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## The Principle of Double Effect

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Absolutist systems of ethics have come in for harsh criticism by moral philosophers on a number of fronts. The Principle of Double Effect was formulated by Catholic ethicists to overcome such objections. Its key lever is making a critical distinction between those bad effects of a voluntary action that are intended and those that are unintended. In this essay, Leslie Allan addresses four of the most prominent problems faced by an absolutist ethic and evaluates the extent to which the Principle of Double Effect is successful in avoiding or mitigating these criticisms.

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## 1. Introduction

In ethical reasoning, the Principle of Double Effect is sometimes invoked when an action has two effects (hence 'Double Effect'); one good and the other harmful. The principle allows the action as morally permissible in those circumstances in which the harmful effect is not intended, but is a side-effect of the action. Acts of self-defence, for example, are often justified using this principle. This principle is sometimes referred to as the Doctrine of Double Effect (DDE). In this essay, I will use the term 'Principle of Double Effect' or 'PDE' throughout.

Proponents of PDE have claimed that this principle is a necessary requirement if one is to avoid the serious difficulties involved in holding to a set of absolute moral rules. In that sense, PDE is meant as supplement to an absolutist system of ethics. For the purposes of this essay, I will take a set of absolute moral rules to be a set of rules that must not be broken by a moral agent under any circumstances. Absolutist ethics have met with a number of objections. My aim here is to evaluate how well advocates of PDE have been able to meet the four most serious of these objections. These objections are that absolutist ethics lapses into self-contradiction or a consequentialist calculus, that in some circumstances it renders the moral agent blameworthy whatever they choose, that it misses the essence of morality and that some of the judgements made in its name are needlessly cruel.

## 2. What Is the Principle of Double Effect?

The Principle of Double Effect itself has had a long history of development and over this period its conditions have been fairly well standardized. There have been some recent attempts to modify it,<sup>1</sup> but I will not be concerned with these here. I shall rely instead on the standard formulation. The principle refers to actions in which a good effect and a bad effect will follow, and stipulates four conditions that must be satisfied for the action to be morally justifiable. These conditions are:

1. The act itself must be morally good or at least indifferent.
2. The agent may not positively will the bad effect but may merely permit it. If he could attain the good effect without the bad effect, he should do so. The bad effect is sometimes said to be indirectly voluntary.
3. The good effect must flow from the action at least as immediately (in the order of causality, though not necessarily in the order of time) as the bad effect. In other words, the good effect must be produced directly by the action, not by the bad effect. Otherwise, the agent would be using a bad means to a good end, which is never allowed.
4. The good effect must be sufficiently desirable to compensate for the allowing of the bad effect.

[*New Catholic Encyclopedia* 1967: vol. 4: 1021]

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<sup>1</sup>See, for example, Grisez [1970] and Geddes [1973].

### 3. Four Key Objections

Opponents of absolute moral rules claim four major problems for this kind of ethic. These difficulties are:

1. By not distinguishing between voluntary acts or refusals and their foreseen consequences, absolutism either leads to self-contradiction or to a utilitarian type calculus.
2. By not distinguishing between voluntary acts or refusals and their foreseen consequences, in some cases, absolutism would morally condemn whatever the agent does.
3. By not recognising that some consequences of voluntary actions are foreseen but unintended, absolutism misses the core of morality.
4. By not recognising that some consequences of voluntary actions are foreseen but unintended, absolutism is unnecessarily harsh in some of its judgements.

Advocates of PDE claim to have resolved these difficulties for an absolutist ethic. In the following sections, I will argue that proponents of the principle have not satisfactorily resolved problems 1, 2 and 3 and do not go far enough in resolving 4. I will deal with each problem and attempted solution in order.

### 3.1 Problem 1: *Self-contradiction or Utilitarian Calculus*

*By not distinguishing between voluntary acts or refusals and their foreseen consequences, absolutism either leads to self-contradiction or to a utilitarian type calculus.*

An absolutist ethic does not distinguish between a voluntary action or refusal and the foreseen consequences of this action or refusal, and deems the actor or refuser equally responsible for both. The problem with this ethic, it is claimed, is that it leads to conflicts between absolute rules and conflicts between applications of the same rule. For example, consider an absolutist ethic in which there are absolute prohibitions against intentionally killing an innocent person and stealing another person's possessions. Furthermore, suppose that I am under threat such that if I do not steal person *X*'s car, person *Y* will be killed. If I am responsible for the consequences of what I do and do not do, then the prohibition against theft would require me to 'murder' *Y* and the prohibition against murder would require me to steal *X*'s car.

