Chapter Eight: Rethinking Intention and Double Effect

Published by

Gentry, Caron E. and Amy E. Eckert.
University of Georgia Press, 2014.

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Consider a scenario almost too commonplace to think of as hypothetical: military planners must decide whether to attack a site that contributes significantly to their enemy’s war efforts—a site located amid noncombatants. The planners must decide whether to attack the site despite foreseeing that noncombatants will unavoidably be killed as a direct result of that attack. Destroying the enemy facility will contribute significantly to ending the war, but it will do so only at the cost of these noncombatants’ lives.

Perhaps the oldest line of reasoning when confronting such situations relies simply on military-instrumental calculation: if the destruction of the site will contribute to the achievement of victory, then other consequences need not be taken into consideration. In this tradition, success is the only relevant metric; this sort of reasoning is the moral sibling of the legal dictum “silent enim leges inter arma.”

Just War theory has turned to Catholic moral theology for a test of such a proposed act’s permissibility; the Doctrine of Double Effect (DDE) rests on a presumed distinction between the intended effects of an act and the foreseen but unintended effects of that same act. It is, strictly speaking, a deontological approach. Under DDE, if in seeking a morally allowable result you foresee another result that in itself would not be morally allowable, you may act as long as you do not intend to bring about that second (otherwise forbidden) result. “According to DDE, it is morally worse for an agent to bring about some intended bad consequence than to bring about that consequence when it is merely foreseen.” By the logic of DDE, so long as the intention of the planners is not those (foreseen) noncombatant deaths, the proposed mission is allow-
able; if, conversely, the intention is to kill the noncombatants, the mission may not morally proceed.

Canonically, DDE is regarded as having been first articulated by St. Thomas Aquinas in a discussion of self-defense in *Summa Theologiae*. It has been the subject of a tremendous amount of discussion, challenge, refinement, and rearticulation over subsequent centuries. Ethics and International Relations (EIR) as a field, however, shows minimal acquaintance with these subsequent discussions; very few commentators refer to sources or formulations more recent than Aquinas. Yet DDE raises a number of interesting questions for EIR beyond just its usage as a test for the permissibility of proposed military action; implicit in the formulations of the Doctrine are issues about agency and intention that speak directly to parallel debates in International Relations (IR).

It is this idea and its underlying logic that this paper addresses, using this hypothetical bombing scenario as illustration. To do so, we must closely parse the intention / foresight (I/F) distinction upon which DDE is predicated. We have to both ascertain their conceptual relation and analyze the extent to which any distinction between them is *morally* relevant. It is my position that while the underlying I/F distinction is prima facie valid and is morally significant, DDE’s emphasis on intention is too permissive and allows too much. Although it recognizes responsibility for unintended harms, this is not sufficient.

**ANALYZING THE DOCTRINE**

Our hypothetical agent (the mission planner) proposes to engage in action $A$ (the attack on the enemy military site) intending effect $E_1$ (the destruction of that site) but also foresees $E_2$ (the noncombatant deaths) without specifically intending that $E_2$ come to be.

The tradition stipulates four criteria for an act like that proposed in our scenario to be permissible:

1. The initial act ($A$) is per se licit.
2. The foreseen bad effect ($E_2$) is caused but not intended (or alternately, only the good effect ($E_1$) is intended).
3. $E_2$ is neither the means to nor the cause of $E_1$.
4. The harm caused by $E_2$ is proportionate to the good motivating $A$.

We can see that the DDE would provisionally allow proceeding with the attack so long as the intention behind the attack is not the deaths of the non-
combatants, so long as the destruction of the site is not causally dependent upon their deaths, and so long as the causing of their deaths is proportionate to the benefit to be had by the destruction of the site. Following general usage, we call the mission planner who chooses a war effort–related target, the destruction of which is calculated to have significant effects on the enemy’s material capacity to make war, “Strategic Bomber” (SB). SB foresees the loss of noncombatant lives as a result of the strike. These noncombatant deaths are not the purpose of the strike, and they are not any part of the means of the destruction of the target; they result alongside the intended end and are therefore regarded by advocates of DDE as praeter intentionem.¹⁰

A mission planner who seeks out the same target, but in this instance chooses it as a means to kill noncombatants, we will call “Terror Bomber” (TB). TB’s sole aim is to kill civilians in order to instill terror as a means to speed the war’s end. These civilian deaths are specifically intended and foreseen; the destruction of the military target is incidental although presumably secondarily beneficial.

