Few moral theorists would disagree that the fundamental principle of morality – perhaps of practical rationality itself – is “Do good and avoid evil.” Yet along with such an uncontroversial principle comes a major question: Can you fulfill both halves satisfactorily across your life as a moral agent? We all have opportunities to perform acts that do good with no accompanying evil, but these are not as common as we might think. We can avoid evil by doing nothing, but doing nothing implies doing no good either. Clearly the fundamental principle does not require that you go about your life doing good on any and every possible occasion any more than that you sit on your hands and abstain from action out of fear of doing evil. The principle tells us to avoid evil, not to refrain from ever causing it. And the simple fact is that the complexities of life make it inevitable that, much of the time when we go about doing good, we will also be doing evil. Further, they are such that sometimes we can avoid evil only at the cost of not performing a good act which reasonable people would regard as at least permissible, if not sometimes obligatory.

So how, as rational, morally responsible agents, are we to satisfy the fundamental principle in an adequate, harmonious fashion, given life’s exigencies? This is where the so-called ‘doctrine of double effect’ comes into play. Some call it a doctrine, influenced by the fact that Catholic ethicists and moral theologians have, since the Middle Ages, codified and ratified it as something akin to a doctrine of Catholic moral philosophy. Others call it the ‘principle of double effect,’ though it breaks down into a set of principles unified by a common idea. Yet other writers see it simply as a kind of reasoning about certain types of hard case in ethics. Whatever the preferred nomenclature, the DDE, as I will call it here, is – for all its critics and the difficulties it faces – a keystone of sound moral thinking, without which the fundamental principle would remain nothing but a high ideal with little consistent applicability.

So consider a simple example. When I drive to work, I cause pollution from my car’s exhaust. Getting to work, so that I can do my job, is good; causing pollution is evil. (Note that ‘evil’ here does not necessarily mean something monstrous or heinous; you can, if you prefer, use the word ‘bad.’ In this context, an evil is simply a bad state of affairs or a bad result or outcome of an act.) Now, I intend to drive to work: that is my objective in using the car (and this objective may be a means to a further objective, namely doing my job). I do not, however, intend to pollute the atmosphere, even though
in fact I do so. I know that driving will cause pollution, but I think I have a good reason to drive my car. (Let’s leave aside controversial environmental issues, though, if you wish, you can suppose that I live fifty miles away from work and using the car is my only available means of transportation.) And I think my good reason for taking the car to work outweighs the bad polluting effects of doing so.

The more you think about simple cases like this, the more you find them throughout the lives of agents. The doctor gives me antibiotics for an infection, knowing that they may cause a rash. In his judgment, the good effect (cure of the infection) outweighs the bad effect (risk, perhaps certainty, of a rash). He does not intend to give me a rash, any more than the dentist intends to cause you inevitable pain when he removes a tooth, though she knows that the pain is inevitable. You head off to an urgent appointment with your accountant, knowing that this will make you ten minutes late for lunch with a friend. You don’t intend to be late and you don’t want to be late; but you judge that this mild inconvenience to your friend is justified by the importance of the meeting. Maybe your judgment is wrong, but that’s not the point. If it is correct, then, all things being equal, you are permitted to make the appointment and knowingly inconvenience your friend.

If morality is to comprise a coherent, rationally actionable system of behavior, there ought to be a way of codifying the ideas that justify, in some cases, actions with both good and evil effects. If so, then we really can have our cake and eat it: we can go about our lives doing good and avoiding evil, as long as the injunction to avoid evil does not mean that we may never permissibly be its cause. The idea that such a codification is possible goes back at least to St Thomas Aquinas (1225 – 1274), who famously introduced a sketch of DDE into his discussion of self-defense (Aquinas 1929: 208 – 210 = Summa Theologica II.II q.64 a.7). Asserting that it is sometimes permissible to kill in self-defense, he argues (I paraphrase) that an act may sometimes have a good and a bad effect, where the good effect is intended and the bad effect is merely foreseen (“beyond intention”). The death of the attacker is bad, but saving one’s life is good. You may defend yourself even using lethal force, as long as you do not intend to kill, but you must use no more force than necessary: otherwise your act, for all its good objective of saving your life, will be “out of proportion” to its end, and hence immoral.