Likewise, if I am under threat such that if I do not kill innocent person *Z* then person *Y* will be killed, applying the prohibition against murder to *Z* would require me to 'murder' *Y*. Applying the prohibition to *Y* would require me to murder *Z*. Here we have a conflict between applications of the same rule.

A method of resolving such conflicts is to allow for the weighing up of the merits and demerits of the alternatives; in these two cases, to judge whether stealing *X*'s car and murdering *Z* is better or worse than 'murdering' *Y*. But this looks suspiciously like a form of utilitarianism under an absolutist veneer.

The proponent of the Principle of Double Effect is certainly correct in pointing out the linguistic fallacy in describing the person, in the above example, who does not give in to the blackmailer's demands as a 'murderer'. If this person cannot be *Y*'s murderer, then he has not infringed upon the absolute principle, 'Do not intentionally kill an innocent person', if he refuses the blackmailer's demands and allows *Y* to die.<sup>2</sup>

The application of PDE has resolved the conflicts in these two cases, but can it do so in all cases? I do not think so. Consider a system of absolute principles that includes amongst its precepts, 'Do not intentionally break a promise' and 'Do not intentionally kill an innocent person'. Suppose that a visitor to a foreign country receives a letter from his closest friend telling him that the military has seized power in his home country and asking him to join a newly formed band of terrorists whose aim is to win victory by bombing the private homes of the military leaders, killing their wives and children. The visitor writes back to his friend, earnestly promising to join them in their mission to bomb civilians as soon as he possibly can. However, before arriving home and after much deliberation, he realizes that to intentionally kill innocent persons is absolutely wrong. A contradiction now arises in that to intentionally break his solemn promise to kill innocent family members is also absolutely wrong.

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<sup>2</sup>See Anscombe [1970: 50f] and Mackie [1977: 161f].

To generate such conflicts between rules is not difficult. One need only think of cases in which what is promised is the object of an absolute prohibition. This problem may be avoided by modifying the precept to read, 'Do not intentionally break a promise unless not to do so is to infringe upon another absolute rule'. It is doubtful whether this revised version can be properly regarded as an absolute rule because of its provision for exceptions. However, disregarding this problem, this move is of no help in cases in which two promises have been made, but through the unfortunate interplay of later circumstances, both cannot be kept, and neither of which has as its object what is absolutely prohibited. For example, I promise to attend my best friend's wedding. A week later, I receive a note in the post advising that the time of the wedding has been rescheduled for the same afternoon in which I was to have kept my promise to my partner to take her to the movies.

Let us consider a set of absolute rules that do not include an absolute prohibition against breaking promises. Take, for example, the Jewish Decalogue (Exod. 20; Deut. 5). It is not too difficult to imagine a conflict between the fifth commandment, 'Honour your father and mother', and the sixth commandment, 'Do not intentionally kill an innocent person'.<sup>3</sup> Suppose that a young medical scientist is working in Germany during the Second World War. His father, who heads the research team of which he is a member, instructs him to investigate the time it takes for a particular toxic chemical to kill thirty Jews in an enclosed room. Any refusal on the part of the son to comply with his father's orders would be seen by his father, who is a Nazi sympathizer, as a mark of disrespect. The son must make a choice between dishonouring his father and killing a number of innocent Jews. A similar conflict will arise between the fourth commandment, 'Keep the Sabbath', and the fifth commandment, for a son whose father orders him to work on the Sabbath.

These conflicts can neither be avoided by ranking the rules in order of strictness nor by weighing the consequences of each act. Doing so would leave the advocate of the Principle of Double Effect open to the charge of pseudo-absolutism, a criticism that they had previously sought to avoid. It seems that PDE does not provide a logical guarantee against conflicts between rules. It may be possible to so restrict the number and type of absolute rules such that it is empirically impossible for a conflict to occur. However, I find it doubtful that such a system, in which the great bulk of morality is signified by a weighing of consequences and non-absolute rules, can be called absolutist.

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<sup>3</sup>For the sixth commandment, there are difficulties in translating the Hebrew text. The translation that I have given here is the most difficult one from which to generate conflicts.