### Table 8.1 Diagram of Standard DDE Reasoning

<table>
<thead>
<tr>
<th>Situation</th>
<th>Intended and Foreseen</th>
<th>Intended but Unforeseen</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forseen a morally bad secondary effect $(E_2)$ of an otherwise allowable action $(A)$ taken in pursuit of a morally good end $(E_1)$ is:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The act is:</td>
<td>Forbidden</td>
<td>N/A</td>
</tr>
<tr>
<td>Notes:</td>
<td>$(E_2$ is in no meaningful way a “secondary” result as it was sought via $A$ and was foreseen to result from $A$.)</td>
<td>(An agent cannot intend to bring about $E_2$ via $A$ if she or he does not believe that $A$ will produce $E_2$. Foresight is in this narrow sense a precondition of intention.)</td>
</tr>
</tbody>
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<td></td>
<td></td>
</tr>
<tr>
<td>The act is:</td>
<td>Allowed</td>
<td>Allowed</td>
</tr>
<tr>
<td>Notes:</td>
<td>(This is the domain of actions to which DDE is held to apply)</td>
<td>(This is the domain of actions to which DDE is held to apply)</td>
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</tbody>
</table>
sb’s proposal to attack a military target or a target that directly contributes to the war effort is prima facie allowable in both the *jus in bello* tradition and under the positive Laws of War. The intended effect of the destruction of the legitimate target is also prima facie licit. The noncombatant deaths are neither intended nor are they a means to achieving the intended end of destroying the target. All that remains is the question of the proportionality of the foreseen noncombatant deaths to the value of the destruction of the target.

TB’s proposed act is materially identical; however, his or her underlying intention differs from sb’s. Unlike sb, for TB the civilian deaths are intended; this is per se illicit because noncombatants are never legitimate targets in either the *jus in bello* or under the positive laws of war. Because TB intends the noncombatant deaths rather than merely foresees them as the concomitant of bringing about $E_1$, the proposed act is impermissible.\(^{11}\)

Advocates of DDE hold that in this hypothetical situation, materially identical acts are permissible in the first case and impermissible in the second. The basis of the differentiation is the motivating intention. Intending to destroy a military-related target for the purpose of weakening an enemy’s war-making capability is allowable even if civilian noncombatants are killed as a fully foreseen secondary effect. Intending to destroy the same target with the aim of killing those same civilians is, however, impermissible. The civilian deaths are excused in sb because they are incidental to the legitimate aim, but they serve to prohibit the *materially identical* attack in TB because they are intended; because of the illicit end motivating the proposed act, the act is forbidden.

There is a complex issue related to establishing the intent of the agent in doing $A$—establishing that the agent intends the coming-to-be of $E_1$, and that the agent does not intend $E_2$. This has led to an enormous body of literature discussing the proper way to conceptualize intention. Is intention purely a subjective mental state? Is it a fact external to the mind of the agent or any other actor? Are there criteria for identifying the presence or absence of intent? Are such criteria factual or purely imputational?

**INTENDING**

DDE is predicated upon the belief that not all outcomes that are knowingly brought about are intended. This brings us directly to the heart of the philosophy of action and its central questions, “what is intention?” and “what is intentional action?” If the predicate distinction between intended and foreseen
consequences does not hold, then DDE does not work as a test of the allowability of a proposed act.

