

**Literatur zum Prinzip der Doppelwirkung**  
**Bibliography on the Principle of Double Effect**  
Jörg Schroth ([jschrot@gwdg.de](mailto:jschrot@gwdg.de))

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<sup>1</sup> “The purpose of this essay is to show the widespread importance of the intention/foresight distinction which has traditionally been taken to be at the basis of the Roman Catholic Doctrine of Double Effect. Herein, I argue that this distinction is 1) embedded in ordinary language, 2) assumed to be of moral import in common morality, and 3) at the center of a vigorous debate regarding the proper legal definition of intention. If my argument is on target, then whether the intention/foresight distinction can be given a principled defense has implications not only for the Doctrine of Double Effect, but also for each of these areas.”

<sup>2</sup> “Recently, Joseph Boyle, the foremost proponent of the DDE over the past few decades, has argued that the DDE is required by the absolutist context of the Catholic tradition and, further, that anyone who rejects this particular context is not entitled to use the doctrine. In this essay, I will focus exclusively on the intention

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condition of the DDE and its central distinction, i.e., intention/side effect. I will proceed by considering in turn (1) Boyle’s argument that the absolutist moral framework of the Catholic tradition requires the intention/side effect distinction; (2) the ways in which that framework is made vulnerable by this requirement; and (3) just why the DDE should be viable even outside of the Catholic tradition if it turns out that a feature of (1) is correct and the challenges of (2) can be met.(edited)”

<sup>3</sup> “Contemporary moral theological discussion of the principle of double effect usually operates in one of the following four contexts: interpretation of Aquinas; in relation to manualist casuistry; as understood within proportionalist methodology; as defended within the new natural law methodology. The essay argues that juridically-oriented methodologies do not adequately sustain the principle of double effect. To be sustained, it must be viewed as a theological achievement based upon the meaning of our redemption in Christ and the concomitant possibilities regarding our actions in pursuit of our true good and true end.(edited)”

<sup>4</sup> “In this essay, I argue, from a rights-based perspective, that in situations I term “collateral violence,” i.e., instances in which an innocent bystander will be killed as a secondary, unintended, though foreseen effect of an act of self-preservation, one must, under pain of moral condemnation and sanctions, opt for a defensive response other than deadly force even if the alternative is riskier or less effective. Consequently, the Doctrine of Double Effect neither justifies collateral violence nor absolves the agent of moral responsibility for his act.”

<sup>5</sup> “In this essay, I will, first, demonstrate how, in three familiar scenarios from the Double Effect literature, i.e., the “Trolley Problem”, “Hysterectomy”, and “Relief of Pain”, the DDE is alleged to resolve morally difficult situations by morally permitting an action that, because it causes the death of an innocent human being, would otherwise be morally condemnable. Second, I will offer a right’s based argument against the DDE resolution of the “Trolley Problem” and use the insights from this case to establish a general category of morally impermissible acts I term “collateral violence” – the moral impermissibility of which remains unaffected by the DDE. Finally, I will argue that the DDE resolution of “Hysterectomy” and “Relief of Pain” constitute such acts.”

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<sup>6</sup> “I examine Boyle’s thesis that the doctrine of double effect (DDE) has no underived moral significance apart from a context of exceptionless moral prohibitions against doing harms to innocents, and Donagan’s counter that the Kantian notion that persons should not be treated as means merely renders DDE superfluous. I argue against both that no cogent argument can be given for exercising one’s freedom in certain ways, e.g., by enlisting in the French Foreign Legion, which does not assume a standard of how one should exercise that freedom, from which standard one can reasonably dissent, and that DDE is necessary nonetheless”

<sup>7</sup> “The doctrine of double effect shows that for which the moral agent is responsible, by explicating the relationship between the act directly intended and the consequences of that act. I contend that this doctrine is necessary not only for natural law absolutism, but also for Donagan’s Kantianism and for Quinn’s revised construal of the doctrine, and even for consequentialism, as bioethical implications of the doctrine make clear. For those who do not accept this necessity, I contend that it is necessary metatheoretically, in order to deal with those moral agents with irreconcilably different notions of the morally good.”

<sup>8</sup> “This paper claims as erroneous the current widespread representation of the Doctrine of Double Effect (DDE) as primarily condemning as intrinsically bad actions involving intentional harm. The DDE’s Four Conditions are in fact used solely for justifying certain intrinsically good actions with both intended good and unintended bad effects. Though contemporary writers assign a minor justificatory role to the DDE this is incompatible with their attribution to it of a primary prohibitive role. Not only is the conduct cited by these writers as justifiable under the DDE so morally innocuous as to require no justification, but any attempt to justify it by appeal to the DDE leads to incoherence. We finally suggest reasons for this misinterpretation in current concerns with the structure of deontological moral theories.”

<sup>9</sup> “In replying to my article, Kaufman claimed that the permission given by the four-condition doctrine for certain mixed actions is complementary to an absolute prohibition – which he claims is the DDE’s primary function. I observe that in many cases this makes appealing to the DDE’s fourth condition not merely redundant but incoherent. Kaufman’s claim that I am a utilitarian maximizer, frustrated by a doctrine prohibiting intentional harms, however great the net overall benefit, is a misrepresentation: I did not object to a candidate for justification under the DDE being rejected before reaching the fourth condition, only to its being accepted.”

<sup>10</sup> “The purpose of this paper is to articulate the principle of double effect, to explain its function, and to state the propositions about morality, intention and action which it presupposes. This doctrine is construed as a principle of justification according to which it is permissible to voluntarily bring about a state of affairs that one does not intend if there is a serious reason to do so, even if it would be wrong to act with the intention

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of bringing about that state of affairs. States of affairs that are one's means or ends, are intended but causal consequences of these states of affairs need not be.”

<sup>11</sup> “The doctrine of double effect continues to be an important tool in bioethical casuistry. Its role within the Catholic moral tradition continues, and there is considerable interest in it by contemporary moral philosophers. But problems of justification and correct application remain. I argue that if the traditional Catholic conviction that there are exceptionless norms prohibiting inflicting some kinds of harms on people is correct, then double effect is justified and necessary. The objection that double effect is superfluous is a rejection of that normative conviction, not a refutation of double effect itself. This justification suggests the correct way of applying double effect to controversial cases. But versions of double effect which dispense with the absolutism of the Catholic tradition lack justification and fall to the objection that double effect is an unnecessary complication.”

<sup>12</sup> “This is an introduction to the number of “Christian Bioethics” in which it appears. It provides some background on double effect and indicates that the precise focus of the papers is the justification of the moral significance of the difference between intention and the acceptance of side effects.”

<sup>13</sup> “The use of terminal sedation to control the intense discomfort of dying patients appears both to be an established practice in palliative care and to run counter to the moral and legal norm that forbids health care professionals from intentionally killing patients. This raises the worry that the requirements of established palliative care are incompatible with moral and legal opposition to euthanasia. This paper explains how the doctrine of double effect can be relied on to distinguish terminal sedation from euthanasia. The doctrine of double effect is rooted in Catholic moral casuistry, but its application in law and morality need not depend on the particular framework in which it was developed. The paper further explains how the moral weight of the distinction between intended harms and merely foreseen harms in the doctrine of double effect can be justified by appeal to a limitation on the human capacity to pursue good.”

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<sup>14</sup> “It has been argued that double-effect reasoning (DER) rests on a morally insignificant distinction, the intended/foreseen distinction (i/f distinction). Most DER theorists think that the i/f distinction itself has ethical relevance. I argue that the i/f distinction marks ethically significant differences between malicious and nonmalicious actions as well as between benevolent and nonbenevolent actions. Insofar as it marks these ethically important differences, the i/f distinction has ethical relevance. Thus, DER does not rest on a morally insignificant distinction.”

<sup>15</sup> “Double-effect reasoning (DER) is attributed to Aquinas “tout court”. Aquinas’s account, however, differs from contemporary DER insofar as Thomas considers the ethical status of “risking” an assailant’s life while contemporary accounts focus on actions causing harm inevitably. Since one cannot claim to risk the inevitable, and since there is a significant difference between risking harm and causing harm inevitably. Thomas’s account does not extend to cases of inevitable harm. Thus, the received understanding of Aquinas’s account is flawed and leads to untenable attributions of the direction of intention to Aquinas and to misunderstandings of contemporary DER.”