The basic outlines of DDE are found in Aquinas’ account of self-defense and in related discussions by him. (See Cavanaugh 2006, ch. 1, for details and for a general history of DDE; also Mangan 1949.) But it has taken generations of thinkers to refine and tease out the various principles that go to make it up. Aquinas’ discussion, for instance, points to the need for proportionality both between ends and means and between the ends themselves. You may only use proportionate force to repel an attacker: if you can ward him off with a personal alarm but you choose instead to use your revolver, you act impermissibly. Also, if I kill someone who is trying to pick my pocket, the evil effect is clearly out of proportion with the good end.

The codification of DDE that has finally come down to us via many ethicists, mainly within Catholic moral theology, is as follows. There are four conditions to be satisfied before an act with both good and evil effects can be judged permissible:

1. The act intended by the agent must be at least permissible.
2. The good effect of this act must follow from it at least as immediately as its evil effect.

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The evil effect must itself not be intended.

There must be a proportionate, or sufficiently serious, reason for causing the evil effect.

Some clarification is in order. As to (1), the act intended by the agent need not be good, let alone obligatory – just not itself evil. For example, if you defraud a bank you cannot appeal to DDE in justification on the grounds that the evil effect you foresee – say, that the bank has to close and people will lose their jobs – is outweighed by the good you intend – to distribute the money to the poor. With regard to (2), the point is that the evil effect must either be caused by the good effect or be caused directly by the act which also directly causes the good effect. In other words, the notion of immediacy here is causal, not temporal. What (2) rules out is using the evil outcome as a means to the good effect, since the ends do not justify the means. A classic case from just war theory illuminates this idea. The so-called ‘tactical bomber,’ who intentionally bombs a military target while foreseeing that he will kill innocent civilians, in no way uses the deaths as a means either to his immediate objective (destroying the target) or to his ultimate objective (winning the war); rather, the civilian deaths are a foreseen side effect. By contrast, the ‘terror bomber’ who intentionally bombs civilians in order to terrorize them into surrendering, uses their deaths as a means to his objective. Tactical bombing, say the defenders of DDE, can be justified; terror bombing cannot. Some object (Cavanaugh 2006: 29–30) that (2) as stated is incorrect, and that what is right about it is already captured by (3): the agent must never intend the evil effect – whether as end or means. For what if, in the tactical bomber case, the civilians are terrorized, albeit unintentionally, with this result: they flee the city, leaving the soldiers at the military installation without food, and thereby cause them to starve and the installation to cease functioning? The evil effect does in fact cause the good effect, but the tactical bomber did not mean for this to happen. The point to remember, however, is that DDE is not just a principle of retrospective justification, but mainly one of prior permissibility: it is designed as an action-guiding method for judging what to do. Certainly, the tactical bomber in the case I just outlined would be excused. If he were to get into his plane knowing that by killing civilians he might achieve his military aim, even though, if asked, he would claim only to intend to destroy the installation with his bombs, an observer would rightly hesitate. A plausible presumption in action theory is that he who wills the end also wills the means. If you know that an evil effect will cause a good effect, then it is open to others to question whether you really do not intend to use the former as a means to the latter. Even more is this so if you know that the evil effect is the sole means to the good effect. If the tactical bomber knows that he can bring the installation to a halt only by terrorizing the civilians, and he bombs, then his claim that he really only intended to achieve his aim by bombing will ring hollow. DDE, then, is as much about moral psychology as it is about after-the-fact justification.

The import of (3) should by now be evident. Even if the agent does not intend the evil effect as a means, she might still intend it as an end – in which case, according to DDE, she still may not act. A sadistic dentist who intends both to remove your diseased tooth and to cause you pain cannot absolve himself by claiming that the pain was not itself a means to his good end. If ‘avoiding evil’ means anything, it means, first and foremost, that one may never intend evil, whether as means or as end. One may,
however, *permit* or *tolerate* it. Again, a subtle point needs to be clarified. By saying that evil may in some circumstances be permitted, I am not claiming that central to DDE is the doing/allowing distinction. The doctrine applies as much to the doing of evil as to the allowing of it. (For examples of the latter, which requires some ingenuity with thought experiments, see Cavanaugh 2006: 166–177.) The point, rather, is that an agent may, as it were, *permit himself* to do (or allow) evil if he meets the conditions of DDE. But condition (3) says that he must not intend it. More fully, he must, at most, only *foresee* that he will or may cause (or allow) the evil effect. Note at this point the distinction between acting *intentionally* and acting *with an intention*, the latter being sometimes called a 'further intention.' DDE presupposes, and applies to, acts done intentionally, whether the consequences are themselves intended (making the act an act with an intention) or only foreseen (in which case the act, to that extent, is not an act with an intention). In both cases, however, the act is still performed intentionally inasmuch as it is an intentional act.

