**(Anscombe on) Absolute Prohibitions**

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In one of his fables, ‘The bear and the amateur gardener’ (l’Ours et l’amateur des jardins), La Fontaine presents a bear whose job is to protect the sleep of his new friend by keeping away the flies from his face[[1]](#footnote-1).

One day, while, stretch'd upon the ground

The old man lay, in sleep profound,

A fly that buzz'd around his nose,--

And bit it sometimes, I suppose,--

Put Bruin sadly to his trumps.

At last, determined, up he jumps;

'I'll stop thy noisy buzzing now,'

Says he; 'I know precisely how.'

No sooner said than done.

He seized a paving-stone;

And by his modus operandi

Did both the fly and man die.

The latin rendering (“by his modus operandi”) masks the important wording in French where La Fontaine says: “the bear being as good an archer as it was *bad reasoner*” (“l’ours aussi bon archer que mauvais raisonneur”). But the last two verses make it clear: “A *foolish* friend may cause more woe / Than could, indeed, the *wisest* foe.” The bear reasoned mechanically, and badly, for he did not consider the cost of his action. His reasoning was good in that the means he took led him to the end at which he aimed, but he did not add to the set of his premises the need to keep his friend alive. Had he added that missing premise, he would have defeated his former reasoning. One source of error in practical reasoning is the failure to consider other relevant premises and this shows the particular feature of defeasibility of practical inferences. This is an important lesson of Anscombe’s reflections on the topic. It would be foolish, sometimes fanatical, to entertain absolute positive principles of action. To adopt a principle like “Do whatever you can to avoid car accidents” could lead one to park her car and never drive again.[[2]](#footnote-2). But even the more commendable principle of honouring one’s parents might be understood in such a way that one could commit a terrible injustice if they were criminals. It is not so with negative principles: only those can be absolute. They do not tell us what to do, but set barriers, and may lead to negative conclusions that are non-defeasible if the prohibition is absolute.[[3]](#footnote-3)

It belongs to the philosophy of practical reason to say that absolute prohibitions make sense, and it belongs to moral philosophy to recognize that there are some and, if so, which ones. Elizabeth Anscombe is famous for having reintroduced in philosophy the topic of action and practical reasoning, as separated from moral philosophy, and for having defended an absolutist conception in ethics, concerning certain prohibitions. Though absolutism in ethics is a controversial thesis, it is not without appeal from an ordinary point of view. As Anthony Kenny says, “ordinary morality is constituted by values and norms. No value is absolute in the sense that pursuing it might justify the violation of any norm. Some norms are absolute in the sense that there is no value that justifies their violation. This is the same as saying that there is no end that justifies any means, and some means that no end justifies. So if one asks us whether morality is absolute we should answer with a *distinguo*: moral values, no; moral norms, yes”.[[4]](#footnote-4) And this is Anscombe’s view[[5]](#footnote-5).

In this lecture, I try to clarify Anscombe’s view so as to avoid some paradoxes that one might raise with respect to her position. Thereafter, I address four and mainly two intellectual tools she has promoted in order to protect the doctrine from critique, particularly her own account of the principle of double effect. I do not pretend to present a full argument but rather try to understand her view and make some comments that should invite further discussion.

**Absolute prohibitions: avoiding some paradoxes**

In “Modern Moral Philosophy” Anscombe argues that present time requires a good philosophy of psychology before one can do moral philosophy and that contemporary moral philosophy, since Sidgwick, and in part due to a bad philosophy of intention, has become consequentialist, thereby abandoning one tenet of the Hebrew-Christian tradition - that some actions are intrinsically unjust and so absolutely prohibited:

it has been characteristic of that ethic to teach that there are certain things forbidden whatever consequences threaten, such as: choosing to kill the innocent for any purpose, however good; vicarious punishment; treachery (…); idolatry; sodomy; adultery; making a false profession of faith. (MMP 171).[[6]](#footnote-6)

She maintained this thesis throughout her philosophical career, as well as her condemnations of the opposite opinion shared by the majority of contemporary Anglo-American Philosophers :

There are no absolute moral prohibitions which are always in force[[7]](#footnote-7).

As an elucidation, I will mention three possible paradoxes and respond to them.

1) One might see the hint of a paradox in advocating both an abandon of a legal conception of ethics, and the defense of absolute prohibitions[[8]](#footnote-8). But that is a verbal difficulty. The notion of an absolute prohibition does not necessarily refer to the basic concepts of ethics, to its grounds. It is not a thesis in meta-ethics. There can be no teaching of ethics, nor moral upbringing without the use of stopping modals (true for games, but also for life), and later recommendations and prohibitions. The absolutist educators would teach that there are things one should do and things one should not do, without necessarily referring to a moral sense of ‘ought’ : things that are the just thing to do, things that it is unjust to do. We can speak of absolute prohibitions as well as of acts intrinsically unjust, using then the vocabulary of virtues and vices.

2) The reference to the virtues might indicate a more relevant form of paradox in MMP. Virtues and vices may be evaluated differently from time to time, from a society or an age of society to another. The virtue of honour received a much more prominent place in ancient societies (Homeric virtues), and today among large parts of the society, than I guess among us. There are some codes of honour even among criminals. And some evangelical virtues such as poverty and humility, not to say chastity in virginity, have been considered as no virtue at all (but as a lack of character or even pure madness). So reference to the virtues seem to introduce some form of *relativity* concerning the *content* of morality.

We should make a distinction, here, between two aspects of the notion of absolute prohibition : it may be understood as opposed to *consequentialism*, saying that, if there is an absolute prohibition concerning actions of type A (bombing cities, torture, adultery), then no consideration bearing on the consequences of not performing A can justify going against the prohibition. And it can be understood as opposing *relativism*, saying that, if there is a certain absolute prohibition concerning action of type A, then no other ethical system that would not absolutely prohibit A would be right. I would argue that Anscombe’s view is both absolutist and universalist. And the recourse to the virtues can help on both sides

* to adopt the qualification of an action through the vice and virtue vocabulary is a way (the best one according to MMP) to resist the consequentialist approach : it is not because of its consequences that an act is unchaste, imprudent, a mark of laziness, or unjust. The qualification is a description true to the facts, and the facts do not include the consequences.
* Even if the ranking of virtues may vary, this does not imply that there is no common ground concerning the most vicious actions. And even if, with the example of the Maori she refers to, who thinks the first right of a human being is not the right to live but the right to kill a man[[9]](#footnote-9), we might argue a) that this would not be the killing of an innocent member of the community and b) that the lack of universality *de facto* of principles does not ground relativism : moral progress (and regress) is possible, and certain cultures fare better than others.

