

Killing Innocents and the Doctrine of Double Effect

John Zeis

Abstract: Catholic moral philosophy requires an absolute prohibition against the direct killing of innocents. In this paper I consider some examples of justified actions which involve the killing of innocent persons and will present them as cases about which I am confident many others will share the same intuitions. I will then try to show what conditions apply in such cases that justify those intuitions. I will argue that their justification is in accordance with a modified version of the Finnis, Grisez, Boyle interpretation of the doctrine of double effect; it defends their interpretation of what is direct versus indirect in cases of double effect, and meets the proportionality condition in a way suggested by Philippa Foot regarding the virtues of justice and charity.

There is significant disagreement concerning the doctrine of double effect (DDE), even if we just consider the positions of its defenders.¹ There are various interpretations with differing practical implications, and much of the discussion has focused on what counts as a direct versus an indirect bringing about of harms or evil effects. Although the issue of proportionality in applications of DDE is just as critical, too little attention has been paid to it in the discussion. In this paper I will consider some examples of justified actions which involve the killing of innocent persons. They are cases about which I am confident many others will share the same intuitions and which reflect the considered judgments of expert practitioners. I will then try to show what conditions apply in such cases that justifies those intuitions and judgments. I will argue that their justification is in accordance with a modified version of the Finnis, Grisez, Boyle interpretation of DDE;² it defends their interpretation of what is direct versus indirect in cases of DDE, and meets the proportionality condition in a way suggested by Philippa Foot regarding the virtues of justice and charity.

Here is a kind of case which DDE ought to help us resolve. In 1979, conjoined twins were born to a Philadelphia couple.

[T]ests showed that each baby had independent organs except for two. The twins had one complete four-chambered heart fused to a second,

incomplete heart with only two chambers. They also shared a liver, but this was not considered a major problem because that organ could be divided easily.

The fused heart could support both babies for not more than a few weeks before it would have become overloaded by the double burden, and failed. If it had to support only one baby, though, there would be at least a theoretical chance that that child could grow to adulthood.

The first salient fact of this case then is that only one baby could survive, and that if nothing were done, both babies would die. It was also the case that:

Baby B could not survive with the fragment of a heart that nature had given her. The safest course for Baby A would be to give her the entire fused organ.

The second salient fact is that it was only the one particular baby, Baby A, who could survive with her organs or organ parts if they were separated—Baby B was going to die in any case. Of course, although taken for granted, it is notable that the possibility of taking Baby A's organ parts and giving them to Baby B was not considered here, even though it may have been medically possible to take that course of action to save Baby B instead of Baby A.

After anguishing over the predicament, the parents finally decided to separate the twins in order to save Baby A, and surgery was performed.

The first part of the surgery went better than expected . . . (it was) decided to give the entire liver to Baby A.

The heart surgeons then took over.

[T]he six blood vessels linking Baby B to the heart were exposed.

The plan was to clamp off the blood vessels quickly to keep Baby A's blood from draining into her sister's body. If it did so, a sudden drop in blood pressure could imperil Baby A.

Dr. Balsara clamped off Baby B's main heart vessel, the aorta, at 12:45 p.m.

Baby B died almost instantly.

The final obstacle to be overcome was fitting the large, fused heart into the Baby's chest cavity. But that was accomplished without difficulty: Baby A's ribcage was enlarged with ribs taken from Baby B. (*Philadelphia Inquirer* March 2, 1979)

My intuition about this case is that the parents made the right decision and the surgeons did the right thing. However, under some interpretations of DDE in the literature, it would seem that DDE has been violated, for some proponents of DDE would conclude that Baby B was “directly” killed and also “directly” mutilated.

The Philadelphia conjoined twins case is clearly distinguished from other conjoined twins cases, such as the Malta baby case and the Lakeberg baby case³ because if what was done to Baby B in the Philadelphia case was justified, the notions of what is direct and indirect cannot be articulated in a straightforward causal way. Applications of DDE based upon a strict causal conception of direct and indirect likewise lead to confusions concerning the salient conditions for the moral justification for terminations of ectopic pregnancies.⁴ Just as in the Philadelphia baby case, the termination of an ectopic pregnancy by shelling of the fallopian tube can hardly be considered to be an indirect abortion if what is direct is determined in a strictly causal way. However, Finnis, Grisez, and Boyle have argued that there is a more promising approach to these problems.