### 3.2 Problem 2: *Horns of Dilemma*

*By not distinguishing between voluntary acts or refusals and their foreseen consequences, in some cases, absolutism would morally condemn whatever the agent does.*

The second problem, it is claimed, associated with absolutist ethics is that they find persons faced with such moral dilemmas morally blameworthy whatever they do, even though they are not responsible for the existence of the dilemma. For example, the person in our previous scenario who is under the threat that unless he kills person *Z*, person *Y* will be killed, will be morally condemned for committing a 'murder' whatever he chooses to do. The same is true of the doctor faced with a pregnant woman who will die unless he performs a craniotomy, an operation that will necessarily kill the foetus.

Application of the Principle of Double Effect to these cases absolves the person under threat of harm from blame if he refuses to comply and the doctor, likewise, if he refuses to perform the craniotomy. This is achieved by advocates of PDE correctly pointing out that these moral agents do not commit murder under these circumstances. However, PDE fails to give a logical guarantee that such harshness of judgement can be avoided in all cases.

Consider, for instance, the previous scenario in which I promised to attend my best friend's wedding and in which the time of the wedding was later rescheduled to clash with my arrangement to take my partner to the movies. Whichever way I choose, I end up intentionally breaking a promise. Applying PDE to my case, I am to blame whether I intentionally break my promise to attend my best friend's wedding or intentionally break my promise to take my partner to the movies.

Consider also the previous examples of the son that must choose between dishonouring his father and intentionally killing innocent Jews in one case, and dishonouring his father and breaking the Sabbath in the other. Application of PDE would similarly condemn these persons, whatever they did, even though they were not to blame for the existence of the dilemma.

### 3.3 Problem 3: *Misses Core of Morality*

*By not recognising that some consequences of voluntary actions are foreseen but unintended, absolutism misses the core of morality.*

Even if the distinction between acts and consequences is made, advocates of the Principle of Double Effect will say that problems will remain unless we distinguish between the foreseen and intended consequences of a voluntary act, on the one hand, and the foreseen but unintended consequences on the other. For some absolutists to lump together, for example, all foreseen deaths consequent to voluntary acts as 'intentional' is to ignore that which is of central importance to morality. PDE proponents argue that it is the intended consequences of a person's voluntary actions, as opposed to the unintended but foreseen consequences, that is indicative of his moral character and integrity.

To illustrate this line of reasoning, consider these three actions permitted by PDE under an absolutist ethic that prohibits the killing of an innocent person.

1. A man makes a breach in a dike that is about to break in order to avert sudden destruction of a whole town, knowing that as a consequence of his act two people will drown.<sup>4</sup>
2. A group of people locked in a room find a time-bomb and throw it out of a single window in order to save their lives, seeing that it will land near a man below who will be unable to escape.<sup>5</sup>
3. A doctor knowingly injects a possibly lethal dose of morphine into a terminally ill patient in order to relieve him of pain, but not desiring his death. The patient subsequently dies of an overdose.

According to the advocates of PDE, although killing has occurred in all three cases, the acts are not morally blameworthy because the foreseen deaths of the victims were unintended. In all of these cases, all four conditions for application of PDE (§2 above) are satisfied.

Some critics of PDE have argued that PDE does not even get off the ground because the claimed distinction between intended and unintended foreseen consequences of voluntary actions is mistaken. These critics claim that all such foreseen consequences are intended.<sup>6</sup> I think that these critics are mistaken for the reason that although there are some consequences that are difficult to determine whether they are intended or not, other cases are clear. The dentist who extracts a tooth from his patient does not intend the resulting pain. The cancer therapist who treats a patient with X-ray therapy does not intend

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<sup>4</sup>This scenario is presented by Williams [1974: 199f].

<sup>5</sup>This scenario is presented by D'Arcy [1966: 172].

<sup>6</sup>See, for example, Williams [1974: 203]. See also Bentham [1823: ch. 8, ¶16].



for their hair to fallout. The man who gets drunk does not intend to have his next morning's hangover.<sup>7</sup>

The proponent of PDE is correct in isolating the intention of moral agents as being morally relevant to moral evaluation, at least in many cases, and PDE's distinction between intended and unintended consequences is a significant improvement over the absolutist ethic that makes no such distinction. However, I do not think that the intentions of moral agents are relevant in the ways specified by PDE. As a preliminary observation, it seems that not all foreseen but unintended consequences should avoid blame. The driver that accidentally kills a pedestrian because he was too lazy to have his faulty brakes repaired, knowing full well that such a consequence was likely to occur, is not absolved from blame for the death of the victim because his death was unintended.