So I take it that there is no paradox in defending absolute prohibitions on the basis of an ethics grounded on virtues rather than on any kind of deontology, and on any particular moral sense of ‘ought’ or ‘good’ and ‘right’. On the contrary, without reference to an absolute, and unchangable lawgiver, any deontology is submitted to relativity to the values at play, and can even be at the service of a consequentialist approach to ethics (deontological consequentialism : one *must* do what one foresees will have the best consequences).

3) Finally, it is quite obvious that the list given by Anscombe, which includes as well the killing of the innocent and false testimony as sexual improper behaviors, will not be shared by many. And it might be doubted that they are all on the same foot. Peter Geach seems to have opposed his wife here, saying that the Christian teaching on marriage and sexuality could not be justified without recourse to Revelation. And Candace Vogler has even claimed recently that Anscombe was of the same mind.[[10]](#footnote-10) But that seems quite contrary to her explicit statement, and to her strategy in MMP : to give a new formulation of ethics, that does not rely on a legal conception which is either nonsense without a lawgiver, or out of reach for the many with the decline of the Christian outlook[[11]](#footnote-11). In addition, Anscombe has reaffirmed that all of ethics could be given a natural justification :

“In saying these opinions are inimical to the Christian religion I am not implying that they can only be judged false on that ground. Each of them is a *philosophical* error and can be argued to be such on purely *philosophical grounds*.”[[12]](#footnote-12)

The idea that a moral failure is a *sin*, that moral efforts can and should be preceded and helped by *grace*, and firstly, the fact that the basics have been *positively revealed*, are all-important. But they do not constitute ethics by themselves, and, in a sense, there is no christian ethics, only a christian version of it.

Now, either the absolute prohibitions demand a justification or they are immediately graspable as obvious. Anscombe seems to think that they are in principle justifiable, but that we should be able to argue from the consideration of human *flourishing* to the necessity of the virtues, and we are not so able. Nonetheless, some prohibitions might be immediately graspable, and that on the killing of the innocent is seen by her as a bedrock for ethics, and common to most traditions. As she explains in MMP, the man who considers it an open question whether one can in some situation kill the innocent, is someone with a “corrupt mind” with whom she has no wish to argue. So, there is no need of argument, and it must be an obvious principle.

Since the principle that one should not kill the innocent is the best example of an absolute and a universal prohibition, sufficient to undermine consequentialism, maybe more important than other moral principles, and since it is the principle to which Anscombe makes most consistent reference, I will stick to it.

**Absolute prohibitions and tragic dilemmas**

There is another reason that would favor reference to the revelation, or rather to faith in divine promises, backing absolute prohibitions : according to Geach, an ethics grounded on the virtues cannot afford the virtuous person, striving for her moral integrity, with a sufficient motive to sacrifice one’s own life, if that were the only way to respect a prohibition. The theological reference works here not as a *normative* one to a lawgiver, but as a *teleological* reference to a *providential* assistance. Divine Providence plays the role of the general in a battle, whom the subordinates have to trust in obeying their orders, even if this human providence is not infallible. A fortiori the believer in Divine Providence may obey absolute rules that might otherwise seem unrealistic.[[13]](#footnote-13) Anscombe admits that this is how the believer in a lawgiver would see things, leaving God to determine and, if a Jew or a Christian, he would be relying on special promises concerning the afterlife.[[14]](#footnote-14) But once again, Anscombe is speaking of ethics for all persons, not only believers. And in addition, the theological reference to a providential omnipotence shapes a *superconsequentialist* morality.

Now, if we engage the question without reference to providence, the doctrine of absolute prohibitions, (of things one can never do, *whatever the circumstances*, and so, *whatever the consequences*, ) becomes demanding and for many unrealistic. Killing the innocent, when one knows it, is absolutely prohibited. It might be that the killing be not intentional, and I will come to it, but Anscombe is eager to say that, the only fact that it was not intentional, would not excuse automatically the agent from murder[[15]](#footnote-15). And it is murder that is absolutely prohibited. At the beginning of MMP, discussing consequentialism, she admits that the borders of the concept of ‘murder’ are fuzzy, and that this can make room for casuistry[[16]](#footnote-16). Wether one is or not committing murder might depend, sometimes, on the way the agent understands or sees her own action. But central cases are not dubious. And with actions like suicide or torture, or false testimony, it is hard to imagine cases in which they are performed knowingly and willingly but not intentionally. If they are absolutely prohibited, it is sufficient that the agent be aware of what she is doing or about to do, to fall under the prohibition. Those are the intrinsically unjust actions, that one should avoid at all costs.

Kant is famous for having maintained this position concerning lying, but I said I would stick to Anscombe’s focus on the killing of the innocent. Anyway, the same kind of objection can be made to both, even by a non-consequentialist (e.g. Bernard Williams) : the objection is that when the bad consequences are momentous (e.g., the deaths of a lot of innocent persons), the consequentialist reasoning, the ethics of responsibility, is right. It is then *reasonable* – something an Aristotelian should accept – to make the consideration of the consequences prevail over the prohibition. That does not imply a consequentialist ethics, because this reasoning is reserved to tragic cases, where it is impossible to preserve one’s integrity : either one will break an absolute, or one will permit a tragic disaster.

Now, such a dilemma is certainly extreme, but it is not unrealistic. One might recognize an absolute prohibition concerning suicide, and think the only possibility to avoid treason when captured and tortured is to kill oneself (as the french resistant Pierre Brossolette). One might adopt the policy of never committing torture and face a difficult and urgent case of terrorism where that seems to be the only way to have a chance to avoid a massacre. One might live under the command “you shall not kill” and face situation on the battlefield, where the dying friend suffers so horribly and desperately that only shooting at him could abreviate the pain and the cause of despair for the others. Of course, one might think one is facing a similar situation in an hospital chamber in front of one’s parent or partner due to sclerosis or terminal cancer. And one might think the only way to end up a war and avoid more massive killings is to bomb a city. So the spectrum of cases goes from classroom-examples to more realistic ones.