In “‘Direct’ and ‘Indirect’: A Reply to Critics of Our Action Theory,” Finnis, Grisez, and Boyle (FGB) have presented the most recent defense of their interpretation.⁵ They argue that instead of using the terms “direct” and “indirect” in articulating DDE, it is preferable to speak in terms of what is “intended” versus what is “accepted as a side effect.”⁶ Since Finnis, Grisez, and Boyle are merely concerned in this article to defend their use of the distinction between what is *intended* versus what is accepted as a *side effect*, there is no discussion of any other conditions which constitute DDE. Nonetheless, in earlier writings these authors have offered statements of DDE which do include what they consider to be sufficient conditions constituting DDE. For example, in a 1991 article, Joseph Boyle has expressed DDE in the following way:

[H]arms which it would be absolutely impermissible to bring about intentionally . . . may be brought about if two conditions are met: (1) the harms are not intended but brought about as side effects; and (2) there are sufficiently serious moral reasons for doing what brings about such harms.⁷

As Boyle sees it, DDE, which is usually expressed as a set of four conditions, can be rendered adequately and more efficiently by the two conditions stated above. The second condition which Boyle states is usually stated as a condition of proportionality. I will argue that FGB are correct in thinking that the *intended/side effect* distinction is preferable to the *direct/indirect* distinction in articulating DDE, but in order to yield satisfactory results, their action theory needs to be supplemented by providing a clear distinction between what we owe people in the form of aid versus what we owe them in the way of noninterference: in other words, a clear distinction between the demands of charity and justice, a distinction which they do not appeal to in their discussions of DDE.⁸

If Boyle's rendering of DDE is accepted there are two main questions concerning DDE: what constitutes a direct killing, and what constitutes a "serious moral reason" for bringing about the harms that result in cases where DDE is applied; i.e., how is what is usually called the "proportionality" condition to be interpreted? In their reply to critics, FGB show that the distinction between what is intended versus what is a side effect can be clearly delineated. The distinction enables defenders of DDE to avoid the kinds of judgments concerning the direct/indirect distinction which appear artificial, and either morally irrelevant or duplicitous. Most defenders of the direct/indirect distinction attempt to explain the distinction causally, and the main advantage of FGB's position is that the intended/side effect distinction is not reliant upon an objective causal distinction, but on a distinction which is much more central to the perspective of the acting person.⁹

Some critics will undoubtedly object to FGB's position on the grounds that the intended/side effect distinction is a mere "subjective" distinction which allows actions to be deemed in one case justified and in another case unjustified even though the behavior of the agent, or what is actually done or brought about by the agent in both cases is identical. As FGB see it, this, however, is not a *defect* in their account, but is rather a strength. One of the main consequences of utilizing the intended/side effect distinction rather than the direct/indirect distinction in the account of DDE is that the line between the kinds of action which can be justified or excused because they do not violate DDE shifts significantly, but it shifts in a way that most proponents of DDE would consider to be clearer, more honest, and more defensible. Nonetheless, I sympathize with concerns about defining the direct/indirect distinction in such a way that the conditions of applicability of DDE be *objective* rather than merely *subjective*. And it is the case that if we adopt FGB's intended/side effect interpretation of the direct/indirect distinction, the consequence is that what is intended will be predicable of act descriptions rather than acts as such. The same behavior under one description may be intended whereas under another description it is not. Take FGB's example of a farmer's castrating a bull in order for it to gain weight with the added result of the bull's infertility.¹⁰ The act of castrating the bull is done with the intention of causing the bull to gain weight, and even though the act of castration strictly causes the bull to be infertile, the bull's resulting infertility is not intended and in that sense is indirect because it is a mere side effect of the castration. The identical act of castration is the cause of both the bull's weight gain and its infertility, but only the bull's weight gain is intended (and thereby direct) whereas its infertility is merely accepted as a side effect (and is thereby indirect). Note that in the case of the gelding of a stallion, the action could be precisely the same (i.e., castration) with the same results (infertility and weight gain) as in the castration of the bull, but with a complete reversal of what is intended versus what is accepted as a side effect.