One of the first things we find when exploring the concept of intention is that there is a fairly stark difference among philosophers of action and philosophers of law regarding when an act or an outcome is intended. Philosophers of law—and Anglophone law generally—follow the lead of the British Utilitarians who held that any outcome foreseen as liable to result from a contemplated action must be regarded as intended.¹² “There is a presumption in law,” states Anthony Kenny, “that a man intends the natural consequences of his acts.”¹³

Part of the divergence in the understandings of intention relates to the divergent purposes at work; the Utilitarians and philosophers of law were concerned with attributions of intent as they relate to the attribution of responsibility. By contrast, the philosophy of action is more concerned with conceptual clarity and logical precision. The law might say that a person who does A will be considered to intend all of the results of doing A (irrespective of their actual subjective mental states) if conditions C₁–Cₙ are met, while philosophy of action is concerned with the logical sufficiency of those conditions.

The Utilitarian/legal position can be traced to Jeremy Bentham’s Introduction to the Principles of Morals and Legislation, in which he introduced two types of intention, direct and oblique.¹⁴ As Alfred Miele and Steven Sverdlik explain, “Any ‘direct’ intention concerns a result of one’s bodily movement such that ‘the prospect of producing it constituted one of the links in the chain of causes by which the person was determined to the act.’ An ‘oblique’ intention, in contrast, concerns a result that ‘was in contemplation, and yet appeared likely to ensue in cases of the act’s being performed, yet did not constitute a link in the aforesaid chain.’”¹⁵ John Austin followed Bentham quite closely in Lecture XIX of his Lectures on Jurisprudence. The most important statement of the Utilitarian position is Henry Sidgwick’s.¹⁶ Sidgwick’s argument is developed in two parts; in his discussion of Free Will and its relation to moral culpability he states: “The proper immediate objects of moral approval or disapproval would seem to be always the results of a man’s volitions so far as they were intended—i.e. represented in thought as certain or probable consequences of his volitions. . . . It is most convenient to regard ‘intention’ as including not only such results of volition as the agent desired to realize, but also any that without desiring he foresaw as certain or probable.”¹⁷ He elaborated in the discussion of “Intuitionism”: “For purposes of exact moral or jural discussion, it is best to include under the term ‘intention’ all the consequences of an act that are foreseen as certain or probable . . . undesired accom-
paniments of the desired results of our volitions are clearly chosen, or willed by us . . . while a man can resolve to aim at any end which he conceives as a possible result of his voluntary action, he cannot simultaneously resolve not to aim at any other end which he believes will be promoted by the same action.” Sidgwick’s primary concern was with the attribution of responsibility: “We cannot evade responsibility for any foreseen consequences of our acts by the plea that we felt no desire for them, either for their own sake or as means to ulterior ends.”

Bruce Aune more recently articulated a similar view: “If at the time of action a man clearly, explicitly, and with certainty foresees that his intended act will have specifically describable consequences, which would not otherwise occur, then those consequences will be reflected in his practical reasoning and will be intended as a part of the total situation he decides to bring about.”

Although these Utilitarian formulations were made without reference to either DDE or its underlying Thomist understanding of intention, the Utilitarian view constitutes a direct challenge to those accounts. The Utilitarian formulations also provide the starting point for most contemporary discussions of intention; whether interested in defending DDE or not, there has been a concerted effort to rebut the Utilitarian equation of intention with foresight.

Responses to the Utilitarians have taken a number of forms, all of which are predicated on intention constituting a distinct mental phenomenon. Many efforts focus on identifying the components of intention; G. E. M. Anscombe and Donald Davidson emphasized desire and belief. Anscombe rejected what she labeled the “Cartesian psychology” that regarded intentions as “interior act(s) of the mind which could be produced at will.” She rejected this understanding of intention both because it allowed too much and because as a result of allowing too much it opened the door to criticisms such as Sidgwick’s. Borrowing from Wittgenstein, she took a “descriptivist” turn, in which an action is intended only under certain descriptions; hence the same physical act will be intended under one description and unintended under another. The source of that description is to be found in the agent’s answer to the question why he or she is performing that act. If he or she is doing it to accomplish some end, then the act is intentional. If he or she is doing it unreflectively, or simply for its own sake, then the action is not intentional.

