

## Quinn's Interpretation of Double Effect: Problems and Prospects

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*Abstract:* The Doctrine of Double Effect states roughly that it is harder to justify causing harm as a means to an end than causing harm as a byproduct. The Doctrine is invoked to explain why it is permissible to do things like divert a trolley from hitting five people to hitting one, but wrong to do things like push someone into the trolley's path to stop it from hitting five others. However, the actual *harms* one causes play no role in bringing about the good in *either* kind of case. To solve this problem, Warren Quinn proposed a version of the Doctrine according to which it is particularly hard to justify affecting someone as a means when this causes her harm. I present several counter-examples to Quinn's account. I examine some alterations of the account, but find it doubtful that any can capture our intuitions about cases and morally relevant factors.

# Quinn's Interpretation of Double Effect: Problems and Prospects

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## 1. Introduction: The Problem of the Means

The Doctrine of Double Effect [DDE] states roughly that:

**DDE<sub>1</sub>**: It is harder to justify bringing about harm as a means to an end than it is to justify bringing about harm as a byproduct.

Perhaps the best motivation for the DDE is its promise to unify non-consequentialist intuitions<sup>1</sup> about such pairs of cases as the following:

Pair 1:

*Trolley*. The only way to prevent a trolley from hitting five people is to divert it onto a side track where it will hit one person.

*Fat Man*. The only way to prevent a trolley from hitting five people is to push a fat man into its path.<sup>2</sup>

Pair 2:

*Strategic Bomber*. The only way to prevent an enemy missile silo from firing and killing five allied children is to bomb it, but due to imperfect targeting the explosion will also kill a nearby enemy child.

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<sup>1</sup> Or more accurately intuitions that go against *direct* and *universalistic* consequentialism, of which Direct Utilitarianism is perhaps the most common example.

<sup>2</sup> Cases like these trace to Foot (1967) and Thomson (1976, 1985).

*Terror Bomber.* The only way to prevent a hidden enemy silo from firing and killing five allied children is to demoralize the crew into surrendering by bombing and killing an enemy child.<sup>3</sup>

Pair 3:

*Drug Shortage.* The only way to save five people dying of a disease, each of whom need 1/5 of a drug supply, is to withhold the supply from one person who needs the whole supply to survive.

*Drug/Transplant.* The only way to save five people, each of whom is dying from the failure of a different organ, is to withhold medicine from one person so that he dies and his organs become available for surgeons to transplant into the five.<sup>4</sup>

Many people have the intuition that it is morally permissible to do what results in the death of the one and the salvation of the five in the first case in each pair, but that it would be morally wrong to do this in the second. What seems to explain these intuitions is exactly that you would bring about harm to the one as a means of saving the five in the second case in each pair, but that harm to the one is a mere side-effect of saving the five in the first.

There is, however, an important problem with the claim that the DDE captures our intuitions about these cases. This is that, even in the *second* case in each pair, the relevant harm to the one need play no causal role in the salvation of the five. If you push the fat man in Fat Man, what saves the five is the collision of the trolley with his body; the fact that this collision also results in the fat man's dying some seconds later is simply an unfortunate side-effect.

Similarly, suppose that what causes the enemy missile crew to surrender in Terror Bomber is

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<sup>3</sup> Cases like these seem to have a long history in discussions of double effect. Their history in secular analytic literature traces at least to Bennett (1981).

<sup>4</sup> Cases of this kind are discussed by Foot (1967), McMahan (1994), and Scanlon (2000, 2008).

their seeing your bombs explode over the child's house from afar.<sup>5</sup> What causes the enemy to surrender and saves the five children is then the explosion of your bombs over the one child's house; the fact that this explosion also results in the child's death is simply an unfortunate side-effect. Finally, suppose that in Drug/Transplant the organs will be removed from the one before he is actually dead if the surgeons see that (due to your withholding his medicine) he will die in a few minutes anyway. It is intuitively just as wrong to withhold medicine in this variant, but here the death of the one itself plays no causal role in the saving of the five - it is rather an unfortunate side-effect of the medicine withholding and organ removal that saves them.<sup>6</sup>

It may seem, however, that in cases like Fat Man, Terror Bomber, and Drug/Transplant, something very close to harm *is* a means to the good, and that we could defend the idea behind the DDE by understanding the doctrine as saying that it is relatively difficult to justify bringing about things like this as a means. But it is no trivial task to say what kind of thing "close to harm" we are talking about here; after all, one must bring about something in a certain sense "close to" the harm of the one as a means of saving the five in cases like Trolley, Strategic Bomber, and Drug Shortage.