What are Anscombe’s responses ?

First, it should be recalled that instrinsically bad or unjust actions should be contrasted with actions that it is unjust to perform *in normal circumstances*, but that might not be unjust in *special* ones : taking someone’s property to save the hungry or to avoid a disaster would not be stealing (in MMP the example is using “a machine [belonging to someone else] to produce an explosion in which it would be destroyed, but by means of which you could divert a flood or make a gap which a fire could not jump”, MMP 39). Another example is that of a bodily amputation : in the circumstances of a medical treatment, that might be the right thing to do, while otherwise the mutilation is a strong injustice (but what are the “normal circumstances” in that case ?). And as she says : sometimes the circumstances include the consequences of the action. Using a distinction she makes for another point, we might say that the description of the action as taking one else’s property, or cutting one’s limb, is that of a *brute fact* relative to its description as a robbery or as a mutilation and so as an unjust action. If you add to the brute description some special circumstances, its qualification as unjust may fail. But the killing of the innocent is not only unjust in normal circumstances, it is so *whatever* the circumstances.

Well, not exactly, and here we have to refer to Anscombe’s handling of the traditional doctrine of double effect.

**Absolute prohibitions and double effect**

A too easy criticism against the doctrine of absolute prohibitions concerning the killing of the innocent is that it would lead to abstaining from building roads or cars and flying planes, practicing dangerous surgery and so on, since one knows these actions will necessarily bring about the death of innocent people.[[17]](#footnote-17) But the statistics, and the greater relevance of other factors to explain a mortal accident, should be sufficient to deny that those actions, even if necessary conditions, were the real causes of their death, and one is not a murderer for performing them. A less easy criticism might and does come from the fact that on some occasions, one is really the most relevant condition and cause of a very bad outcome : like in shutting the hermetic door of a submarine to avoid sinking, even though people who cannot be saved remain behind ; or like in the true historical situation reported in the novel *The Cruel Sea*, where the captain has no other choice than bombing the submarine that has already sinked an allied ship, whose crew is now at sea and will be killed in part by the bombing.[[18]](#footnote-18) If the absolute prohibition against killing the innocent were bearing upon those cases, we should hold the agents guilty of murder and that does not seem right.

The doctrine of double effect is meant at handling this kind of problem : it allows one who sticks to some form of absolutism to make room for the exemption of guilt in such cases. It says that even though some actions are absolutely prohibited, this does not mean that one can never bring about their bad effects, even knowingly, and so willingly, when that bad effect is not intended, neither as an end nor as a means toward the end. For the action bringing about the bad effect to be permissible, the tradition has added the conditions that the effect intended and causing the bad effect be itself permissible, and that the balance between the good and the bad effect be positive (or null).[[19]](#footnote-19)

“Modern Moral Philosophy” does not mention the doctrine, but it is of course implicit at the very moment where Anscombe attacks Sidgwick for confusing intention with foresight, a confusion which is a key tenet of consequentialism. Sidgwick assimilates the intended result of a voluntary action to any of its foreseen consequences.[[20]](#footnote-20) He thus assimilates responsibility for the result brought about by the action in both cases (bringing about the death of an innocent, while intending it - and bringing it about while while only foreseeing it).[[21]](#footnote-21) The assimilation might be understood as a severe prohibition (and as ‘edifying’ says Anscombe). But it is in fact the reverse. It allows one to consider the prohibition over murder to have exceptions, as in the previous cases (*The Cruel Sea*).

In the text, Anscombe proposes an articulate example, of a man who has the responsibility for the maintenance of some child. Withdrawing his assistance *deliberately* (or *intentionally*)would be a bad thing to do. But if he faces the choice between doing something disgraceful (and I guess particularly disgraceful), and going to prison, then the withdrawal of his assistance could be no more intentional, but would be a *side effect* of an action that it would be unjust to avoid. If there is no real difference between intended and side effect, one should conclude that, the only thing to do is to “weigh up the relative badness of withdrawing support from the child and of doing the disgraceful thing; and it may easily be that the disgraceful thing is a less vicious action than intentionally withdrawing support from the child would be”. Following that line, one would be excused for an even more disgraceful thing[[22]](#footnote-22).

Contrarywise to Sidgwick, Anscombe has argued that, for an action to be intentional, it is not enough that the agent knows he is performing it (under that description), like the arsonist who burns the house and their inhabitants, whom he knows to be there but simply does not care. He must perform the action *in virtue* of that description (because the house is inhabited). In the last case, the description, so to say, enters into the practical reasoning of the agent. The agent performs it with some end in view, and because the action, so described, will allow her to reach the end. Both the end in view of which I act (getting fresh air), and the means through which I aim at the end (opening the window) are intended.[[23]](#footnote-23) Adding now some ethical consideration to the philosophy of intention, one should say that *ignorance* excuses, more or less, and that one does not commit murder if one is ignorant that the act is lethal (ignorance of the fact, of the circumstances). But *not intending* a certain result under a description that one knows to be correct does not generally excuse : the arsonist is a murderer. The domain of moral responsibility is that of *voluntary* action, and one who kills knowingly, even if not intentionally, nonetheless kills voluntarily and is guilty of murder.[[24]](#footnote-24)

The doctrine of double effect just introduces a way to solve some difficult cases, where the circumstances create a tragic situation in which a bad outcome will happen anyway, but without intentionally violating an absolute prohibition. It relies on the distinction between intended and only foreseen effects. The simplest illustration, central to Anscombe’s worries, is that between strategic and terrorist bombing. Both may result in the killing of civilians, but one as a side effect of bombing a military target, the other as a means toward the end of terrorizing the population and lowering the morale of the enemy.

