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### The intention/foresight distinction in the Doctrine of Double Effect: from theoretical impasses and double-think to practical applications in bioethics

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THE INTENTION/FORESIGHT DISTINCTION IN THE DOCTRINE OF DOUBLE  
EFFECT: FROM THEORETICAL IMPASSES AND DOUBLE-THINK TO  
PRACTICAL APPLICATIONS IN BIOETHICS

A Thesis

Submitted to the Graduate Faculty of the  
Louisiana State University and  
Agricultural and Mechanical College  
in partial fulfillment of the  
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in

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and Religious Studies

by  
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## ABSTRACT

The purpose of this paper is to address the doubts that surround the intention/foresight distinction of the Doctrine of Double Effect (DDE). The claim is made by some that this distinction is merely a semantic one or if real, it is morally irrelevant. It will be argued that this is the result of doubts that surround the contributions of theory in applied ethics and the double think that sometimes results from the misuse of the DDE. I will argue that the intention/foresight distinction in the DDE is a real one and can be made on the level of practice, without the need for theoretical support. In order to see this it is necessary to understand several things. First one must appreciate the historical development and context of the DDE. Secondly, is the need to understand the deontological framework from which the DDE grew a framework in which intention figures prominently though not exclusively. I further argue that one must appreciate the difference between theory and practice as seen in the difference between a theoretical and practical epistemology. Lastly, it will be argued that the DDE is better used as a principle of explanation rather than a principle of justification. Then based on what has been discussed I will give two examples of possible illegitimate uses of the intention/foresight distinction in DDE in the area of bioethics and note why they are problematic. Then I will provide examples of two legitimate uses of the intention/foresight distinction in the DDE and note why they are legitimate.

## INTRODUCTION

The following is a discussion of the intention/ foresight distinction in the Doctrine of Double Effect (DDE). At present there seems to be some doubt about the usefulness of this distinction in applied ethics, particularly in the relation to bioethics. The theoretical “thrust and parry” that has taken place in the debate over the intention/foresight distinction is part of the reason for this doubtfulness. It appears that this distinction, if it is a distinction at all, is purely a semantic one. The view that I will be putting forth in this paper is that the intention/foresight distinction can be made. The paper will proceed in the following manner. First I will briefly consider the thought of Tom Beauchamp over the place of ethical theory in applied ethics, and in particular bioethics. With his critique in hand, I will give one example of this theoretical “thrust and parry” over this distinction and trace its development. I will do this in order to show how, for many working in applied ethics, this distinction (and the DDE for that matter) is not helpful in confronting the real practical problems that face those in the medical community. I will go on to show that this doubt over the intention/foresight distinction in the DDE is based on two things: a seeming lack of historical appreciation of the fact that the intention/foresight distinction grew out of a real and practical concern addressed in the writing of Aquinas and a falling into what Elizabeth Anscombe and Stanley Windass have called double-think in regards to the DDE. The problem of double-think is based on a lack of appreciation of the Christian foundation of the DDE; the role that intention plays in the DDE and Christian/deontological ethics in general; and finally that the DDE is not a principle of justification but a principle of explanation. Finally I will give two examples that I intend to use that there are cases (other theoretical difficulties

notwithstanding) where the intention/foresight distinction in the DDE can be legitimately made. Once the proper context of the intention/foresight distinction and the DDE has been laid out, I will give two examples of how the intention/foresight distinction could be used erroneously (i.e. cases of double-think) in bioethics.

It is important to note, before proceeding any further, that the Christian origin of the DDE does not mean this principle is exclusive to that tradition. The DDE can and has been used by other moral traditions, especially any deontological system (e.g. Kantianism). What is more is that the DDE is could even in be used by those moral systems that reject the legitimacy of the principle (i.e. consequentialism).<sup>1</sup> The reason that the DDE is compatible with any moral theory is because there is nothing in the doctrine itself that designates what constitutes a good act. Let us look at some examples, beginning with Kantianism. For Kant or any Kantian, the concern is that an act of the human person be in accord with the categorical imperatives, namely that one should act in such a manner that the maxim of his action could be consistently willed as universal law (the first categorical imperative), and that act could be such that the person performing it never treated a person as a means but always as an end in him or herself

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<sup>1</sup> Here it will be useful to review the criteria that make up the DDE:

- “(1) The nature of the act. The act must be good, or at least morally neutral (independent of the consequences).
- (2) The agent’s intention. The agent intends only the good effects. The bad effects can be foreseen, tolerated, and permitted, but must not be intended.
- (3) The distinction between means and effects. The bad effect must not be a means to the good effect. If the good effect were the direct causal result of the bad effect, the agent would intend the bad effect in pursuit of the good effect.
- (4) Proportionality between the good effect and the bad effect. The good effect must outweigh the bad effect. That is, the bad effect is permissible only if a proportionate reason compensates for permitting the foreseen bad effect.”

Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 5<sup>th</sup> ed., (Oxford: Oxford University Press, 2001), 129.

(the second categorical imperative).<sup>2</sup> So take Kant's example of a man who contemplates suicide in order to end his suffering that he takes as impermissible.<sup>3</sup> The DDE could be used by Kantian to explain why such an act is forbidden in view of the first categorical imperative. Turning to the first criterion of the DDE we see that an act must be good or at least morally neutral. For Kant this act would have to be able to be willed consistently as universal law; however, as Kant has it, suicide could not be so willed. In terms of the second, the agent's intention, it would not matter if the agent's intention was good for following from the first criterion, the act of suicide cannot satisfy the first categorical imperative. The third criterion would obviously (following Kant's line of reasoning) be out of the question since the means of alleviating the suffering would be to embark on an action that is not consistent with the first categorical imperative. Finally the fourth criterion would show that, based on the first categorical imperative, the proportionality of the bad effect far out weighs the good, because you have made the maxim of your action something that cannot be willed universally or consistently.

There is also nothing in the DDE that would prohibit its use by a consequentialist. Hence one could turn to a species of consequentialism, utilitarianism, to see that this is the case. Utilitarianism, as put forth by John Stuart Mill, states that acts are moral in, "...proportion as they tend to promote happiness; wrong as they tend to produce the reverse of happiness."<sup>4</sup> So turning again to the first criterion there is nothing *prima facie* that is in conflict with the nature of the act being good or morally neutral. To the extent

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<sup>2</sup> Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis, Hackett, 1993), 30, 36.

<sup>3</sup> *Ibid*, 30

<sup>4</sup> John Stuart Mill, *Utilitarianism*, ed. George Sher ( Indianapolis, Hackett, 2001), 7.

that an act promotes the good it is accord with the first criterion. With the second criterion, it is true a consequentialist/utilitarian would deem a persons intention to do well irrelevant in determining what makes an act right. But all this shows is that a consequentialist would not appeal to intention and not that intention is somehow incompatible with consequentialism as such. The third criterion that distinguishes between the means and effect would similarly be viewed as extraneous in determining the morality of an act; however, what was said of the second criterion could be said here as well. Even though what matters is what results in the maximization of happiness and the minimization of unhappiness, regardless of the means to accomplish that end, this criterion is not in conflict with consequentialism as such. The last criterion, the proportionality of between the good and bad effects, may cause the consequentialist to claim that all of the preceding criteria are superfluous, yet it does not mean that a consequentialist could not use the DDE, even though such a use would be very unlikely.



## DOUBTS OVER THE EFFICACY OF THEORY IN APPLIED ETHICS<sup>5</sup>

Some philosophers hold that the ethical theories and theorizing have a place in bioethics. Others are not as quick to concede this point. This latter opinion is the view of Tom Beauchamp<sup>6</sup>. One of his critiques focuses on conceptual analysis.<sup>7</sup> This method of inquiry usually involves the contrasting of various cases to see if the differences among them and how, if they are, relevant.<sup>8</sup> However, the conceptual analyses that take place usually involve cases that are not relevant to the task at hand.<sup>9</sup> These conceptual tools may be interesting to moral philosophers but the nevertheless do not address the practical problems that confront the medical community.<sup>10</sup>

Although I am not going to focus on whether ethical theory has nothing practical to add to bioethics per se, I do agree that some of the theorizing done by philosophers seems to contribute little to the real concerns that confront those working in the medical community. This seems to be particularly the case in the debate over the intention/foresight distinction. Much has been written on whether a real distinction can be made between the good that one intends and the bad one foresees that may result in pursuit of that good. When it comes to the work of moral philosophers it may appear to

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<sup>5</sup> The aim of this section is to show (by way of a theoretical debate between two philosophers) why some are somewhat doubtful over the constructive role that philosophical theory can play in giving practical ethical solutions to contemporary problems facing those in the medical establishment.

<sup>6</sup> Tom Beauchamp, "Does Ethical Theory Have a Future in Bioethics?," *The Journal of Law, Medicine & Ethics*, 32, no. 2 (2004): 209-217

<sup>7</sup> *ibid.* 214

<sup>8</sup> *ibid.* 215

<sup>9</sup> Beauchamp refers to the cases, "...runaway trolleys, miniscule releases of toxic substances, persons who drown in bathtubs, rescuing drowning persons by killing someone in the path of the swimmer and the like..." *ibid.* 215.

<sup>10</sup> *Ibid.* 215

many outside the philosophical community that they are merely engaged in devising and discussing theoretical puzzles among themselves; puzzles that may be very engaging but may lack any practical relevance. For instance, there is one classic case that is used to support the intention/foresight distinction in the DDE and has since become the object of considerable theoretical complication. The first of these is the distinction between the strategic bomber (SB) and the terror bomber (TB)<sup>11</sup>. The TB is a bomber pilot serving his country in a just war. Understanding that the enemy's willingness to continue fighting is dependant on the enemy civilian population's willingness make sacrifices to help their military prosecute the war, the TB makes it his intention to not only destroy the enemy munitions factory, but also to kill as many of the civilian population around the factory as possible, in order to demoralize the enemy and bring about a speedier end to the war. In the counter example, the SB is fighting in the same war and has the same understanding as the TB, namely that the deaths of the enemy civilian population would serve to demoralize the enemy and help bring a speedier end to the war. However, in this counter example, it is not the SB's intention to kill any of the enemy civilian population.