The two most influential positions on intention in debates over its role in DDE are those of Roderick Chisholm and Michael Bratman. Chisholm sets out a position intermediate to that of the Utilitarians and that of advocates for a strict I/F distinction. His starting point is the comparison of two principles govern-
ing intention, the “principle of nondivisiveness of intention” and the “principle of diffusion of intention.” In the former, states Chisholm, “if (i) a man acts with the intention of bringing it about that \( p \) occurs and if (ii) he knows . . . that if \( p \) occurs then the conjunctive state of affairs, \( p \) and \( q \), occurs, then (iii) he acts with the intention of bringing it about that the conjunctive state of affairs \( p \) and \( q \), occurs.”23 In the latter principle: “from facts that (i) a man acts with the intention of bringing about a certain state of affairs and that (ii) he knows . . . that that state of affairs entails a certain other state of affairs, it does not follow that (iii) he acts with the intention of bringing about that other state of affairs.”24 Chisholm’s conclusion is that although \( q \) is not per se intended, the conjunctive state of affairs is. Antony Duff, writing with specific concern for the role of intention in DDE, differs in a small but important way with Chisholm; rather than intending the conjunctive, Duff asserts that what the agent intends is to bring about \( p \) despite \( q \); this, he insists, “gives a fuller picture of the practical reasoning which informs his action and thus of his action as the outcome or expression of that reasoning.”25

Of all the investigations of intention, Bratman’s account has perhaps been the most influential among those influencing discussion of DDE. For Bratman:

\[
S \text{ intentionally } A \text{’s if}
\]

1. \( S \) wants to \( A \) and for that reason intends to try to \( A \), and
2. \( S \) \( A \)’s in the course of executing his intention to try to \( A \), and
3. \( S \) \( A \)’s in the way he was trying to \( A \)

\[
\ldots \text{ intention is a distinctive pro-attitude involved in intentionally } A \text{-ing} \]

The conclusions Bratman draws seem to place him in the same camp as the Utilitarians. This is due to the distinction he works out between intention and intentional action. As Bratman articulates the distinction, we can intentionally do an act without the act being intended: “While to \( A \) intentionally I must intend to do something, I need not intend to do \( A \).”27 This requires some clarification; an intentional act is an act with an intention behind it.

\[
A \text{ is in the motivational potential of my intention to } B, \text{ given my desires and beliefs, just in case it is possible for me intentionally to } A \text{ in the course of executing my intention to } B. \text{ If I actually intend to } A \text{ then } A \text{ will be in the motivational potential of my intention. But we need not suppose that if } A \text{ is in the motivational potential of an intention of mine, then I intend to } A \ldots
\]

\[
\ldots \text{ The notion of motivational potential is intended to mark the fact that my intention to } B \text{ may issue in my intentionally } A \text{-ing} \ldots
\]
If S intends to B and S A’s in the course of executing his intention to B . . .
then S A’s intentionally.²⁹

Bratman offers a hypothetical that is easily transposable with our own Bomber scenario. In it, he intends to run a marathon; as he contemplates this action, he comes to realize that acting upon this intention will result in the wearing down of his shoes. It is not his intention to wear down his shoes. As evidence of the lack of intention, he states that there is no further reasoning or effort dedicated to the wearing down of his shoes. “My attitude towards wearing down my sneakers does not play the role in further ends–means reasoning that an intention to wear them down would normally play.”³⁰ If he proceeds to run the marathon, and thus proceeds to wear down his shoes, Bratman holds that while he wears them down intentionally, he does so without an intention to do so. On its face, this seems to support the I/F distinction, and up to a point, it does; however, by retaining the intentionality of the action or outcome, Bratman maintains a way to acknowledge responsibility for unintended outcomes. Antony Duff reaches a very similar conclusion arguing that an agent can bring about an effect intentionally without intending to bring it about.³¹

Despite their differences (which are more significant than this brief survey indicates), these views share the conclusion that an intention must be something that the agent seeks. An act is intentional if the agent chooses to take it as a means to an end, and a result is intended if the agent seeks to bring it about. Shaw’s recent treatment of intention nicely summarizes this view.³²

Other interventions into this debate have come from authors specifically concerned with articulating a definition of intention that supports DDE. According to Joseph Boyle:

One intends one’s ends, the states of affairs one aims to achieve in action, and one also intends one’s means . . . Features of one’s voluntary actions which are not one’s ends or means are side effects. Side effects are consequences or other aspects of one’s actions which are neither the goals one seeks in acting nor the precise states of affairs one is committed to realizing for the sake of these goals. They are properly regarded as outside one’s intention in acting because their occurrence does not contribute to one’s purposes; they are not part of what one wants to occur or of what, strictly, serves one’s purposes.³³

Rather than addressing any of the challenges to this sharp delineation of the bounds of what is intended, Boyle merely brushes them away. Alison Hills
makes a very similar move: “An agent intends some state of affairs if she aims at it, tries to achieve it, chooses action on the basis of whether those actions contribute to achieving it, and monitors her success at achieving it. An agent merely foresees bringing about some state of affairs if she is aware that she will bring it about, but does not aim at it.”

THE MORAL SIGNIFICANCE OF INTENDING

Think for a moment about the claim that the tactical bomber in dropping live bombs on the heads of civilians does not directly kill them!

In the previous section, we got some idea of the contours of the philosophical debates surrounding the theoretical tenability of the I/F distinction. In this section, we build on those questions as we turn from the tenability of the distinction to its moral significance. For Utilitarians the I/F distinction makes no moral difference; for defenders of DDE, of course, the distinction is paramount. T. M. Scanlon makes one of the most aggressive challenges: “No one has . . . come up with a satisfying theoretical explanation of why the fact of intention in the sense that is involved here—the difference between consequences that are intended and those that are merely foreseen—should make a moral difference.” The consequences here are the same as those of the previous section: if there is no moral difference in the I/F distinction, then DDE cannot perform the function for which it was designed. The veracity and moral weight of the I/F distinction are not only philosophical points for defenders of DDE; they are articles of faith.

In one respect, the debate over the moral significance of the I/F distinction is about competing notions of agency. In particular, we can again see a Utilitarian-Absolutist split. As R. A. Duff states:

A Utilitarian regards outcomes or events, rather than actions, as of primary significance . . . he is interested in human agents and their actions only secondarily, insofar as they can have an effect on what happens. . . . [The individual] is the agent of, and responsible for, all of those effects which he does or can foresee and control. Distinctions between intention and foresight . . . have no intrinsic moral significance . . .

. . . a consequentialist bases moral agency on knowledge and control.
By contrast, Duff continues,

[Defenders of DDE are] primarily concerned with the intentional actions of human agents rather than their consequences. What matters is not simply that an event occurs which I did, or could foresee and control, but the way in which I am related, as an agent, to that event: what matters is what I do; and ‘what I do’ is determined not just by what happens, but by the intentions revealed in my actions . . .

It is a wholly agent-centered consideration.

DDE’s “roots lie in appraisal of character” rather than in the appraisal of action.

Must we rely on the agent’s own account of his or her intentions? Are there limits to what an agent can legitimately claim to intend or, perhaps more importantly, claim not to intend? A recurrent question in the literature concerns the characterization of acts and intentions: May the agent in our hypothetical scenario claim only that she or he intends no more than the dropping of bombs on a specific building, or is there something insufficient or even disingenuous about that intention description? As Duff also states: “If we can describe what an agent does, as a means or as an end, without explicit reference to someone’s death, then his action is not one of intentional killing . . . [but] there is a logical absurdity in suggesting that I can intend to decapitate, or cut into small pieces, or remove the heart of a living human being, without thereby intending his death . . . [there are] logical limits on what I can include in, or leave out of my descriptions of my intentional action.”

Defenders of DDE, following Anscombe, insist “there is not necessarily—indeed there is seldom if ever—one and only one correct description of a given act.” Although by characterizing intentions as answers to questions about why an agent acted thus, she opened the door to this sort of disingenuousness, Anscombe later insisted that the “Direction of Intention” was “an absurd device . . . you cannot just choose one [description] . . . and claim to have excluded others by that. Nor can you simply bring it about that you intend this and not that by an inner act.” Still, there are accounts of DDE that insist on the legitimacy of doing precisely this.