The problem for defenders of the DDE is thus to say systematically what kind of thing one must do as a means in the second case in each of our pairs that one need not do as a means in

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<sup>5</sup> Quinn (1989) reports that this kind of variant of Terror Bomber has been attributed to David Lewis.

<sup>6</sup> Observations like these about Fat Man and Drug/Transplant have been made by Marquis (1991). The general problem here was identified by Foot (1967) and Bennett (1981), and is aptly reviewed by Quinn (1989).

Bennett (1981, 110-111) actually shows how the problem can be generated in versions of Terror Bomber and Drug/Transplant where things like seeing the bodies of the civilians or the surgeons' pronouncing the patient dead do play a necessary causal role. He draws our attention to the distinction between the temporary "inoperativeness" of body activity (e.g., neural or cardio-pulmonary activity) for a few minutes or years, and the permanent inoperativeness of body activity that constitutes death. Bennett then points out that all you must do to make the enemy surrender or get the organs into the five is to bring about temporary inoperativeness of body activity; the permanent inoperativeness of body activity that constitutes death is merely an unfortunate side-effect that plays no causal role in bringing about the good.

the first, and to use this to construct a formulation of the DDE that delivers the verdicts it is supposed to deliver. I shall call this “the problem of the means.”

## 2. Quinn's Solution

Warren Quinn (1989) offered a very compelling solution to the problem of the means.<sup>7</sup> Quinn noted that if you do what saves the five in cases like Fat Man, Terror Bomber, and Drug/Transplant, you need not actually intend to bring about harm to the one, because, as we have seen, this harm plays no causal role in saving the five.<sup>8</sup> But, Quinn pointed out, you do need to intend to bring about some effect on the one, which effect is in fact sufficient to cause harm to him. This is because the instantiation of some property or relation by the one is both needed to bring about the good effect and sufficient to cause him harm. Thus, the five will not be saved in Fat Man, Terror Bomber, or Drug/Transplant unless the one takes on the property of having the trolley collide with his body, having the bombs explode over his head, or being deprived of medicine and having his organs removed.

This is in contrast to how things stand in Trolley, Strategic Bomber, and Drug Shortage. In these cases all we need to save the five are things like the trolley switching tracks, the bombs exploding over the silo, and the drugs being given to the five. It is of course true that in bringing about these things we will cause the one to take on the properties of being threatened by the

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<sup>7</sup> McMahan (1994) presents a version of Quinn's solution which for my purposes here is indistinguishable from Quinn's original. The only other explicit attempt at a solution to this problem of which I am aware is that of Bennett (1995, 213). According to Bennett's suggestion, the DDE's distinction may be between cases in which we have and cases in which we have not “the faintest idea what it might be like to have the means to bring it about” that the means to the good occurs but the harm does not. But this criterion does not get the right results in the versions of Fat Man, Terror Bomber, and Drug/Transplant I discussed above. We currently do have the means needed to drive a wedge between bombs exploding over the child's head and his death – e.g. a sufficiently reinforced steel roof. While we may not quite have the means just yet, I think we can very easily imagine what it will be like to have the means to allow the fat man's brain (or if you like brain, heart and lungs) to survive being rushed from his broken and hemorrhaging body into a new one, and what it will be like to be able to replace the organs we take from the body of the one with mechanical organs (which, say, could not be used on the other five people for whatever reason).

<sup>8</sup> (Quinn 1989, 336-337).

trolley, having bombs explode over his head, and being deprived of medicine. But the difference is that, unlike in Fat Man, Terror Bomber, and Drug/Transplant, his taking on these properties itself plays no causal role in saving the five; what we do to save the five would have worked just as well had the one not been around to take on these properties.

We may thus understand Quinn's solution to the problem of the means to be a re-formulation of the DDE along the following lines:

**DDE<sub>Q</sub>**: It is harder to justify bringing about an effect on someone that is sufficient to cause him harm as a means to an end than it is to justify bringing about such an effect as a byproduct.