<sup>16</sup> “Some thinkers separate act-evaluation from agent-evaluation. While holding that epistemic and volitional states may be significant in the evaluation of agents, such thinkers maintain that these states are “not” relevant in act-evaluation. I argue that volitional states are ethically relevant in act-assessment insofar as volitional states partially constitute an action and themselves admit of important differences – for example, the difference, relied on in double-effect reasoning, between wanting harm as a means and wanting harm as an unavoidable concomitant of what one wants as an end or means. Insofar as it relies on such a difference, double-effect reasoning is tenable.”

<sup>17</sup> “Much of Roman Catholic discussion concerning bioethical controversies, such as the surgical removal of a life-threatening cancerous uterus when the fetus is not viable, has focused on the employment of double-effect reasoning. While double-effect reasoning has been the subject of much debates, this paper argues first, that there is a distinction between the intended and the foreseen; second, that this distinction applies to the contrasted cases in such a way as to categorize foreseen but not intended consequences; and third, that this intended/foreseen distinction has essential ethical significance.”

<sup>18</sup> “Proponents of double-effect reasoning — relying in part on a distinction between intention and foresight — assert that it is worse intentionally to cause harm than to cause harm with foresight but without intention. They hold, for example, that terror bombing is worse than tactical bombing in so far as terror bombing is the intentional harming of non-combatants while tactical bombing is not. In articulating the ethical relevance of the intended/foreseen distinction, advocates of double effect employ the Kantian end-not-means principle.

Jonathan Bennett has recently argued that this principle cannot ground the ethical relevance of the intended/foreseen distinction. He holds that the principle demands that one benefit others while double

Bennett, *Journal of Applied Philosophy* 16, S. 181–85.<sup>18</sup>

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effect deals with acts that do not benefit others. Thus, he maintains, the intended/foreseen distinction does not have ethical import and double effect is not tenable. I argue for a reading of the end-not-means principle that grounds the ethical relevance of both the intended/foreseen distinction and double effect.”

<sup>19</sup> “I argue that the moral distinction in double effect cases rests on a difference not in intention as traditionally stated in the doctrine of double effect (DDE), but in desire. The traditional DDE has difficulty ensuring that an agent intends the bad effect just in those cases where what he does is morally objectionable. I show, firstly, that the mental state of a rational agent who is certain that a side-effect will occur satisfies Bratman’s criteria for intending that effect. I then clarify the nature of the moral distinction in double effect cases and how it can be used to evaluate the moral blameworthiness of agents rather than the moral status of acts. (edited)”

<sup>20</sup> “The paper outlines and explores a possible strategy for defending both the action/omission distinction (AOD) and the principle of double effect (PDE). The strategy is to argue that there are degrees of actionhood, and that we are in general less responsible for what has a lower degree of actionhood, because of that lower degree. Moreover, what we omit generally has a lower degree of actionhood than what we actively do, and what we do under known-but-not-intended descriptions generally has a lower degree of actionhood than what we do under known-and-intended descriptions. Therefore, we are in general less responsible for what we omit than for what we do – which is just what AOD says. And we are in general less responsible for what we do under known-but-not-intended descriptions than for what we do under known-and-intended descriptions – which is just what PDE says.”

<sup>21</sup> “This article attempts to show that affirmative action can be supported by the doctrine of double effect which recognises distinctions between desired and unintended effects such that the responsibility for acts falls on the side of the former rather than the latter. With this doctrine it may also be seen why affirmative action programmes cannot be simply equated with numerical quota systems, nor can they be called discriminatory, at least not under the definition of discrimination utilised.”

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<sup>22</sup> “This paper discusses a set of examples known in the literature as the “trolley problem.” the main concern is not so much to evaluate critically what others have said about the problem as to “milk” it for its considerable interest for both action and moral theories. The paper develops a connection between the problem and certain contemporary theories of action, and shows how it seems to provide support for the controversial principle of double effect.”

<sup>23</sup> “G. E. M. Anscombe charged that in ‘Using People’ (*Bioethics* 4, 55-61) Coughlan made the erroneous assumption that the principle of double effect is meant to exonerate a causer of any evils so long as they are not intended as means or end. Coughlan defends himself against the charge and counters that Anscombe and other supporters of the principle of double effect habitually and erroneously assume that one is not responsible for the evil consequences of one’s good actions.”

<sup>24</sup> “This paper has two aims. First, I explore the scope and limitations of the doctrine of double effect (DDE) by focusing specifically on the notion of “effect classification.” Turning my attention to some hard cases, I argue that the DDE has to be supplemented by additional principles that specify how effects are to be discriminated from one another and how the various aspects of the relevant actions are to be classified as intended or simply foreseen. Secondly, I draw some general lessons from this specific investigation of the DDE bearing on the way in which moral principles of this sort can be seen to function helpfully in moral reflection.”

<sup>25</sup> “The purpose of this note is to tidy up some matters concerning ascriptions of intention and the employment of the doctrine of double effect (henceforth DDE). I first argue that Jonathan Bennett’s efforts to show that DDE is a foolish doctrine are unsatisfactory. I then consider a puzzle of Mark Johnston’s that seems to pose a problem for the defender of DDE. I turn to possible solutions to the puzzle, criticize one, and then offer

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the one I find most appealing. I then show how my proposal for employing DDE enables it to make some distinctions between courses of conduct without issuing foolish pronouncements about moral permissibility.”

<sup>26</sup> “Philosophers from Hart to Lewis, Johnston and Bennett have expressed various degrees of reservation concerning the doctrine of double effect. A common concern is that, with regard to many activities that double effect is traditionally thought to prohibit, what might at first look to be a directly intended bad effect is really, on closer examination, a directly intended neutral effect that is closely connected to a foreseen bad effect. This essay examines the extent to which the commonsense concept of intention supports a reasonably consistent and coherent application of double effect. Two important conclusions are these: (1) a number of traditionally proscribed activities involve a kind of “targeting” of innocents that can be taken to exhibit a direct intention to harm them; (2) a direct intention to harm need not involve a desire to harm in any ordinary sense of the latter expression.

Key words Intention – Targeting – Desire – Double Effect – Bennett – Sellars”

<sup>27</sup> “The subject of this article is the principle of double effect as employed in commonsense moral judgment and roman catholic moral theology. I explicate the distinction between the direct and the indirect production of bad effects, and defend its moral relevance (along with that of the distinction between producing a bad effect and refraining from preventing it) against the strictures of Jonathan Bennett and others.”

<sup>28</sup> “The author’s aim is the re-interpretation of the moral relevance between direct and indirect action, and of the related principle of double effect. He evaluates critically the arguments of several authors who tend to minimize its importance in favor of some type of rule-utilitarianism. The principle of double effect is viewed, rather, as an important second-level principle on the tangible level of actions, a principle which mediates a more fundamental hierarchical distinction between dignity-values and welfare-values. The author retains the notion of intrinsically evil action but in a weaker sense than that of the tradition. Avoiding the question of the justification of theoretical absolutes, he views moral education as requiring the retention of certain practically exceptionless norms of action.”

<sup>29</sup> “Joseph Boyle raises important questions about the place of the double-effect exception in absolutist moral theories. His own absolutist theory (held by many, but not all, Catholic moralists), which derives from the principles that fundamental human goods may not be intentionally violated, cannot dispense with such exceptions, although he rightly rejects some widely held views about what they are. By contrast, Kantian absolutist theory, which derives from the principle that lawful freedom must not be violated, has a corollary – that it is a duty, where possible, to coerce those who try to violate lawful freedom – which makes superfluous many of the double effect exceptions Boyle allows. Other implications of the two theories are contrasted. Inter alia, it is argued that, in Boyle’s theory, that a violation of a fundamental human good can be viewed as a cost proportionate to a benefit obtained, cannot yield a double-effect exception to the prohibition of intentionally violating that good, because paying a cost cannot be unintentional.”

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- 2001 [68] Edwards, Sarah J. L. (2001): The Doctrine of Double Effect is Difficult But Not Impossible to Apply, *British Medical Journal* 323, S. 390.
- 1997 [69] Engelhardt, Jr., H. Tristram (1997): Sins, Voluntary and Involuntary: Recognizing the Limits of Double Effect, *Christian Bioethics* 3, S. 173–80.<sup>34</sup>

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<sup>30</sup> “The birth of conjoined twins in 1993 garnered extensive media coverage when the girls were separated, resulting in the death of one twin immediately and the other’s nine months later. The cost and experimental nature of the surgery focused attention on ethical issues in neonatology and caused society to weigh the fairness of expensive treatments with little probable benefit. By utilizing the principle of double-effect, the author assesses the ethical ramifications of this controversial case.”

