

Note

The Origin of the Justification of the Two-Wrongs Argument: A Conjecture

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Abstract: Different analyses of two-wrongs reasoning are presented and provide relief for the Groarke, Tindale, and Fisher analysis which is suggestive of the origin of this type of reasoning in Bentham and Mill. Aquinas's doctrine of double effect is entertained as a possible counterexample (which it is not). Two-wrongs reasoning can be either acceptable (reasonable) or unacceptable, and there are conditions that can be laid down for both situations in discourse. A negative version of the utilitarian principle assists us in understanding two-wrongs reasoning in moral contexts.

Résumé: On présente différentes analyses du raisonnement de «deux erreurs» qui apportent un appui à l'analyse Groarke, Tindale et Fisher qui suggère que l'origine de ce raisonnement se trouve dans des oeuvres de Bentham et Mill. On examine si la doctrine du double effet de Thomas d'Aquin peut s'employer comme contre-exemple, et on constate que non. On établit des conditions pour identifier les raisonnements acceptables (raisonnables) et inacceptables. Une version négative du principe utilitaire nous aide à comprendre ces raisonnements dans des contextes moraux.

Keywords: Two-wrongs argument, two-wrongs fallacy, justification of a wrong, principle of utility, doctrine of double effect.

The two-wrongs argument has grown out of the discussion of the two-wrongs fallacy, a movement from excuse or mitigation to justification. This type of fallacy or argument has a fairly recent history in the informal logic literature. The first contributor is Howard Kahane, who in 1969, introduced two-wrongs make a right as the *tu quoque* fallacy—if they can do it, so can we (Kahane, 252). He notes that the two-wrongs is not always fallacious. It is not, he claims, for example, when we “fight fire with fire” or killing enemy soldiers in a justified war. This last example he expands upon: “Thus, in wartime (declared or otherwise), charges that our side commits atrocities are often answered by the countercharge that the enemy engages in similar or even worse atrocities, as though this somehow absolves us from moral responsibility for our acts” (253). Professor Kahane also

suggests that two-wrongs make a right is a variation of the fallacy of common practice, or many-wrongs make a right, “where an action is defended against attack by pointing out that that action is common practice.” Such reasoning perpetuates the tragic conflicts like the Bosnia/Serbia/Kosovo ordeal.

Brooke Noel Moore and Richard Parker follow Kahane’s latter suggestion and use the following instance: “During the Watergate scandal of the early seventies, Richard Nixon’s practice of secretly tape-recording conversations with White House guests was excused by Nixon apologists on the grounds that several former U.S. presidents had done the same thing” (Moore & Parker, 118-119). Just because previous presidents recorded conversations does not justify Nixon doing it. Rather, what reasons did they have for doing so and are those good enough to defend Nixon’s practice. What were Nixon’s reasons, if he had any? Such reasoning Moore and Parker label as pseudo-reasoning, so they view two-wrongs make a right as a fallacy—no valid instances permitted here like there is with Kahane. Someone who agrees with Kahane on this account is Douglas Walton. Walton views two-wrongs make a right as a variation of another fallacy—the circumstantial *ad hominem* refutation (Walton, 254). He says that “the refutation by circumstantial inconsistency [that your criticisms indict us for carrying out the very same practices you yourselves engage] could itself be a correct or at least not fallacious move in argument” (255). Walton concludes by saying that: “So despite all the pitfalls of *ad hominem* argumentation we have uncovered, it seems that sometimes there can be an underlying positive value in such criticisms if they are managed well and carefully. Hence dialectic, despite all its negative implications as a theory of fallacies and errors, can indirectly lead us towards the truth” (261).

A third variation suggested for the fallacy of two-wrongs make a right is analogical reasoning. This analysis is made by Trudy Govier, who examines arguments of the form—since we have allowed some wrong, we should (to be consistent) permit more—as a misuse of analogy (Govier, 374). Here is her argument: “It is not appropriate to argue that because there is more than one wrong, nothing should be done about that wrong. Reform has to start somewhere, and rarely can it start everywhere at once. Following through on two-wrongs thinking would commit us to perpetuating immoral practices in the name of consistency” (375). This is obviously acceptable reasoning on her part; consequently, two-wrongs reasoning is fallacious thinking. Stressing the analogical form, she explains it this way: “It is fallacious to infer that one wrong should be condoned because there are other similar ones. The existence of these other wrongs is no reason to accept another one, however similar it may be” (376). In Appendix A, which is a summary of fallacies, she makes the following insightful remark: “The two-wrongs argument seems to rely on the supposition that the world is a better place with sets of similar wrongs in it than it would be with some of these wrongs corrected and the others left in place. But there is no point in multiplying wrongs just to preserve consistency” (438). Consistency applies only to systems of thought and there can be many systems, so who is to say which is the best system?