As Thomson [1973: 152f] has argued, to properly determine whether an intention to produce bad effects is a necessary indicator of the moral status of an action, what is needed is a comparison between two situations in which the only relevant difference is that in one the foreseen bad consequence is intended, while in the other it is unintended. In that vein, consider the case<sup>8</sup> of two doctors, each practising in a country that permits voluntary euthanasia and that has enacted laws to safeguard against abuse. Further, suppose that each doctor is treating a terminally ill patient who is suffering constantly and who has made repeated, considered requests for a peaceful death. In each case, the doctor has administered a large dosage of a pain killing drug that is the minimum necessary to relieve pain, knowing, however, that the patient will certainly die of an overdose.

The single difference between the two circumstances is that in one situation, the doctor did not intend the death of the patient, merely seeking to relieve his pain, while in the other, the doctor intended the patient's death as a means of providing permanent relief from unbearable pain. As the first-mentioned doctor satisfies all four conditions of the application of PDE, his unintended killing is permitted. Applying PDE to the second situation, the intentional killing of the patient is deemed blameworthy.

It could be argued on humanitarian grounds, however, that there is no moral distinction between the two acts of killing. If one were forced into making some moral distinction, I think that a good case could be made out for morally appraising the second-mentioned doctor more than the first. This could be argued on the basis that the second-mentioned doctor's humanitarian intentions are worthy of reinforcement for the greater benefit of future patients. For these reasons, it seems prudent to conclude that condition 2 of PDE, that the agent must not intend the bad effect, is misdirected.

Similarly, condition 3, that the good effect must not be a product of the bad effect, seems also to be mistaken. The second-mentioned doctor's act fails to satisfy condition 3 because the good effect, the permanent relief from unbearable pain, is only obtained by means of the bad effect, the patient's death. However, if there is no moral distinction between the first-mentioned doctor's act and that of the second, condition 3 is

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<sup>7</sup>The most comprehensive and worthwhile attempt at characterising an intentional action that I have seen is that by Kenny [1968: 154]. An intentional action, according to Kenny, is one in which the agent a) knows he is doing it and b) wants to do it either for its own sake or in order to further some other end.

<sup>8</sup>Thomson has her own very instructive example in her [1973: 153f].

unwarranted.<sup>9</sup> So, although the Principle of Double Effect is an improvement over absolutist ethics that make a too simple analysis of intention, the principle fails to resolve satisfactorily the problems of such a rudimentary analysis. And this is because it misplaces the relevance of intentions in moral evaluation.

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<sup>9</sup>For further example scenarios, see Frey [1975]. See also Thomson's example in her [1973: 153f], which also violates condition 3. Williams' example, in Smart and Williams [1973: 98f], of a man who must intentionally kill one person to save the lives of ten others is also a case of a violation of conditions 2 and 3 if the man decides to shoot, even though I think that his intentional killing of the one person is morally defensible.

### 3.4 Problem 4: *Morally Repugnant Judgements*

*By not recognising that some consequences of voluntary actions are foreseen but unintended, absolutism is unnecessarily harsh in some of its judgements.*

Even where a system of absolutist ethics distinguishes acts from consequences, there remains a further problem resulting from its lack of distinction between unintended and intended foreseen consequences. Advocates of the Principle of Double Effect claim that such an absolutist ethic delivers repugnant moral judgements in some circumstances.

We have already seen (§3.3 above) that an absolutist ethic of this kind would condemn the man that had made a breach in a dike in order to save a town, the group that had thrown a time-bomb out of a window to save their own lives and the doctor that had administered an overdose to relieve the pain of his patient. These adverse moral evaluations are made on the grounds that each of the agents knew that their action would lead to, or was likely to lead to, the loss of innocent life. Contrarily, PDE absolves these agents from such unnecessarily harsh judgements.