But then doesn't this way of marking the direct/indirect distinction allow us to play fast and loose with applications of DDE? Since there is only the singular act of castration which results in both the bull's weight gain and its infertility, how is one supposed to distinguish which end is intended versus which end is merely accepted as a side effect? I think that in such a case, unless the farmer tells us what he is up

to, there is no easy way for an observer to know. But this does not seem to me to be a relevant issue, for it is based on a confusion of the epistemic and the ontological. There is a fact of the matter concerning what the farmer is up to, and this fact is independent of whether one can know by observation what he is up to. An agent generally knows what he is up to and, more importantly, his knowledge of what he is up to (i.e., his knowledge of what he is intentionally doing) is not something *he* knows by observation.¹¹ DDE is not an epistemic principle, nor a legal principle, but is a moral principle and concerns whether or not an agent *is* justified in doing such-and-such, not a principle concerning whether we can *know* whether a person is justified in doing such-and-such. So even if there is a strong subjective element concerning what can be *known* concerning what actions are intentional, this in no way implies that what actions *are in fact* intentional is subjective.

There is a deeper question here, however, and that is why one should think that an agent's responsibility ought to be delimited by what the agent intends versus a more robust range, namely, by whatever the agent does that includes both the intended and foreseen effects? That is just what some opponents of DDE argue. First, we generally *do* hold an agent responsible for what he foresees as a result of his action as well as what he intends; and second, DDE applies only in circumstances where the projected good effect(s) intended by the agent provide what Boyle calls the "sufficiently serious moral reasons"¹² for bringing about the bad side effect(s) foreseen. And there does seem to be a clear distinction between what an agent intends as means and ends of action versus foreseen side effects. However, in her infamous "A Defense of Abortion,"¹³ Judith Jarvis Thomson adopts a distinction similar to FGB's distinction between what is intended and what is a side effect and uses the distinction to argue in defense of abortion from the premise that the woman has the right to abort the pregnancy, even though she has no right to kill the fetus, and that a justified abortion should not be construed as an intentional killing of the fetus. In Thomson's view, in a justified abortion, the death of the fetus is a mere side effect of the abortion. She distinguishes a justified abortion from an intentional killing of the fetus in this way: if a fetus is aborted and by chance does survive, then no further action can be taken to kill the fetus, or better yet, means are to be taken to preserve the fetus's life. In Thomson's view, a womb is analogous to a room. If I find an unwanted resident in my home and evict him, and he so happens to die in the cold Buffalo winter as a result of the eviction, my eviction should not be construed as my intentional killing of the evicted resident. His death is a mere side effect of my intentional eviction. Now, of course, one may still object that my eviction is unjust even though I do not intend his death, for I know of the brutality of Buffalo winters and am fully aware of the risk to life my eviction causes. However, this does not show that I *intend* the death of the evicted resident, and that my eviction is unjust does not show that the direct/indirect distinction as interpreted as a distinction between what is intended versus what is a side effect is faulty; for if my eviction is unjust in such cases, it is not because the intended/side effect distinction fails, but rather it is because the proportionality condition of DDE is not met. Even if Thomson is correct in thinking that the right to abort should not be construed as the right to kill the fetus, but has, as a mere side effect, the death of the fetus), defenders

of DDE who are opposed to abortion can still conclusively argue that elective abortions violate DDE because the proportionality condition is not met.

So defenders of DDE can claim that moral responsibility does include much more than what one merely intends; our range of moral responsibility *does* include foreseen side effects as well as what is intended, but the proportionality condition stipulates what kinds of foreseen side effects which, although we may be in some sense morally responsible for, are not effects for which we are morally culpable. DDE is meant to deal with circumstances where a morally relevant choice of action seems to be required, but whatever action is taken (or *not* taken), a bad effect will follow; and what DDE requires in such cases is that we choose that path of action which, proportionally, results in the lesser evil. This does not entail that we *choose* the evil result, for our choice in such cases is limited by the circumstance such that evil is an inevitable result—independent of whatever we choose to do. The importance of the condition which stipulates that we not intentionally choose bad means or ends reflects adherence to the principle that evil not be *chosen* to achieve the good, but that what we choose to do is determined by what we intend to do.