Anscombe’s attention and defense of the doctrine has been constant[[25]](#footnote-25) as her view that its abandonment has been “the corruption of non-catholic thought, and its abuse the corruption of catholic thought.”[[26]](#footnote-26). The first corruption has been illustrated : to oppose it and to defend the doctrine is a way to protect absolute prohibitions from too easy criticism.[[27]](#footnote-27) The reverse abuse, corruption of Catholic thought, consists in using the principle in order to avoid responsibility for obviously intentional actions. One cannot say that Truman did not really intend to kill innocent civilians, but only to put some ink on a sheet of paper and give it to a subordinate. Behind this absurd description lies the idea that the intention is a mental act that one might direct at will. It has roots in the cartesian philosophy of mind and ideas, and in the erroneous moral practice of the ‘direction of intention’.

Generally one refers to Pascal’s battle against the Jesuits in the *Provinciales*, and their authorisation of a form of mental reservation which would not be a lie, but would nonetheless be an intentional disguisement of truth (“She is not there” adding mentally “in this room” though she is in the house). Or the most famous example of the interdiction of duel which would still allow one to reach the location where the duel should take place, take a sword, encounter one’s enemy, and be then in a state of legitimate defense[[28]](#footnote-28). All this doctrine of “direction of intention” is a target of her philosophy of intention that has immediate moral relevance (see “Simony in Africa”).[[29]](#footnote-29)

Anscombe has argued that an action is intentional *under a description*, but also that we cannot *choose* or *decide* the description under which one performs the action. When the description of the action presents it as a means towards the end of the agent (climbing a stair, calling on phone), there is no point in denying that it was intentional under that description. The agent has a reason to perform the action under that description, and that is usually immediately obvious in the teleology of the action.

**A critique of the doctrine of double effect**

In her Aquinas lecture (Medallist Adress) “Action, Intention and Double Effect”, Anscombe’s treatment is more cautious. It is also more debatable. I will retain two ideas.

1. The first is that she then considers that the doctrine *as such* is a failure, because it is a “package deal”, giving a kind of *recipe* for the permissibility of actions bringing about bad effects that it would be intrinsically unjust to bring about intentionally. She has two worries there : one is its condition as a *recipe* for giving moral cover to what would otherwise be vicious acts, and the other is the importance given to the *consequentialist condition* of the doctrine on the balance of good and evil:

if we adopt that one principle, of the balance of good over evil in the expected upshot, then it becomes obscure why we could not do this where the causation of death was perfectly intentional.

I must confess that I do not fully understand why this attention to consequences should be such a threat. Maybe she thinks it creates a consequentialist *atmosphere* that would undermine the real point of the doctrine. But, it is clear that one has to take the consequences into account, and it is clear that this condition comes *after* the condition concerning the intended vs foreseen distinction, it does not *trump* it ; on the contrary : the intended/foreseen condition must be *first* applied, and would *trump* the mere consideration of the consequences. Of course, if we drop the balance condition, we have no more a set of jointly *sufficient* conditions for permissibility or excuse, but only the *necessary* condition that Anscombe calls *principle of side-effects :*

(I will call it the ‘principle of side-effects’ that) the prohibition on murder does not cover all bringing about of deaths which are not intended

Anscombe in fact agrees that there must be some principle added to the PSE in order to tell when it is permissible to bring about the unfortunate foreseen result.[[30]](#footnote-30) And it seems difficult not to introduce some form of balance of good and evil here. But it might not be *automatically* sufficient to declare the action permissible once the others conditions are satisfied. So I stick only to the first worry, of its status as an automatic *recipe* for permissibility. The *principle of side-effects* does not, by itself, give one license to perform the action, but it makes room for its permissibility. It is a necessary condition for exemption of guilt, and the refusal of the ‘package doctrine’ is the denial that one can formulate a set of conditions that would be sufficient in all cases.

I suspect Anscombe would not think that such matters could be adequately treated by appeal to general rules. As often in ethical matters, the Aristotelian would let to the virtue of prudence the reasonableness of the decision.

2. A reason for her retractation comes from the criticisms by Philippa Foot in her famous paper on “The Problem of Abortion and the Doctrine of Double Effect”. Foot built a case that put the doctrine into troubles and that has given birth to the now called “closeness problem”. If the spelunkers in the Cave have no other possibility to exit, while the water is coming in and will drown them all, than to blow up the fat man (the pot-holer in Anscombe’s version) who is trapped in the only way out, how could one say that in blowing him up the others would not kill him intentionnally ?[[31]](#footnote-31) The consequence seems *too close* to the action to be considered only as a side effect. True, the difference beween *foreseen* and *intended* effects is that of the effect being, or not, a means toward the agent’s end, of being, or not, useful to it and having then, or not, a reason. It is a clear distinction. According to that distinction, we should say that the death of the innocent pot-holer is not intended. It is not the means toward the end of going out. It is a side-effect of a means which is just to reduce the man’s volume, to make room for the others to go out. If one finds *morally irrelevant* this distinction which is *metaphysically* grounded, that is simply too bad for the doctrine. The closeness objection ruins the principle of double effect by showing its inconsistency.

In her late answer to Foot (1982 vs 1967), Anscombe makes two moves. One is to compare the previous case with another one where the dynamite would blow up a close rock situated immediately above the man’s head, so that he will be killed anyway, his head being crushed. She admits that in POT-HOLER, blowing up the man himself is an intentional killing. She also admits one might find a difference between POT HOLERand CLOSE ROCK (some people, in the cave, might refuse one and accept the second is not murderous**.** But, even if the death of the fat man is not a means, and not ‘part of the aim’, she wants to say it is nonetheless *intentional*, and it would be absurd to use the DDE : it would come down to the choice of a description under which one acts, to a direction of intention[[32]](#footnote-32). So one should consider blowing the rock as a murderous act.

Second move : suppose the rock is at some distance, but will probably kill the man if blown up. The *uncertainty* and the *remoteness* give a principle to draw a line between this case and the preceding ones, and using the principle of side effects, there is room to say that one does not intend to kill and so might blow up the distant rock without being guilty of murder. Or at least, one might see oneself as not incurring guilt in that case, though a very strict moral agent might also see himself as incurring moral guilt in that case.

I have reservations with Anscombe’s strategy here.

First, both features, uncertainty and remoteness, might be undermined by a sorites argument. How *distant* or *remote* must the rock be ? And if one thinks more of causal than of spatial distance : how many other relevant conditions must be in place for the effect ? Concerning uncertainty : what is the right measure of uncertainty ? And how could you then apply the principle of side-effects to the cases of shutting doors to avoid sinking or to avoid a fire, when it is certain that people on the other side will die ?