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<sup>11</sup> Here is the exact example "Terrence [representing the TB] is a bomber pilot serving his country in what we will assume is a just war. Terrence realizes that his enemy's ability to continue to prosecute the war depends upon, among other things, the willingness of the enemy civilian population to continue to make sacrifices necessary to prosecute the war. Terrence also believes that that willingness is fragile and can be shattered if enough civilians are killed. Terrence, therefore sets out on a bombing mission not only with intent on destroying a munitions factory that is supplying his enemy with weapons necessary to fight the war, but also intent on killing a large number of civilians. We may be generous and assume that it is reasonable to believe, as he does believe, that his successful mission will shorten the war to the degree that fewer lives will be lost should he fly the mission than should he refuse. Samuel [representing the SB] is bomber pilot fighting in the same just war. Samuel also believes that civilian deaths will undermine his enemy's ability to continue the war. Samuel, however, in setting out on the same mission as Terrence, does not set out to kill civilians. Samuel realizes that a large number of civilians will be killed should his mission be successful; but those civilian deaths are not his aim. Similarly, we may assume that Samuel's success will, in the long run, save more lives than it will cost' Woodward, P.A., *The Doctrine of Double Effect: Philosophers Debate a Controversial Moral Principle*. Notre Dame: University of Notre Dame Press, 2001. p. 1

Even though the SB foresees that bombing the munitions factory will result in the deaths of civilians, their deaths are not part of his intention.

The cases in the pair of examples offered above are, for the most part, identical. Both men are serving in a just war, in which they are to bomb an enemy munitions factory. The bombing will serve to shorten the war, by inhibiting the enemy to prosecute the war effectively and to lower moral. The two are well aware that in conducting the bombing raid, many civilian deaths will result. However, the two examples are used (by proponents of the DDE and thus the intention/foresight distinction) to show that there is something fundamentally different among them. For in the case of the TB, he is intent on bringing about as many civilian deaths as possible in the process of conducting the raid. In the other case the SB is intent on bombing the munitions factory, which he knows will bring about many civilian casualties; however, he does not intend their deaths per se, but only foresees that they will likely result from the bombing raid. Therefore this example (according to the desires of the intention/foresight distinction and DDE proponent) is intended to pump intuitions that the two cases are fundamentally different and accordingly one can see that it is possible for one to intend a good effect (the destruction of an enemy munitions factory) and at the same time foresee a bad effect (the deaths of civilians as a result of the bombing factory), which is not intended.

However, if the proponents of the intention/foresight distinction thought that this example settles the issue they have since learned that this is far from the case. For instance, opponents of the intention/foresight distinction and thus the DDE will begin to hone in on certain aspects of this example as a means to show that this distinction is not as clear cut as opponents seem to think. One such aspect is the exact meaning of

“intending harm as a means.”<sup>12</sup> For instance, Jonathan Bennett, an opponent of the intention/foresight distinction, is doubtful that the distinction can be made between the pair of cases as easily as proponents may believe.<sup>13</sup> His main critique is what *is* intended as a means to an end in each of the cases above. For proponents of intention/foresight distinction it is maintained that the SB does not intend the deaths of the civilians as a means to his end (the cessation of the war), whereas, the TB does intend the deaths of the civilians as a means to his end (the cessation of the war). Bennett says that this is not as open and shut as one may wish to believe. For as it is the case that civilian casualties will certainly result from conducting the bombing raid, it is not clear how the SB can maintain that he, unlike the TB, is not intending to use the civilian deaths as a means to his end. It is Bennett’s contention, despite what proponents of the DDE say, that there is little difference between the two cases and that, “...how it feels in you [can generate] a moral difference between [them].”<sup>14</sup> After all both bombardiers foresee that civilian deaths will result from their bombing raids, thus he cannot see where the relevant moral distinction lies.<sup>15</sup>

Bennett goes on to add an interesting theoretical twist to the pair of examples.<sup>16</sup> Bennett claims that it need not be the case that the TB *strictly* intends the deaths of the civilians in order to lower moral. Suppose if the terror bomber could explode his bombs

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<sup>12</sup> David R. Mapel, “Revising the Doctrine of Double Effect,” *Journal of Applied Philosophy*, 18, no. 3 (2001): 257. Please note that in addition to this criticism of what is meant by “intending harm as a means”; other aspects of the DDE are open to critical inquiry as well. For example is knowing the possibility of foreseen consequences the same as intending those consequences and the problem of the proximity in space and time in the prosecution of an action.

<sup>13</sup> Jonathan Bennett, “Foreseen Side Effects Versus Intended Consequences.” See Woodward, pp. 85-118.

<sup>14</sup> Woodward, 114

<sup>15</sup> Woodward, 114

<sup>16</sup> *ibid*, 112

and the civilians appear as good as dead? If that was enough to serve to get the intended effect of the bombing (i.e. to lower moral) then it would seem that the TB does not strictly intend the deaths of the civilians and is on par with the SB. Thus the structure of intention would be the same for the TB and SB, something that proponents of DDE and intention/foresight distinction would not want to claim.

Moving onward, Warren Quinn, who is favorable to the intention/foresight distinction, sees this criticism and adds the following caveat.<sup>17</sup> It may appear that the two, in Bennett's discussion, are the same so that that both could say that they do not strictly intend the deaths of the civilians to further their goals. However there is one major distinguishing hallmark. Quinn introduces the notions of direct and indirect agency as a way of distinguishing the intentional structures between the TB and SB.<sup>18</sup> So Quinn's line of reasoning is that it,

“...distinguishes between agency in which harm comes to some victims, at least in part, from the agent's deliberately involving them in something in order to further his purpose **precisely by way of their being so involved** [emphasis mine] (agency in which they figure as **intentional objects**) and harmful agency in which either nothing is in that way intended for the victim or what is so intended does not contribute to their harm.”<sup>19</sup>

The first kind of agency Quinn calls direct and the second he calls indirect.<sup>20</sup> So from this further elaboration, Quinn will grant that that both the TB and SB are agents of harm; however the SB is indirectly so while the TB is directly so. The difference is that even though it is theoretically possible for the for the TB not to strictly intend the deaths of the

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<sup>17</sup> Warren S. Quinn, “Actions, Intentions, and Consequences: The Doctrine of Double Effect.” in Woodward, pp. 23-40

<sup>18</sup> *ibid.* 30-31

<sup>19</sup> *ibid.*

<sup>20</sup> *ibid.*

civilians; he nevertheless deliberately involves them in something (the bombing raid) in order to further his purpose (to demoralize the enemy) precisely by way of their being involved. So through this theoretical development, intention for Quinn moved from, “the idea of intending to harm a person as a means to the idea of intending to ‘involve’ or ‘use’ a person as a means.”<sup>21</sup>

At this point it would seem that the matter would be solved, but Bennett will responds to Quinn’s idea of direct and indirect agency.<sup>22</sup> His basic critique is that Quinn’s moving the ordinary notion of intending to harm a person as a means to involve or use a person as a means, is going to end up being too broad and would include those effects that are “only foreseen by products of the means.”<sup>23</sup>

Thus Bennett gives the following example to illustrate his point:

Some people have a highly infectious and dangerous disease; there are treatments that may succeed, but for the next week we will not have any of the special masks that are needed to protect the health workers from being infected. So we put the patients in quarantine for a week, although it is almost certain that a week from now their disease will have gone too far for successful treatment and they will die from it.”<sup>24</sup>

Bennett says that based on Quinn’s reinterpretation of intention, this case would be condemned, for “...in it we clearly intend to ‘involve’ the infected people; our purpose essentially requires us to affect them by keeping them away from everyone else.”<sup>25</sup>

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<sup>21</sup> Mapel, 259

<sup>22</sup> Woodward, 103-104

<sup>23</sup> Woodward, 104. He also notes, correctly so in my opinion, that he has altered the traditional understanding of intention

<sup>24</sup> *ibid*

<sup>25</sup> *ibid*

However, Bennett notes that this case of quarantine is not something that the person who held the traditional notion of intention would want to condemn.<sup>26</sup>

This is just one of the theoretical debates that have focused on the intention/foresight distinction. There are other theoretical cases similar to this one that try to accomplish the same thing, which is to prove or disprove the legitimacy of the intention/foresight distinction of the DDE. Yet the net effect of such debates has added to the doubtfulness that such a distinction can exist, a conclusion that proponents of the DDE do not want. It is my view that primarily theoretical discussions of the intention/foresight distinction (and the DDE) are impractical and self-defeating. The theoretical discussions are impractical because there is a growing sense that debates (such as the SB and TB) are of little importance in practical ethics. The discussions are self-defeating as the DDE is a practical principle (as I hope to show later) and to enmesh it in theoretical cases exposes it to needless criticisms. I included the SB and TB case in attempt to show how such a case is impractical and self-defeating. Certainly all these debates, including the preceding one, are theoretically very interesting and in some ways can add to our understanding of certain concepts but in the end they do not appear to help resolve practical problems facing the medical community, which is my ultimate concern. For it is not clear how the preceding discussion of the between Quinn and Bennett regarding the TB and SB, could be applied in the situation of hospital administrators who are trying to determine how best to allocate budgetary resources for the coming year.

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<sup>26</sup> *ibid*

## HISTORICAL DEVELOPMENT OF THE INTENTION/FORESIGHT DISTINCTION IN RESPONSE TO A PRACTICAL NEED

The preceding discussion was an attempt to show what a preoccupation with theory will yield in regards to the intention/foresight DDE, namely that it is impractical and internally contradictory. In this section I will discuss the historical roots of the DDE. My hope is that a historical discussion of the roots of the DDE will show why the doctrine must be seen as a practical not a theoretical principle.