Using the intended versus side effect distinction in DDE enables us to more clearly, and in fact (contrary to what its critics charge) more *objectively*, delineate what an agent is responsible for bringing about. Since a cause has a potentially unlimited number of effects, an agent cannot reasonably be deemed culpable for all the bad effects which are extensionally related to the cause—there must be some narrower range of responsibility for agents. It might be thought that a more reasonable boundary may be the boundary between all those effects which an agent is aware of, but it is not. An agent should be held accountable for that which he brings about deliberately, and what an agent brings about deliberately should not include those states of affairs which would come about in any case whether or not he acts. As I will argue later, DDE is especially clear in application to cases like the Philadelphia baby case where an agent engages in an action which has both good and bad foreseen effects, but the bad effects foreseen are effects for which the agent should not be deemed culpable because they are effects which would have imminently occurred even if the agent had not engaged in any action—they would have occurred anyway whatever action the agent took. Clearly we are not to be held culpable for those events which occur in the world wholly independent of our will and actions. Hence, if there are events which occur as bad effects of our actions but the intended means and ends of our action are good and the bad effect would have unavoidably occurred imminently anyway as the result of processes of causation¹⁴ wholly independent of our will and action, we ought not to be deemed culpable for such effects either. Our intentional actions are the means by which we attempt to bring things about in the world: they are the means by which we attempt to really change the world. If those actions then are actions which actually bring about good while not bringing about evil which would have come about anyway, what rationale could there be for holding such actions to be morally culpable?

Consider another example. What if, after the first plane had crashed into the north tower of the World Trade Center building, it had been known that it had

been the result of a terrorist act, and the second plane speeding towards the south tower could have been shot down before it hit Manhattan? If there was a chance of preventing the second plane from crashing into the south tower and instead crashing relatively safely into water before reaching Manhattan, shouldn't it have been done, even though shooting down the plane would have caused the deaths of everyone on board? Well, everyone on board was going to die anyway, and given that, what moral reason could there be for not trying to prevent additional loss of life? I think it is clear that if the plane had been shot down for these reasons under these conditions, the killing of the passengers on board would not have been intended as either a means or an end, but would have been a side effect of what would have been intended; in addition, like the termination of an ectopic pregnancy, it would be a case where the proportionality condition would have been properly met.

Although in cases like the Philadelphia baby case, the termination of an ectopic pregnancy by shelling of the fallopian tube, and the shooting down of a plane hijacked by terrorists bent on using the plane as a bomb targeted at a heavily populated site, the intended/side effect distinction seems to be the most plausible reading of the direct/indirect distinction, nonetheless, there are still some who object to interpreting the direct versus indirect distinction in such a way. So, for example, in his "Ectopic Pregnancy: Current Treatment Options, *déjà vu Humanae Vitae*,"¹⁵ John E. Foran argues that the use of salpingotomy (ostomy) and pharmacologic (methotrexate) treatment for ectopic pregnancy in order to preserve the fertility of the mother while aborting the ectopic pregnancy is contrary to a correct interpretation of DDE as understood in Catholic moral theology. Foran contrasts the medical treatment of total salpingotomy (where the portion of the fallopian tube which houses the conceptus is surgically removed) with partial salpingotomy or methotrexate treatment of the pregnancy by arguing that:

Those medical moralists who would justify linear salpingotomy (ostomy) and pharmacologic means as medical solutions to ectopic pregnancy would have little choice but to justify other means of therapeutic abortion.¹⁶

Foran's concern here is that the rejection of a strict causal reading of the direct/indirect distinction will inevitably lead to a position similar to Thomson's, which is, of course, untenable. However, he does not see that such an objectionable position is a violation of the principles governing DDE not because of a misinterpretation of the direct/indirect distinction, but that it constitutes a violation of DDE because it fails to satisfy the proportionality condition. This is why Foran is wrong about a slippery slope to therapeutic abortions if the direct/indirect distinction is interpreted as an a distinction between what is intended versus what is a side effect.

Foran concludes that:

since the immediate effect of methotrexate and salpingotomy (ostomy) is the death of the fetus, the principle of double effect is not applicable because the act is evil.¹⁷

In order to avoid a position which he thinks would entail justifications of therapeutic abortions, Foran is forced into this confused position by his acceptance of an interpretation of DDE which includes the following condition:

The good effect precedes (or is simultaneous) with the evil effect. The evil effect cannot cause the good.