<sup>31</sup> “I argue, against Geddes (“On the intrinsic wrongness of killing innocent people,” *Analysis*, 33.3), that some connections between what I do to a person and his death are such that, even if we can describe my action, as desired, in a way that does not refer to his death, I cannot deny that I intend it: that the distinction between logical and contingent connections in human action is not so clear, nor the range of logical connections so narrow, as is often supposed: and that the problematic nature of the distinction should make us look again at doctrines, like that of double-effect, which depend on it.”

<sup>32</sup> “I argue that Hanink’s account of the principle of double effect (“Some light on double effect,” “*Analysis*”, volume 35, number 5) is inadequate, and rests on the mistaken assumption that the criteria for distinguishing acts from each other, intention from foresight, acting from refraining, can be specified independently of any moral perspective. I try to indicate the way to a better understanding of these distinctions, and the essential features of the kind of absolutist morality which invokes them – its concern with “agency”, with “transcendent values”, and with “limits” on human action. I illustrate these points by a brief discussion of suicide.”

<sup>33</sup> “I discuss a significant distinction between two different applications of the principle of double effect. It serves sometimes to distinguish the intended effects of an action from side-effects which are “relevant” to it, as providing reasons against it, for which the agent must admit responsibility, and of which he is the intentional agent; and sometimes to distinguish intended effects from side-effects which are “irrelevant” to the action, as to which the agent denies responsibility and intentional agency.”

<sup>34</sup> “Because sin is anything that turns our heart from God, sins are both voluntary and involuntary. As a consequence, double effect can only be adequately understood in a Christian context in which it is recognized that, even when evil is not willed, our involvement in its causation can still mar our hearts. The

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- 1998 [73] Fohr, Susan Anderson (1998): The Double Effect of Pain Medication: Separating Myth from Reality, *Journal of Palliative Medicine* 1, S. 315–28.  
<http://www.hospicecare.com/Ethics/fohrdoc.htm>
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- 1985 [75] Foot, Philippa (1985): Morality, Action and Outcome, in *Objectivity and Value. Essays in Memory of John Mackie*, hrsg. von Ted Honderich, London, S. 23–28. Wiederabgedruckt in *The Doctrine of Double Effect. Philosophers Debate a Controversial Moral Principle*, hrsg. von P. A. Woodward, Notre Dame 2001, S. 67–82. – Moral, Handlung und Ergebnis, in dies., *Die Wirklichkeit des Guten. Moralphilosophische Aufsätze*, hrsg. und eingeleitet von Ursula Wolf und Anton Leist, Frankfurt a. M. 1997, S. 165–85: S. 168–70.
- 1978 [76] Frankena, William K. (1978): McCormick and the Traditional Distinction, in *Doing Evil to Achieve Good: Moral Choice in Conflict Situations*, hrsg. von Richard A. McCormick und Paul Ramsey, Chicago (Reprint: Lanham 1985), S. 145–64.

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acknowledgement of involuntary sins resituates double effect so that the traditional Christian concern with spiritual harm and healing can be maintained. In this way, one can overcome the underdeveloped Western theological appreciation of double effect, which ignores the effect on the heart of causing evil.”

<sup>35</sup> “I defend English judicial rulings that undesired results may be intended, and results foreseen as certain may yet be not intended. To do so, I distinguish systematically between free choice and spontaneity, between rational and subrational motivations, and between moral norms which bear on intent and moral norms which bear on foreseen side effects. I criticise various well-known arguments of Glanville Williams. Against Anscombe’s critique of the “doctrine of double effect” I deploy thoughts she proposed in her book *Intention*. A final section seeks to identify the moral rationale for the difference between intention and side-effects.”

<sup>36</sup> “At the heart of the doctrine of double effect (DDE) is the claim that intentions can be relevant to an act’s permissibility. Rachels, Thomson, and others reject this claim on the grounds that it makes an act’s permissibility turn on facts about particular agents’ characters, with absurd results. I argue that this objection is based on a fundamental and persistent misunderstanding of the way the concept of intention figures into the DDE. Using a type/token distinction, I offer a proper formulation of the DDE that avoids the objection, and illustrates its plausible application.”

- 1999 [77] Freeman, Stephen J. (1999): The Principle of Double Effect and Virtue Ethics. A Search for Complementary in End-of-Life Decision Making, *Illness, Crisis & Loss* 7, S. 333–46.
- 1975 [78] Frey, R. G. (1975): Some Aspects of the Doctrine of Double Effect, *Canadian Journal of Philosophy* 5, S. 259–83.<sup>37</sup>
- 1983 [79] Frey, R. G. (1983): *Rights, Killing, and Suffering. Moral Vegetarianism and Applied Ethics*, Oxford, S. 118–40 (“Killing and the Doctrine of Double Effect”).
- 1995 [80] Garcia, Jorge (1995): Double Effect, in *Encyclopedia of Bioethics*, revised edition, hrsg. von Warren Thomas Reich, New York, S. 636–641.
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- 1972 [82] Geddes, Leonard (1972): On the Intrinsic Wrongness of Killing Innocent People, *Analysis* 33 (1972/73), S. 93–97.<sup>39</sup> – Vgl. dazu Duff (1973).
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- 2001 [84] Giebel, H.-M. (2001): On Physician-Assisted Suicide and Double Effect: A Response to Thomson, *Kinesis* 28, S. 4–38.
- 1977 [85] Glover, Jonathan (1977): *Causing Death and Saving Lives*, London, S. 86–91 (“Ends and Means: Double Effect”).
- 1970 [86] Grisez, G. (1970): Towards a Consistent Natural Law Ethics of Killing, *American Journal of Jurisprudence* 15, S. 64–96.

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<sup>37</sup> “My interest is in two of the four conditions which must be satisfied if the doctrine of double effect is to be successfully employed. One of these involves the distinction between direct and oblique intention, and I deny that this distinction is the index of character or goodness adherents to the doctrine take it to be. Rather, I emphasize the notion of “control responsibility”, in considering several cases around which discussion of the doctrine has focused. I develop this notion, in the course of rejecting several attempts to render it superfluous, and then sustain it, in the face of a possible rival. Finally, I consider a second condition of the doctrine, one which turns upon the view that the order of causation between an evil and a good effect of an act is morally significant, and I suggest that this view is mistaken.”

<sup>38</sup> “I respond to criticisms posed by Robert Holmes against moral views that allow the rightness or wrongness of any agent’s performing an action of a certain type to hinge on the intentions with which she acts. (Many of these criticisms are directed against the “principle” or “doctrine” of double effect, so my paper constitutes an indirect defense of some elements of that much-controverted form of reasoning.) I show “inter alia” that it is question-begging to maintain that such views violate norms against permitting insignificant distinctions to make a moral difference, irrelevant to insist that intentions are not parts of actions, and implausible to claim that appeal to intentions is vacuous at the practical level.”

<sup>39</sup> “By considering certain examples, this article attempts to show (a) that (contrary to Jonathan Bennett’s arguments) the principle, ‘it would always be wrong to kill an innocent person, whatever the consequences of not doing so’ does not apply to all cases of the voluntary killing of the innocent, provided that this principle presupposes the principle of double effect, and (b) that (contrary to G. E. M. Anscombe’s assumptions) this principle does not entail anything about what it is impermissible to do. Thus (a) the principle applies only to intentionally killing an innocent person for its own sake or as a means to some end and (b) doing something that is always wrong could be morally justifiable, including intentionally killing an innocent person.”

- 1994 [87] Hall, Robert T. (1994): Final Act: Sorting Out the Ethics of Physician-Assisted Suicide, *Humanist* 54, S. 10–14.<sup>40</sup>
- 1975 [88] Hanink, James G. (1975): Some Light on Double Effect, *Analysis* 35 (1974/75), S. 147–51.<sup>41</sup> – Dazu: Duff 1975.
- 2008 [89] Harbour, Frances V. (2008): A Just Soldier’s Dilemma: Facing a War that does Not Meet jus ad bellum Criteria, *Cambridge Review of International Affairs* 21, S. 421–35.<sup>42</sup>
- 1985 [90] Harris, John (1985): *The Value of Life. An Introduction to Medical Ethics*, London, S. 43–45.
- 1967 [91] Hart, H. L. A. (1967): Intention and Punishment, in ders., *Punishment and Responsibility. Essays in the Philosophy of Law*, Oxford 1968, S. 113–35: S. 122–25.
- 2003 [92] Hills, Alison (2003): Defending Double Effect, *Philosophical Studies* 116, S. 133–152.<sup>43</sup>
- 2007 [93] Hills, Alison (2007): Intentions, Foreseen Consequences and the Doctrine of Double

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<sup>40</sup> “The distinction between active voluntary euthanasia (a procedure which terminates life at a patient's request) and passive voluntary euthanasia (withholding or withdrawing treatment) can no longer be sustained. The principle of “double effect” is ethically meaningless. We now use indirect and often harmful methods to obtain goals that we should pursue directly. Physician assisted suicide (voluntary active euthanasia) should be legalized and medicalized so that practices can be regulated and further recourse to self- help methods (handguns, plastic bags and illegally acquired drugs) can be avoided.”