While I suspect that Quinn's solution is on the right track, I believe that it has important problems capturing our intuitions about particular cases. I will present several counter-examples to Quinn's account and examine some ways it might be modified to avoid them. Unfortunately I find it doubtful that any version of DDE<sub>Q</sub> can successfully capture our intuitions about cases while remaining plausible as a moral principle. But my hope is that understanding the shortcomings of Quinn's account can aid future attempts to solve the problem of the means.

### **3. Bennett's Objection**

Let me begin, however, by considering an objection to Quinn's solution by Jonathan Bennett, which sounds compelling but is, I think, unsuccessful. Bennett presents a case in which infected patients will die unless they are treated, but exposure to these patients will cause health workers to develop the disease and die. He rightly points out that keeping the workers alive requires an effect on the patients that leads to their being harmed – the patients' instantiating the relation of

non-nearness to the workers leads to their demise and plays an indispensable role in keeping the workers healthy. Bennett assumes that this means Quinn's  $DDE_Q$  would condemn not treating the infected patients, but that since such non-treatment is permissible this constitutes a counter-example to  $DDE_Q$ .<sup>9</sup>

The problem with Bennett's argument is that  $DDE_Q$  can recognize that harmfully affecting the patients as a means is indeed harder to justify than harmfully affecting someone as a byproduct, yet fail to condemn this affecting as a means because the alternative is an even more difficult to justify form of affecting as a means. This is because the alternative to not treating the patients is treating them, a means to which is an effect on the health workers – their instating the relation of nearness to the infected – that leads to their demise. Bennett's example may be somewhat complicated by considerations like special obligations to hospital staff, differential probabilities of survival, etc., but consider the following simplified cases:

*Rings of Death I.* Each of six people has an electronically sensitive ring on his neck with just enough explosive to kill him if it detonates. The first five rings will explode if they come within 20 feet of the sixth, but the sixth will explode if it fails to come within 20 feet of the other five. The six are on converging trolleys that will stop within 20 feet of each other unless you pull a switch that stops the trolleys.

*Rings of Death II.* Just like Rings of Death I except this time only one person's ring will explode if it comes within 20 feet of the other five and five people's rings will explode if they fail to come within 20 feet of the one.

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<sup>9</sup> See Bennett (1995, 212-213).

I suspect that most will have the intuition that one should stop the convergence in Rings of Death I but not in Rings of Death II. This is exactly what  $DDE_Q$  predicts. In both cases both acts of stopping and not stopping the convergence involve difficult-to-justify affecting as a means. But stopping in Rings of Death I and not stopping in Rings of Death II does the difficult-to-justify thing to one person as opposed to five people.

#### 4. What Counts as “The Person”

There are, however, cases that suggest that the DDE should count against the use as means of certain effects that harm a victim but are not effects on his physical body. Consider the following:

*Respirator Man.* The happy and otherwise healthy Joe is dependent upon his large, heavy respirator machine, which is connected to his body by a long cable. Suppose the only way to stop a trolley from hitting five people is to push Joe's respirator into its path, which will stop the trolley but smash the respirator, causing Joe to suffocate.

I think most people will have the intuition that it would be wrong to push Joe's respirator into the trolley's path – indeed just as wrong as to push the fat man himself. But this looks like a counterexample to  $DDE_Q$ , because here we only need Joe's respirator rather than Joe himself to take on properties in order to save the five. Our purposes in saving the five would have been served just as well had the respirator not been hooked up to Joe and had he not been there to be deprived of oxygen as a result of its being smashed.



Indeed, our best theories of personal identity<sup>10</sup> suggest that the ordinary case of Fat Man is rather like Respirator Man. The fat man himself – that is the being capable of welfare, the proper object of prudential, sympathetic, and moral concern – is located in his head. All we may need to stop the trolley are instantiations of properties, not by the fat man, but by the copious organism below his neck, to which the fat man is connected and on which he depends for continued existence.