This condition entails an interpretation of the direct/indirect distinction which is strictly causal rather than predicated upon an interpretation of the distinction between direct and indirect as intentional versus a side effect. As in the case of the termination of the ectopic pregnancy by the shelling of the fallopian tube, in my example of the shooting down of the plane approaching the south Twin Tower, the evil effect (the death of the passengers) does precede the good effect (the saving of the lives of the people in the South tower). If we were to adopt Foran's reading of the direct/indirect distinction for cases such as the termination of an ectopic pregnancy or the separation of the Philadelphia conjoined twins, or the shooting down of the plane heading towards the south tower, we reach what seem to be unreasonable (and hence immoral) conclusions.

And what reason is there *for* interpreting the direct/indirect distinction as a strictly causal distinction in the way in which Foran does versus a distinction between what is intended versus what is a side effect? As is obvious from the quote above, Foran thinks that accepting procedures such as methotrexate treatment and salpingotomy as "indirect" abortions would entail accepting other means of therapeutic abortion. But as I am arguing, accepting methotrexate treatment and salpingotomy as indirect abortions according to a correct understanding of DDE will not lead to undesirable consequences for therapeutic abortions in general.

Foran's confusion is similar in kind to Philippa Foot's confusion about the direct/indirect distinction in her article on abortion. In discussion of an interpretation of the direct/indirect distinction in DDE with causal implications similar to those implied by the interpretation proposed by FGB, she states:

To interpret the doctrine in this way is perfectly reasonable given the language that has been used; it would, however, make nonsense of it from the beginning. A certain event may be desired under one of its descriptions, unwanted under another, but we cannot treat these as two different events, one of which is aimed at and the other not. And even if it can be argued that there are here two different events—the crushing of the child's skull and its death—the two are obviously much too close for an application of the doctrine of double effect.¹⁸

But if we consider FGB's analysis of the castration example, there is simply one act—the castration—which has two effects: the same act causes the bull to put on added weight and also makes the bull infertile. Foot is right in that there are not two different events, one which makes the bull gain weight and the other which makes it infertile, there is only the single castration event, and so the act which

makes the bull gain weight and the act which makes him infertile couldn't be any closer because it is a single, identical act. But that does not "make nonsense" of the interpretation of DDE which rests upon the intended/side effect distinction as the relevant understanding of direct/indirect distinction. Foot's objection against events being "too close for an application of double effect," like Foran's objection to salpingotomy and methotrexate treatment of ectopic pregnancies, rests upon a misunderstanding of the application of the intended/side effect distinction. It is clear that the farmer may intend to castrate the bull because he intends for it to gain weight *without* intending the bull's infertility but merely accepting it as a side effect (either wanted or unwanted) of the act of castration.¹⁹

Although, like Foran, Foot is wrong in her article on abortion about the direct/indirect distinction (which she admits in a later article),²⁰ nonetheless she was still right to draw our attention to the significance of the distinction between what is demanded by the virtues of justice and charity when considering DDE. In her discussion in that article, she was proposing what amounts to a false dilemma. The issue is not that DDE ought to be interpreted in such a way that it is either grounded in an intended/side effect distinction or, rather, that it should be grounded in the distinction between what is demanded by the virtues of justice and charity; for in order to be applied correctly DDE needs *both* distinctions. As Boyle has argued, DDE involves two conditions: the condition regarding what is direct versus what is indirect, and the proportionality condition. What I am arguing is that for the first condition, FGB are right and that the direct/indirect distinction is to be interpreted as a distinction between what is intended versus what is a side effect. On the other hand, I think that a proper application of the proportionality condition of DDE in the kinds of cases under consideration here, is most clearly explained by Foot's distinction between the demands of justice and charity.

Whether it be Foot's fat man stuck in the cave with his head inside as the waters rush in, the ectopic pregnancy, a craniotomy performed on a fetus if it is the only chance of saving the mother while the fetus will die in any case, or the shooting down of the plane speeding toward the south tower, the applicable principles in cases like these are the same:

- (1) The deaths are not intended but are brought about as side effects.
- (2) We know that the deaths are unavoidable and that they will occur imminently as the result of processes of causation²¹ wholly independent of our will and action.

