

## The Principle of Double Effect within Catholic Moral Theology: A Response to Two Criticisms of the Principle in Relation to Palliative Sedation

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**T**HE “PRINCIPLE,” “RULE,” OR “DOCTRINE” OF double effect evaluates the moral permissibility of an action having both good and bad effects according to four conditions, which concern: the action in itself, the actor’s intention, the causal relations, and the proportionality of the good to the bad. I begin this paper by describing the current formulation of the principle in more detail. I then show how the Catholic Church relies upon double effect reasoning to draw a moral distinction between palliative sedation<sup>1</sup> and euthanasia. Next, I detail two criticisms by American bioethicists of the principle as it relates to palliative sedation. First, they contend that the principle problematically presupposes contentious positions, in particular, that death and intending death are bad. Second, they suggest that the principle lacks determinacy due to the “redescription problem,” the problem that one can redescribe the object, intention, causal relations, and proportionality to match his or her intuition of the moral permissibility of the action.

Having traced the development of the principle and engaged its recent critics, I respond to these criticisms. The current formulation<sup>2</sup> of the principle of double effect is susceptible to some forms of these criticisms when it is considered as an isolated moral principle. However, I argue that the principle of double effect is not undermined by these criticisms when it is evaluated as a part of Catholic moral theology. I argue, first, that Catholic moral theology does not merely presuppose that death and intending death are bad. Rather, within Catholic moral theology, the principle is understood as an aid to discernment of the morality of an action, as one moral principle in the context of a broader moral system. Second, I argue that the principle

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<sup>1</sup> Palliative sedation is also sometimes called “terminal sedation.”

<sup>2</sup> I say “current formulation” because I do not preclude the possibility of a philosophical reworking of the principle that could make it more determinate both inside and outside of the Catholic moral tradition.

of double effect is still valuable within the Catholic tradition in at least four ways. The principle of double effect can: (1) be used as one way to articulate more fully why the Church teaches what it teaches, (2) aid individual discernment in particular situations, (3) assist theological debate, not despite, but because of the redescription problem, and (4) serve as a vehicle of case-based reasoning.

#### FOUR CONDITIONS OF THE PRINCIPLE OF DOUBLE EFFECT

The principle of double effect may be employed when considering the morality of an action that has both good and bad effects. The principle provides four conditions for such an act's being morally permissible.<sup>3</sup> Joseph T. Mangan's formulation of the principle is often cited by both theologians and philosophers:

A person may licitly perform an action that he foresees will produce a good and a bad effect provided that four conditions are verified at one and the same time: [C1] that the action in itself from its very object be good or at least indifferent; [C2] that the good effect and not the evil effect be intended; [C3] that the good effect be not produced by means of the evil effect; [C4] that there be a proportionately grave reason for permitting the evil effect.<sup>4</sup>

Mangan seems to view the conditions as necessary conditions: an act with good and bad effects is morally permissible only if it meets all four conditions of the principle of double effect.<sup>5</sup> Mangan's phrase "provided that"<sup>6</sup> indicates the necessity of the conditions. Others view the conditions as sufficient conditions: an act with good and bad effects is morally permissible if it meets all four conditions.<sup>7</sup> Still

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<sup>3</sup> Even proportionalists who reduce the principle of double effect to whether a good effect of an action is proportionate to the action's bad effect, still begin their treatments of the principle of double effect by recognizing four traditional conditions of the principle. See Bernard Hoose, *Proportionalism: The American Debate and Its European Roots*. (Washington, DC: Georgetown University Press, 1987), 101. I will not respond directly to proportionalists' objections regarding the principle of double effect.

<sup>4</sup> Joseph T. Mangan, "An Historical Analysis of the Principle of Double Effect," *Theological Studies* 10, no. 1 (1949): 43.

<sup>5</sup> Similarly, the *New Catholic Encyclopedia* states that, "Theologians commonly teach that four conditions must be verified in order that a person may legitimately perform such an act" (F. J. O'Connell, "Principle of Double Effect," in *New Catholic Encyclopedia* (New York: McGraw-Hill, 1967), 1021). "Must be" again seems to indicate the necessity of the conditions.

<sup>6</sup> Mangan, "An Historical Analysis of the Principle of Double Effect," 43

<sup>7</sup> See James F. Keenan, "The Function of the Principle of Double Effect," *Theological Studies* 54, no. 2 (1993): 300. Keenan seems to indicate this view as the traditional view: "Since the seventeenth century, the principle of double effect has been interpreted to mean that an act with two effects, one right and one wrong, can be

others view the conditions as necessary and sufficient conditions: an act with good and bad effects is morally permissible if and only if it meets all four conditions.<sup>8</sup> Further disagreement exists on the wording of the principle's four conditions and their application, which accounts for the differing moral conclusions based on the principle, especially regarding beginning-of-life issues.<sup>9</sup> However, the discrepant wording is not generally problematic in Catholic moral theology as it relates to palliative sedation.

