

## 140: Matters of life and death – 14 – the Doctrine of Double Effect

### 1 The doctrine of double effect (DDE)

An alternative way of handling both the survival lottery and trolley – the doctrine of double effect. Roughly:

- don't use evil (bad things happening to persons) *as a means to* good;
- but you *can* do things to bring about a good which also cause evil as an effect, *provided* that the evil *isn't the means to* the good.

Kantian version:

- never use a person *merely* as a means to achieve some effect (i.e. without their consent).

The DDE is traditionally formulated in terms of *intentions* – you can cause evil provided you don't *intend* it (i.e. cause it either for its own sake or because you believe that it is a means to your goal).

Many people have objected that this makes the DDE unacceptably *subjective*, since if you could only formulate your intention in the right way, a wrong act could come out permissible.

Better to formulate DDE directly in terms of what is or is not a means to – i.e. is part of what causes – the good.

**DDE says:** The reason why the survival lottery is wrong is because people are used as a mere-means to the survival of others.

Whereas DDE says: allowing people to die for want of organs is *not* wrong, because the deaths aren't a means to (a cause of) the survival of others.

And DDE says: the reason why trolley isn't wrong, is because the death of the 1 on the side-track isn't the means to the saving of the 5 – the means is the re-direction of the trolley, not the resulting death.

**DDE can explain** the problematic example-pairs from #11:

Failing to give to money to Oxfam (but buying a new TV instead) isn't wrong, because the purchase of the TV isn't a *means* to the death of people in the third world. But sending poisoned food parcels *is* wrong, because here death is aimed at.

With a drug in limited supply, it is OK to give it to save 5, knowing that 1 (who needs much more) will die. For here the death of the 1 isn't a means to saving the 5. In contrast, when we kill 1 for spare parts for 5, the death of the 1 *is* the means to saving the 5.

### 2 A theoretical rationale?

Can DDE be given a theoretical rationale? Would rational contractors agree to it?

A kind of principle of *respect for persons*? We would agree not to make people part of our own projects / activities without their consent?

But why would rational contractors draw a distinction between (1) *using* people without their consent (where the harm done to them is what causes some further good), and (2) doing things that cause equivalent harm to them without their consent (where the harm done to them is a by-product of what causes some further good)?

It is hard to see how this distinction can be a relevant one, from a contractualist perspective.

### 3 Another example supporting DDE ?

Bombing arms factories in war, causing innocent deaths *versus* area-bombing of cities. Both aim at winning, and may knowingly cause the same numbers of innocent deaths – but in the one case merely foreseen (the deaths don't help us win), in the other actually intended (the deaths are the chosen means – demoralization). Both are *active* killings, and both are in the domain of Justice.

An important moral difference here, explained by DDE? Area bombing of cities is terrorism, and is wrong

because the deaths of innocents is our *means* to victory; whereas bombing arms factories located in cities isn't wrong, because here the deaths of innocents are merely foreseen?

An alternative (contractualist) explanation can be given, however – it is the *enemy's fault* if innocent civilians are housed near legitimate targets, otherwise all bombing could be prevented by “hiding” targets in cities. Any ruthless-enough enemy could then defeat us by using innocents as shields (e.g. by tying babies to each of its tanks).

Civilians deaths caused by attacks on legitimate targets are themselves legitimate (not unjust), because to agree otherwise is to agree to place ourselves in the hands of unscrupulous men.

#### 4 Justice / Charity *versus* DDE

An example to adjudicate between the ‘unpredictable emergency’ explanation of Trolley and the Doctrine of Double Effect –

**The example of fat-man loop** – A runaway trolley will kill 5 men on the track. It can be re-directed onto a spur, which then loops back onto the main track before reaching the 5. There is a fat man on the loop, who is fat enough to stop the trolley. Is it ok to re-direct the trolley, killing the one fat man and saving the 5?

DDE will claim not. For here the fat man is our *means* to saving the 5 – it is his death that causes the saving of the 5. (If he weren't there, re-directing the trolley would do no good.)

The Justice / Charity explanation – that threats can be re-directed if they are sudden and unexpected – will see no difference here. This case is permissible for the same reason as the original trolley case.

Which way do *your* intuitions go?

#### 5 Problematic examples for DDE

DDE gets what seems to be the wrong result in the one-in-the-road rescue case from #13: it says that in this case it is permissible to drive over the 1, killing him, on the way to rescue the 5. This is because the death of the 1 isn't the *means* to saving the 5 – if the 1 weren't there, we could still rescue the 5.

(Contrast killing 1 for spare parts for 5: here the death of the 1 is part of what *causes* the saving of the 5.)

**Thomson's rockets examples** (in ‘Rights and Deaths’ *Philosophy and Public Affairs*, 2:2 (1973):

Two parallel cases: in both we are threatened by an evil foreign group, aiming nuclear rockets at our cities; in both cases the rockets are operated by children: our question is whether it is permissible to blow up the rockets and kill the children.

In case (1) the rockets are very easy to replace, but the children take years to train to do their job. So in this case, if the threat to ourselves is to be removed, the children have to be killed.

In case (2) the children are trivially easy to train, and could easily be replaced, but the rockets take years to build. In this case, if the threat to ourselves is to be removed, the rockets have to be destroyed.

DDE predicts that case (1) should be morally impermissible (since the deaths of the children are necessary for the threat to be removed), but case (2) should be morally permissible (since here the deaths of the children are incidental to removing the threat).

Thomson says: either both are permissible, or both impermissible. There is no relevant moral difference. Do you agree?