I would like to discuss the misunderstanding that may surround the intention/foresight distinction, starting with a seeming lack of historical appreciation of the Christian origin and the practical development of this distinction.<sup>27</sup> It seems that this historical blind spot may have affected the way that opponents of the intention/foresight distinction and the DDE direct their criticisms of the intention/foresight distinction and eventually the DDE. Here now we must turn to St. Thomas Aquinas. Aquinas did not specify the conditions of the DDE as we have them today. However, insofar as the DDE, as we have it today, distinguishes between an action that can have two effect, one intended and one foreseen, he is usually recognized for having laid the foundation for the DDE.<sup>28</sup> This particular discussion is to be found in the STh II-II Q. 64 A. 7. This question asks whether a man can legitimately and lawfully kill another man in self-defense. Aquinas answers that it is possible to do so. His explanation is that nothing prevents one act from having two effects, one that is intended and the other that is foreseen but not intended. Moral acts are such, through intention and not what is

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<sup>27</sup> Please note that even though we are discussing the Christian origins of the DDE, the present discussion should not be viewed as saying that the DDE is only a Christian principle and as such could only be used by Christian ethicists.

<sup>28</sup> It should be noted that the DDE has not been refined exclusively Christian ethical thinkers, but also other deontologists. See for instance, Warren Quinns' *Actions, Intentions, and Consequences: The Doctrine of Double Effect* and Thomas Nagel's *Agent Relative Morality* in Woodward.



foreseen or what he says is “beside the intention”.<sup>29</sup> So it is possible for act of self-defense to result in two effects, the preservation of one’s own life and the killing of the aggressor. Furthermore, since it was the attacked person’s intention to defend his life, this person’s action would not be unjustified.

The first thing that I want to bring out about this particular question that Aquinas is trying to answer, before any further theoretical objections are raised, is its sheer practicality. “Sheer practicality” may have a very rhetorical ring to it; however, the phrase is not mere rhetoric. For example, if you took seriously the injunction (an injunction that that is not limited to Christianity but is found in other ethical/religious traditions) against killing and not doing evil that good may result one the one hand, but were faced with a situation in which you may have to defend your life and in so doing may kill the aggressor, you may have a problem on your hand. Certainly the innocent person would not want to be killed. However if this meant that the aggressor might be killed instead, which could result in you losing your eternal salvation, the innocent person may not find that appealing either. This again may sound silly to some, but for the people who lived during this time and who had these beliefs, this was hardly a superfluous matter.<sup>30</sup> Hence there is a very practical element to what Aquinas is trying to do here, regardless of our theoretical and metaphysical prejudices. This point, I think, gets lost in much of the theoretical discussions of the intention/foresight distinction and the DDE. What Aquinas was trying to do was very practical and is, in my view, very reasonable. He was saying, in effect, that one could legitimately intend to defend one’s

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<sup>29</sup> STh II-II Q. 64 A. 7

<sup>30</sup> To be sure it is hardly a superfluous matter now when one considers the moral dilemma of “human shields” in warfare.

self; even if that meant foreseeing the aggressor's death could possibly result from that defense. Thus the person would not necessarily be guilty of murder and would not be in jeopardy of losing his salvation.<sup>31</sup> And though there are probably theoretical cases to the contrary, it seems quite possible and reasonable that one could really intend to defend one's life from an attacker, and foresee that his death may result, without him strictly intending his death. Thus a theoretical justification for this assertion is not really necessary. There is one other caveat to this analysis of the historical aspect of the intention/foresight distinction. Aquinas is very clear that in legitimately defending one's own life, one has not entered a moral arena where anything goes. Hence he says that:

“Therefore this act, since one's intention is to save one's life, is not unlawful...And yet, though proceeding from a good intention, an act may be rendered unlawful, if it be out of proportion to the end...[also] it is not lawful for a man to intend killing a man in self defense.”<sup>32</sup>

The above quotation from Aquinas shows that one's good intention to defend his life can be rendered illicit if it becomes disproportionate to the end. For example, in trying to defend your life against an aggressor you reach for a hand grenade that you happen to have on you and you toss it in his direction. It explodes killing him, but also the two other people who happened to be watching the altercation. This is what a disproportionate end means. In addition to the prohibition of defending yourself in a disproportionate manner, you cannot intend the death of the death of your attacker.

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<sup>31</sup> It is again important to note that others secular and religious traditions that lack a theistic doctrine of salvation (e.g. Buddhism), would want to avoid culpably killing the innocent.

<sup>32</sup> STh II-II Q. 64 A. 7

## DOUBLE-THINK AND DOUBLE EFFECT

The section above was an attempt to show the practical roots of the DDE, with regard to the intention/foresight distinction. Also, Aquinas showed that one can embark on a course of action that will yield a good intended result and a bad foreseen, but unintended result. Be that as it may, Aquinas was emphatic that one should not use any means to a good effect, claiming that the bad effect, though foreseen was not intended. The hand grenade example that was used above was meant to show that point. With the hand grenade example in mind I will now turn to a potential abuse that the DDE can be exposed to: double-think.

Elizabeth Anscombe, in an article entitled “War and Murder”<sup>33</sup> asks, in relation to the Allied practice of “carpet bombing” civilians in WWII, “...how is it that there has been so comparatively little conscience exercised on the subject [of carpet bombing]...? The answer is: doublethink about double effect”. Basically the gist of her criticisms focused on the reasoning of Allied commanders and their orders that led to the bombing of civilians, in which they acknowledged that it (the bombing) would have foreseen (but unintended) consequences of civilian casualties. Nevertheless, the intention of those approving and ordering the policy was to bring about a speedier conclusion to the war itself. But for Anscombe this would be a perversion of double effect reasoning. What happened is that the line between intention and foresight has been blurred and that has serious consequences. Anscombe says that without a proper understanding of this principle anything could be opened to justification, which would be condemned (i.e.

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<sup>33</sup> G.E.M Anscombe, “*War and Murder*,” in Woodward, 256

murder, adultery, etc...).<sup>34</sup> She says that this blurring stems from certain reasons.<sup>35</sup> The first one is the forgetting of the absolute moral prohibitions in deontological ethical thinking and in this case Christian ethical thinking. She also says<sup>36</sup> that the DDE has been subjected to abuse for several centuries now. She pinpoints the problem in the history of philosophy, which has been subjected to a sort of “Cartesian psychology”, wherein the intention was a completely interior act of the mind that the will can bring forth at anytime. Her critique continues,

“...on this theory of what intention is, a marvelous way offered itself of making **any** [emphasis mine] action lawful. You had only to “direct your intention” in the suitable way. In practice, this means making a little speech to yourself: “What I intend to do be doing is...”<sup>37</sup>

Thus one this account the Allied bombardier aboard a B-17 over Dresden, Germany could make the little speech to himself, saying that his intention is to end the war quickly and that the thousands of civilians who are about to be obliterated by bombs that he is going to drop on them, are only foreseen, thus accidental casualties. This will not do and it certainly casts into ambiguity what it means to intend and to foresee. This is evidently why some opponents are so dubious over the intention/foresight distinction.<sup>38</sup>

Ansombe’s criticism of the Allied bombing policy brings us back to the previous discussion between Quinn and Bennett regarding the of the TB/SB case. Anscombe would certainly support the reality of the intention/foresight distinction but she would

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<sup>34</sup> Woodward, 256

<sup>35</sup> *ibid.*

<sup>36</sup> *ibid.* 257

<sup>37</sup> *ibid.*

<sup>38</sup> Remember Bennett’s critique cited above (see p. 8) regarding “how it feels to you”. This doubtfulness over the intention/foresight distinction is well founded, if this is how the distinction is supposed to function.

probably see the Allied bombardier as eerily similar to the TB. We can see that Anscombe's concern over the ambiguities over the intention/foresight distinction, as shown from the Allied bombing policy, is the same concern that surrounds the TB/SB case. But as I have attempted to show theoretical cases like the TB/SB case have done little to bring about a resolution in the debate. Furthermore, instead of claiming that there is a legitimate distinction between intention and foresight without the need for theoretical support, proponents of this distinction and the DDE, have gotten themselves unnecessarily entangled in theoretical discussions. The result is that often no resolution is gained from such a theoretical debate and that yet another theoretical wrinkle is added for opponents of the DDE to pick apart. Such is the case where Quinn, in an attempt to answer criticisms leveled at the intention/foresight of the DDE, alters the traditional understanding of intention. And as we saw it was fairly easy for Bennett to point of the theoretical problem with Quinn's alteration. So the result of removing the DDE from its historical and practical roots was that the DDE could be open to double-think. It also leads some to apply the intention/foresight distinction in the DDE in ways, which are totally in conflict with the rest of the doctrine.

But how did we get here? Stanley Windass offers some insight into the subject.<sup>39</sup> He says<sup>40</sup> that originally the DDE, as we have it today, was a development of Salamanca theologians of the 16<sup>th</sup> century. They claimed that:

“If an act with a bad and good effect is to be permitted, the bad act must be ‘praeter intentionem’ [beside the intention], it must follow ‘per accidens’ from the act in question, and there must be proportionality between the good and the evil. It is assumed that the act must not be evil in itself.”<sup>41</sup>

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<sup>39</sup> Stanley Windass, “Double-think and Double Effect,” *Blackfriars*, 44, (1963): 257-266.

<sup>40</sup> *ibid*, 259

Originally it was developed as a means of helping lay Catholics deal with moral scrupulosity, (or neurosis's if a modern psychological term is preferred).<sup>42</sup> So for instance, "Medina...discusses the case of a classical student who has to study the salacious Latin poet Martial, but who finds that he is aroused to impurity in the process."<sup>43</sup> It is in situations like these, Windass says in another place<sup>44</sup>, that the DDE can correspond too much of our common sense intuitions. Nevertheless since any action, as we noted from Aquinas, can have more than one effect things can get murky rather Windass notes quickly.<sup>45</sup> Such could be the case with killing in self-defense. With that in mind, that the specter of doublethink may have first raised its head when it was still in development in the Catholic theological tradition.<sup>46</sup> The intention/foresight distinction seems fairly clear when thinking of the classical student studying his Martial, but when speaking of intention in relation to self-defense things started to go astray. Windass elaborates on the intention/foresight distinction saying that if the case that Aquinas is referring to is one in which the aggressor is literally killed by accident, it is

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<sup>41</sup> ibid

<sup>42</sup> ibid. Having said that it was developed for addressing particular Roman Catholic pastoral concerns, this does not mean that the DDE cannot and has not been used by non-Catholics to address other moral issues. For instance see William Cooney's, *Affirmative Action and the Doctrine of Double Effect*, in Woodward, 239-233.