I do not think that it is trivial to amend DDE<sub>Q</sub> to solve this problem. One cannot simply say, for instance, that the relevant effects are those on anything the victim has a privileged right to control. For one thing, it wouldn't matter if Joe's respirator was a rental or he was borrowing it from a friend. For another, it looks perfectly permissible in a variant of Trolley to use the belongings (e.g. the wrench or nail-file) of the one tied to the side track to divert the trolley away from the five into him.<sup>11</sup>

Perhaps the best bet for the proponent of DDE<sub>Q</sub> is to find some notion of a person's "extended organism," or "life support system," and then to interpret the DDE<sub>Q</sub> as claiming that it is more difficult to justify harmfully affecting this entity as a means. But there seem to be deep problems with this approach. First, it seems difficult to find a non-arbitrary way to draw the line about what shall count as someone's "life support system." Second, for any line we do draw, it seems far from clear why it should be more difficult to morally justify instrumental effects on entities that are part of this life support system than instrumental effects on entities that are not when both such effects equally lead to harm.

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<sup>10</sup> See e.g. Parfit (1984), McMahan (2002).

<sup>11</sup> Anyone who, like Judith Thomson (1985, 111), is squeamish about this should suppose that we had three options: leave the trolley to hit the five, use the nail-file to divert it towards the one, or press a button that will divert it towards two other people. I think most will find it rather insane to think we must divert the trolley towards the two (as we would have to in the absence of the second option) simply because the nail-file belongs to the one. (To her credit Thomson is concessive on this point and defers to those who find it obviously permissible to use the one's nail-file to switch in the absence of the third option).

## 5. What Kinds of Effects?

Certain cases also suggest that the DDE should not count against the use as means of *all* effects on a victim's physical body that lead to his being harmed. Consider the following:

*Optical Trolley.* The only way to prevent a trolley from hitting five people tied to a main track is to divert it onto a side track with one person tied to it. But in this case the only way to activate the switch that will divert the trolley is to reflect a beam of light off of the shiny bald head of the one onto an otherwise inaccessible photo-sensor.

I think that most people will have the intuition that it is permissible to reflect the light off of the one – indeed, that this is just as permissible as diverting the trolley in the original Trolley case.<sup>12</sup> This looks like another counterexample to DDE<sub>Q</sub>, since here we certainly do need the one<sup>13</sup> to instantiate the property of having his head illuminated to save the five, and his instantiating this property certainly does lead to his demise via its role in diverting the trolley towards him.

There might seem, however, to be this important difference between Optical Trolley and cases like Fat Man. One's shining the light on the one in Optical Trolley merely causes events to progress to a stage where an effect which is not an effect on the one (the switching of the trolley) causes both the good outcome of the five being saved and the harm of the one's being killed. Perhaps, then, a proponent of DDE<sub>Q</sub> could revise the doctrine to hold that it is particularly

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<sup>12</sup> Anyone who doubts this should suppose that we had three options: leave the trolley to hit the five, reflect the light off the one to divert it over the one, or press a button that will divert it towards two other people. I think most will find it clearly insane to think we must divert the trolley towards the two (as we would have to in the absence of the second option) simply because the second option involves shining a light on the one (which, we might add, he might not even notice).

<sup>13</sup> Or indeed his organism, or extended organism, or life support system, or whatever.

difficult to justify a harmful effect on a victim *if that effect is the last effect that is in the causal histories of both the good outcome and the harm.*

A problem with this move, however, is that some problematic effects on victims do not satisfy the above conditional. Suppose that the side track started out empty, but that the only way to divert the trolley onto it and away from the five was to operate a weight-sensitive switch by tying a fat man onto a large scale in the middle of the side track, where he will be killed by the diverted trolley. This seems just as problematic as pushing him into the trolley's path, but here his depressing the scale is not the last effect in the causal histories of both the good and bad outcomes.

## 6. Gettier Terror Bombing

As I suggested above, Quinn thinks that in order to save the five children in Terror Bomber you must intend to make the one child instantiate the property of having bombs explode over his head.<sup>14</sup> Quinn clearly seems to assume that this is so because he assumes that the enemy soldiers' belief that the child has been killed is caused by the fact that the bombs have exploded *over his head*. But consider a terror bombing scenario in which this is not so:

*Gettier Terror Bomber.* The only way to prevent the hidden enemy silo from killing five allied children is to demoralize the crew into surrendering by convincing them that you have killed an enemy child. If you explode your bombs over Hospital, they will be convinced, because they believe that Billy is trapped inside and cannot be evacuated.