<sup>41</sup> “Defenders of categorically exceptionless rights sometimes rely on a principle of double effect to maintain their position. But critics of a principle of double effect charge that it admits sophistical solutions to many moral dilemmas. I try to meet this criticism (1) by offering a more precisely formulated principle of double effect than its critics usually consider and (2) by showing that this formulation need not lead to sophistical normative judgments. In sketching my tentative defense of a principle of double effect I indicate the importance of a carefully worked out theory of act individuation.”

<sup>42</sup> “In our challenging times individuals in military services may find themselves in the position of being called to contribute to a war whose overall justice they personally find morally suspect, or about which they have moral qualms. The right course of action in this situation can be a serious dilemma. Applying the principle of double effect to this dilemma recognizes essential state responsibility for war, but does not discount the soldier’s personal moral responsibilities or individual will. This novel application of the principle of double effect treats damage produced by participating in a questionable war as a side-effect of pursuing other – clearly justifiable – intentions. The just war tradition already uses the principle of double effect when weighing the permissibility of individuals’ acts in war, such as choosing bombing targets. The proposal here is to evaluate the decision to contribute to the war effort at all. This adaptation of the classic just war principle of double effect can be used to justify some – but not all – individual participation when a war’s state-level justification is suspect.”

<sup>43</sup> “According to the doctrine of double effect (DDE), there is a morally significant difference between harm that is intended and harm that is merely foreseen and not intended. It is not difficult to explain why it is bad to intend harm as an end (you have a “bad attitude” toward that harm) but it is hard to explain why it is bad to intend harm as a means to some good end. If you intend harm as a means to some good end, you need not have a “bad attitude” toward it. I distinguish two ways in which you can treat something that is your chosen means to your ends. You can pursue your ends directly, and treat X as a mere means that you pursue for the sake of your end. Or you can pursue your ends indirectly, and treat X as a “plan-relative end” that you pursue for its own sake. I argue that much of the time we pursue our ends indirectly, and treat our means as plan-relative ends. There are significant analogies between intending harm as an end, and intending harm as a plan-relative end. So, under certain circumstances, it is morally worse to intend harm as a means or an end than to foresee bringing about the same amount of harm.”

- 2007 [94] Hobbs, James A. (2007): Pollution and the Doctrine of Double Effect: A Reply to Heinzerling, *New York University Environmental Law Journal* 15, S. 362–76.
- 1984 [95] Hoffman, Robert (1984): Intention, Double Effect, and Single Result, *Philosophy and Phenomenological Research* 44, S. 389–93.
- 1989 [96] Holmes, Robert L. (1989): *On War and Morality*, Princeton, NJ., S. 193–200.
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- 2007 [100] Huxtable, Richard (2007): *Euthanasia, Ethics and the Law: From Conflict to Compromise*, Abingdon, S. 84–114 (“Get Out of Jail Free? Double Effect and Doctors in the Dock”), 162–65 (“Clarifying the Double Effect”).
- 1990 [101] Jordan, Jeff (1990): The Doctrine of Double Effect and Affirmative Action, *Journal of Applied Philosophy* 7, S. 213–16.<sup>46</sup> Wiederabgedruckt in *The Doctrine of Double Effect. Philosophers Debate a Controversial Moral Principle*, hrsg. von P. A. Woodward, Notre Dame 2001, S. 234–38. – Zu Cooney 1989.

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<sup>44</sup> “The difficulty of distinguishing between the intended and the merely foreseen consequences of actions seems to many to be the most serious problem for the doctrine of double effect. It has led some to reject the doctrine altogether, and has left some of its defenders recasting it in entirely different terms. I argue that these responses are unnecessary. Using Bratman’s conception of intention, I distinguish the intended consequences of an action from the merely foreseen in a way that can be used to support the doctrine of double effect.”

<sup>45</sup> “The ethical doctrine of double effect permits health care professionals to administer potentially fatal medication, provided that their intentions are purely to control symptoms. In this article, the legal status and scope of the doctrine will be analysed, and it will be argued that the law in this context is unclear, incoherent and partial in its application. The problems are not exclusively legal in nature, however, because health professionals have been critical both of the doctrine itself and of the lawyers’ understanding of the concept. It will be concluded that clarification and appropriate enforcement are needed if the doctrine and the law are to retain credibility.”

<sup>46</sup> “William Cooney has recently argued (*The Journal of Applied Philosophy*, Vol. 6, pp. 201–204) that the social programme of affirmative action, though controversial, can be supported by the doctrine of double effect in that, according to the doctrine, responsibility falls on the side of intended consequences and not on that of unintended consequences. The point of affirmative action is to include certain disadvantaged groups; it is not to exclude other groups, though this is an inevitable and foreseeable by-product. In this article I contend that Cooney’s argument ignores two important conditions of the doctrine of double effect; namely, that the good which results from the intended effect must be at least commensurate with the harm that results from the unintended effect; and, that the intended good effect is causally separate from the unintended harmful effect. Any use of the doctrine which neglects these conditions leads to morally problematic cases. Further, once we take the conditions into account, we have good reason to think that the doctrine of double effect has no relevance to the affirmative action debate.”

- 1998 [102] Kaczor, Christopher (1998) Double-Effect Reasoning from Jean Pierre Gury to Peter Knauer, *Theological Studies* 59, S. 297–316.
- 1991 [103] Kamm, F. M. (1991): The Doctrine of Double Effect: Reflections on Theoretical and Practical Issues, *Journal of Medicine and Philosophy* 16, S. 571–85.<sup>47</sup>
- 1996 [104] Kamm, F. M. (1996): *Morality, Mortality* Volume II: *Rights, Duties, and Status*, New York, Oxford, S. 150–55, 176f., 179, 181, 184, 193–95,
- 1999 [105] Kamm, F. M. (1999): Physician-Assisted Suicide, the Doctrine of Double Effect, and the Ground of Value, *Ethics* 109, S. 586–605.
- 2000 [106] Kamm, F. M. (2000): The Doctrine of Triple Effect and Why a Rational Agent Need Not Intend the Means to His End, *Proceedings of the Aristotelian Society* 74, *Suppl.*, S. 21–39.<sup>48</sup>
- 2000 [107] Kamm, F. M. (2000): Nonconsequentialism, in *The Blackwell Guide to Ethical Theory*, hrsg. von Hugh LaFollette, Oxford, S. 205–26: S. 211–15.
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- 1988 [110] Keenan, James (1988): Taking Aim at the Principle of Double Effect: Reply to Khatchadourian, *International Philosophical Quarterly* 28, S. 201–5.<sup>50</sup> – Zu Khatchadourian 1988.

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<sup>47</sup> “The Doctrine of Double Effect and the Principle of Do No Harm raise important theoretical and practical issues, some of which are discussed by Boyle, Donagan, and Quinn. I argue that neither principle is correct, and some revisionist, and probably nonabsolutist, analysis of constraints on action and omission is necessary. In making these points, I examine several approaches to deflection of threat cases, discuss an argument for the permissibility of voluntary euthanasia, and present arguments relevant to medical contexts which justify intentionally harming some to aid others, with and without the consent of those harmed.”

<sup>48</sup> “In this article I am concerned with whether it could be morally significant to distinguish between doing something “in order to bring about an effect” as opposed to “doing something because we will bring about an effect.” For example, the doctrine of double effect (DDE) tells us that we should not act in order to bring about evil, but even if this is true is it perhaps permissible to act only because an evil will, thus, occur? I discuss these questions in connection with a version of the so-called trolley problem known as the loop case. I also consider how these questions may bear on whether a rational agent must aim at an event which he believes is causally necessary to achieve an end he pursues.”

<sup>49</sup> “In a recent edition of the journal *Philosophy*, Sophie Botros asserts that modern ethical theorists have badly misunderstood the role of the Doctrine of Double Effect, turning it into a device by which to prohibit actions which are deemed impermissible; whereas the true function of the Doctrine is rather one of justifying actions. In my reply, I argue that Dr Botros has misunderstood the Doctrine: that its ‘prohibitive’ and its ‘justificatory’ roles are merely two sides of the same coin, since its function is to decide for a given action whether it is permissible or impermissible. Furthermore, Dr Botros has misconstrued the essential contribution of the DDE is not the balancing of good results against bad ones, but the quite different position that the crucial moral distinction is between intended and merely foreseen results.”