<sup>43</sup> ibid

<sup>44</sup> ibid, 258

<sup>45</sup> ibid

<sup>46</sup> ibid, 261. A 'mea culpa' seems to be in order here for it seems that Catholic moral theologians introduced the specter of doublethink. However, as regrettable as this is, it is in a way understandable. Since it was the Catholic moral tradition that developed the DDE, one could expect that any problems that arose in relation to it would happen from this context, since Catholic theologians were the only ones using it for several centuries.

hard to see what would be so objectionable about such a situation.<sup>47</sup> Such an accidental killing would certainly fall beyond what would be considered intentional. Nevertheless, he says that whatever Aquinas had originally in mind what he has been understood as meaning is that you do not intend such a consequence in a, "...special theological sense".<sup>48</sup> Thus Windass attributes this doublethink between, "... [the] rift, which began to open in the thirteenth century **between the ordinary and the technical-theological meaning of intention** [emphasis mine].<sup>49</sup>

With this introduction of a special technical language one has possibly opened up a way of easing one's responsibility of certain actions that normally would not be allowable. Windass points out<sup>50</sup> with the introduction of the self-defense case with the other cases (like the classics student) double-think became more likely. For, he says<sup>51</sup>, in cases such as the Classics student studying Martial, there is no harmful intention in the **ordinary** sense of the word; however, we may also, "allow ourselves to believe that killing in self-defense is also free of any harmful intention in the **ordinary** [emphasis mine] sense of the word-and this would be a very radical double-think..."<sup>52</sup>

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<sup>47</sup> Windass, 260

<sup>48</sup> Windass, 261

<sup>49</sup> *ibid*

<sup>50</sup> *ibid*

<sup>52</sup> *ibid*

<sup>53</sup> One could point out that what I am discussing here sounds very theoretical. Again that would be to understand me as criticizing theorizing per se, which I am not. All I am trying to say is instances where the appeal to theory is not necessary and that theory can become disconnected with the world of practice. What and when that point is, is a much deeper and complex question that I cannot pursue at this time.

Windass asserts that great care must be taken when using technical/theoretical language, especially with regard to the DDE when applied to cases of self-defense. This situation of the introduction of a special technical language highlights what I am trying to convey regarding the theorizing that takes place and why those theories can become irrelevant in real situations. Please note that I am not saying that theorizing or theory is bad per se. My point is that theorizing and to an extent ethical theory, because they deal in abstraction, can be very ill-fitting when it is applied to real life situations. He contends that when one adds this special technical language, the theorizing that it engenders takes over and the practical situations that were supposed to address recede into the background.<sup>53</sup> An example of this is the special technical use of the word intention.<sup>54</sup> Once this theoretical complexity is added, thinking becomes more, "...self-enclosed...remote from reality...a more precise intellectual activity."<sup>55</sup> This points to what I have tried to convey regarding the theorizing in ethics and in particular the intention/foresight distinction of the DDE. All the theorizing that is done works well when it is applied in a controlled intellectual exercise, away from the grittiness of the real world. However, once any theoretical model is applied in practical situations, problems will arise. I don't think that this militates against theorizing and theory in general, but we must be careful not to get so caught up in the theory that we forget what is at stake: being able to meet real practical situations that call for a practical ethical response.

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<sup>53</sup> Windass, 262

<sup>54</sup> *ibid.* Compare what he is saying here about intention and refer back to Quinn's alteration of intention (according to Bennett) and the complexity and the problems that such an alteration added to the debate. See pp. 4-10 above.

<sup>55</sup> Windass, 263. Emphasis mine



To summarize what has been said up to this point, first it was noted that the constant theorizing of philosophers in regards to applied ethics has only served to cast doubts whether moral philosopher can propose ethical solutions that apply to practical problems. This is particularly the case regarding the intention/foresight distinction of the DDE. First a pair of examples (the TB and SB) were given to serve to show just how the theorizing can evolve over the intention/foresight distinction of the DDE and how quickly it can removed from any real relevance in the practical considerations of bioethics. From there it was shown that much of this theorizing that has arisen over the intention/foresight distinction of the DDE stemmed from a lack of historical appreciation of the DDE. Theoretical complexities notwithstanding, St. Thomas claimed that in a very real situation of self defense, a person could legitimately defend himself, even if that same person foresaw that in doing so the death of his attacker may result.<sup>56</sup> It was pointed out however, that this was not to be understood that the person defending himself could intend to kill his assailant as a means of defending himself. It was noted that here the specter of doublethink had arisen. Anscombe had already criticized the Allies who bombed cities and their use the intention/foresight distinction and thus the DDE to defend their actions. Part of this problem was due, according to her, in the development of the history of philosophy that allowed one to direct their intention what whatever goal they wanted to achieve and the other was the shirking on moral absolutes. This, it was claimed, was highly dubious, as it would possibly make any action legitimate as long as one directed his intention in the “proper” way. At this point Windass was brought in to show how the DDE as we know it today was developed in order to quell the scrupulosity. The doctrine worked well when applied to cases that were pretty clear-cut and did not

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<sup>56</sup> Suffice it to say that this point could and is made by other non-Christian deontologists, such as Kantians.

involve harm. But when applied to self-defense it seemed that it started devolve into doublethink. It was claimed that the use of a special technical language that was laid over the ordinary use of the word intention was part of the problem. As using a special technical language is part of theorizing, it can be seen how could begin to obscure what one was to do in a situation and could lead to indecision.

So if the DDE is divorced from its historical and contextual underpinnings and reduced to being concerned only with the intention foresight distinction, then it will be fairly easy for its opponents to criticize it. In keeping with the task of developing a better view of intention/foresight distinction in the DDE, it will be useful to discuss four other points. First is a discussion of the importance of intention in Christian ethics; second a general description of the sources of morality from the view of point of Catholic moral theology; thirdly the DDE is to be viewed as a principle of explanation rather that a principle of justification; and finally that the intention/foresight distinction and the DDE, as they relate to Christianity, are oriented to practice and not to theory. Once these three things are in mind we will be in a better position to see the real practical value of the intention/foresight distinction as applied to current cases in bioethics.

## THE IMPORTANCE OF INTENTION IN CHRISTIAN ETHICS<sup>57</sup>

The task of placing the intention/foresight distinction in the DDE in the proper context, it is essential to see the place of intention in Christian ethics<sup>58</sup>. There are two reasons that I will discuss that will hopefully show intention's integral place within the Christian ethics. The first of these reasons comes by way of John Finnis and the second is by of G.E.M Anscombe.

In a work about moral absolutes, John Finnis discusses<sup>59</sup> how intentional free choice can make a person into the kind of person they are. Thus,

“For choosing [intending] is adopting a proposal, and thus what one adopts is, so to speak, synthesized with one's will, that is with oneself as an acting subject. One *becomes* what, seeing reason to, one chose: what is intended.”<sup>60</sup>

How is it that one becomes what one intends? One becomes what one intends by virtue of the bad or good object<sup>61</sup> chosen by the acting subject. Hence it can be said that in every free choice one makes, it has the effect of creating some character trait in that individual, good or bad.<sup>62</sup> In his conscious (this being the same as intentional) actions

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<sup>57</sup> Please note that this present discussion does not mean to imply that the important role of intention is peculiar solely to Christian ethics

<sup>58</sup> I should note that the term Christian ethics is debated between Christian moral theologians and philosophers. The focus of the debate centers on the question what is meant by Christian ethics and is there anything unique about or sets apart Christian ethics from a human ethics. The various views of Christian ethics are put forth nicely by Servais Pinckaers, O.P., in *The Sources of Christian Ethics*. 3<sup>rd</sup> ed. trans. Sr. Mary Thomas Noble, O.P. (Washington, D.C.: The Catholic University of America Press, 1995), 1-7,95 – 102. For another view of Christian ethics (one that is different from Fr. Pinckaer's), see Josef Fuchs, S.J. *Christian Morality: The Word Becomes Flesh*. trans. Brian McNeil (Gill and Macmillan: Dublin, 1981). Despite this debate I will be speaking of Christian ethics as it has traditionally been put forth in regards to the natural law.

<sup>59</sup> John Finnis, *Moral Absolutes: Tradition, Revision, and Truth*. (Washington, D.C.: The Catholic University of America Press, 1991), 72

<sup>60</sup> *ibid.*

<sup>61</sup> The significance of the moral object will be elaborated on below. In what follows, object should be read as act, unless otherwise note.

and through the situations that he faces, man has the ability to change himself.<sup>63</sup>

Through one's intentional acts, one will determine whether one is a good or bad person, morally speaking.<sup>64</sup> For example if a person has the intention of performing the act of feeding the poor out of a concern for them, he is making himself a good person.

Conversely if a man intends to embezzle money from his employer for the purpose of increasing his own wealth, such an action would make him a bad person. What is underlies this discussion is that man is the source of his own moral actions, to the extent that they are freely and consciously performed. This is important in regards to intention, for if man is the source of his actions, then the actions that he performs are attributable to him and thus he is identified with that action. Thus one who has the intention of lying and does so, is a liar? Thomas Aquinas notes that the importance of intention in this regard (being self-constructing) is that a man is the source of his own actions. He says of this aspect of intention that,

“Since, as Damascene states (De Fide Orth. ii, 12), man is said to be made in God's image, in so far as the image implies "an intelligent being endowed with free-will and self-movement": now that we have treated of the exemplar, i.e. God, and of those things which came forth from the power of God in accordance with His will; it remain for us to treat of His image, i.e. man, inasmuch as he too is the principle of his actions, as having free-will and control of his actions.”<sup>65</sup>

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<sup>62</sup>Finnis, 73-74

<sup>63</sup> Anna Teresa Tymieniecka, ed. *Anelecta Husserliana*, vol. 2, *The Acting Person*, by Karol Wojtyla, trans. Andrzej Potocki. (Dordrecht: D. Reidel Publishing Company, 1979), 97

<sup>64</sup> *ibid.* 98. Please note that Wojtyla's ethical analysis is very complex, and a full treatment cannot be given here.