Second, Anscombe admits without discussion that blowing up the man is an intentional killing (she may have reservation about the close rock), a situation she compares to moving a knife in a certain region of space where is a certain living human body, or cutting a rope with a climber suspended.

‘Nonsense’, we want to say, ‘doing that is doing this, and so closely that you can’t pretend only the first gives you a description under which the act is intentional’.

We might agree that it would be nonsense to make a moral difference (or an important one), but still claim that in the proper sense of ‘intending’, the killing was not intended. In *Intention*  Anscombe has shown that we cannot substitute automatically one description of the same action to another, even when both are recognized by the agent, in order to give the content of his intention (one may intend it *under one description* but not *under the other*). When the death of the person is not a means that is intended in order to reach a certain end, we should not say that the person killed *intentionally*, even though she might be guilty of murder (the killing is still voluntary). John Finnis, commenting on this pages by Anscombe, says:

I think this attempt to distinguish the intended from the unintended by reference to sheer physical ‘immediacy’ of cause and effect is unsound, a confusion of categories, an elision of human behaviour with human action. I know of no argument that Anscombe has brought against her own analysis, twenty-five years earlier in her book *Intention*, of the intentions of the man who pumps poisoned water into a house[[33]](#footnote-33)

Finnis refers here to the passage in *Intention*, where the man replenishes knowingly the water-supply with poisoned water, but just in order to earn his pay. He is poisoning the water-supply and so the house, but not intentionnally, since the poisoning is not a means towards his end. Anscombe said there that she had no doubt of the correctness of the conclusion.[[34]](#footnote-34) Following the later text, she would have said that the poisoning was intentional. In fact, she admits that the man who pumps poisoned water would be poisoning intentionally if he was hired *in order to do so*. Even if the poisoning were not his own aim, but that of his employer, it would become his own by delegation. He would participate, voluntarily, to an intentional poisoning. But that is not so, if he has been hired before. Nonetheless he might be as well guilty of murder. Anscombe seems to be aware of the apparent discrepancy between her two analyses. She suggests that the difference is explained by the fact that what is true of the intention *with which* one acts (if A = B, and the agent knows it, it does not follow that intending A is intending B) is not true of the *intentionalness*(if A = B and the agent knows it, to perform A intentionnally is to perform B intentionnally).

This answer does not convince me, or, at least, I do not see clearly the ground for it. But, as a rejoinder to Finnis and a tentative to harmonize both accounts, I would suggest that Anscombe’s important point is that of a *distance* between the action and its consequence, in the sense that the agent must see herself as not the only cause of the bad upshot[[35]](#footnote-35). She must give weight to certain *circumstances*. Remoteness and uncertainty are of course indication of a distance. But there are others. The fact that the the military target (a factory) is close to a school might be a reason not to bomb it, but is clear that it is a circumstance of bombing the factory that there is a school nearby. Not all circumstances are equally circumstantial or accidental. It is not accidental that there is a large population of civilians in a city. So even if bombing the city is not aiming at killing civilians (terrorist bombing), it is difficult to see their presence as a circumstance, so that an *area bombing* including a city might fall under the prohibition of killing innocent people (or bombing cities) where a *strategic bombing* having the side effect of destroying part of a city would not.

I do not know whether Anscombe would have been happy with what seems to me the best answer to the closeness problem on the metaphysical side. William FitzPatrick has argued that we should make a distinction between the consequences of an action that are *merely caused* by it, and those that are constitutive of the consequence[[36]](#footnote-36). Blowing up the fat man *constitutes* his death, while blowing up the distant rock *merely causes* it. And one might ground on that metaphysical difference a moral verdict, saying that the permissibility of a side effect that is constituted by a certain action requires a higher level of justification than the permissibility of a merely caused effect. Of course, the distinction is open to discussion and might also be the target of sorites argumentations. But it seems that Anscombe offers a way out that is congenial to this distinction.[[37]](#footnote-37)

To see oneself as not the only cause, or to see the bad effects as due to circumstances, are two faces of the same coin. And there might be no principled reason to say when a certain fact is circumstantial and when it is not. This is why in appreciating the *distance*, some relativity is unavoidable, and the application of the principe of side-effects has a subjective dimension. This is to be compared with the irrelevance of luck, or probability, when ascribing responsibility for an intended effect : that the hitman is a bad shooter, and might have easily failed, does not make him less responsible for the intentional killing. The role of the circumstances does not come, and cannot be seen as coming, in diminution of his moral responsibility.

***Ruat caelum, fiat iustitia***

Now, the doctrine of double effect does not solve the issue concerning dilemmas between an intrisically unjust *intentional* action and a momentous disaster. It does not answer to the threat of accepting the *pereat mundus (ruat caelum), fiat iustitia.* Kant accepted the ruin of the world rather than lying. And it is a classroom-case to imagine (as Fenelon), or to recall, as many stories with Nazi interrogations, people facing the choice between lying to save their lives or that of others or being killed. Anscombe qualifies Kant’s position about lie as intensely ‘rigoristic’, and says that “it never occurred to him that a lie could be relevantly described as anything but just a lie (e.g. as ‘a lie in such-and-such circumstances’)”[[38]](#footnote-38). This might situate lying among the actions that are only unjust in certain circumstances, but we are facing dilemmas between intentionnally killing the innocent and a disaster.

Anscombe argues that taking up the question of moral (negative) absolutes through extreme cases is somewhat suspicious. It seems that one is trying to elicit the feeling that absolutism cannot be right, and fails in dealing with extreme situations. In fact, she famously dismisses the philosopher who would take the permissibility of killing the innocent as debatable

if someone really thinks, *in advance*, that it is open to question whether such an action as procuring the judicial execution of the innocent should be quite excluded from consideration—I do not want to argue with him; he shows a corrupt mind.

This dismissal might be the mark of wisdom, but has also be taken as a too easy way out. As a response to this reaction, she reproduces in a footnote part of the discussion that took place after her conference. She has more to say than this simple dismissal. She first notes:

If he thinks it in the concrete situation, he is of course merely a normally tempted human being.