A team of logicians, who also analyze two wrongs as a species of argument from analogy and common practice, is Ralph Johnson and Anthony Blair (Johnson & Blair, 115-130). They observe from the simplest cases, like a child saying "But he [or she] hit me first," that "[t]he fallacy of *two wrongs* seeks, in effect, to elevate the instinct to retaliate into an argument" (122). Johnson and Blair have formalized the argument; again from cases: "Notice the pattern here. It started with criticisms of the action [in question]. There then followed a defense that took the form of citing some other wrongdoing, the implication being (in this case it is explicitly stated) [or in other cases implied] that the action criticized was justified. The formula is a recurrent one" (122-123). Sometimes two-wrongs make a right or a first wrong justifies the second one and makes it right or the argument appears so. Why? Johnson and Blair offer an explanation: "When such arguments seem plausible, it's because they appeal to our sense of justice and fair play; they model legitimate arguments. They go wrong, however, when they involve a misapplication of the principles of justice, when they involve unwarranted assumptions, or both" (123). Somehow justice will be served if we either compound or ignore the wrongdoing—such a belief is naive and the principles of justice end up getting misapplied (127). This is like the common practice analysis—if x was practiced by a, b, c , and d , then x can be practiced by e . What makes the conditional work is justice or fairness. This conditional is incomplete, though, because we don't know the reasons why a, b, c , and d , practiced x and why e practices x . The status of the reasons (whether good or bad) dictates whether we have a good two-wrongs argument or not. My point here is that there are good (reasonable) two-wrong arguments and that they should be accepted into the canon of acceptable reasoning.

This phase of our literature review takes us up to the most recent analysis which is also a team effort. In their *Good Reasoning Matters!*, Leo Groarke, Christopher Tindale, and Linda Fisher characterize a *good* two-wrongs argument as one that establishes: "(i) the wrong that is said to be permissible is a response to another wrong, the unjust consequences of which it tries to cancel or alleviate; (ii) the wrong that is said to be permissible is less wrong than any injustice it attempts to cancel or alleviate; (iii) there is no morally preferable way to respond to the injustice in question" (Groarke, Tindale & Fisher, 266). A *bad* two-wrongs argument is one which does not fulfill one or more of these three conditions. So a good two-wrongs argument, they claim, justifies an action normally considered wrong by pointing out that it alleviates or cancels some *worse* wrong. Notice the wording here. Their formulation of the definition is a twist of Govier's: the second wrong is not wrong, i.e., it is right, "because it is not worse than something else that is tolerated" (Govier, 374). Those logicians above who stressed the analogical argument feature (Govier, and Johnson and Blair) had the word *similar* in place of *worse*. So Groarke, Tindale, and Fisher have changed the standard interpretation of the two-wrongs argument, although they do have a special section just on two-wrongs reasoning by analogy (Groarke, Tindale & Fisher, 267-268).

In any event, here is their example which is tailor-made for their definition. The example is commonly heard in the media today. An elderly man kills his wife of 58 years. She is terminally ill and dying slowly in great pain. He defends himself by arguing (i) that his was an act of euthanasia and (ii) that his wife's suffering was a greater wrong that his action terminated (269). Some juries agree, so they find this to be a good two-wrongs argument. (Although euthanasia is illegal in the United States, some juries are sympathetic with it in some situations and give the most lenient sentence.)

Garrett Hardin, a neo-Malthusian, compares the rich nations to lifeboats and the poor ones to swimmers wanting to climb aboard (Hardin, 38-43, 123-126). If the rich nations allow them to climb aboard, the lifeboats will eventually sink because the world population will increase to an unmanageable size and it will be impossible to support it. The upshot of this argument is that there will be a disaster far greater than any disaster which attempts to let people on the lifeboat. Consequently, it is morally better to let a relatively small disaster happen now (like the consequences of not feeding the starving) than to bring about enormous ones in the future (like making all the nations poorer). Many find this two-wrongs argument to be a bad one because the evidence points in the contrary direction: as a nation's prosperity increases, its birthrate declines (see Telfer, 6-7, for more details). Also, condition (iii) seems to be violated in that some would say that we should relieve the starving now if we can, regardless of the consequences. Hardin's argument is purely utilitarian in terms of its appeal.