<sup>65</sup> <http://www.ccel.org/a/aquinas/summa/FS/FS-PROLOGUE.html> *Summa Theologica* I-2 prol. and q. I a. I C. It is important to note that the transforming/character building effect of intention on the freely acting subject is not peculiar to Christian moral thinkers. See Michele Moody-Adams' essay "On the Old Saw That Character is Destiny" in *Identity, Character, and Morality: Essays in Moral Psychology*, ed. Owen Flanagan and Amelie Oksenberg Rorty (Cambridge, The MIT Press) pp. 111-131. Also Harry G. Frankfurt, *The Importance of What We Care About*. Cambridge: Cambridge University Press, 1988. pp. 80-94

The importance of intention in Christian moral thought should be evident as the goal in Christianity is for the believer to become like Christ.<sup>66</sup> To become like Christ the Christian must fully embrace the way of charity. This charity, which is a given to the Christian by God allows the Christian to orient himself to his proper end. This end is the vision of God himself, where the Christian thereby shares in the life of God. Therefore intention is essential as it moves the Christian's will to desire to act in a way that is Christ-like.

Having discussed the first important point of intentions place in Christian ethics we turn to the second that comes by way of G.E.M. Anscombe. The significant point here is intention's relationship to the absolute moral prohibitions in Christian ethics. In an important article, entitled "War and Murder" she discusses this important relationship.<sup>67</sup> She says the intention/foresight distinction is absolutely essential in Christian ethics when it comes to understanding voluntary action<sup>68</sup> and its relation to moral prohibitions. First, though, it is important to understand why these two (i.e. voluntary action and absolute moral prohibitions) are linked together. Since a person can act voluntarily or freely and does not have to act necessarily or determinately in regards to *moral* action (as opposed to other reflexive physical acts such as moving your hand quickly from a hot object that is touched)<sup>69</sup> the inclusion of moral prohibitions are not rendered unintelligible, as one does not have to act in a way that violates them. To the

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<sup>66</sup> Cf. Romans 13:14; 1 Corinthians 11:1; Galatians 3:20; Philippians 2:5-9

<sup>67</sup> P.A. Woodward, *The Doctrine of Double Effect: Philosophers Debate a Controversial Moral Principle*. Notre Dame: University of Notre Dame Press, 2001. See p. 256

<sup>68</sup> *ibid.*

<sup>69</sup> This is not to say that some moral decisions are presented in such a way that makes them feel as though they are necessary or that one could not do otherwise.

extent that a moral act is free and voluntary a person is truly responsible for the acts that he performs. Through that free intentional act the person is making himself into a good or bad person, as was mentioned above. It hard to see how if persons moral actions were not free, why there would be a need for moral prohibitions, since it would not be fair to hold a man responsible for something he was pre determined to do.

Having discussed the relationship between voluntary or free acts and absolute moral prohibitions, we can now turn to the relationship of the intention/foresight distinction to the absolute moral prohibitions. As we are truly responsible for the voluntary actions that we intend to perform, Anscombe makes the following point regarding the relationship between the intention/foresight distinction and absolute moral prohibitions,

“...Christianity forbids a number of things as being bad in themselves. But if I am answerable for the foreseen consequences of an action or refusal, as much as for the [intended] action itself, then these prohibitions will break down.”<sup>70</sup>

To make this point clearer, consider the following example. A doctor who, out of conscience would refuse to perform a craniotomy on an unborn fetus in order to save the life of the mother could be considered at worst a murderer or at least morally (if not criminally) negligent, if the intention/foresight distinction is not real and tied to absolute moral prohibitions. Here the prohibition is to not intentionally kill the innocent in order save someone else. The doctor foresees that his refusal to perform this procedure may result in the mother’s death, but his intention is not to harm the unborn fetus. The killing of the innocent fetus is morally prohibited, even if doing so would save the life of its mother. To sum up: if the intention/foresight distinction is not real, then in regards to this

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<sup>70</sup> Woodward, 256

example, in which you must kill one innocent person in order prevent the death of another innocent person, a refusal to do so would make you a murderer.<sup>71</sup> If this course of action is deemed acceptable, namely intentionally killing one innocent person to save another innocent person, then the absolute prohibition of against murder breaks down. This is not an acceptable result from the view of Christian ethics. Thus the need of the intention/foresight distinction in the DDE to step in and say that one is not a murderer for refusing to do so.<sup>72</sup> The need for the intention/foresight distinction and its essential relationship to the absolute moral prohibitions is to keep it from sliding into the kind of double-think that has been talked about earlier. For Anscombe notes that without this view of the DDE then anything could and probably would be subject to justification.<sup>73</sup>

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<sup>71</sup> *ibid.*

<sup>72</sup> Indeed Anscombe affirms, “No you are not a murderer, if the man’s death was neither your aim nor your chosen means, and if you had to act in the way that led to it or else do something absolutely forbidden.” Woodward, 256

<sup>73</sup> *ibid.*

## INTENTION'S PLACE IN THE SOURCES OF MORALITY

Anscombe's discussion of the absolute moral prohibitions and their relationship to intention, leads us into a discussion of what is traditionally called in Catholic moral theology as the sources of morality. According to the Catechism of the Catholic Church,

“The morality of human acts depends on: the object chosen; the end in view or the intention; the circumstances of the action. [These] make up the ‘sources,’ or constitutive, of the morality of human acts.”<sup>74</sup>

The object that is chosen will be a, “...good toward which the will deliberately directs itself,”<sup>75</sup> and constitutes the, “...matter of a human act.”<sup>76</sup> Accordingly when the object (act) (e.g. giving to the poor, defending the innocent, murder, lying, etc.) is chosen it morally demarcates the willful act as reason sees and judges it as good or bad.<sup>77</sup>

The second source is intention and it is considered an essential element in evaluating the morality of an action.<sup>78</sup> The intention moves the will toward the goal or end of a given action. For example, one's faculty of the will can be moved with the intention of giving money to the poor out of love for them (the end or goal being the an act of fraternal love).<sup>79</sup>

The final source is that of the circumstances. The circumstances, which surround the moral act, have the effect of gauging the moral goodness/badness and the

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<sup>74</sup> *The Catechism of the Catholic Church (CCC)*. New York: Image Doubleday, 1995

<sup>75</sup> CCC #1750

<sup>76</sup> CCC #1751

<sup>77</sup> CCC #1757

<sup>78</sup> CCC #1752

<sup>79</sup> CCC # 1752. The exact definition is as follows: “The intention is a movement of the will toward the end: it is concerned with the goal of the activity. It aims at the good anticipated from the action undertaken. [It] is not limited to directing individual actions, but can guide several actions toward one and the same purpose; it can orient one's life toward its ultimate end.”



blameworthiness of an act.<sup>80</sup> For example consider two acts of theft. In the first case an individual steals \$50.00 from Bill Gates and in the second Bill Gates steals \$5.00 from a homeless man. The theft that is perpetrated in both examples would always be considered morally prohibited in Christian morality. Nevertheless the degree of moral blameworthiness in each of these examples is different. Even though in the first case stealing \$50.00 from Bill Gates is bad morally speaking, Bill Gates is a billionaire so the stealing of \$50.00 from him is not as bad as him stealing \$5.00 from a homeless man, for that amount of money is of greater value to him, as it may be all the money he has for food. In addition to limiting the degree of blameworthiness of an action, the personal responsibility can be diminished or increased by the circumstances. Though theft is morally wrong the person who steals the money from Bill Gates in order feed his family may be less culpable than Bill Gates, who steals the money from the homeless man for the sake of purchasing a pack of cigarettes.

Now that each of the sources of morality have been defined, it will be helpful to discuss the object and the circumstance's relationship to intention. In regard to intention's relationship to the object, it will be helpful to remember that the object of an action is some good. The intention is a movement of the will toward that good. When the intellect perceives some good or object, it happens then that the will is directed to that good by means of an intention.<sup>81</sup> So, for instance, the intellect recognizes that it there is a

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<sup>80</sup> CCC #1754 The exact definition of the circumstance is as follows: "The circumstances, including the consequences, are the secondary elements of the moral act. They contribute to increasing or diminishing the moral goodness or evil of human acts (for example, the amount of a theft). They can also diminish or increase the agent's responsibility (such as acting out of fear of death). [Nevertheless] [c]ircumstances of themselves cannot change the moral quality of acts themselves; they can make neither good or right an action that is in itself evil."

sickness in the body and that it needs to be healed; therefore the good or object in this case is health of the body. The intellect judges that medicine will accomplish this so the will, by way of an intention, takes the medicine for the good sought (i.e. health).<sup>82</sup> Now in Christian ethics, as well as other non-Christian forms of deontology such as Kantianism, there are some objects of action that are morally prohibited because they are seen as intrinsically evil. John Paul II quoting the Second Vatican Council gives some of what constitutes the intrinsically evil acts,

“Whatever is hostile to life itself, such as any kind of homicide, genocide, abortion, euthanasia and voluntary suicide; whatever violates the integrity of the human person, such as mutilation, physical and mental torture, and attempts to coerce the spirit; whatever is offensive to human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, and trafficking women and children; degrading conditions of work which treat laborers as mere instruments of profit, and not as free responsible persons...”<sup>83</sup>

Objects or acts that are morally prohibited are vitally important in relation to intention. As the “...morality of the human act depends primarily and fundamentally on the object of the deliberate will,”<sup>84</sup> the object will serve to limit or set boundaries for which intention must observe. Considering the types of morally prohibited objects or acts noted above, this would only make sense in the Christian context from which this observation (i.e. the limiting effect of the boundaries on intention) grew. These boundaries are also important, for instance, in Kantianism, which would prohibit certain

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<sup>81</sup> It should be noted that the whole interplay between the will and the intellect is very complex and for present purposes cannot be addressed at this time.