It is certainly true that such an absolutist ethic would result in more unpalatable conclusions than the same absolutist ethic supplemented by PDE. However, at the same time, PDE would be more demanding on the individual moral agent because the moral criteria apply to acts as well as omissions. So, in the examples cited above, the man cannot refuse to make a breach in the dike, the group cannot abstain from throwing the time-bomb out of the window and the doctor cannot avoid administering the fatal dose of morphine. To make these omissions would be to act in breach of condition 4 of the principle. I mention this not as a criticism, but as an observation. Although, I can understand the complaint made against PDE by an absolutist critic that condition 4 is too utilitarian in its flavour.

It seems that the application of PDE will allow for more moral judgements consonant with a consequentialist calculus than what many of its proponents will admit. For example, it appears to allow the following actions:

1. a craniotomy to save the life of the mother, and other types of abortions performed for the sole purpose of relieving a life-threatening strain on the mother;
2. detonating an explosive to clear a fat man that had become lodged in the mouth of a cave, threatening the lives of his explorer friends trapped inside; and
3. killing civilians in war time for reasons other than lowering civilian morale.

In each of these cases, the death of the victim, or victims, is not the means to securing the desired end; it is foreseen but not desired. This is not the place to argue for this thesis, my point being rather that granted these extra cases of acceptable judgements, there remain many cases in which the conclusions are most unpalatable.

To illustrate my point, consider an absolutist ethic that prohibits the intentional killing of innocent persons. Here, the application of the Principle of Double Effect will morally condemn at least some first trimester abortions performed on rape victims and

women in destitute circumstances (if 'person' is taken to mean 'member of the species *homo sapiens*' or 'genetically unique individual' or similar) and suicides committed with the purpose of avoiding torture that would result in the release of secret information, placing the lives of many innocent people under threat. The application of PDE will also condemn a bystander's shooting of a man, at his request, trapped in a burning lorry, in order to prevent him from burning to death,<sup>10</sup> and the shooting of an innocent civilian, in order to save the lives of ten others, while on a botanical expedition.<sup>11</sup> There appear strong compassionate grounds for allowing early-term abortions performed for the above-mentioned reasons. It also seems that the agents in the remaining cases deserve moral commendation instead of disapprobation; the suicide because he had committed the supreme sacrifice for the good of others and the remaining two because of the enormous psychological difficulties faced in performing their acts of compassion.

As another case in point, consider absolutist ethics that prohibit lying and the sexual 'offences' of adultery, prostitution and sterilisation. Advocates of PDE will find morally culpable the man harbouring a Jew in wartime Germany who lies to an enquiring German soldier about the location of the Jew that he has hidden. Proponents of PDE will also find culpable the mother who commits adultery under the threat that if she did not her three children will be killed, the mother who prostitutes herself to feed her starving children and the diseased women who consents to her sterilisation in order to prevent a pregnancy that would directly endanger her life. In each of these cases, the agent wills the bad effect, in contravention of condition 2 of the principle.

One does not need to be a thoroughgoing consequentialist to appreciate that at least some of these conclusions are most unpalatable. They severely offend against the moral sentiments of compassion and benevolence. As these examples demonstrate, PDE does not adequately soften the demands of a rigid and insensitive moralism that ignores appeals to human sympathy.

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<sup>10</sup>For this example, see Glover [1980: 88].

<sup>11</sup>For this example, see Smart and Williams [1973: 98f].

## 4. Conclusion

In this essay, I have examined the claim that the Principle of Double Effect avoids the difficulties associated with a less sophisticated absolutist ethic. I have scrutinized each of the four major problems in turn, and their attempted solutions, and concluded that PDE does not provide a satisfactory solution to any of them. PDE's valid distinction between acts and refusals, and their foreseen consequences, provides no logical guarantee against conflicts between rules and between different applications of the same rule. Hence, the principle cannot prevent recourse to a utilitarian-type calculus in cases of such conflicts. Neither could this distinction resolve the problem of moral agents being held morally culpable for whatever they did in situations of dilemma, even though they were not responsible for the existence of the dilemma.

Another linguistically correct distinction made by PDE is that between the intended and unintended foreseen consequences of a voluntary action. In spite of its correctness, advocates of PDE misconstrue the relevance of this distinction in act evaluation, leading to some morally repugnant conclusions. Because of this, PDE's posited explanation for the moral relevance of intention is an unsuitable replacement to its less sophisticated absolutist rival. Although the proposed explanatory framework serves to alleviate some of the harshness of a simpler absolutism, PDE was found to stop well short of being a suitable basis for an ethic serving the interests and concerns of humanity.

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