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# Double Effect and the End-not-means Principle: A Response to Bennett

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**DOUBLE EFFECT AND THE END-NOT-MEANS PRINCIPLE:**

**A RESPONSE TO BENNETT**

Deontologists, absolutists, and proponents of common morality often rely on double-effect reasoning -- also referred to as the 'principle', 'rule', or 'doctrine' of double effect -- to contrast, amongst other actions, terror and tactical bombing.<sup>i</sup> Advocates of double effect think that, other things being equal -- such as the number and probability of non-combatant deaths -- tactical bombing is more easily justified than terror bombing.<sup>ii</sup> For, these thinkers argue, in terror bombing an agent **intends** non-combatant deaths as a means while in tactical bombing an agent **foresees but does not intend** non-combatant deaths -- neither as a means nor as an end. Thus, double-effect reasoning partially reposes on a distinction between consequentially similar states of affairs being **intended as a means** or **foreseen as a concomitant** but not intended.<sup>iii</sup> This is the intended/foreseen distinction. In what follows, I defend the ethical relevance of this distinction against a charge recently leveled by Jonathan Bennett.<sup>iv</sup>

### **I. Bennett's Objection**

In articulating the ethical relevance of the intended/foreseen distinction

proponents of double effect often rely on the Kantian intuition that it is wrong to treat another human being, an end-in-itself, merely as a means to furthering some other end -- the end-not-means principle.<sup>v</sup> According to many who rely on double effect, tactical bombing is more easily justified than terror bombing because tactical bombing does not treat noncombatants as mere means to the realization of an end while terror bombing does. Thus, terror bombing violates the end-not-means principle while tactical bombing does not.

Jonathan Bennett finds this position implausible:

I can find no reading of the 'end not means' principle which makes it both plausible and relevant to [maintaining that the intended/foreseen distinction has ethical import]. If there is one, it must not only clear the tactical bomber of using the civilians as a means, but must imply that he is treating them as ends. Tell that to the civilians! (Bennett, p. 218)

Bennett thinks that in order to contrast terror and tactical bombing in terms of the end-not-means principle, tactical bombing should **benefit** the non-combatants. According to him, it is not sufficient that tactical bombing not treat the non-combatants as means. For, if this were enough, the principle would require nothing more positive of an act than mere indifference to the harm voluntarily caused. Thus, Bennett reads the end-not-means principle **conjunctively** as

requiring that one both not treat others as means **and** that one benefit them. If Bennett is correct, the intended/foreseen distinction does not have ethical relevance in terms of the end-not-means principle. For, although it is not undertaken to do so, tactical bombing harms non-combatants.

I propose that the end-not-means principle be read disjunctively as laying it down that one is to act either ideally for the sake of others, i.e. **positively** treat them as ends; **or**, one must not treat others as mere means to one's own end: one must treat them as ends **negatively**. Thus, in response to Bennett, I hold that "to treat another as an end" is ambiguous between positively treating others as ends by benefitting them and negatively treating others as ends by not treating them merely as means. The disjunctive reading of the end-not-means principle clarifies this ambiguity.

## **II. The Disjunctive Reading**

To illustrate the disjunctive reading of the end-not-means principle, consider the following types of bombing in an otherwise just war that cause consequentially comparable harm to non-combatants: relief bombing, risky tactical bombing, safe tactical bombing, terror bombing, and punitive bombing.

*Relief bombing* is undertaken to benefit non-combatants. A paradigm case of relief bombing is bombing that relieves the siege of a city occupied by non-combatants. The point of such bombing is to benefit the non-combatants. Nonetheless, such bombing may harm some of the non-combatants on whose

behalf it is undertaken. For example, it may sometimes not be possible not to harm some of the non-combatants as one relieves the siege, for the forces laying siege to the city may be so close to the non-combatants that bombs dropped on the forces inevitably harm some non-combatants. Call relief bombing that harms some of the non-combatants on whose behalf it is undertaken *harmful relief bombing*.

As noted, tactical bombing is undertaken to destroy a military target. Tactical bombing may sometimes concomitantly harm non-combatants. Because a tactical bomber might be able to minimize such harm by placing himself at risk, two instances need to be distinguished. First, there is risky-non-combatant-harm-minimization-tactical-bombing, henceforth, *risky tactical bombing*. In risky tactical bombing, the tactical bomber places himself at risk in order to minimize harm to non-combatants. For example, the bomber may be able to minimize the harm tactical bombing causes to non-combatants by bombing from a low altitude that enables greater precision, but also places the bomber at greater risk.<sup>vi</sup> In contrast to risky tactical bombing there is *safe tactical bombing*. In safe tactical bombing, although he can, the tactical bomber does not take risks in order to minimize harm to non-combatants.