The first condition above is merely an instantiation of FGB's first condition and the second condition above is what I am proposing as why our choices in such cases meet the proportionality condition, or what Boyle calls "the sufficiently serious moral reasons for doing what brings about such harms." And the justification of the second principle above rests upon something like Foot's distinction between the demands of justice and charity. If the twins had not been separated, both baby girls would have died; if the ectopic pregnancy is not aborted, there is a very high risk that

both mother and fetus will die; since the plane heading for the south Twin Tower was not shot down, both all the passengers in the plane and thousands in the south Tower died. In all of these cases, if DDE were applied correctly, since we know that the persons who would have been killed would have died imminently anyway, the demands of charity trump the demands of justice. Although the demands of justice almost always outweigh the demands of charity, and utilitarian calculations about incommensurable goods are fraught with difficulties, nonetheless morality not only entails that we avoid evil, but also that we do good. Hence in rare circumstances like these where the evil prohibited by justice is unavoidable in any case, the demands of charity take precedence over the demands of justice; and what one is *choosing* to do in such cases is *not* the kind of killing of the innocent which is absolutely prohibited by the demands of justice.²²

In *Nuclear Deterrence, Morality and Realism*, FBG say the following about the killing of persons.

Our thesis is that it is always wrong to *choose to kill* a human being. But some killing does not involve a choice to kill, and such killing may sometimes be justified, though certainly not always. Killing can carry out a choice to do a deed which in fact is deadly without being a choice to kill. Such a choice can be to do something else, to which death will be a foreseen side-effect. The causal consequences of executing a choice, even if they are known to be inevitable, are not necessarily part of what one chooses. If one does not choose such causal consequences, they are side-effects in relation to one's intention. Thus, while most choices to do deadly deeds are wrong, some such choices may be justified. (310–311)

In the sorts of cases I have considered here, I have argued that the choices in such cases are clearly justified if we consider the conditions of DDE for such cases to be constituted by the intended/side effect distinction of FGB amended to include an application of the proportionality condition which is grounded in Philippa Foot's position on the demands of justice and charity. Given such a construal of the application of DDE in the sorts of cases under consideration here, it is clear why certain choices which result in the killing of innocent persons are justified. It should be noted however that such cases are rare, and if the salient features of these cases are altered, additional considerations will need to be considered, primarily because of the difficulty in applying the proportionality condition of DDE when incommensurable goods are involved. This however also supports my contention that more attention needs to be paid to the proportionality condition of DDE.

Canisius College

Notes

1. A simple search in *The Philosopher's Index* will yield a voluminous list. The most efficient and convenient place to start a survey of the literature is with P. A. Woodward, ed., *The Doctrine of Double Effect: Philosophers Debate a Controversial Moral Principle* (Notre Dame: Notre Dame University Press, 2001). Of course, besides recognition as an essential component of Catholic moral philosophy and theology, defenders of DDE hold that it has a much broader range. For example, international laws of armed conflict imply something akin to DDE. See the defense of the air operations of NATO in the Kosovo conflict against charges of human rights violations made by Amnesty International and Human Rights Watch, by Colonel Frederic L. Borch in "Targeting After Kosovo: Has the Law Changed for Strike Planners," *Naval War College Review*, Spring 2003, vol. LVI, no. 2. Although Borch does not name DDE in his defense, he clearly appeals to the two conditions which I am taking here (following Boyle) to be essential to DDE. More generally, the whole notion of "collateral damage" which is now regularly employed in descriptions of military operations would be an indefensible euphemism without DDE.

2. John Finnis, Germain Grisez, Joseph Boyle, "Direct' and '[Indirect]': A Reply to Critics of Our Action Theory" *The Thomist* 65 (2001): 1–44 is the latest of their discussions of DDE, but there are several other pieces in which they discuss it. Some of the principal ones are: John Finnis, Joseph Boyle, Germain Grisez, *Nuclear Deterrence, Morality, and Realism* (Oxford: Clarendon, 1987); Joseph Boyle, "Double-effect and a Certain Type of Embryotomy" *The Irish Theological Quarterly* Vol. 44, 1977, 303–318; John Finnis, "Intention and side-effects" in R. G. Frey and Christopher W. Morris, *Liability and Responsibility* (Cambridge: Cambridge University Press, 1991), "The Rights and Wrongs of Abortion: A Reply to Judith Jarvis Thomson" in *Philosophy and Public Affairs* I, No. 1 (Fall 1971): 47–66, *Moral Absolutes: Tradition, Revision, and Truth* (Washington, D.C.: The Catholic University of America Press, 1991); Germain Grisez, "Toward a Consistent Natural-Law Ethics of Killing" *American Journal of Jurisprudence* 15 (1970) 64–96. I am not claiming that the position I argue for here is consistent with all of FGB's work on DDE—I'm not even claiming that all of their individual works on DDE are consistent. I am just arguing that their basic position on DDE modified in the way I am suggesting yields a clear solution to the sorts of problems discussed in this paper.

