditionally done, intrinsically *good* actions that have mixed effects? On this construal, the Fourth Condition of the DDE, though irrelevant to its prohibitive role, would still be crucial to its justificatory role, since only actions with mixed effects would qualify as candidates specifically for a *justification* by the DDE.

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It is hard however to see what could possibly recommend this peculiarly cumbersome solution either to traditional proponents of the DDE or to the above writers. The latter would be unlikely to favour giving the DDE an independent justificatory role, of equal importance with its supposed prohibitive one. For them, as we have stated all along: the DDE is *primarily* prohibitive, the key distinction being between what is absolutely ruled out and what may be permitted. They are hardly interested at all in the further distinction between what actually is and is not permitted, within the category of actions which may be permitted. Thus though, as we have seen, they do sometimes cite actions with a genuine double effect, and which are thus genuine candidates for justification by the DDE, they are repeatedly drawn back to situations in which an action is forbidden whatever the consequences, and where the Fourth Condition is either irrelevant or inapplicable. It sometimes seems that in desperation an attempt is made to graft the DDE's justificatory role directly on to its supposed prohibitive one.

3. Reasons for the Misconstrual of the DDE

Finally, the following question is worth raising: why *are* these writers so determined to represent the DDE's primary role as prohibitive, even whilst paying formal allegiance to all four of its justificatory conditions? Some (Reibetanz) are simply responding to the secondary literature, in which the error is already well established. She in any case perceives that there is something amiss with treating the DDE as a criterion of *wrongness* at all. However she[5] addresses this difficulty, not directly, but by criticizing Quinn's attempt to provide an independent rationale for this criterion, which only compounds the original error.

It is noteworthy however that a number of writers (Fried, Mackie, Nagel) discuss the DDE against the background of the larger contrast between 'Absolutism', or as it is sometimes called 'Absolutist Deontology', on the one hand, and Consequentialism, particularly Utilitarianism, on the other.

Absolutist Deontology is now commonly defined as crucially forbidding certain actions, *even when they would maximize overall good*. Thus it has become of key importance for resisting Utilitarianism. But it is held to present two main structural difficulties which must be cleared up if it is to be a plausible alternative to Utilitarianism.

The first is that the absolute prohibitions of Deontology seem to be a heterogeneous assortment without any apparent unifying fea-

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ture[11]. The second (Fried, p. 14, Mackie, p. 162, Nagel 1988, p. 58, Davis, 1994, pp. 213–14) is that unless the scope of these absolute prohibitions is restricted in some way, so that they do not apply to *every* foreseen consequence of our actions and inactions, irresolvable moral conflicts will break out, and not just in exceptional circumstances. Without a solution to this latter problem, it is felt, absolute principles would have to be rejected.

The DDE is invoked however to show that these absolute prohibitions, however superficially diverse, do have a common underlying feature: they apply, it is held, to, and only to, those bad effects of our actions and inactions which are *intentionally* brought about, whereas any such effects which though foreseen are unintended fall outside their scope. Thus the problem concerning irresolvable moral conflicts is at the same time cleared up, and absolute prohibitions rescued. As Mackie (p. 162)[12], puts it '… if we use the principle of double effect we can retain absolute moral rules'. The DDE's traditional use, however, to justify the performance of intrinsically good actions whose unintended bad effects are counterbalanced by intended good ones, drops out of the picture.

At the same time, two questions are confused. A purely theoretical one, concerning how to limit the scope of absolute prohibitions in order to avoid irreconcilable moral conflict, and a practical one (what Mangan, p. 41, calls 'the most practical in moral theology') as to whether a particular action on a particular occasion can be morally permitted, given the balance of its intended good against its unintended bad effects. Thus the peculiar spectacle that every time one is faced with a practical choice (as described in Examples 1, 2a and 2b), unless one invokes the DDE, the whole edifice of Absolutist Deontology threatens to become unworkable.

Nagel and Fried have sought, it would seem, to represent Deontology as having a structure comparable to that of Utilitarianism, and not as Prichard's[13], 'unrelated chaos' of obligations. As a consequence, they appear to have felt bound to dismantle it and reassemble Deontology around the DDE as its central unifying principle—thus distorting the doctrine's ordinary use. It would perhaps have been better simply to have recognized that Deontology, with its roots in our common moral understanding, stands at the confluence of a number of traditions and influences

[11] c.f. Nacy Davis, 'Contemporary Deontolgy' in *A Comparison to Ethics*, ed. P. Singer, (Basil Blackwell, 1994), particularly pp. 208–9.

[12] Mackie, 1977, however describes this as a flawed solution.

[13] H. A. Prichard, 'Does Moral Philosophy Rest on a Mistake?', in *Moral Obligations* (Oxford: Clarendon Press, 1957), pp. 1–17, at p. 9.

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only imperfectly absorbed and integrated into a larger fabric, and then against this background simply to observe the actual practical use of the DDE.

It would then have become clear that the prohibition on actions, which are considered so intrinsically bad that they must not be performed whatever their consequences is, in *setting limits to the coherent use* of the DDE, a quite separate and more elementary principle than the DDE itself. It would then also be clear that balancing the intended good against the unintended bad, effects of actions, so as to establish whether they are permissible, is not only essential to the DDE but its peculiar contribution to the deontological analysis of moral conflict.

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