*Terror bombing* harms, kills, and terrorizes non-combatants as a means of lowering morale and thereby achieving victory. In terror bombing, the killing, maiming, and terrifying of non-combatants are means of achieving victory -- an

otherwise legitimate military goal. Of course, as considered in the debate concerning the ethical relevance of the intended/foreseen distinction, terror bombing excludes gratuitous harming of non-combatants. The terror bomber harms only to the extent necessary to achieve his goal.

Finally, there is *punitive bombing* that kills and harms non-combatants for its own sake, “out of hatred for what their country has done.”<sup>vii</sup> Punitive bombing may further some military goal, but it is not undertaken for the sake of such a goal. Thus, punitive bombing is gratuitous harming.

Other things being equal, such as the number and probability of non-combatant deaths, the above outlined types of bombing can be arranged in terms of justifiability by a disjunctive reading of the end-not-means principle. Employing the disjunctive reading of the end-not-means principle, harmful relief bombing, risky tactical bombing, and safe tactical bombing are justifiable -- given the earlier mentioned consequentialist *caveat* concerning a comparison of overall benefit to overall harm -- to the extent to which they meet the ethically acceptable minimum of not treating the non-combatants as mere means.

Moreover, other things being equal, harmful relief bombing is more easily justified than both risky and safe tactical bombing while risky tactical bombing is more easily justified than safe tactical bombing. One implication of holding that harmful relief bombing is more justifiable than both risky and safe tactical bombing is that harmful relief bombing can be justified when neither risky nor

safe tactical bombing can. For example, one can be justified in causing more harm or harm with greater probability in a case of harmful relief bombing than in cases of risky and safe tactical bombing. Similarly, to hold that risky tactical bombing is more justifiable than safe tactical bombing is to hold that one can be justified in causing more harm or harm with greater probability in risky tactical bombing than in safe tactical bombing.

Considering terror and punitive bombing, the principle rules out both to the extent to which they fail to meet the ethically acceptable minimum of not treating the non-combatants as mere means. Moreover, although neither are justifiable, punitive bombing is worse than terror bombing.

How do the above relations hold in terms of the principle read disjunctively? Insofar as harmful relief bombing benefits non-combatants and is undertaken on their behalf, it lives up to the ideal of positively treating others as existing for their own sakes. Moreover, although it harms non-combatants, it does not use them. Risky tactical bombing in part falls short and in part lives up to the ideal, for while tactical bombing itself is not undertaken on behalf of the non-combatants, the risk in risky tactical bombing is born for their sake. In this respect, although it harms and does not benefit the non-combatants, risky tactical bombing does incorporate an attempt to reduce harm while not using the non-combatants and to this extent positively treats them as ends.

Safe tactical bombing entirely falls short of the ideal of benefitting the

non-combatants, not even bearing risk in order to minimize harm. Nonetheless, like risky tactical bombing, safe tactical bombing does not violate the default -- the ethically acceptable minimum requirement -- for it does not use the non-combatants. Although it entirely falls short of the ideal, it does not fall below the ethically acceptable minimum of not treating the non-combatants as mere means to another end. Thus, safe tactical bombing negatively treats the non-combatants as ends. Terror bombing does not even negatively treat the non-combatants as ends, for terror bombing uses the non-combatants to achieve victory. Thus, in terms of the disjunctive reading of the end-not-means principle, terror bombing cannot be justified while safe tactical bombing can.

Terror bombing, although it is not justifiable, is not as bad as punitive bombing; for it does not violate the non-combatants' status as ends as egregiously as punitive bombing. Since punitive bombing is undertaken solely for the sake of the terror and the harm caused to the non-combatants it stands most opposed to the ideal expressed by the end-not-means principle. For that ideal would have the non-combatants acted on behalf of, while punitive bombing kills and terrorizes for the sake of killing and terrorizing. Thus, punitive bombing is the worst kind of bombing.

Underlying the two elements of the end-not-means principle -- the ideal and the default -- is the position that people are ends in themselves. That is, people exist for their own sake; as existing for their own sake, one ought either to

act on their behalf or, at the very least, not subordinate them to other goals.

Reconsidering Bennett's reading of the principle, one realizes that while the end-not-means principle does not pick out one and only one way of behaving towards others as acceptable -- benefitting them -- it does rest its judgements on one and only one ground: persons exist for their own sake. This one basis implicates a variety of ethical judgments, as the various types of bombing illustrate.