And then she adds :

In discussion when this paper was read, as was perhaps to be expected, this case was produced: a government is required to have an innocent man tried, sentenced and executed under threat of a ‘hydrogen bomb war’. It would seem strange to me to have much hope of so averting a war threatened by such men as made this demand. But the most important thing about the way in which cases like this are invented in discussions, is the assumption that only two courses are open: here, compliance or open defiance. No one can say *in advance* of such a situation what the possibilities are going to be — e.g. that there is none of stalling by a feigned willingness to comply, accompanied by a skilfully arranged ‘escape’ of the victim. (MMP 180, fn)

That we should not trust people who are able to make such threats is just a diversion due to the example, even if it is a realistic consideration. Much more important is Anscombe’s opposition between the decision made *in the heat of action* (the concrete situation) and the moral judgment formulated theoretically and *in advance*. The corrupt mind is not that of the man who faces the concrete choice, but only that of the theoretician. And the important remark is that *in advance* one cannot be sure that there would be only two possibilities. So, we should not decide about a case, nor give advice *in advance*.[[39]](#footnote-39)

Anscombe says of the man who would choose to go against the absolute prohibition in the concrete situation that he would be ‘a normally tempted human being’. One can think of the threat over one’s life, and oppose the heroism of the martyr to the understandable weakness of who commits treason under life threat. And to make things more plausible, let us take the situation in which the choice is between death and apostasy, or what one might consider as such, like Thomas More probably at the end of the day. Had Thomas signed the Supremacy Act under the supplications of his family, he would have been a normally tempted human being, whom we would not be in position to judge, but rather to pity, and for whom we might ask for forgiveness.[[40]](#footnote-40) But what about cases where it is not one’s own life which is at stake, but a real disaster concerning many *other* innocent people ? It does not seem correct to qualify a political decision that breaks an absolute prohibition, or an individual action performed in order to avoid disastrous consequences, as a weakness in not resisting temptation. So I guess, Anscombe did not really adress those cases[[41]](#footnote-41).

I have three suggestions to deal with tragic dilemmas

1. The first is that, even if one should not restrict ethics to individuals, and subtracts politics to ethical expectations (there is an ethics of warfare), one might nonetheless make a distinction between an action performed by a private agent for her own and a political decision taken by a person in charge of the community and for the common good (cf. Aquinas on self defense). Anscombe notes that it would be fooling oneself to pretend that in attacking their enemies the soldiers do not intend to kill them.[[42]](#footnote-42)
2. The second suggestion concerns a sort of equivalent to reliance on the providence from a secular point of view. Philippa Foot has insisted on the virtue of *hope*, not the theological one, but the mundane virtue of not despairing of the resources one might have in a difficult situation. This is linked to the previous idea that one may never know *in advance* what the possibilities will be. The secular ethics that aims at human flourishing through the cultivation of the virtues recommends their acquisition and pratice so as to build a character that is just, temperant, courageous and prudent. This should offer some guarantee that, if faced to a particular difficult situation, one will find the best, or a pretty good way out. At least, there is some confidence that an answer will be found that does not spoil one’s integrity, and so one’s flourishing. There is no consideration of hope in Anscombe’s papers on ethics, but there is certainly room for it.
3. A secular ethics is not necessarily for that reason without any religious aspect. It is one thing not to build ethics on a particular revelation, nor on a particular faith in divine providence, it is another thing to exclude all form of religiosity, of a sense of the sacred. The absoluteness of the prohibition of murder seems to have a lot in common with the idea that an innocent human life is sacred. Absolute prohibitions in general might be the ethical face of the *nefastum, arrheton*, recognized as such by pagan thinkers (even if nowadays the notion is also applied to nature in general). I would count Aristotle among such ‘religious’ thinkers when he says in his *Ethics*: “Some acts, perhaps, we cannot be forced to do but ought rather to face death after the most fearful sufferings” (*Nicomachean Ethics* III.1.1110a26-28)

This is not a conclusion, but an appropriate last word on the topic of absolute prohibitions.