<sup>50</sup> “A reply to Haig Katchadourian’s “Is the principle of double effect morally acceptable?” (“*Int Phil Quart*”, 28, 21-30), this article argues that the principle derives its meaning from a deontological ethics. In that ethics where deontologically grounded absolute prohibitions are accepted, the principle is morally

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- 2002 [121] Knauer, Peter (2002): Handlungsnetze – Über das Grundprinzip der Ethik, <http://www.jesuiten.org/peter.knauer/21.html>
- 2002 [122] Knauer, Peter (2002): *Handlungsnetze. Über das Grundprinzip der Ethik*, Frankfurt a. M.
- 1988 [123] Koslowski, Peter (1988): *Prinzipien der ethischen Ökonomie. Grundlegung der Wirtschaftsethik und der auf die Ökonomie bezogenen Ethik*, Tübingen, S. 168–73 („Das Prinzip der Handlung mit doppelter Wirkung (mit Nebenwirkungen)“).

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acceptable. The principle can only be understood in an ethics where an “object” can have moral significance independent of any circumstances or intention.”

<sup>51</sup> “In an article of 1967 Philippa Foot rejected the principle of double effect. Later, in 1985, she accepted it and used it as a reason for the rejection of consequentialism. However, she did not give adequate reasons for her conversion. This article offers a fuller argument in favor of the principle.”

<sup>52</sup> “The article presents and argues against three related formulations of the principle of double effect in the literature. The principle’s basic formulation places four restrictions on the permissibility of acting when some of the consequences of one’s action are evil. These are (1) the act is not intrinsically evil, (2) the good consequences are not the effect of the evil consequences, but (3) are commensurate with them, and (4) are alone intended. The principle’s second formulation replaces premise (3) with a foreseeability condition. If supplemented with the condition that the intended good must outweigh the act’s unintended but foreseen byproduct, as well as with a sixth, complex condition, the second formulation is transformed into the third, most plausible formulation.”

- 1997 [124] Kotva, Jr., Joseph J. (1997): A View from Two Sides: The Principle and its Cases, *Christian Bioethics* 3, S. 158–72.<sup>53</sup>
- 2000 [125] Krakauer, Eric L./Penson, Richard T./Truog, Robert D./King, Linda A./Chabner, Bruce A./Lynch, Jr., Thomas J. (2000): Sedation for Intractable Distress of a Dying Patient: Acute Palliative Care and the Principle of Double Effect, *Oncologist* 2000: 5, S. 53–62.
- 1987 [126] Kuhse, Helga (1987): *The Sanctity-of-Life Doctrine in Medicine. A Critique*, Oxford, S. 83–165 (“The Intentional Termination of Life and the Principle of Double Effect”). – *Die „Heiligkeit des Lebens“ in der Medizin. Eine philosophische Kritik*, Erlangen 1984, S. 109–205 („Das absichtliche Beenden des Lebens und das Prinzip der Doppelwirkung“).
- 1985 [127] Kuhse, Helga/Singer, Peter (1985): *Muß dieses Kind am Leben bleiben? Das Problem schwerstgeschädigter Neugeborener*, von der Autorin und dem Autor überarbeitete und erweiterte deutsche Ausgabe, Erlangen 1993, S. 118–20 („Die Lehre vom doppelten Effekt“).
- 1995 [128] Langan, John, SJ (1995): Proportionality, Charity, and the Use of Nuclear of Weapons: A Response to Timothy Renick, *Thomist* 59, S. 617–32. – Zu Renick 1994.
- 2000 [129] Larimore, Walter L. (2000): The Abortifacient Effect of the Birth Control Pill and the Principle of ‘Double Effect’, *Ethics and Medicine* 16, S. 23–30.
- 2001 [130] Laun, Andreas (2001): Der Beratungsschein und das Prinzip der Doppelwirkung einer Handlung, in *Codzienna pytanja Antygony. Festschrift für Th. Styczen*, Lublin, S. 327–341.  
<http://kirchen.net/bischof/laun/texte/StyczenFS.doc>
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- 1986 [133] Levy, Sanford S. (1986): The Principle of Double Effect, *Journal of Value Inquiry* 20, S. 29–

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<sup>53</sup> “This response proceeds in three sections, each focusing on the role of cases in understanding the principle of double effect. The first section asks about the relationship between the principle and its cases: Does the principle authorize the cases or do the cases authorize the principle? To illustrate the latter claim's plausibility, certain aspects of the articles by Aulisio, Berkman and Odozor are highlighted. Section two uses the cases of bombing in warfare and self-defense to explain reservations Mennonites are likely to harbor about the principle. The third section focuses on a medical case to show why a concern for virtue must attend to the principle's distinction between what is intended and what is merely foreseen.”

<sup>54</sup> “Modern warfare cannot be conducted without civilians being killed. In order to reconcile this fact with the principle of discrimination in just war theory, the principle is applied through the doctrine of double effect. But this doctrine is morally inadequate because it is too permissive regarding the risk to civilians. For this reason, Michael Walzer has suggested that the doctrine be supplemented with what he calls the idea of double intention: combatants are not only to refrain from intending to harm civilians; they are also to take precautions to reduce risk to civilians, even at the expense of increasing risk to themselves. The article develops the idea of double intention by addressing two questions: What does it mean to intend to reduce civilian risk, and how much should civilian risk be reduced? The results of this discussion are then used to consider a moral issue that arises in technologically asymmetric warfare, namely, the extent to which the use of precision-guided munitions, which allow more accurate targeting, can by itself bear the moral burden imposed by the principle of discrimination.”

- 1987 [134] Levy, Sanford S. (1987): Paul Ramsey and the Rule of Double Effect, *Journal of Religious Ethics* 15, S. 59–71.<sup>56</sup>
- 1994 [135] Lichtenberg, Judith (1994): War, Innocence, and the Doctrine of Double Effect, *Philosophical Studies* 74, S. 347–68.
- 1982 [136] Locke, Don (1982): The Choice Between Lives, *Philosophy* 57, S. 453–75.<sup>57</sup>
- 2005 [137] Lyons, Edward C. (2005): In Incognito: The Principle of Double Effect in American Constitutional Law, *Florida Law Review* 57, No. 3, S. 469–563<sup>58</sup>  
<http://ssrn.com/abstract=756887>.

<sup>55</sup> “I first consider and reject two common arguments for the moral significance of the principle of double effect’s direct/indirect distinction. I then present an argument against PDE viewed as a principle for “the rightness evaluation of actions.” Finally, I consider the possibility of interpreting the principle of double effect as a principle for the “virtue-evaluation of agents.””

<sup>56</sup> “Paul Ramsey has argued that the rule of double effect is morally significant because of the existence of indeterminate choices between incommensurable values. I interpret his argument as the following disjunctive syllogism. There are two sorts of principles we can appeal to in dealing with indeterminate choices: the rule of double effect and a commensurate reason principle. The second does not work, so we are left with the first. I respond, first, that this argument commits the fallacy of bifurcation and second, that for all Ramsey has shown, and surprisingly, a commensurate reason principle can deal with indeterminate choices.”

<sup>57</sup> “In what circumstances are we justified in taking one person’s life to save others? This paper discusses the distinction between three possible policies: maximising, minimising, and absolutist (section 1); the distinction between positive and negative duties (section 2); the distinction between killing and letting die, or more generally between doing and allowing (section 3); and the distinction between direct and indirect killing (section 4). A case is made for a modified, non-absolutist version of the principle of double effect. The crucial wrong is the infringement of autonomy involved in using one person’s life as a means to saving others.”

<sup>58</sup> In *Vacco v. Quill*, 521 U.S. 793 (1997), the Supreme Court for the first time in American case law explicitly applied the principle of double effect to reject an equal protection claim to physician-assisted suicide. Double effect, traced historically to Thomas Aquinas, proposes that under certain circumstances it is permissible unintentionally to cause foreseen “evil” effects that would not be permissible to cause intentionally. The court rejected the constitutional claim on the basis of a distinction marked out by the principle, i.e., between directly intending the death of a terminally ill patient as opposed to merely foreseeing that death as a consequence of medical treatment. The Court held that the distinction “comports with fundamental legal principles of causation and intent.” *Id.* at 802.