Unbeknownst to the crew, Billy has been evacuated after all. But also unbeknownst to

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<sup>14</sup> See Quinn (1989), p.343 note 16.

the crew, Suzy has been taken to Hospital and cannot be evacuated, and if you explode your bombs over Hospital, you will kill Suzy.<sup>15</sup>

In this case, if you explode your bombs over Suzy, the fact that the bombs explode *over Suzy's head* plays no causal role in forming the crew's beliefs, the subsequent surrender, and the salvation of the five children. DDE<sub>Q</sub> thus looks to permit Gettier terror bombing.

But it seems difficult to believe that there is a great moral difference between terror bombing and Gettier terror bombing. Suppose you had two ways of saving the allied children: explode bombs over hospital H with Freddy inside it, or explode bombs over hospital K with Suzy and Johnny inside it. The crew knows Freddy is in H, so if you explode the bombs over H, Freddy's instantiating the property of having bombs explode over his head will cause the crew to believe he is dead. But the crew falsely believes that Billy is in K and has no sign that Suzy and Johnny are inside it, so if you explode the bombs over K, Suzy and Billy's instantiating properties will play no role in the formation of the crew's beliefs or their surrender. DDE<sub>Q</sub> seems to entail that you should drop the bombs on hospital K. But it seems difficult to accept that we should kill two children instead of one simply because of differences in how reliably the crew is tracking them.

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<sup>15</sup> This case resembles one discussed by Fischer, Ravizza, and Copp (1993) and Woodward (1997), but is much closer to the original Terror Bombing scenario, and is, I think, a clearer and more substantial problem for Quinn's account. The case is of course named after Edmund Gettier, as the beliefs of the crew resemble those Gettier (1963) pointed to as examples of justified true beliefs that do not constitute knowledge (which original Gettier cases may be diagnosed as instances of belief that *P* that fail to be caused by the fact that *P*. Of course, some later cases named after Gettier, like Goldman's (1976) barn façade case, are not diagnosable in this way).

**REFERENCES**

- Bennett, Jonathan. 1981. Morality and Consequences. *The Tanner Lectures on Human Values*. Vol. 2. Ed. Sterling McMurrin. Salt Lake City: University of Utah Press.
- Bennett, Jonathan. 1995. *The Act Itself*. Oxford: Clarendon Press.
- Foot, Philippa. 1967. The Problem of Abortion and the Doctrine of Double Effect. *Oxford Review*, 5: 5-15.
- Fischer, John M., Mark Ravizza, and David Copp. 1993. Quinn on Double Effect: The Problem of "Closeness." *Ethics*, 103: 707-725.
- Gettier, Edmund L. 1963. Is Justified True Belief Knowledge? *Analysis*, 23: 121-123.
- Goldman, Alvin I. 1976. Discrimination and Perceptual Knowledge. *Journal of Philosophy*, 73: 771-91.
- Marquis, Donald B. 1991. Four Versions of Double Effect. *The Journal of Medicine and Philosophy* 16: 515-544.
- McMahan, Jeff. 1994. Revising the Doctrine of Double Effect. *Journal of Applied Philosophy*, 11: 201-212.
- McMahan, Jeff. 2002. *The Ethics of Killing: Problems at the Margins of Life*. New York: Oxford University Press.
- Parfit, Derek. 1984. *Reasons and Persons*. New York: Oxford University Press.
- Quinn, Warren S. 1989. Actions, Intentions, and Consequences: The Doctrine of Double Effect. *Philosophy and Public Affairs*, 18: 334-351.
- Scanlon, T.M. 2000. Intention and Permissibility. *Proceedings of the Aristotelian Society*, 74 (Suppl): 301-317.
- Scanlon, T.M. 2008. *Moral Dimensions: Permissibility, Meaning, Blame*. Cambridge: Harvard University Press.
- Thomson, Judith J. 1976. Killing, Letting Die, and the Trolley Problem. *The Monist*, 59: 204-217.
- Thomson, Judith J. 1985. The Trolley Problem. *Yale Law Journal*, 94: 1395-1415. Reprinted in J.J. Thomson and William Parent, eds., *Rights, Restitution, and Risk: Essays in Moral Theory*. Cambridge: Harvard University Press, 1986, p.94-116.

Woodward, P.A. 1997. The Importance of the Proportionality Condition to the Doctrine of Double Effect: A Response to Fischer, Ravizza, and Copp. *The Journal of Social Philosophy*. 28: 140-152.