1. I borrow this illustration of (bad) practical reasoning to Vincent Descombes, in his *Le raisonnement de l’Ours* (featuring the paper which gives its title to the book), Paris, Seuil, 2007 [↑](#footnote-ref-1)
2. *Intention* sec. 33 [↑](#footnote-ref-2)
3. « We are known as ‘absolutists’, and described as thinking that these absolute rules tell you what to do. This is peculiarly thoughtless, as it is evident that a prohibition only tells you *not to* do something. A morality which consisted only of absolute prohibitions on fairly definitely described actions would leave you free to do anything else whatever. Such in fact is not our morality ; we have absolute prohibitions indeed, but you would not be guaranteed to do no wrong purely by abstaining from what they positively prohibited. » (Take lying. If you are not to lie, that doesn’t tell you what you are to do in a particular situation : tell the truth ? Mislead in some other way. Turn the subject. Make a joke ? Say nothing ? Lose your temper ? Or whatever else might be a good course of action) (« The Moral Environment of the Child » - unpubl. ms, *FHG*, 231) [↑](#footnote-ref-3)
4. *Aristotle and the Perfect Life,* Oxford University Press, 1991, p. 108 [↑](#footnote-ref-4)
5. Now, of course, prohibitions do not come alone, and should be seen as dependent on, and as a protection for, the goods that are fundamental for human life. [Here I would like to refer to Jennifer Frey’s paper…] [↑](#footnote-ref-5)
6. One might even say that, behind the three theses she announces at the beginning (i.e. 1) no moral philosophy without first a good philosophy of psychology, 2) loss of meaning of the notions of moral obligation, duty, good and right and of the legal conception of ethics without reference to a lawgiver, and 3) reduction of modern moral philosophy to consequentialism), this is the hidden one, which comes as the major objection to consequentialism : “it is pretty well taken for obvious among them [consequentialist thinkers] that a prohibition such as that on murder does not operate in face of some consequences. But of course the strictness of the prohibition has as its point that you are not to be tempted by fear or hope of consequences.” [↑](#footnote-ref-6)
7. 8th of the 20 opinions common among Modern Anglo-American Philosophers, *FHG*, 67 [↑](#footnote-ref-7)
8. See S. Blackburn’s review of *HLAE*, in *TLS* 30th September 2005 ; and Mary Geach’s critique of his complete misunderstanding, in a letter published on the Leiter report : http://leiterreports.typepad.com/blog/2005/10/anscombes\_virtu.html [↑](#footnote-ref-8)
9. « it sounded as if the Maori were coming out with his native ethos, perhaps comparable, - well, certainly comparable, and perhaps quite *like* – that of ancient Macedon, where you emerged from boyhood and assumed the status of a *man* once you had killed your first wild boar and your first man » (*FHG*, 235) [↑](#footnote-ref-9)
10. « In support of Moral Absolutes », *Villanova Law Review*, 57/5, 2012, p. 893, reviewing and opposing the position defended by John Finnis in his book *Moral Absolutes (Tradition, Revision and Truth*). According to Vogler, both Geach and Anscombe, as herself, maintain that we need to understand the relation of natural law to the divine law if we want to understand what grounds the “exceptionless moral norms”. She admits that Anscombe’s endorsement of this view is implicit, while Geach is explicit in “The Moral Law and The Law of God” (in *God and the Soul*) - and she might have added in *The virtues*. [↑](#footnote-ref-10)
11. What might be adduced in support of the attribution to Anscombe of a theological account of absolute prohibitions is that she repeatedly acknowledge that absolutism is a mark of the Hebrew-Christian ethic, and so of the Bible. Another reason is that the legal conception of ethics, that is now without grounds and so without proper and understandable meaning, was perfectly so when it relied on the divine lawgiver of the mount Sinaï, or of the mount of the Beatitudes. And a third reason, is that she makes room for the faith in divine providence in order to guarantee the obedience to the revealed laws. But that would mean that absolute prohibitions can only be understood in the legal sense, relying on a positive revelation of the law, and could not be grounded on purely secular, rational and natural considerations. [↑](#footnote-ref-11)
12. At the end of her talk on the 20 errors of Modern Anglo-American thinkers (*FHG*, 69) [↑](#footnote-ref-12)
13. That a reference to Providence is thus necessary for absolute prohibitions is a theme that much antedates contemporary discussions. To borrow another reference from Vincent Descombes : in the late XVIIth century (1699), Fenelon tells a story in his *Adventures of Telemaque*. Narbal has welcome a stranger, Telemaque, and must now answer a police interrogation. Can he lie in order to save his host ? Telemaque insists that he should not lie and says : “who offenses the truth offenses the gods and offenses himself, for he speaks against his own conscience … If the gods have mercy on us, they will know how to free us ; and if they want us to die, we will be dying, as victims of truth” Fénelon, *Les Aventures de Télémaque*, Paris, Dunod,« Classiques Garnier », 1994, p. 171. And it is well known that Kant himself introduces a reference to providence when he treats of moral dilemmas. Providential assistance might seem indispensable to an *ethics of conviction*, where consequentialism would correspond to Weber’s *ethics of responsibility* [↑](#footnote-ref-13)
14. “If he is a Jew or a Christian, he need not have any very distinct notion: the way it will profit him to abstain from injustice is something that he leaves it to God to determine, himself only saying ‘It can’t do me any good to go against his law’. (He also hopes for a great reward in a new life later on, e.g. at the coming of Messiah; but in this he is relying on special promises.)” (MMP 183) [↑](#footnote-ref-14)
15. See *Intention* §25, and below\*\*\* [↑](#footnote-ref-15)
16. “You will deal with a borderline case by considering whether, doing such-and-such in such-and-such circumstances is, say, murder, or is an act of injustice; and according as you decide it is or it isn’t, you judge it to be a thing to do or not. This would be the method of casuistry; and while it may lead you to stretch a point on the circumference, it will not permit you to destroy the centre” (MMP 174) [↑](#footnote-ref-16)
17. “One cannot say that no action may be done which foreseeably or probably leads to some death, or that all such actions are murderous. Why, the very begetting of a child would be murder at that rate—for the child will surely die. Or if that seems too zany an example: you can’t build roads and fast vehicles, you can’t have various sports and races, you can’t have ships voyaging over the seas, without its being predictable that there will be deaths resulting. And much that is done in medicine and surgery is done knowing it involves the risk of death—painkilling drugs which may kill the patient before his disease does, and high-risk surgery”. (AIDE, 208-9) [↑](#footnote-ref-17)
18. See D. Wiggins in his *Ethics, Twelve lectures on the philosophy of Morality*, Harvard University Press, 2009 [↑](#footnote-ref-18)
19. Four conditions are usually mentioned : the end must be good, the intended effect must be good (or neutral), the bad effect must be unintended, the balance of good and bad must be positive (or null) – or it would be worse not to perform the action than to perform it. [↑](#footnote-ref-19)
20. “the most important thing about Sidgwick was his definition of intention. He defines intention in such a way that one must be said to intend any foreseen consequences of one’s voluntary action”. (MMP 172) [↑](#footnote-ref-20)
21. “Using the language of intention more correctly, and avoiding Sidgwick’s faulty conception, we may state the thesis thus: it does not make any difference to a man’s responsibility for an effect of his action which he can foresee, that he does not intend it.” (MMP 172) [↑](#footnote-ref-21)