And this case suggests where a justification of a good two-wrongs argument would come from. The idea that a wrong is unavoidable and consequently permissible can be seen as stemming from utilitarianism. The principle of utility is the greatest good for the greatest number, or negatively, the least amount of evil or wrong for the greatest number which implies that there will be some evil or wrong for some individuals that is permissible (like in the euthanasia argument above): "whatever has the worse consequences, don't do it, or eliminate it." Those who find this argument a good one and who are sympathetic to the elderly man are those who are utilitarians or who at least have utilitarian leanings. Those who are disturbed by this argument and who find it unconvincing are those who do not embrace the principle of utility. These individuals stress duties, rights, and rules, e.g., killing one's wife is an unjustified evil or wrong regardless of circumstances because it violates the maxim "Thou shall not kill." So her circumstances are not to be taken as a greater wrong, but as unfortunate or tragic or something beyond our control (i.e., something we cannot correct by other action).

This example demonstrates that the two-wrongs argument is a controversial one in ethics and its soundness (and even its validity) are dependent upon one's leanings in moral philosophy—whether one is, say, a utilitarian or a deontologist. Since the principle of utility (the negative version) fits so neatly into a justification of a two-wrongs argument, I suspect that the idea that there can be good two-

wrongs arguments has their origin in the nineteenth-century utilitarianism of Jeremy Bentham and John Stuart Mill.

Did two-wrongs reasoning appear in the history of philosophy earlier than Bentham and Mill? One possible candidate is the doctrine of double effect in Aquinas (Aquinas, 38-45). Is his doctrine (DDE) a counterexample to my conjecture? In Aquinas's reply he declares: "A single act may have two effects, of which one alone is intended, whilst the other is incidental to that intention. But the way a moral act is to be classified depends on what is intended, not on what goes beyond such an intention, since this is merely incidental thereto" (41/43).¹ So if there is a wrong effect of some action which is good or morally acceptable, the wrong needs to be incidental or unintended for the action to remain good; if the wrong effect is intended, then that diminishes the moral acceptability of the action. Incidental or unintended wrongs are "secondary effects," and intentional rights or wrongs are "primary effects" of some action. Also, the right effect or the good effect is not produced (caused) by means of the evil effect. These two effects and their relationships are different from two-wrongs reasoning in that in the latter case the wrongness of the action is taken for granted or at least not challenged—intentions are fully displayed, as in the euthanasia example. In two-wrongs reasoning, both wrongs are, to use Aquinas's language, intentional and non-incidental, so this kind of reasoning does not fit into his doctrine of double effect. Consequently, DDE cannot serve as a counterexample to my claim that utilitarianism, or more specifically the negative version of the principle of utility, appears to be the origin of the justification of two-wrongs reasoning. Whether or not such a justification is convincing or persuasive in ethical situations depends upon one's moral leanings.

One further and final comment on good or acceptable two-wrongs arguments. As Johnson and Blair point out (127), such an argument needs to show that two wrongs have been committed. In the euthanasia case the elderly man perceives that *letting* his terminally ill wife, who is dying slowly in great pain, continue living is *wrong* (this is the most controversial premise) and that his act of euthanasia is also wrong, but less so. The one wrong (the first one) *outweighs* the other wrong (the second one), so the outweighing or worse wrong *makes* the other "right." The principle of utility can be used to legitimate this reasoning, and it seems to me that two-wrongs reasoning takes on a validity with Bentham and Mill which it had not before. Thus, my conjecture.²

Notes

¹ Aquinas's language of intention and incidental "consequences" clearly rule out a utilitarian reading of two-wrongs reasoning. Consequences only matter under the principle of utility. Intentions have nothing to do with the decision making process. For an interesting, critical study along these lines, consult Donald B. Marquis (1978, 27-34). Marquis shows that the doctrine of double effect is substantially different

from consequentialism or utilitarianism: "If a *means* is evil, then the end of the action never justifies it." (30)

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