Critics allege that the principle itself is intrinsically flawed and that, in any event, its employment in *Vacco* is without legal precedent. I argue in response to contemporary objections that double effect is a valid principle of ethical reflection (Part I); claims to the contrary notwithstanding, double effect analysis is a pervasive, albeit generally unacknowledged principle employed regularly in American case law (Part II); and drawing on the preceding two sections, *Vacco*’s application of the principle of double effect is appropriate (Part III).

My conclusion is that “[o]peration of some form of the principle, by whatever name, is inevitable. In an imperfect world where duties and interests collide, the possibility of choices of action foreseen to have both good and evil consequences cannot be avoided. In rare circumstances, ethics and the law require that a person refrain from acting altogether. More often, however, they provide that a determination of whether an actor may pursue a good effect although knowing it will or may unintentionally cause an harmful effect requires a more complex analysis – a double effect analysis.”

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- 2002 [139] McCarthy, David (2002): Intending Harm, Foreseeing Harm, and Failures of the Will, *Noûs* 36, S. 622–642.<sup>60</sup>
- 1973 [140] McCormick, Richard (1973): *Ambiguity in Moral Choice*, Milwaukee. Wiederabgedruckt in *Doing Evil to Achieve Good: Moral Choice in Conflict Situations*, hrsg. von Richard A. McCormick und Paul Ramsey, Chicago 1978 (Reprint: Lanham 1985), S. 7–53.

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Keywords: Double effect, intention, physician-assisted suicide, Constitutional Law, Bioethics”

<sup>59</sup> “In this article, responding to assertions that the principle of double effect has no place in legal analysis, I explore the overlap between double effect and negligence analysis. In both, questions of culpability arise in situations where a person acts with no intent to cause harm but where reasonable foreseeability of unintended harm exists. Under both analyses, the determination of whether such conduct is permissible involves a reasonability test that balances that foreseeable harm against the good intended by the actor's conduct. In both, absent a finding that the foreseeable harm is unreasonable in light of that intended good, no liability will be imposed upon the actor.

Even conceding, however, such general similarity between double effect and negligence analysis – disagreement over the proper interpretation of the reasonability criterion at play in negligence poses an additional challenge for the attempt to correlate negligence with double effect.

Economic efficiency interpretations of negligence, for example, purportedly based on the Learned Hand Formula and the RESTATEMENT (SECOND) OF THE LAW OF TORTS, propose that culpability depends upon a utilitarian balancing of good effects of conduct (utility) versus its harmful foreseeable consequences (magnitude of risk of injury). Based on such an interpretation of negligence, however, contrasts between actors’ states of mind, and normative differences between kinds of goods and harms, ultimately fade into the background and become irrelevant as essential conditions for properly assessing liability.

This article elaborates and defends the view that double effect analysis lies at the heart of negligence theory. Part I elucidates in more detail the principle of double effect and describes its prima facie operation in negligence analysis. Part II considers and rejects the economic efficiency interpretation that has been offered as a theory of negligence, overcoming the challenge that such an interpretation presents for the effort to locate double effect analysis in the law. Part III illustrates and confirms the overlap between double effect and negligence by consideration of a series of case applications.

The Article proposes that the weighing of conflicting values in double effect analysis and negligence is not achieved – as proposed by law and economics theory with respect to negligence – by imposing a consequentialist-utilitarian reduction of all value to a single concept of good and eliminating the relevance of traditional state of mind distinctions between intention and foreseeability. Instead, each mode of analysis recognizes that distinct culpability determinations flow naturally and plausibly from an appreciation of the traditional legal distinctions made between various types of goods and harms, and upon whether such goods and harms come about as result of an actor’s intention or mere foreseeability.

Keywords: Double effect, negligence, intention, foreseeability, choice, law and economics, utilitarianism, consequentialism, weighing of values.”

<sup>60</sup> “Theoretical defenses of the principle of double effect (pde) due to Quinn, Nagel and Foot face severe difficulties. But this leaves those of us who see something in the case-based support for the pde without a way of accounting for our judgments. I argue that what I call the mismatch principle (mmp) does better than the pde at accounting for our judgments and is also theoretically defensible. Where the pde explains the cases in terms of intending harm, the mmp explains them in terms of a quite different feature of the agent's will.”

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- 1978 [142] McCormick, Richard A./Ramsey, Paul (Hrsg.) (1978): *Doing Evil to Achieve Good: Moral Choice in Conflict Situations*, Chicago (Reprint: Lanham 1985).
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- 2004 [144] McGee, Andrew (2004): Double Effect in the *Criminal Code 1899* (QLD): A Critical Appraisal, *Queensland University of Technology Law and Justice Journal* 4, S. 46–57.
- 2001 [145] McIntyre, Alison (2001): Doing Away with Double Effect, *Ethics* 111, S. 219–55.
- 2004 [146] McIntyre, Alison (2004): The Double Life of Double Effect, *Theoretical Medicine and Bioethics* 25, S. 61–74.<sup>62</sup>
- 2004 [147] McIntyre, Alison (2004): Doctrine of Double Effect, in *Stanford Encyclopedia of Philosophy*, hrsg. von Edward Zalta, <http://plato.stanford.edu/entries/double-effect/>.
- 1977 [148] Mackie, John Leslie (1977): *Ethics. Inventing Right and Wrong*, Harmondsworth, S. 160–68 (“Absolutism and the Principle of Double Effect”). – *Ethik. Die Erfindung des moralisch Richtigen und Falschen*, durchgesehene und verbesserte Ausgabe, Stuttgart 1983, S. 205–16 („Der Absolutismus und das Prinzip von der Handlung mit Doppelwirkung“)
- 1994 [149] McMahan, Jeff (1994): Revising the Doctrine of Double Effect, *Journal of Applied Philosophy* 11, S. 201–12.<sup>63</sup>

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<sup>61</sup> “The principle of double effect (PDE) requires that it be possible to make a distinction between foreseen and intended consequences “prior” to making a judgement about the rightness or wrongness of an act. It is then argued that a theory of intentionality is needed if one is to assess the significance of the principle. The article sketches a theory proposed by Anthony Kenny and shows how this theory would support some but not all of the judgements often associated with the use of the PDE. Finally it is argued that the link between ascriptions of responsibility and intentionality cannot be drawn as closely as some writers on the PDE suggest. Agents can be held responsible for the unintended consequences of their acts. (edited)“

<sup>62</sup> “The U.S. Supreme Court's majority opinion in *Vacco v. Quill* assumes that the principle of double effect explains the permissibility of hastening death in the context of ordinary palliative care and in extraordinary cases in which painkilling drugs have failed to relieve especially intractable suffering and terminal sedation has been adopted as a last resort. The traditional doctrine of double effect, understood as providing a prohibition on instrumental harming as opposed to incidental harming or harming as a side effect, must be distinguished from other ways in which the claim that a result is not intended might be offered as part of a justification for it. Although double effect might appropriately be invoked as a constraint on ordinary palliative care, it is not clear that it can be coherently extended to justify such practices as terminal sedation. A better approach would reconsider double effect's traditional prohibition on hastening death as a means to relieve suffering in the context of acute palliative care.”

<sup>63</sup> “The Doctrine of Double Effect has been challenged by the claim that what an agent intends as a means may be limited to those effects that are precisely characterized by the descriptions under which the agent believes that they are minimally causally necessary for the production of other effects that the agent seeks to bring about. If based on so narrow a conception of an intended means, the traditional Doctrine of Double Effect becomes limitlessly permissive. In this paper I examine and criticize Warren Quinn's attempt to reformulate the Doctrine in such a way that it retains its force and plausibility even if we accept the narrow

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- 2001 [152] Mapel, David R. (2001): Revising the Doctrine of Double Effect, *Journal of Applied Philosophy* 18, S. 257–272.<sup>64</sup>
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- 1991 [154] Marquis, Donald (1991): Four Versions of Double Effect, *Journal of Medicine and Philosophy* 16, S. 515–44. Wiederabgedruckt in *The Doctrine of Double Effect. Philosophers Debate a Controversial Moral Principle*, hrsg. von P. A. Woodward, Notre Dame 2001, S. 156–85.<sup>66</sup>
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- 1999 [157] Matthews, Gareth B. (1999): Saint Thomas and the Principle of Double Effect, in *Aquinas's Moral Theory*, hrsg. von Scott MacDonald und Eleonore Stump, Ithaca.<sup>67</sup>

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conception of an intended means. Building on Quinn's insights, I conclude by offering a further version of the Doctrine that retains the virtues of Quinn's account but avoids the objections to it.”