Clause (4) is often mistakenly read as a consequentialist add-on. Peter Singer, for instance, thinks that DDE just is a form of disguised consequentialist judgment (Singer 1993: 210). Yet this is grossly to misread the fourth clause. The clause in no way requires one to compare good and bad states of affairs in order to judge the overall balance of good over evil. All it says is that there must be a proportionate *reason* for causing the evil effect. To be sure, when it comes to morality, sometimes only numbers count. If I have to rush my child to the hospital, and I foresee that if I take route A I will endanger more pedestrians than if I take route B, then, *all things being equal*, I must take route B. But all things are rarely equal. Route A might be much shorter, and if I do not take it my child might be far more likely to die on the way. If this consideration is a sufficient reason for taking the extra risk with pedestrians, I may go via route A. On a consequentialist calculation, however, the overall evil if I take route B is smaller than if I take route A, so I should go via route B. (Of course, consequentialists add refinements to their theories so as to rule out undesirable recommendations while maintaining faith in their *calculus* of the overall best state of affairs; but that would take us too far afield.) For the consequentialist, all that matters is the weighing of outcomes. For the defender of DDE, what matters is the relative importance of the reasons for taking a proposed course of action.

How, though, do we assess the proportionality of good and bad effects according to reasons? In simple cases, it is not so hard: to save my life I may endanger another’s, since, all things being equal, I am permitted preferentially to save my life rather than another’s. (Some would say that I am obliged to do so.) To be sure, there are martyrs, and of course a parent, for instance, may be bound to save her child rather than herself. But DDE is first and foremost a doctrine about what we *may* do, in other words it is a doctrine of permissibility. Once we get clear about what we may do, we are in a position to understand specific cases in which we are *advised* to do something else or we are *admired* or considered an exemplar of virtue if we take a more elevated course of action than simply doing what we are allowed. And we will be in a position to see how certain factors, such as special relationships and duties of office, might oblige us to do something other than what, in different circumstances, we would be allowed to do. For instance, in some cases a person is allowed to refuse highly risky medical treatment that might save their life. But if they are a parent with family obligations, or perhaps
the president or prime minister of their country, they would generally be obliged to undertake the risky procedure for the good of others. Conversely, certain considerations might allow someone to do something they otherwise would be obliged not to do. So, for example, a police officer has greater justification for endangering the public in the pursuit of a criminal than an ordinary citizen has. A qualified doctor has a greater reason for causing you painful side effects in the administration of a treatment which, in his professional estimation, is warranted than has an unqualified person seeking to try out a remedy he saw mentioned on television.

Attending clause (4) are a number of sub-principles which aid in its interpretation. For instance, if the evil effect would probably occur whether or not the agent acted at all, the agent needs a lesser reason for acting than otherwise. Over-determination aside, the idea is that the less the risk of evil is down to you, the less you are required to take it into account in your decision-making. Conversely, if not acting would definitely prevent the evil, the agent needs a greater reason for going ahead than otherwise. ‘Avoid evil’ means that we should try to prevent it as far as we can; so, if our proposed action is the only way in which the evil will occur, we need a very good reason for forging ahead. Unpacking clause (4), then, requires attention to the whole body of reasons and justifications that permit or excuse certain kinds of action. No form of consequentialism can perform this task, but the rich history of casuistry in medieval and modern moral theology gives much guidance as to how an ethicist, whether religious believer or not, should apply DDE to the many hard cases for which it is designed. (For more on clause (4), see Oderberg 2000: 93–101.)