<sup>82</sup> Notice here that intention encompasses both the end of the action (health) and the means to accomplishing that action (medicine). See Finnis, 68-69 for elaboration.

<sup>83</sup>. See John Paul II. *Veritatis Splendor*. Boston: St. Paul Books and Media, 1999; p. 101.

<sup>84</sup> See *Veritatis Splendor* p. 98

actions because they could not be consistently universalized as maxims and would lead to persons being treated as means to and end.

In terms of the intentions relationship to the circumstances this will again be influenced by the fundamental role that the object plays. Therefore,

“If acts are intrinsically evil, particular circumstances can diminish their evil, but they cannot remove it. They remain ‘irremediably’ evil acts; per se and in themselves are not capable of being ordered to God and to the good of the person. Consequently, circumstances...can never transform an act intrinsically evil by virtue of its object into an act ‘subjectively’ good or defensible.”<sup>85</sup>

Recalling the earlier example of the man who stole \$50.00 from Bill Gates to feed his family, the circumstance here may serve to lessen the evil that is done. Nevertheless as the object (theft) is intrinsically evil, the circumstance here considered would not render this action as licit. For Kantianism one need only to recall his discussion of lying for advantage (even in the extreme and sympathetic case of preserving one’s life) or the philanthropic lie, to see that circumstances cannot diminish the prohibitions of certain acts, as they would violate the categorical imperatives.<sup>86</sup>

In summary, Christian ethics doesn’t make intention (or does Kantianism) the prime or the sole arbiter of what is morally licit. One cannot make an action that is illicit per se, by an appeal to a good intention. For example, consider the following case used in an article by Robert Martin, “Suicide and Self-Sacrifice”.<sup>87</sup> In this case a doctor has three patients who all need various organ transplants in order to live. This same doctor has a fourth patient who is otherwise very healthy and seeing him for a check up. This

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<sup>85</sup> *Veritatis Splendor*, 102-103

<sup>86</sup> Kant, 14-15, 67

<sup>87</sup> Woodward, 282

fourth patient happens to have each of the corresponding organs that the other three need. The doctor, with the intention of saving the three, decides to have the fourth placed under anesthesia, and removes the organs that the doctor needs for the other three and then transplants them into the other three. The three transplant patients are saved, but the fourth is killed in the process. Though Martin uses this example to criticize the DDE along other lines, he nevertheless thinks that the case (one he says most people would find absurd) applies the DDE correctly. I bring up this case in order to show what can happen when the context, from which the DDE grew, fades from view. For this is case is certainly one that would not be condoned in Christian ethics, and neither by the DDE. In light of what it takes to make an action good (i.e. the goodness of the act, the intention, and circumstances all together<sup>88</sup>), it should be seen that there is less danger of doublethink in moral evaluation if the object is the fundamental departure point than if it is intention that holds this preeminent place.

Having shown the importance of intention in Christian ethics we must make another point about Christian ethic's relationship to intention; namely that Christian ethics cannot be reduced to intentionality.<sup>89</sup> If the Christian is to reflect the Divine image that is in him then certain actions will be out of bounds that conflict with that Divine image; for it is the place of intention to move the will to the good that is in keeping with that Divine image and not justify a bad object because of a good intention. The Divine image that man is to reflect would not attempt to justify a bad act the through recourse of a good intention. Christian ethics affirms that there are some moral prohibitions (murder,

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<sup>88</sup> CCC #1760

<sup>89</sup>As mentioned above, the same is certainly true of Kantianism. One's intention to bring about a good end would be irrelevant to the fact that one must do one's duty in regard to the categorical imperatives.

adultery, etc...) that a good intention can never render as morally licit. On the other hand a good act or object (giving to charity) can be rendered ineffective because of a bad intention (giving to charity as a means of enhancing one's image to others). If Christian ethical thinking could be reduced to intentionality then the Christian affirmation of the centrality of the object and its relationship to the absolute moral norms would be pointless. Certainly the idea of moral absolutes and intrinsically evil acts are controversial ones in philosophy. I do not take this fact for granted. However the point here is not to prove their existence, but only to show that Christian moral thinking, from which the DDE arose, is not intentionality based. The reality of moral absolutes and intrinsically evil acts (regardless of what one thinks about their existence) is essential for the Christian moral thinker. This then brings us to the next important point. If Christian ethical thinking cannot be reduced to the intentions of the acting subject, the DDE, which is a product of the Christian tradition, likewise cannot be reduced to a principle of intentionality<sup>90</sup>. To see that this is the case it will be helpful to again review the criteria of the DDE that was noted earlier. The criteria of the DDE are as follows,

- “(1) The nature of the act. The act must be good, or at least morally neutral (independent of the consequences).
- (2) The agent's intention. The agent intends only the good effects. The bad effects can be foreseen, tolerated, and permitted, but must not be intended.
- (3) The distinction between means and effects. The bad effect must not be a means to the good effect. If the good effect were the direct causal result of the bad effect, the agent would intend the bad effect in pursuit of the good effect.
- (4) Proportionality between the good effect and the bad effect. The good effect must outweigh the bad effect. That is, the bad effect is permissible only if a proportionate reason compensates for permitting the foreseen bad effect.”<sup>91</sup>

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<sup>90</sup> For examples of philosophers who seem do this see Warren Quinn's "Actions, Intentions, and Consequences" and Nancy Davis' "The Doctrine of Double Effect: Problems of Interpretation", in Woodward, 23-40 and 119-142, respectively.

<sup>91</sup> Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 5<sup>th</sup> ed., (Oxford: Oxford University Press, 2001), 129.

From the criteria that are listed above, intention is an important portion of the DDE but it is not the only requirement or the chief requirement. As in the sources of morality discussed above, the DDE based on an appreciation of these sources, ties intentionality to the first requirement. The first requirement of the DDE states that the nature of an act be good or at least morally neutral. Since this first requirement is included the DDE, it should be concluded that the DDE is not primarily a principle of intention.

## THEORY VERSUS PRACTICE

When one understands the role of intention in Christian ethics, one can better understand better appreciate intention' role in the DDE. For intention is what helps to make a person good or bad, and this is tied directly to the good or bad object that is chosen as a goal of action. Thus the DDE, as it was originated and developed, appreciate this view of intention. Thus the DDE requires that an intention be good and that the object be licit. Christian ethics is concerned with way a person lives their life. The DDE as a product of Christian ethical thinking is a tool that is used to explain how an act can have simultaneous good and bad result, without the agent being held blameworthy. In this way the Christian ethics is concerned with practice and by extension the DDE is a practical principle. This leads me to my next point: that ethical theory is not necessary to support the intention/foresight distinction in the DDE.

It is my claim that one can make a real distinction between intention and foresight on the level of practice. However, it could be asked by, those who are engaged in the work of theoretical ethics could ask, "Why focus on practice over theory?" This is a legitimate question, to be sure, however; to view the intention/foresight distinction, and the DDE by extension, exclusively through the prism of theory is to again lose the appreciation of the Christian foundations, upon which an understanding of the two are based. For the Christian religion is not to be viewed as putting forth another theory of ethics. The Christian religion is putting forth a manner of living, exhorting its adherents to conversion and new way of life. I believe that this (i.e. theory of ethics vs. ethics as a manner of living) is an important distinction in regard to the intention/foresight distinction and the DDE.

To appreciate this distinction between a theory of ethics and a manner of living (or ethics as a manner of living), it may help to think about the distinction between a theoretical epistemology and a practical epistemology. By theoretical epistemology, I mean knowledge or rather a *way* of knowing and approaching a subject that is primarily speculative. Knowledge of this type tends to stay in abstraction. Examples of this kind of knowledge are theoretical physics, philosophy of science, and speculative theology. By contrast a practical epistemology is knowledge or *way* of knowing that seeks to and can be applied to concrete situations. The examples of this type of knowledge could include engineering, genetics or microbiology, and religious devotion.

At this point the question can be asked how theoretical epistemology and practical epistemology relate to each other. One does not have to deny the legitimacy of theoretical epistemology. Certainly it has a value in causing one to penetrate more deeply into the subject it studies. Nevertheless, theoretical epistemology may not always be relevant, or even desirable when considering practical epistemology. Consider again the following examples. I am sure that theoretical physics has a value of its own and may very well be thought provoking. However, the questions it raises may not be germane to an engineer who is try to construct a suspension bridge between one land mass and another. Consider the philosopher of science. For his inquiry to be effective it would be assumed that he have at the very least a familiarity with how science is done and its basic theories and principles. He would be all the more effective in his work to the extent that he was proficient in a given scientific discipline. However, no one would claim that a geneticist mapping the human genome would *need* to know philosophy of science. There is nothing that precludes him from knowing philosophy of science (indeed it may be



useful for him to know it), but in essence one does not need a knowledge philosophy of science to be able to do the work of a geneticist or any other scientist.

Finally we can look at the speculative theologian and the devoted religious believer. The speculative theologian considers questions that are very abstract, such as the nature of God, what does the afterlife (if any exists) consist of, why would God allow evil, etc. Someone with religious devotion on the other hand is not necessarily preoccupied by such questions.

He may very well have a belief about them, but belief in speculative theological concepts is not what drives him. Rather it is his lived devotion and love for God that is his overriding preoccupation. The religious believer need not be immersed in the metaphysical conjecture of the speculative theologian in order show his devotion by feeding the poor or helping his neighbor. Everything that has just been said above can be used to distinguish between a theory of ethics and a manner of living. As shown in the examples above, a theory of ethics may not always be necessary or even relevant to ethics as a manner of living. Just a philosophy of science raises questions about science, and yet science as its own discipline need not include knowledge of philosophy of science to be effective; likewise a theory of ethics is not necessary for one to be able to apply an ethics as a manner of living. Christianity, and by extension Christian ethics, is ultimately concerned with how one practically lives his faith so that he may able to attain union with God.<sup>92</sup>

So even if some claim that the intention/foresight distinction and thus the DDE, should be situated it in a more theoretical framework, it should be kept in mind that this is not its

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<sup>92</sup> This practical emphasis in Christian ethics is shown in the light of the discussion above of Aquinas explaining how one is not a murderer (which could possibly exclude one from attaining his end in God) if in the process of defending himself and kills his assailant.

native place. The two are better understood when contextualized within the Christian ethical tradition, which is oriented to practice or a manner of living that is compatible with man's end.