The disjunctive reading of the end-not-means principle compares favorably to Bennett's reading on at least two counts. First, from one basis -- that people are ends in themselves -- the disjunctive reading generates a variety of judgements regarding the ideal, the permissible, and the impermissible. Read disjunctively, the end-not-means principle articulates common morality's intuitions that there are minimum ethically acceptable norms of behavior and acts that rise significantly above the minimum. Moreover, read disjunctively, the principle captures nuances concerning the better and worse amongst those acts judged to be permissible or impermissible. The conjunctive reading fails to capture these distinctions and nuances. Second, although Kant's precise meaning is not at issue, the disjunctive reading is closer to what Kant himself proposes in his distinction between perfect duties to others -- for example, never to lie -- and imperfect duties to others -- for example, to give to others from one's own abundance.<sup>viii</sup>

The different types of bombing indicate that there is a plausible reading of the end-not-means principle in terms of which tactical bombing is more justifiable than terror bombing. Yet, how does this relate to the ethical relevance of the intended/foreseen distinction?

The relation between the intended/foreseen distinction and the end-not-means principle concerns intention. By definition, an end or means is intended. Ends and means are not only the effects of agents, they are the **intended** effects of agents. Agents cause means **for the sake of** ends and -- using means -- cause ends **for their own sake**. Thus, something is a means or an end not merely because an agent causes it, but only if the agent causes it -- a means -- to achieve something for the sake of which the agent acts -- an end. Thus, the end-not-means principle -- not itself offering an account of intention -- necessarily relies on an account of intention. Accordingly, the principle depends on the intended/foreseen distinction insofar as the distinction marks the difference between causing something as an end or means and causing something voluntarily, but neither as an end nor as a means. Similarly, the intended/foreseen distinction does not account for its own ethical relevance, but relies on the end-not-means principle to do so.

In conclusion, I have articulated the disjunctive reading of the end-not-means principle. I have indicated the plausibility of this reading, noting how it captures a variety of intuitive moral judgments and corresponds to

distinctions Kant proposes. I have shown how this reading of the principle relates to and grounds the ethical significance of the intended/foreseen distinction. Moreover, to the extent to which double-effect reasoning partially depends upon the ethical relevance of the intended/foreseen distinction, I have shown the tenability of double-effect reasoning and its judgments concerning terror and tactical bombing.

#### NOTES

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<sup>i</sup>See, amongst many others, NAGEL, THOMAS (1971) War and Massacre, *Philosophy and Public Affairs*, 1, pp. 124-44; QUINN, WARREN (1989) *Actions, Intentions and Consequences: The Doctrine of Double Effect*, *Philosophy and Public Affairs*, 18, pp. 334-351; FOOT, PHILLIPA (1985) *Morality, Action and Outcome*: in T. HONDERICH (Ed.) *Morality and Objectivity* (London:Routledge); and MCMAHAN, JEFFREY (1994) *Revising the Doctrine of Double Effect*, *Journal of Applied Philosophy*, 11, pp. 201-212.

<sup>ii</sup>If act X is “more easily justified than” act Y, then act X is justifiable, although act Y may not be justifiable. That is, by asserting that tactical bombing is more easily justified than terror bombing, one must hold that tactical bombing is

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justifiable, while one need not hold that terror bombing is justifiable. Thus, while all proponents of double effect hold that tactical bombing is more easily justified than terror bombing, there may be disagreement concerning whether terror bombing is ever justified. As I read the end-not-means principle in section II, it rules out terror bombing as never justifiable.

<sup>iii</sup>On the importance of other considerations in double-effect reasoning, see WOODWARD, P. A. (1997) The Importance of the Proportionality Condition to the Doctrine of Double Effect: A Response to Fischer, Ravizza, and Copp, *Journal of Social Philosophy*, 28, pp. 140-152.

<sup>iv</sup>BENNETT, JONATHAN (1995) *The Act Itself* (Oxford:Clarendon Press)

<sup>v</sup>Of course, Kant is the classical source of the end-not-means principle. For contemporary uses of the end-not-means principle, see Quinn op. cit.; and KAMM, F.M. (1992) Non-consequentialism, the Person as an End-in-Itself, and the Significance of Status, *Philosophy and Public Affairs*, 21, pp. 354-389.

<sup>vi</sup>Michael Walzer argues that in cases to which double effect applies, when one can, one **must** bear risks in order to minimize the harm one foreseeably causes to others. See WALZER, MICHAEL (1977) *Just and Unjust Wars* (New York: Basic Books). Read disjunctively, the end-not-means principle recommends risky tactical bombing to the extent to which it satisfies the ideal by treating the non-combatants as ends. However, read disjunctively, the principle does not

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require such an act, for one would not be treating the non-combatants as mere means if one were not to put oneself at risk.

<sup>vii</sup>In calling this “punitive bombing”, I follow Bennett, *op. cit.*, p. 215.

<sup>viii</sup>Both perfect and imperfect duties are ultimately grounded on the end-not-means formulation of the categorical imperative. As Paton states: “We transgress perfect duties by treating any person merely as a means. We transgress imperfect duties by failing to treat a person as an end, even though we do not actively treat him as a means.” PATON, H.J. (1948) *The Categorical Imperative: A Study in Kant’s Moral Philosophy* (Chicago:University of Chicago Press).