3. In the Lakeberg and the Malta baby cases, the extensive harvesting of body parts was not involved. For discussions of these cases, see "The Ethics of Caring for Conjoined Twins: The Lakeberg Twins" by D. Thomasma, J. Muraskas, P. Marshall, T. Myers, P. Tomich, and J. O'Neill, Jr. in *Hastings Center Report*, July–August 1996; M. Latkovic and T. Nelson, "Conjoined Twins of Malta: A Survey of Catholic Opinion," *The National Catholic Bioethics Quarterly* vol. 1, no. 4, 2001, 585–614; Benedict Guevin, O.S.B., "The Conjoined Twins of Malta: Direct or Indirect Killing?" *The National Catholic Bioethics Quarterly* vol. 1, no. 3, 2001, 397–405.

4. John E. Foran, "Ectopic Pregnancy: Current Treatment Options, déjà vu Humanæ Vitæ" *Linacre Quarterly*, 1999.

5. "Direct' and '[Indirect]': A Reply to Critics of Our Action Theory" *The Thomist* 65 (2001): 1–44.

6. *Ibid.* 1.

7. "Who is entitled to double effect?" *The Journal of Medicine and Philosophy* 16, 475–494; 476.

8. The distinction is from Philippa Foot, “The Problem of Abortion and the Doctrine of Double Effect,” in *Virtues and Vices* (Oxford: Blackwell, 1978). Also see her discussion of euthanasia in the same volume.

9. See FGB, “Direct’ and ‘[Indirect’: A Reply to Critics of Our Action Theory,” 12.

10. *Ibid.* 5.

11. G. E. M. Anscombe, *Intention*, 2nd ed., (Ithaca: Cornell University Press, 1976), 13.

12. See quote on p. 4 above.

13. Judith Jarvis Thomson, “A Defense of Abortion,” originally published in *Philosophy and Public Affairs*, vol. 1, no. 1 (1971), 47–66 and reprinted in many anthologies.

14. This would include irreversible natural processes of causation which have been initially brought about by other intentional agents. It is important, however, to note the difference between acting to interrupt a causal process which already has been initiated by an intentional agent and will unavoidably result in the deaths of the innocent victims versus the case of the terrorist threat to initiate such a causal process unless innocents are killed. The latter case cannot be justified on similar grounds as the former case because of the complication of the consideration of moral blackmail. See also Foot’s response to James Leroy Smith in the *Journal of Medicine and Philosophy* 1978, 3,3; 253–255.

15. *Linacre Quarterly*, 1999.

16. Foran, 4.

17. *Ibid.*

18. p. 21

19. Foot’s use of the language of one event being “desired” and the other event being “unwanted” is not the same as the distinction between what is intended versus what is a side effect.

20. See Philippa Foot, “Morality, Action, and Outcome” in T. Honderich, ed., *Objectivity and Value: Essays in Memory of John Mackie* (London: Routledge and Keegan Paul, 1985).

21. See n. 14 above; Francis X. Meehan, in “The Siamese Twin Operation and Contemporary Catholic Medical Ethics” *Linacre Quarterly* May 1978, 157–165 defends a similar position on the proportionality condition.

22. Boyle addresses the issue of absolutism this way in the Woodward volume, “there is a vital connection between the PDE [DDE] and the form of “absolutism” with which it is usually associated.” And the form of absolutism he has in mind is one based on “moral rules which direct one to respect basic human goods or values. Specifically moral precepts mandate that these basic goods be promoted whenever possible and that they not be attacked or acted against. . . . The demand that we respect all the human goods—and especially that we not act against them—is a demand on our free choice.” This is right, but as he points out in the next paragraph, since the acts we perform have many effects including some of which are contrary to one or more basic good, DDE is needed, or respecting these goods would be impossible (18).