## **DDE: A PRINCIPLE OF EXPLANATION RATHER THAN A PRINCIPLE OF JUSTIFICATION**

There is another important distinction to be made in regards to the DDE. Contrary to what some say, the DDE is not a mere principle of justification<sup>93</sup>. The better and more consistent view of the DDE is that it is not a principle of justification, but a principle of explanation. The difference between the two is critical. By principle of justification (in regards to the DDE), I mean one has to justify or legitimize one's actions and intentions in respect to a particular action. In contrast a principle of explanation is one that is attempting to explain how one's views regarding two seemingly contradictory positions can be accommodated to one another. Usually people have strong moral intuitions regarding actions that they normally considered immoral regarding the taking of lives, which nevertheless can be allowable in certain situations. However this allowance of the taking of lives, at first blush, looks to be problematic for someone with a deontological view since one would normally have a duty not to take intentionally an innocent life. Yet the DDE is used by certain deontologists to explain why his views can accommodate the strong moral intuitions that people usually have in the allowance of taking lives. To better understand this, consider the following cases<sup>94</sup>:

### **Trolley Case #1**

Six miners are working in two separate shafts in a coal mine. There are five miners in the left shaft and one in the right. The cable that is used to pull the trolley filled with coal to the surface snaps, rushing back down the mine. If it stays on the present course it will proceed to the shaft on the left and will likely kill the six miners working there. The point's operator, aware of this fact decides to switch the tracks, which will detour the trolley to the shaft on the right. The

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<sup>93</sup> For instance Joseph Boyle deems the DDE (or PDE as he refers to it) as a principle of justification; see Woodward, 17.

<sup>94</sup> My thanks to James Taylor for his assistance in regards to this discussion below about the DDE as a principle of explanation rather than a principle of justifications

point's operator does so even though he foresees that the trolley may kill the one miner.

#### Hysterectomy Case #1

A doctor has a patient who is pregnant. During the course of the pregnancy it is learned that the expecting mother has cancer of the uterus. The only way to save the mother is to remove the cancerous uterus. The doctor does so even though he knows that the removal of the uterus will cause the death of the fetus.

The cases presented above are ones in which decisions are made to embark on a course of action which will have the double effect of saving a life or lives and at the same time will have the effect of taking a life. Yet, most people would not intuitively consider the points operator or the doctor murderers in regards to the actions that they performed in light of the given situations, even though under other circumstances they may not allow those same actions. The DDE is helpful in cases such as these because it helps to explain why the point's operator and the doctor are not morally blameworthy in regards to the respective actions that they took in each situation. The actions of switching tracks and removing diseased organs are not in themselves morally prohibited actions. In each case the agent intends the resulting good effect from the respective actions while foreseeing and not intending the bad effect. Notice here there is not an attempt to justify the actions that were taken by the point's operator and the doctor. If a justification were to be offered it would have to start with justifying the moral view in which intention figures prominently. What is more is that in the cases offered above we can see how a practical epistemology is helpful in seeing the DDE as a principle of explanation. To see this point better, consider a theoretical move that an ethicist opposed to the DDE could make in regards to the two cases above. Both of the cases are altered above so that it turns out that the point's operator and the doctor really do intend the deaths of the one

miner and the fetus as a means of saving the five miners and the mother respectively. One could argue that the altered actions performed in these cases would be prohibited by supporters of the DDE, whereas earlier they would have been acceptable. So it would appear in this theoretical case that intention/foresight distinction in the DDE would seem irrelevant. First, as was mentioned earlier, the bad intentions of an agent undertaking an action, usually considered a morally good or at least morally neutral act, would render that act as a bad act. What is more is that the altered cases here speak more to the agent's bad intentions than to the irrelevance of the DDE and the intention/foresight distinction. For it is hard to see how the theoretical twist of having the doctor say, "The only way to save the mother from uterine cancer is to bring about the death of the fetus", has any bearing on the act itself (i.e. performing the hysterectomy). By this I mean that, regardless of the doctor's intention, the intention that focuses on the death of the fetus does not really save the mother from cancer. It is the removal of the cancerous uterus, which is necessary for the mother's survival. It is here that a practical epistemology serves to show how the DDE is better seen a principle of explanation. Theoretical alterations aside, all that an ethicist would need to know (in regards to a practical epistemology) is that all things being equal, the removal of a cancerous uterus is not morally objectionable, when the intended goal is to save the life of the mother, even though the death of the fetus is foreseen. In short the DDE as a principle of explanation serves to accommodate strong moral intuitions.

This process of explaining how contrary moral views are consistent is unlike the process justifying actions. As previously mentioned a principle of justification would need to give the reasons why it is that it is morally acceptable to perform the acts in

question.<sup>95</sup> In other words Christian ethics (and any other deontological tradition) would need to justify the moral view on which intentions figure prominently (though not exclusively), and thus justify the morality of the acts in question. Another problem with viewing the DDE, as a principle of justification is that it may be used to justify or excuse for the performance of an otherwise, prohibited action. If this were indeed the case, criticism of the DDE would be legitimate, as it would seem to be capricious. It is here that the specter of doublethink arises. Again refer back to Anscombe's bombardier who makes a speech to himself before dropping his bombs on the civilian populace. This speech has the appearance of justifying and otherwise morally blameworthy action (i.e. the deliberate targeting and killing of civilian) than an explanation of how one is not morally blameworthy in the prosecution of an action that has two result one good and one bad. And in the case of the bombardier no such explanation can be offered in my view as the act is always morally illicit.

There is one other problem with this view of the DDE: the very fact that the DDE deals in situations where something bad results (even though that bad is unintended) makes it very problematic to use the DDE as a principle of justification. Because you are justifying a wrong, which nevertheless is unintended, the result of such a view is perceived as saying that it is okay that the bad takes place. This may not be the view of someone who sees the DDE as justificatory, but it is hard to defend such a view and it

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<sup>95</sup> To see how this plays out refer to p. 9 above, in which Bennett discusses Quinn's alteration of the traditional understanding of intention to mean that one intends to "involve" a person in one's plans. This alteration is exactly what happens with the principle of justification (although Quinn never applies the DDE to a case that would be an instance of doublethink) as it seeks to justify the ethical view where intention is an essential part.

unnecessarily complicates matters. As a principle of justification, the DDE is going inevitably encounter into problems.<sup>96</sup>

Thus the DDE is better if it is seen as a principle of explanation. To appreciate this claim it will be helpful to remember what was said earlier about the development of the DDE as a means to help priests in the confessional with scrupulous laymen.<sup>97</sup> The DDE was thus developed a “conceptual tool”<sup>98</sup> to assist them in this endeavor. As a conceptual tool the DDE was based on certain assumptions and helped to clarify, for instance, “...whether it is possible always to perform good actions, or whether sometimes one can only do the “lesser evil,”<sup>99</sup> As a conceptual tool it was used “...for clarifying actions and action descriptions...”<sup>100</sup> It would seem that if one is trying to clarify what is taking place when one is performing an action that this would seem to be an explanation of an action.<sup>101</sup>

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<sup>96</sup> Elizabeth Anscombe shows how a justificatory view of the DDE could eventually play out, “For along time up till recently moral theologians were preoccupied with the question of what specific kinds of action are allowable, in the sense that a man who will do them need not consider himself *ipso facto* excluded from the sacraments. No doubt the aim was to avoid driving people out of the Church. “We want to make money in such-and-such ways, take such-and-such courses of action against one another, do this and that to maintain our positions in the world or keep our job: can we consider this to be no sin?”” See John Berkman, “How Important is the Doctrine of Double Effect for Moral Theology? Contextualizing the Controversy,” *Christian Bioethics*, 3, no. 2 (1997): 92-93. The point here seems to be that one is trying to justify actions that would normally be prohibited in the Christian ethical tradition.

<sup>97</sup> Refer back to pp. 11-12 above.

<sup>98</sup> Berkman, 91

<sup>99</sup> *ibid* 91

<sup>100</sup> *ibid* 107

<sup>101</sup> The difference between an explanation and a justification may not, at times, be very substantial. Indeed it is possible to use an explanation as a justification; however, I do not think that it follows that this means that all explanations are thus justifications. At any rate this is a very interesting topic, but one that falls beyond the bounds of the present task. Suffice it to say, at this point, that the DDE seems better used as a tool of explanation than a tool of justification if it is to avoid doublethink and maintain consistently the distinction between intention and foresight.

## **PRACTICAL APPLICATION OF THE DDE IN CURRENT BIOMEDICAL SITUATIONS**

Before turning to the final part of this paper, it will be helpful to briefly summarize the project thus far. First it was claimed that much of the theorizing that has taken place in bioethics have not contributed shedding light on what to do in real practical situations that confront the medical community. Such is the case with much of the discussion regarding the intention/foresight distinction in the DDE. The thesis of this paper is that one can, against of the criticisms leveled against it, make a distinction between foresight and intention within the DDE without the necessarily using theory, and can apply that distinction in practical situations. Before this could be done a certain appreciation of the DDE had to be reintroduced. The intention/foresight distinctions in the DDE (and the DDE itself) are products of Christian ethical thinking. As such the intention/foresight distinction and the DDE cannot be divorced from the Christian ethical thinking. To do so is to find oneself in the theoretical thrust and parry alluded to earlier and which the discussion of Bennett and Quinn highlight. To avoid this theoretical thrust and parry is to avoid the danger of double-think in regards to the DDE and to avoid the doubt that surrounds the intention/foresight distinction. The intention/foresight distinction and the DDE are tied to a much larger ethical framework, one erected upon the understanding of man's end in relation to God. This ethical framework also determines how intention functions in the intention/foresight distinction of the DDE. Intention is not the prime or sole criterion from which all ethical decisions are based but is situated in the sources of morality discussed earlier. Thus intention is not something that can be played with. To over theorize intention is to tend toward double-think as it in



the DDE. When the intention/foresight distinction is in its proper context<sup>102</sup>, especially in regards to the proper role of intention, it becomes possible to see where it (and thus the DDE) can be applied legitimately and illegitimately.