Another important point is raised by Philippa Foot: the problem of “closeness.” Related to the problem of redescription, this is an issue of one act being so empirically and conceptually close to another that they cannot be legitimately
separated. Blowing up the spelunker in one famous example simply is killing him; crushing the head of the fetus simply is killing it. According to Philip E. Devine, “Certain kinds of acts—the taking of human life for instance—are of such moral significance that terms denoting them may not be elided into terms denoting their consequences, which fail to reveal the morally significant character of the original act.” Hills, however, rejects closeness as a problem: “However ‘close’ X is to Y, even if X is identical with Y, it is possible for an agent to intend that X and not to intend that Y.”

Jonathan Bennett brings another problem to our attention. In challenging the moral significance of the I/F distinction, he introduces a third character to our hypothetical, the “Philosophically Sophisticated Terror Bomber” (pstb). Starting with dde supporters’ use of Anscombe’s view of intentions, pstb chooses the site because noncombatants will be affected by the attack, and is motivated by the results of those noncombatants being bombed. However, pstb asserts that he or she does not intend their deaths; indeed, their deaths are not necessary to the success of the plan. All that is needed according to pstb, and all that he or she intends is the appearance of their deaths for the duration of the war. “All that was intended by [pstb], states Bennett, was that the people’s bodies should be inoperative for long enough to cause a general belief that they were dead, this belief lasting long enough to speed the end of the war: there is nothing in that which requires a causally downstream inference that the inoperativeness be permanent; and so there is nothing requiring that the people actually become dead.” pstb would claim that the act in question is “intentional as an apparent killing,” but not “intentional as a killing. . . . ‘The actual deaths can’t be helped if I am to create the realistic appearance of death and destruction.’” As further evidence that she or he does not intend their deaths, pstb would be quite content to see a “reversal of change” in which the noncombatants went from being dead to returning to life. Bennett claims that supporters of dde cannot answer pstb; if, per Anscombe, it is up to the agent to characterize his or her intentions, then as far-fetched and indeed ridiculous as pstb’s intention claim, it remains philosophically tenable even in the full knowledge that “the people would become not merely inoperative for a while but downright dead.”

Warren S. Quinn tries to rescue dde from Bennett by giving it a Kantian twist; what matters on his account is not intention, but “harmful agency” and using the noncombatants as “intentional objects.” In Quinn’s rendering, the difference between sb and tb should not be framed around whether the harm is intended, but should be focused on the fact that sb harms through “harmful
indirect agency” and TB through “harmful direct agency”. What seems specifically amiss in relations of direct harmful agency, states Quinn, “is the particular way in which victims enter into an agent’s strategic thinking. . . . The agent of direct harm . . . has something in mind for his victims—he proposes to involve them in some circumstances that will be useful to him precisely because it involves them. He sees them as material to be strategically shaped or framed by his agency.”

Hills responds to Bennett’s challenge (and, by extension, the problem of “closeness”) by making the rather surprising claim that it “must . . . be possible for an agent to intend to blow someone up or to intend to make him seem dead without intending to kill him.” The latter part of her claim is certainly plausible, but the question is whether one can so intend when one uses bombing as the means to bring it about. She allows that if PSTB uses killing as the means to bring it about, then that would fail DDE, but she still maintains that this is only one plausible means to bring it about that the noncombatants are “merely inoperative.”

Elsewhere she goes further in allowing that while harm may not be sought as an end in itself, it is legitimate for harm to be intended as an means to a good. “When an agent intends some harm as a means to a good end, she is committed to that harm. . . . But she is aiming at harm not for its own sake, but for the sake of the end for which the harm is a means. . . . Though it is bad to intend harm as an end, it need not be bad to intend harm as a means to some good.” This is a perplexing claim for a defender of DDE to make, given its Pauline foundation, and it seems quite plainly to violate the third rule of DDE. In a move more perplexing still, Hills uses this reasoning to defend TB by asserting that as long as the end is good, then the proposed means of intentionally killing the noncombatants is morally acceptable.