<sup>64</sup> “By combining moral operators with other important revisions, Quinn and McMahan have come closer to a satisfactory analysis of the DDE than anyone else. Nevertheless, I argue that both accounts are still faced with problems of interpreting the idea of ‘involving’ a person as a means to our ends. I also show that the arguments of Quinn and McMahan are important in suggesting how we can justify on other grounds many of the judgments previously attributed to the DDE. (edited)”

<sup>65</sup> “The principle of double effect (PDE) appears to resolve a difficulty with non-consequentialist ethics in an interesting way. The distinctions between the means of achieving an end and the effects of using that means and between what a man intends and what he merely foresees to be the outcome of his action are both necessary for the development of PDE and philosophically interesting. I contend that these distinctions permit too much, that PDE renders morally outrageous acts permissible. This, I suggest, is due to the resolute non-consequentialism of the PDE.”

<sup>66</sup> “Recent discussions of the doctrine of double effect have contained improved versions of the doctrine not subject to some of the difficulties of earlier versions. There is no longer one doctrine of double effect. This essay evaluates four versions of the doctrine: two formulations of the traditional Catholic doctrine, Joseph Boyle’s revision of that doctrine, and Warren Quinn’s version of the doctrine. I conclude that all of these versions are flawed.”

<sup>67</sup> “To many ethicists the Principle of Double Effect seems clearly Thomistic, even if they are unable to say why this is so. I try to show that, although ST IIaeIIae.64.7 might seem promising as a Thomistic basis for this principle, it is insufficient. There is, however, an indirect way to get from what Thomas says about self-defense to a modern formulation of the principle. Perhaps modern medical ethicists are thus justified in considering the principle at least broadly Thomistic. Finally, I suggest that the principle can be thought to derive its force from the “Pauline Principle” that we should not do evil that good may come of it.”

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- 2002 [160] Mirkes, Renee (2002): The Oral Contraceptive Pill and the Principle of Double Effect, *Ethics and Medicine* 18, S. 11–22.
- 1986 [161] Montaldi, Daniel F. (1986): A Defense of St Thomas and the Principle of Double Effect, *Journal of Religious Ethics* 14, S. 296–332.<sup>69</sup>
- 2004 [162] Murphy, Mark C. (2004): Intention, Foresight, and Success, in *Human Values. New Essays on Ethics and Natural Law*, hrsg. von David Oderberg und T. D. J. Chappell, Houndmills, S. 252–68.
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- 1999 [165] Norcross, Alastair (1999): Intending and Foreseeing Death: Potholes on the Road to Hell, *Southwest Philosophy Review* 15, S. 115–23.<sup>71</sup>

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<sup>68</sup> “The article entitled “A critique of Bernard Haring’s applications of the double effect principle” discusses some misconceptions regarding the principle and in particular: (a) how flexibility in applying the principle of the double effect shows up its non-applicability; and (b) how rigid attempts in applying the principle renders it meaningless. The principle is discussed in relation to a specific case of abortion.”

<sup>69</sup> “Thomas has been criticized by Alan Donagan (and others) for his use of the principle of double effect (PDE) in justifying defensive homicide. I claim that Donagan misunderstands Thomas’s use of the PDE. I then present what I believe to be a radical reinterpretation of what Thomas is trying to do with the PDE: the PDE is *not* meant to permit indirect harm to goods that, because of their moral value, we may never harm directly; rather, Thomas uses the PDE because he thinks that acting from a certain attitude is wrong even when the consequences of the action are *good* for the moral values it affects. Thomas believes that persons lacking authorization to kill for the state are capable of killing with a proper attitude toward their victim only if they kill unintentionally. Thomas permits public officials, who have a duty to enforce the law, to kill (some sinners) intentionally, something he could not do if he held life itself to be inviolable. I agree with Donagan that Thomas does misuse the PDE in relation to (most kinds of) personal self-defense. But I argue that this does not entail that the PDE is irrelevant to the justification of other kinds of homicide. As Thomas intends it, the PDE may still be relevant to the justification of some kinds of defensive homicide, and maybe (indirectly) to the justification of killing in war.”

<sup>70</sup> “Whether one should accept a principle like the Doctrine of Double Effect (DDE), cannot be settled independent of one’s more general moral theory. In this, I take it, I agree with Professor Boyle, though I do not think he has shown that DDE has a role only in his particular form of absolutism. Still, since his theory does require DDE, an important question is what the alternatives are – whether we must choose between this absolutism and either utilitarianism or intuitionism. A form of contractualism, the requirements of which derive to a large extent from institutionally or conventionally established rights, is sketched here as an attractive alternative. It does not lead, so far as I can see, to DDE.”

<sup>71</sup> “My concern in this paper is a distinction most commonly associated with the Doctrine of the Double Effect (DDE). My concern is not with the origins or the interpretation of DDE. Rather, it is simply with the thesis that a particular distinction is morally relevant: the distinction between bringing about an intended bad

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- 2000 [170] Oderberg, David S. (2000): *Moral Theory. A Non-Consequentialist Approach*, Oxford, S. 28–126 (“The Principle of Double Effect”, “Criticisms of PDE and Replies”).
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effect as a means to a good effect and bringing about a foreseen but unintended bad effect in the course of bringing about a good effect. Following Jonathan Bennett. I call this “the means principle”. I argue that the means principle, when employed in moral reasoning about such issues as euthanasia or acceptable conduct in wartime, leads to morally repulsive conclusions and, thus, should be rejected.”

<sup>72</sup> “In a familiar moral dilemma faced by physicians who care for the dying, some patients who are within days or hours of death may experience suffering in a degree that cannot be relieved by ordinary levels of analgesia. In such cases, it may sometimes be possible to honor a competent patient’s request for pain relief only by giving an injection of narcotics in a dosage so large that the patient’s death is thereby hastened. Doctors rightly worry that taking an action likely to result in a patient’s death may violate the Hippocratic injunction against the direct killing of anyone in their care. Yet palliation of the sort where death is a foreseeable outcome is commonly thought justified by the standard Doctrine of Double Effect, which holds that an action with both good and bad effects may nevertheless be morally justified, provided that *only the good effect is intended* and the bad effect merely foreseen, and provided that the action itself is morally permissible, that the bad results are not a *means* to the good end, and that the good achieved thereby is great enough to outweigh the bad.

We shall argue that the plausible moral intuition underlying that Doctrine – that an action may be justified when its intended good result outweighs its foreseen but unintended harm – is supported by cases of a certain sort. But in other, equally compelling cases, the Doctrine fails to show that agents are exempt from blame for foreseen, adverse, direct results of their actions, whether or not they have intended them. This raises a paradox for the attempt to justify palliation-with-foreseeable-death, which neither the standard Doctrine nor a consequentialist alternative can solve. Yet a different view, sensitive to a disanalogy among different situations of moral dilemma, would account for the justification of actions in those cases where common intuitions seem to require it, but also show that the case of palliation with foreseeable death is after all not among them. It will emerge that whether or not the physician’s action in that case is justifiable under some moral principle, it is not justified by the Doctrine of Double Effect.”

<sup>73</sup> “The proportionalist position on the revision of the principle of double effect is now an important feature of moral discourse in contemporary Roman Catholic theological discussion. While its claim to being rooted in the work of Saint Thomas Aquinas is defensible, its view on the universal applicability of proportionate reasoning for determining the moral rightness or wrongness of actions is not without problems in some key areas, such as the distinction between direct and indirect consequences of an action. Indeed, proportionalists

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- 2008 [174] Paterson, Craig (2008): *Assisted Suicide and Euthanasia. A Natural Law Ethics Approach*, Aldershot, S. 27–32 (“2.6 Rejection of Double Effect Reasoning”), 85–95 (“4.6 Killing and Double Effect Reasoning”).
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often argue in manners that would suggest that they have discarded this distinction outright. Such as a result, it is argued, would be a grave error for Christian ethics.”

<sup>74</sup> “James Walsh and Moira McQueen accurately conclude that the early delivery of anencephalic fetuses is morally acceptable, but the reasoning they use to reach that conclusion is flawed. First, the principle of double effect does not require a weighing of good and evil, but rather seeks a sufficient reason for tolerating the physical evil indirectly intended. Second, the principle of double effect requires a clear distinction between physical and moral causality. Third, the Catholic moral tradition will not admit direct and intended killing of the innocent. Rather, early delivery of anencephalic fetuses is permissible because of the pathology associated with delivery of anencephalic fetuses at full term. Thus, the early delivery of an anencephalic infant is acceptable if the purpose of the moral act is avoiding a pathological condition on the part of the mother.”

