Anscombe on **Absolute Prohibitions** and Double Effect

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**Introduction :** values and norms

**Absolute prohibitions and some paradoxes**

* Prohibitions without law
* Prohibitions within a virtue-based ethics
	+ Against consequentialism : descriptive account without consequences
	+ Against relativism : universality *de iure* of the prohibitions
* Absolute prohibitions and Revelation : obvious principles and possible argumentation (out of reach in the present time)

**Absolute prohibitions and tragic dilemmas**

* Against the superconsequentialist recourse to providence
* Tragic dilemmas between breaking an absolute prohibition and a disaster
* *Anscombe’s tools to protect absolute prohibitions from easy criticisms*
1. Intrinsic injustice vs injustice *in normal circumstances* : taking someone else’s property, cutting one’s limb

**Absolute prohibitions and double effect (expository)**

* Absurdity of condemning any contribution to the death of innocent people
* Cases of double effect : closing doors, *The Cruel Sea*
1. The DDE : 3 or 4 conditions, mainly : a) the bad effect is not *intended*, only *foreseen*, b) positive balance of good and evil
* Sidgwick’s confusion of intention and foresight
* A state of affairs is intended as a means, under the description that presents is usefulness to reach the end
* The domain of guilt extends further : to what the voluntary (what one does knowingly and willingly)
* Two corruptions : neglect and abuse of DE

**A critique of the doctrine of double effect** (in “Action, Intention, and Double Effect”)

* The “package deal” :
* jointly sufficient conditions
* consequentialist condition of the balance of good and evil
* The “closeness problem” (Foot) and Anscombe’s answer
* POT-HOLER : unique solution = to blow up the fat man
* CLOSE ROCK : to move the rock will crush his head
* DISTANT ROCK : to move the rock will *probably*, *in the end* crush his head (and kill him)
* Reserves
* Sorites argument concerning *remoteness* and *uncertainty*
* Divergence with the analysis of *Intention* §23 et al. : the death/killing has no reason, and is for no reason, it is not useful, does not enter the practical reasoning
* Proposal
* Circumstances and the agent’s appreciation : seeing oneself as not the only/main cause
* NB1 : FitzPatrick distinction betw. Constitution and mere causation
* NB2 : O’Brien’s insistance on social practices

***Ruat caelum, fiat iustitia***

* The question of extreme cases
1. Distinction between the concrete situation and the judgment *in advance*

- ‘The normally tempted human being’

1. Suggestions for the treatment of cases implying disasters for others
2. ethics and politics
3. The mundane virtue of hope
4. Absolute prohibitions and the sacred

**Some texts**

**Absolute prohibitions**

**1** Error : “There are no absolute moral prohibitions which are always in force” (8th of the “20 opinions common among Modern Anglo-American Philosophers”, *FHG*, 67)

**2** “it has been characteristic of that [Hebrew-Christian] 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.” (“Modern Moral Philosophy”, *HLAE*, 171)

**3** « The belief that murder is something absolutely prohibited, that those whose feet are swift to shed innocent blood are utterly condemned, used not to be a peculiarity of those who conformed to the Christian religion, Protestant or Catholic. (…) »

**4** « And I mention murder because the prohibition of it is one of the most grave of the divine prohibitions. Take away justice, said St. Augustine, and what are governments but Mafias ? » (remota iustitia, quid sunt regna nisi magna latrocinia) (From « Morality », in *Faith in a Hard Ground*, 113-116 (talk, 1982)

**5** “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*.” (“20 opinions common among Modern Anglo-American Philosophers”, *FHG*, 69)

**Doctrine of Double Effect**

*Its necessity*

**6** The distinction between the intended, and the merely foreseen, effects of a voluntary action is indeed absolutely essential to Christian ethics. For Christianity forbids a number of things as being bad in themselves. But if I am answerable for the foreseen consequences of an action or refusal, as much as for the action itself, then these prohibitions will break down. If someone innocent will die unless I do a wicked thing, then on this view I am his murderer in refusing: so all that is left to me is to weigh up evils. Here the theologian steps in with the principle of double effect and says: "No, you are no murderer, if the man's death was neither your aim nor your chosen means, and if you had to act in the way that led to it or else do something absolutely forbidden." Without understanding of this principle, anything can be--and is wont to be-- justified, and the Christian teaching that in no circumstances may one commit murder, adultery, apostasy (to give a few examples) goes by the board. These absolute prohibitions of Christianity by no means exhaust its ethic; there is a large area where what is just is determined partly by a prudent weighing up of consequences. But the prohibitions are bedrock, and without them the Christian ethic goes to pieces. Hence the necessity of the notion of double effect. (“War and Murder”, *CP III,* 58)