David K. Chan, in working out the moral difference between intended and foreseen killing, shifts explanatory (and axiological) emphasis from intending to desiring. Building upon Bratman’s account, Chan differs on one key point: it is not necessarily the case that “an agent who intends a side-effect must engage in means-end reasoning to solve a problem of how to bring about the side effect.” By removing this constraint, a secondary effect might be intended, and thus that leg of DDE falls, and by extension, so does one of the key distinctions between SB and TB. However, Chan is concerned to defend DDE, and for that reason, he turns from intention to desire. “Where [SB and TB] differ concerns not their beliefs but their attitudes towards killing. . . . For SB to choose
a different kind of bombing from TB, they must disagree concerning the (un) desirability of the act of killing . . . in itself.” He continues: “The moral distinction in double effect cases I am arguing for . . . is in terms of intrinsic desire, desiring something for its own sake . . . I will examine whether there is any difference between SB and TB in their desires regarding the act of killing . . . in itself prior to their connecting the killing with their respective goals.”

In this rendering, as long as killing noncombatants is not desired, but only tolerated, then the acts of SB are allowable under DDE. Perhaps the most important thing to take away from Chan’s account is his separation of intention and desire. Contra some of the other defenders of DDE, one can intend a thing for which he or she feels no desire, thus SB does intend to kill the noncombatants but does not desire to, and thus this passes Chan’s version of DDE.

RESPONSIBILITY

The unintended evil effect, the bringing about of which is rendered licit by the [DDE], is clearly imputable to the agent: he knowingly and willingly brings it about.66

If, as it seems, there is a tenable philosophical-conceptual distinction between intending and foreseeing, and if this is furthermore a distinction with moral import, the question of responsibility remains. DDE is framed around the question of permissibility, but the issue of responsibility is not settled by declaring an act permissible. The philosophy of action as we have seen tends to support DDE’s predicate position on the I/F distinction. However, with an eye toward Sidgwick, those accounts are emphatic in their conclusion that foreseen but unintended consequences nonetheless create responsibility for the agent: “We can be held responsible for more than we intend.”67 Thomas Baldwin indicates that “an agent cannot avoid responsibility for the consequences foreseen . . . just by pleading that those consequences were not wanted by him, that he did not intend them.”68

No matter the intention of the agent, she or he brought about the bad state of affairs $E_2$ and is thus responsible for its occurrence. As Miele and Sverdlik state, “Being morally responsible for A-ing requires neither that one A-ed intentionally nor that one intended to A.”69 The existence of responsibility is not predicated upon intention; Sidgwick therefore did not need to argue that all foreseen consequences are intended in order to make his larger claim about the responsibility of an agent for all consequences of an action.
Even the most strictly Thomist advocates of dde are in agreement on this point. DDE does not eliminate an agent’s responsibility for the harms inflicted even if he or she judges those harms to be permissible. Intention and DDE speak only to permissibility, not to responsibility. Whether a harm is intended or unintended is not a factor in attributions of responsibility and the issues that arise from it. Even permissible injuries call for reparation.

Notes

1. Cicero, Pro Milone IV.XI.


18. Ibid., III.I.2 (emphasis in original).

19. Ibid., III.I.


24. Ibid.


27. Ibid., 378.


29. Ibid., 396.

30. Ibid., 400.


41. Ibid., 7.

42. Ibid., 74. Duff states, “an absolutist bases moral agency on intention: what is absolutely wrong is the intended killing of an innocent.” Antony Duff, “Intention, Responsibility and Double Effect,” 7.


60. Hills, “Defending Doubling Effect,” 139. She continues in the same vein: “An agent who intends evil as an end has an inappropriate attitude toward evil, but an agent who intends evil merely as a means to a good end need not have a bad attitude toward evil.” By Hills’s account, it appears to be the case that it is perfectly licit to have a purely instrumental attitude toward evil and its infliction. Hill’s position was in some respects anticipated by Frey. R. G. Frey, “Some Aspects to the Doctrine of Double Effect,” *Canadian Journal of Philosophy* 5, no. 2 (1975): 259–83.
61. Romans 3:8. According to Boyle, “If the evil effect is brought about as a means to the good effect, then the evil effect must be intended, and the bringing about of the instrumental state of affairs is morally impermissible.” Boyle, “Toward Understanding,” 531.
65. Ibid., 415–16.