<sup>75</sup> “Typically, in cases where an agent’s actions produce foreseen harmful consequences, we morally discriminate in favor of scenarios in which those consequences are unintended. This intuitive distinction plays a particularly important role in our moral assessment of military strategies, especially when innocent bystanders may be involved. However, the analysis of the general principles governing such pre-theoretical inclinations must inevitably confront difficult and obstinate philosophical problems. As has often been pointed out, the criteria proposed by the traditional view on this issue, the so-called Doctrine of Double Effect, are dependent upon the description of the agent’s intentional profile in an intuitively inadmissible way. As a solution to the Doctrine’s shortcomings, contemporary philosophers have proposed analyses in which the notion of harmful involvement plays a central role. The main thesis of this paper is that appeals to harmful involvement do not provide the desired solution. Given the pervasive role played by the assessment of an agent’s intentions in our moral evaluation of the use of military force in particular situations, the philosophical puzzles raised in this paper bring to the foreground a set of correlated problems of unequivocal relevance for the discipline of military ethics.”

<sup>76</sup> “A version of the doctrine of double effect is defined and defended. As defined in light of objections by Hart and Bennett, it rules not merely against choices in which harm or something close to harm is directly

*Doctrine of Double Effect. Philosophers Debate a Controversial Moral Principle*, hrsg. von P. A. Woodward, Notre Dame 2001, S. 23–40 sowie in *Deontology*, hrsg. von Stephen Darwall, Oxford 2002, S. 194–211. – Vgl. dazu Fischer/Ravizza/Copp 1993.

- 1991 [181] Quinn, Warren (1991): Reply to Boyle's "Who is Entitled to Double Effect?", *Journal of Medicine and Philosophy* 16, S. 511–514. Wiederabgedruckt in Quinn, *Morality and Action*, Cambridge 1993, S. 194–97.
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- 1978 [189] Schüller, Bruno (1978): The Double Effect in Catholic Thought: a Reevaluation, in *Doing Evil to Achieve Good: Moral Choice in Conflict Situations*, hrsg. von Richard A. McCormick und Paul Ramsey, Chicago (Reprint: Lanham 1985), S. 165–92.

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intended, but against any choice involving a direct intention to affect someone where that will, intentionally or “un”intentionally, bring harm. The doctrine is defended along vaguely Kantian lines: choices that the doctrine rules against are harder to justify because they involve not only harm but a distinctive, if difficult to characterize, morally offensive presumption that the victim is available for one’s purposes.”

<sup>77</sup> “Through an examination of the writings of Augustine, Aquinas, Suarez, Grotius, Gentili, and Bynkershoek, the author traces the historical formation and subsequent degeneration of the virtue of charity in the just-war tradition. This history is then employed to show that two of the leading contemporary defenses of nuclear deterrence from within just-war thought, those of Paul Ramsey and John Langan, rely fatally upon a flawed rendering of the principle of double effect. When the historically legitimate and philosophically cogent version of the principle is restored, these moral defenses collapse.”

<sup>78</sup> “The Doctrine of Double Effect has been defended not only as a test of character but also as a criterion of wrongness for action. This paper criticises one attempt to justify the doctrine in the latter capacity. The justification, first proposed by Warren Quinn, traces the wrongness of intending harm as a means to the objectionable features of certain reasons for making this our intention. As I argue, however, some of the actions which seem to us to be permissible, and whose permissibility the DDE is supposed to explain, can be performed for these objectionable reasons. Since the proposed justification implies that any action is wrong when performed for these reasons, it renders the DDE incapable of accommodating the very intuitions about action which its proponents would have it explain.”

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- 2002 [191] Shaw, A. B. (2002): Two Challenges to the Double Effect Doctrine: Euthanasia and Abortion, *Journal of Medical Ethics* 28, S. 102–104.
- 2003 [192] Shiffrin, Seana Valentine (2003): Speech, Death, and Double Effect, *New York University Law Review* 78, S. 1135–85.
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<sup>79</sup> “The notion of intending as a means plays a crucial role in the formulation of the doctrine of double effect. Recent discussions of the doctrine have misrepresented the notion by identifying intention with the phenomenon of aiming. This paper argues that the identification is mistaken, and then proposes an alternative characterization of the notion.”

<sup>80</sup> “Philippa Foot has argued that negative duty in general takes precedence over positive duty, where negative duty is duty not to harm and positive duty is duty to bring aid, and suggests that such a distinction is at least as helpful in all cases of duty conflict as the doctrine of double effect and is even more helpful in some cases. She has applied the distinction to a series of differing abortion cases. I examine her application of her distinction and argue that the problem of how close imminent death must be, even “inevitable” imminent death, before our negative duty is absolved is unsolved in her application. This hitch is as troublesome as the difficulty DDE supporters have in establishing a criterion with which to distinguish consequences of strict intentions from merely foreseeable consequences.”

<sup>81</sup> “One long-standing rule for evaluating the morality of clinical practice, particularly the care of the terminally ill, has been variously known as the Principle, or Doctrine, or Rule of Double Effect (hereafter, RDE). Nuccetelli and Seay have made an important contribution to our understanding of the RDE. They have clarified that this rule is only meant to be used in situations in which one faces a true dilemma – one must have no alternative but either to violate a rule enjoining one to do good for someone or something, or to violate a rule against doing wrong to someone or something. They describe this situation as one that is only “weakly voluntary,” or one in which one “cannot prevent harm.” The classical clinical example of such

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a situation of “weakly voluntary conditions” has been the administration of morphine to a dying patient suffering pain, even with the knowledge that this may accelerate the patient’s death.

Nuccetelli and Seay make the further claim that the RDE is flawed, and that it ought to be replaced with a rule of their own design – The Principle of Conflicting Duties. In this commentary, I will argue that they have failed to demonstrate the inadequacy of the RDE, largely because of misinterpretations of its meaning and scope. I will also show that their own Principle of Conflicting Duties is an inadequate replacement for the RDE.

Nuccetelli and Seay state that there is a “plausible moral intuition” in the RDE, yet they want to purge the RDE of its reliance on the notion of intention. I will also argue that this “difficult” notion of intention is indispensable to moral analysis in general, and to making sense of the “plausible moral intuition” that the RDE seems to capture. Physicians and nurses, therefore, should continue to rely on the moral guidance of the RDE rather than Nuccetelli and Seay’s Principle of Conflicting Duties.”

<sup>82</sup> “I shall examine two criticisms, both of them linked to a discussion of the supposed extreme case of justification of a pregnant woman undergoing a hysterectomy if she has sufficiently severe womb cancer, on the part of those who otherwise condemn all procured abortions. (edited).”

<sup>83</sup> “How does the doctrine of double effect apply to business decisions to sell products which may be harmful to consumers? Lawrence Masek believes that some authors have misapplied the doctrine to this type of decision and, as a consequence, have committed themselves to placing unwarranted constraints on businesses. Seeking to correct this mistake, Masek presents his account of how the doctrine applies here, an account which is rather permissive but which, he claims, nevertheless preserves the virtues of the doctrine. It will be seen, though, that his attempt to loosen these putatively unnecessary constraints by appealing to consumer autonomy and an intuition about the morality of producing harmful products leaves the doctrine of double effect irrelevant to this type of decision. His argument that the doctrine is less restrictive in this context than others suppose leads ultimately to the conclusion that the doctrine does not constrain this kind of business decision at all.”

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<sup>84</sup> “Much recent philosophical interest in the doctrine seems based on confusion; some of its rulings being seen as too harsh and others as too permissive. While it is difficult to reconcile the doctrine’s necessarily strict notion of intention with some rulings given under its conditions, the doctrine highlights the important distinction between our moral responsibility and moral blameworthiness for bad effects, neglected in some prominent modern discussions of responsibility.”

<sup>85</sup> “Against Foot’s “The problem of abortion and the doctrine of the double effect,” I argue that (1) the doctrine is not the sole source of catholic views on abortion, (2) the positive/negative distinction alone will not “correct” those views, and (3) if catholics accepted her independent auxiliary principles, they would reach the same “right” solutions. My principal method is an analysis of professor Foot’s examples and solutions. I show that her positive/negative distinction is not the important difference between her and the catholics. I conclude that the distinction is an important contribution, but not for the reasons she thinks.”

<sup>86</sup> “This article examines the relationship between the principle of double effect and justification for separation surgeries for conjoined twins. First, the principle of double effect is examined in light of its historical context. It is argued that it can only operate under an absolutist view of good and evil that is compatible with the Bible. Given this foundation for application, scenarios for separating conjoined twins are considered against the criteria for the principle of double effect. It is concluded that the principle of double effect cannot be applied to cases wherein one of the twins must be killed. However, it is noted that this does not leave decision makers without options.”

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