22. “By Sidgwick’s doctrine, there is no difference in his responsibility for ceasing to maintain the child, between the case where he does it for its own sake or as a means to some other purpose, and when it happens as a foreseen and unavoidable consequence of his going to prison rather than do something disgraceful. It follows that he must weigh up the relative badness of withdrawing support from the child and of doing the disgraceful thing; and it may easily be that the disgraceful thing is a less vicious action than intentionally withdrawing support from the child would be; if then the fact that withdrawing support from the child is a side effect of his going to prison does not make any difference to his responsibility, this consideration will incline him to do the disgraceful thing; which can still be pretty bad. And of course, once he has started to look at the matter in this light, the only reasonable thing for him to consider will be the consequences and not the intrinsic badness of this or that action. So that, given that he judges reasonably that no great harm will come of it, he can do a much more disgraceful thing than deliberately withdrawing support from the child” (MMP, 172-3 in *HLAE*) [↑](#footnote-ref-22)
23. Even if the doctrine is not taken up in *Intention*, many have seen her analysis of intentional action as prompted by her moral reflexion over the bombing of cities during the war (an interpretation confirmed by her daugther, Mary Geach, in the Preface to *Human Life, Action and Ethics*). And it is of course the philosophy of intention that is behind the remarks just quoted from MMP. [↑](#footnote-ref-23)
24. *Intention* sec. 25 *in fine*. [↑](#footnote-ref-24)
25. Since her first paper on the justice of the present war to her battle over Truman’s degree, her paper “War and Murder”, and to her Medallist Adress “Action, Intention and Double Effect”. [↑](#footnote-ref-25)
26. “to make an epigram, the corruption of non-Catholic moral thought has consisted in the denial of this doctrine, and the corruption of Catholic thought in the abuse of it“ (“Glanville Williams” in *HLAE* 247, and “War and Murder”) [↑](#footnote-ref-26)
27. An absolutist is not condemned to say that it is always unjust to bring about knowingly a certain state of affairs that it would be absolutely prohibited to bring about intentionally. In “War and Murder”, Anscombe argues that the denial of such a distinction is made by pacifists, who argue on the basis that a war will always result in the death of inoffensive civilians. And she criticizes them for sharing this denial with partisans of \*\*total war\*\*, and so for undermining the laws of war, which rely on a distinction between an intentional targeting of civilians and casualties that are side effects of a strategic bombing. [↑](#footnote-ref-27)
28. Pascal, *Provinciales*, VIIe lettre [↑](#footnote-ref-28)
29. See T. Cavanaugh “Abuses of Double Effect : Anscombe’s Principle of Side-Effects, and A (Sound) Account of Duplex Effectus”, forth. in *Double-Effect: Theoretical and Practical Challenges* edited by John O’Callaghan and Craig Iffland, University of Notre Dame Press. [↑](#footnote-ref-29)
30. Having accepted the principle of side effects, we need some further principle or principles on which to judge the unintended causing of death. (AIDE, 214) [↑](#footnote-ref-30)
31. Anscombe’s version : “Imagine a pot-holer stuck with people behind him and water rising to drown them. And imagine two cases: in one, he can be blown up; in the other, a rock can be moved to open another escape route, but it will crush his head. He will be killed by it.” (AIDE, 210) [↑](#footnote-ref-31)
32. “At this point the Doctrine of Double Effect helps itself to an absurd device, of choosing a description under which the action is intentional, and giving the action under that description as the intentional act. ‘I am moving what blocks that egress’, or ‘I am removing a rock which is in the way’. The suggestion is that that is all I am doing as a means to my end.” [↑](#footnote-ref-32)
33. J. Finnis, “Intentions and Side-effects”, *Collected Essays* II, 192 [↑](#footnote-ref-33)
34. “In that case, although he knows concerning an intentional act of his—for it, namely replenishing the house water-supply, is intentional by our criteria—that it is also an act of replenishing the house water-supply with poisoned water, it would be incorrect, by our criteria, to say that his act of replenishing the house supply with poisoned water was intentional. And I do not doubt the correctness of the conclusion; it seems to shew that our criteria are rather good.” (*Intention*, sec. 25, 42) [↑](#footnote-ref-34)
35. Maybe that is the ground for the distinction between the verb (to intend, the intention with which) and the adverb (intentionally, the action being done on purpose). [↑](#footnote-ref-35)
36. See in particular his “The Intentional/Foresee Distinction and the Problem of ‘Closeness’“, *Philosophical Studies*, 128 (2006), 585-617. [↑](#footnote-ref-36)
37. The notion of constitution in FitzPatrick’s analyses is both natural and institutional. For more on the institutional aspect relevant to intention, see M. O’Brien’s thesis, *Practical Necessity : a Study in Ethics, Law and Human Action*, (May 2011) (unpublished Ph.D. dissertation, University of Texas at Austin), http://catalog.lib.utexas.edu/record=b7762103~S29. [↑](#footnote-ref-37)
38. His own rigoristic convictions on the subject of lying were so intense that it never occurred to him that a lie could be relevantly described as anything but just a lie (e.g. as ‘a lie in such-and-such circumstances’). [↑](#footnote-ref-38)
39. In the page where she referred to casuistry she made the same comment : “the casuist though he may speak against some action, he cannot prescribe any — for in an actual case, the circumstances (beyond the ones imagined) might suggest all sorts of possibilities, and you can’t know *in advance* what the possibilities are going to be.” (MMP 174). I rely here on the excellent study by Sabina Lovibond, “Absolute Prohibitions without Divine Promises”, *Royal Institute of Philosophy Supplement* 54 (2004), 141-158 [↑](#footnote-ref-39)
40. Cf. Aristotle, *Nicomachean Ethics* III.1.1110a22-23 : “On some actions praise indeed is not bestowed, but forgiveness is, when one does what he ought not under pressure which overstrains human nature and which no one could withstand.” [↑](#footnote-ref-40)
41. As Geach has : “[Somebody] might very well admit that not only is there some- thing bad about certain acts, but also it is desirable to become the sort of person who needs to act in the contrary way; and yet *not* admit that such acts are to be avoided in all circumstances and at any price. To be sure, a virtuous person cannot be ready in advance to do such acts; and if he does do them they will dam- age his virtuous habits and perhaps irreparably wreck his hard- won integrity of soul. But at this point someone may protest ‘Are you the only person to be considered? Suppose the price of your precious integrity is a most fearful disaster! Haven’t you got a hand to burn for your country (or mankind) and your friends?’ This sort of appeal has not, I think, been adequately answered on Aristotelian lines, either by Aristotle or by Mrs. Foot” (Peter Geach, *The Moral Law and the Law of God*, *in* GOD AND THE SOUL 123 (Routledge 1978). ) [↑](#footnote-ref-41)
42. See Anscombe : “[t]he idea that they [rulers and their subordinates] may lawfully do what they do, but should not intend the death of those they attack, has been put forward and, when suitably expressed, may seem high-minded. But someone who can fool himself into this twist of thought will fool himself into justifying anything, however atrocious, by means of it.” Anscombe, “War and Murder,” 54, note 2, (original emphasis). [↑](#footnote-ref-42)