With this better understanding we can now turn to the practical cases that face the medical community and see where the intention/foresight distinction could be legitimately maintained and where it would be illegitimate, possibly falling into doublethink. The first two cases are ones that insistence on a distinction between intention and foresight would be dubious for intention is not playing its proper role. The second set of cases are ones in which one could maintain a clear distinction between intention and foresight because the intention is in its proper context.

#### Case 1

Patient Jones has cancer. His doctor, Dr. Smith, informs him that there is a new experimental drug that will help to halt the spread of the disease. To get the experimental drug Dr. Jones will have to enroll Patient Jones in a Random Clinical Trial (RTC). Patient Jones agrees to be enrolled in the RTC. Dr. Jones knows that Patient Jones may not receive the experimental drug, but instead receive a placebo as a control in the experiment. Patient Jones is, however, unaware of possibly receiving a placebo. Nevertheless, Dr. Smith offers this opportunity to Patient Jones, even though Dr. Jones knows that there is already an established and effective treatment for the cancer that Patient Jones has.

This scenario is not an uncommon one. Currently, in the United States, the Food and Drug Administration (FDA), "...continues to demand and defend placebo-controlled evidence of efficacy and safety for the development of new pharmaceuticals, even if effective therapy exists."<sup>103</sup> Now there would seem to be no problem with a doctor

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<sup>102</sup> The context is again: the Christian historical origin of the DDE; that the intention/foresight distinction and DDE as formed and informed by Christianity is geared toward a practice; and finally that it is a principle of explanation and not a principle of justification.

<sup>103</sup> Karin B. Michels, Kenneth J. Rothman, "Update on Unethical Use of Placebos in Randomized Trial," *Bioethics*, 17, no. 2 (2003): 189-190. The current FDA policy is in opposition to the Declaration of Helsinki, which was adopted by the World Medical Association in October 2000, see 189.

enrolling his patient in an RTC, if he was trying to get his patient the best treatment possible for his patient. Even if the doctor knew that there was no guarantee that the treatment would be successful or that it might be possible that his patient might receive a placebo instead, the case could be made that the doctor intends the best for his patient, even though he foresees that the this course of action may not ultimately benefit his patient. However, this case is seems to be altered substantially if the doctor knows that an established and beneficial treatment is already available. If the doctor claims that he intends the best for his patient, who he enrolls in a RTC, but foresees that he may not get the drug, the application of the intention/foresight distinction here appears rather dubious.<sup>104</sup> In addition, Christian ethical thinking would be concerned with the fact that the patient is consenting to something, to which he is not fully informed. For the Doctor to say that he intends the best for his patient, yet not disclose the possibility of receiving a placebo instead of getting the new drug, seems too very questionable

#### Case 2

A Patient Jones goes to see Dr. Smith regarding a medical condition that she is suffering from. Patient Jones' doctor is apart of a Health Maintenance Organization (HMO). Upon seeing Patient Jones, Dr. Smith knows that she requires a certain treatment. This treatment is very expensive. Dr. Smith, as an employee of an HMO, is required to keep costs down and is compensated or penalized based on his ability to do just that. Dr. Smith is not supposed to offer this treatment, according to the HMO's, as it would be going over the allotted resources given for particular treatment. Therefore, Dr. Smith offers another treatment that is cheaper but less effective than the other.

Traditionally the role of the doctor was to be solicitous for his patient. The current managed care system in the United States, however, is one that, at times, divides the loyalty between the good of the patient and the good of the particular managed care

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<sup>104</sup> Some may say that the informed consent of the patient is enough to justify the RTC in the face of an established and beneficial treatment. However there is evidence that informed consent forms are not as effective as they are claimed to be, see Michels, 195-197.

organization.<sup>105</sup> Now managed care is not morally questionable per se.<sup>106</sup> But if a doctor were to claim that he intends the best for his patient, even though he foresees that managed care restrictions will require him to give a lesser treatment, than the one that would be most beneficial, this again would be a dubious use of the intention foresight distinction.

#### Case 3

A hospital is in the process of allocating its budgetary resources for the up coming year. The hospital administrators, knowing that they have limited resources, are trying to decide whether the Neonatal Intensive Care Unit (NICU) or the Burn Unit should get a greater share of these resources. Administrators come to decide that the NICU should receive a greater share of the resources this year as this unit is in need of updating.

This example is an area where one could legitimately make the intention foresight/distinction. For in allocating resources from one group to another, hospital administrators can foresee that one area will be positively impacted and another will be negatively impacted. Nevertheless, to say that the administrators *intend* the negative impact on the one group does not seem intuitively correct.

#### Case 4

A hospital has an evacuation management plan for the NICU. In that plan the babies who are the most critical are to be evacuated first and then the ones who are less critical will follow.

This is another area where the intention/foresight distinction could be legitimately made. For the desire is to have all out of the hospital safely; however, one can only do this is a

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<sup>105</sup> Edmund D. Pellegrino, "Ethical Issues in Managed Care: A Catholic Christian Perspective," *Christian Bioethics*, 3, no. 1 (1997): 65, 66

<sup>106</sup> In fact, "When [managed care] restrictions result in reduction of truly unnecessary care-that is, care which does not change the natural history of the disease in some effective way- they are morally justifiable-even mandatory." Pellegrino, 66

systematic manner. In doing so it is possible to foresee that not all the babies will get out, but to say that one has thus intended the harm of the others does not seem to be the case.

To sum up: the claim is that the intention/foresight distinction in the DDE cannot be legitimately used in the first pair of cases whereas it can be in the second pair. The reason is that in the first pair of cases the presence of certain circumstance (i.e. the knowledge of the availability of a more effective treatment) is enough to cast into doubt the legitimate use of the DDE in these cases. For it is hard to see how the physicians in these cases can claim that they intend the best for their patients when they are aware of the availability of a more effective treatment. Though it may be theoretically possible for the physicians to intend the best for the patients in the first pair of cases, in practice such a claim seems rather doubtful.

In the second pair of cases the claim is that the intention/foresight distinction is clear, and therefore the use of the DDE can apply to these cases. In these cases the budgetary and evacuation committees must make decisions that will have the effect of impacting one group positively, while another group will be impacted negatively. Both groups can legitimately say that they intend the positive effects from their decisions while foreseeing but not intending the negative effects. In theory it would be possible to construct a situation in which these committees could be said to intend the negative as well as the positive effects. But in practice such a claim seems rather counter intuitive. That being said it may be possible, for example, in the third case for the committee to allocate resources not on the basis of need, but out of greed. In other words the allocation of resources to the NICU over the burn unit may be given because the NICU has the chance of being more financially lucrative to the hospital overall. Yet this would speak

more to the budgetary committee's bad intentions than to the non-existence of the intention/foresight distinction. Furthermore, as was stated earlier Christian ethics, from with the DDE grew, recognizes that an otherwise good or morally neutral act (e.g. the allocating of resources to the NICU) can be rendered illicit by a bad intention (e.g. allocating resources based on greed). And in such a situation the use of the DDE would be wrong and would erode the intention/foresight distinction.

## CONCLUSION

It is hoped that the cases above are ones that shed light on the legitimate and illegitimate use of the intention/foresight distinction in the DDE. The aim of this paper was to show that the intention foresight/distinction is a legitimate one and can be applied in practical situations. But it was shown that much of the theoretical objections that confront this distinction and thus the DDE are the lack of appreciation of the historical origin and the Christian underpinnings upon which the two are based. Once the proper context is put in place much of the theoretical objections can be assuaged. This proper context will show that the DDE is a practical principle that does not need the use of theory to show its' legitimacy. It will also show that intention must be properly understood in relation to the object. There are some actions that cannot be licitly undertaken regardless of how good the agent's intention may be. Finally the DDE should not be used as a principle of justification but of explanation.

At this point one could ask then if the intention/foresight and the DDE can be used outside the Christian ethical tradition by other types of deontologists. This is a legitimate question and one that is not within the scope of this paper; however, in my opinion I think that within the Christian ethical tradition the DDE is less open to criticism as it is working in its original setting. I believe that once the DDE is put in another deontological ethical theory (e.g. neo-Kantianism) much of the specifically Christian underpinnings that support it will be removed and that the DDE will be more open to doublethink and being used as a principle of justification. However, I am not saying that the Christian ethics, the intention/foresight distinction, and the DDE are immune from any criticism: the existence of moral absolutes; the claim that man has an end in God; and

other criteria of the DDE<sup>107</sup> are certainly controversial and open to debate. I am also not excluding the possibility (regardless of my own views) that the DDE can be effectively employed by other non-Christian deontologists.

In the end I believe the intention/foresight distinction and thus the DDE can be of use to those in the medical community who face decision in which contrary moral views coincide. The intention/foresight distinction in the DDE helps to explain these contrary views thus helping in the decision making process.

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<sup>107</sup> For instance the inclusion of the proportionality requirement (see page 24 above) in the DDE may lead some consequentialists to say that the DDE is ultimately oriented to consequences and that all the talk about intention and acts that are morally good or neutral in themselves should be dropped. I see the point; however I disagree as I think that such a view is overreaching.

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## VITA

Mitchell R. Thomas, III was born in Lexington, Kentucky, on February 19, 1972, to Mr. and Mrs. M.R. Thomas, Jr. He attended Louisiana State University where he was awarded a Bachelor of Arts Degree in religious studies from the Department of Philosophy and Religious Studies in 2001. He is seeking a Master of Arts in philosophy to be awarded in May, 2005. He is married to his wife Christy for over eight years. He and Christy have a son, Joshua Patrick.