*Its ground*

**7** “…the man's intention might not be to poison them but only to earn his pay. That is to say, if he is being improbably confidential and is asked ' Why did you replenish the house water-supply with poisoned water? ', his reply is, not ' To polish them off ', but ' I didn't care about that, I wanted my pay and just did my usual job '. In that case, although he knows concerning an intentional act of his - for it, namely replenishing the house watersupply, 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. ”

**8** “On the other hand, if, say, this was not his normal job, but he was hired by the poisoner to pump the water, knowing it was poisoned, the case is different. He can say he doesn't care tuppence, and that he only wants the money; but the commission by the acceptance and performance of which he gets the money is - however implicit this is allowed to be - to pump poisoned water. while we can find cases where only the man himself can say whether he had a certain intention or not; they are further limited by this: he cannot profess not to have had the intention of doing the thing that was a means to an end of his.” (*Intention*, §25, 44)

*Its Critique*

**9** *Principle of side-effects*: ‘where you must not aim at someone’s death, causing it does not necessarily incur guilt’ (“Action, Intention and Double Effect”, *AIDE*,

**10** situations must often have occurred where people were in a tight corner, could have saved themselves by killing one of their number, and that has not occurred to them as an option at all. If that were the attitude of the people in the cave, they wouldn’t do either thing (AIDE, 210)

**11** there might be people among those in the cave who, even seeing the undesired consequence, would move the rock, though they would refuse to blow the man up because that would mean choosing his death as means of escape. This is not a meaningless stance. They’d be shewing themselves as people who will reject any policy making the death of innocent people a means or an end. (AIDE, 211)

**12** you cannot deduce the permissibility of moving the rock from the principle of side-effects. It determines nothing about that, except perhaps that it is not excluded on the score of being intentional killing. We have to say ‘perhaps’ because of the possible closeness of the result. As I have described the case, we are only given that moving the rock will crush the pot-holer’s head. This might be a result so immediate that the action could not be called ‘taking the risk that that would happen’. If so, then it is at best a dubious business to say ‘We don’t intend that result’. At most, it is no part of the aim, in securing the opening, that the man’s head should be crushed. (AIDE, 211)

**13** 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. This is as if one could say: ‘I am merely moving a knife through such-and-such a region of space’, regardless of the fact that that space is manifestly occupied by a human neck, or by a rope supporting a climber. ‘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’. For an act does not merely have many descriptions, under some of which it is indeed not intentional: it has several under which it is intentional. So you cannot choose just one of these, and claim to have excluded others by that. Nor can you simply bring it about that you intend this and not that by an inner act of ‘directing your intention’. Circumstances, and the immediate facts about the means you are choosing to your ends, dictate what descriptions of your intention you must admit. *Nota bene* that here ‘intention’ relates to the intentionalness of the action you are performing as means. (AIDE, 211)

**14** All this is relevant to our pot-holer only where the crushing of his head is an immediate effect of moving the rock. Here a ground for *saying* you can intend to move the rock and not intend to crush the head is that you might not know that in moving the rock you would crush his head. That is true, we may suppose (…). But if you do know, then where the crushing is immediate you cannot pretend not to intend it if you are willing to move the rock. Let us now consider the case where the result is not so immediate— the rock you are moving has to take a path after your immediate moving of it, and in the path that it will take it will crush his head. Here there is indeed room for saying that you did not intend that result, even though you could foresee it. And that is the sort of case we have to consider. The Doctrine of Double Effect is supposed to allow you to move the rock, if the balance of good over bad results is favourable. The Principle of Side Effects says no more than that moving the rock is not excluded by the prohibition on intentional killing. (*AIDE*, 213)

***Pereat mundus, fiat iustitia***

**15 Text** 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.

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

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. (“Modern Moral Philosophy”, *HLAE*, 180)