For all its reasonableness, in fact its necessity in handling hard cases, DDE has come under sustained attack for a long period of time. Perhaps the most serious criticism concerns the essential distinction between intention and foresight, which is built into the doctrine. Ontologically, DDE presupposes that such a distinction exists. Ethically, it asserts the relevance of the distinction to accounts of responsibility. On the first score, Blaise Pascal (1623–1662) famously attacked the Jesuit moral theologians, in his Provincial Letters, for their allegedly fine-grained approach to individuating intentions as a way of exculpating agents. One could, Pascal holds the Jesuits as claiming, “divert one’s intention” from the evil on which one was embarked, and “direct” it to the good that one sought to achieve (Pascal 1850: 153). Imagine (not Pascal’s example, but a similar one) a person who cut off another’s head with a sword, and claimed in defense: “I didn’t intend to kill him, only to test my sword for sharpness.” No one would be convinced by such a feeble plea, indeed we would consider the killer either a liar or insane. It is highly doubtful whether any Jesuit taught that such implausible mental gymnastics could ever be used to escape responsibility for what one appears by all accounts to have really intended. Nevertheless, Pascal’s satire has stuck, and DDE defenders have had to repel it ever since. Elizabeth Anscombe, for one, has pointed out that any such attempt to divert one’s intention would itself have to be intentional, hence that such second-order intentions would still implicate the agent as fully responsible (Anscombe 1957).

Yet, even without resort to second-order intentions, one can argue that we should be metaphysical realists about intentions as subjective mental states, and that our judgments about the intentions of others are sometimes fallible. It might be very hard to know in a specific case what a person intended; nevertheless, we can usually question
them, and interpret their behavior, in order to judge what they probably – or almost certainly – did intend. ‘Diverting the intention’ is nearly always belied by the behavioral and linguistic evidence: “You say you didn’t intend to kill, yet you left the victim to die.” Of course there might be a prima facie plausible alternative explanation for every piece of evidence pointing to intent, which is why our judgments are fallible. Still, there are more ways of being responsible than as an intentional agent (recklessness, gross negligence, and so on), so the friend of DDE would do better to find comfort in these extra categories than be obsessed over whether fine-grained individuation of intention can ever absolve an agent who does evil (see further Oderberg 2000: 101–126).

As to whether the foresight of inevitable consequences entails, or is identical to, intention, as critics have claimed, the friends of DDE must stand equally fast. If the agent knows that something bad will occur with certainty, he does not necessarily intend the result. Is the evil outcome something he has chosen as a means or as an end? Did it form part of his deliberative process and, if so, in what way? Was it part of a plan of action? Did the agent regret the evil effect? Did he try to minimize it or to avoid it altogether? The supporter of the doctrine has many questions that block any straight logical or conceptual connection between foresight and intent.

As to the ethical relevance of the intention/foresight distinction, the DDE supporter claims that this is crucial to our general theory of agency and responsibility. Intentional action is paradigmatic human action. We act for ends, and we choose the means to achieve them. As Cavanaugh (2006) points out, no one counts any old human behavior as voluntary, and hence as a matter of agency: think of involuntary bodily movements, reflex behavior, instinctive behavior. When it comes to agency, only the voluntary counts. Yet, if the critic is prepared to accept this cut-off point, it seems inconsistent that he is not also ready to acknowledge that, within the scope of agency, further distinctions can be made between what one does merely knowingly and what one does with intent. Such distinctions within the ambit of the voluntary have important applicability. We saw the distinction between terror bombing and tactical bombing in war. Similarly, is an ethical distinction to be made between a doctor who intentionally kills a suffering patient (euthanasia) and one who gives painkillers solely with the intent of relieving pain, but knowing that the patient will or may well die (terminal sedation)? Critics of DDE think that any ethical distinction between these cases is spurious. Defenders see a world of difference, hinging on what the doctor intends to do. What is she trying to achieve? What is her objective? If it is pain relief, she acts as a doctor should. If it is the death of the patient, then, according to the vast majority of defenders of DDE, she is not acting as a doctor – that is, as a healer – but as a killer.

See also: refraining, omitting, and negative acts (7); volition and the will (13); intention (14); intention in law (43); indian philosophers (52); augustine and aquinas (56); anscombe (74).

References

DAVID S. ODERBERG


Further reading