### PRINCIPLE OF DOUBLE EFFECT AND PALLIATIVE SEDATION IN CATHOLIC MORAL TEACHING

In this section, I explain the moral distinction, based on double effect reasoning, which the Catholic Church draws between euthanasia and palliative sedation. By "double effect reasoning," I mean reasoning which alludes to one or more of the principle's conditions to explain the moral permissibility of an act with both good and bad effects. I explain the Church's moral distinction between euthanasia and palliative sedation for four reasons. First, the principle of double effect originates within Catholic moral theology.<sup>10</sup> Second, the explanation of Church teaching<sup>11</sup> on palliative sedation will illustrate one commonly accepted application of the principle of double effect within Catholic moral theology. Third, the criticisms of the principle of double effect by American bioethicists that I examine concern end-of-life issues including palliative sedation. Fourth, I

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performed when four conditions are met." Assuming Keenan uses the term "when" the way the term is commonly used in propositional logic, the term indicates the conditions as sufficient conditions. Note that on this view it is not necessarily the case that an action which fails to meet one or more conditions of the principle of double effect is morally wrong; it may be that another moral principle would be more helpful in this determination. Keenan's own position seems to be that the principle of double effect provides neither necessary nor sufficient conditions (see Keenan, "The Function of the Principle of Double Effect," 300), on which I comment in footnote 50.

<sup>8</sup> See, for instance, Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 7th ed. (New York: Oxford University Press, 2013), 165: "Each is a necessary condition, and together they form sufficient conditions of morally permissible action."

<sup>9</sup> This difference is found much more in application of the principle of double effect to beginning-of-life cases than end-of-life cases. As such, demonstration of variation in wording corresponding to variation in application of the principle of double effect is outside the scope of this paper.

<sup>10</sup> See, for instance: Keenan, "The Function of the Principle of Double Effect," 294–315; Mangan, "An Historical Analysis of the Principle of Double Effect," 43–49; Alison McIntyre, "Doctrine of Double Effect," *Stanford Encyclopedia of Philosophy*, [plato.stanford.edu/archives/win2014/entries/double-effect/](http://plato.stanford.edu/archives/win2014/entries/double-effect/).

<sup>11</sup> In this paper, I use "Church teaching" and other similar expressions to refer to the magisterial tradition of the Catholic Church.

ultimately defend the value of the principle within Catholic moral theology.

One of the Catholic Church's clearest applications of double effect reasoning is in its teaching on end-of-life issues. The Church uses double effect reasoning to draw a moral distinction between palliative sedation and euthanasia. Medical consensus today is that pain medication properly titrated would be highly unlikely to hasten a patient's death, so the moral distinction between palliative sedation and euthanasia has become more clear. Palliative sedation is not euthanasia as it does not cause or even hasten death. Nevertheless, I focus on the Church's moral distinction between euthanasia and palliative sedation—which was developed at a time when it was uncertain whether palliative sedation hastened death, and so might constitute euthanasia—since critics of the principle of double effect also focus on this distinction.

The Church teaches that euthanasia, “an act or omission which, of itself or by intention, causes death in order to eliminate suffering” (*Catechism*, no. 2277), is always morally wrong. However, the Church teaches that palliative sedation, the use of pain medication to ease the suffering of a dying patient, even if such use may shorten the person's life, can be morally permissible (*Catechism*, no. 2279). The Church's definition of euthanasia does not specify the actor (physician, caregiver, or patient), and thus encompasses both euthanasia and physician-assisted suicide as understood in American bioethics.<sup>12</sup>

The *Catechism of the Catholic Church* states, “The use of painkillers to alleviate the sufferings of the dying, even at the risk of shortening their days, can be morally in conformity with human dignity if death is not willed as either an end or a means, but only foreseen and tolerated as inevitable” (no. 2279). Here, the Church confirms that palliative sedation can be morally permissible, employing language from C2 and C3 of the principle of double effect. In employing this language, the Church arguably implies that palliative sedation can meet all four conditions of the principle of double effect: (C1) the use of painkillers to alleviate a patient's sufferings is morally good or at least neutral; (C2) it is plausible that in administering pain medication the actor may only intend to alleviate the patient's sufferings and merely foresee possibly shortening the patient's life; (C3) the shortening of the patient's life is not the means

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<sup>12</sup> Physician-assisted suicide is defined as a patient's committing suicide using medical means provided by a physician. Euthanasia is defined as a physician's (or other person's) administering a lethal drug (or other treatment) to another person with the intention of causing death. See Charles Junkerman, Arthur Derse, and David Schiedermayer, *Practical Ethics for Students, Interns, and Residents: A Short Reference Manual*, 3rd ed. (Maryland: University Publishing Group, 2008), 72.

to the alleviation of the patient's sufferings; and (C4) the need to alleviate the dying patient's sufferings constitutes a proportionate reason to permit the possible shortening of the patient's life. Note that if the actor did intend to shorten the patient's life, this particular act of palliative sedation would fail to meet C2 and would not be justified by the principle of double effect. Rather, according to Catholic teaching, the act particular would constitute euthanasia.

The Congregation for the Doctrine of the Faith (CDF) likewise confirms that palliative sedation can be morally permissible and alludes to C2, C3, and C4 of the principle of double effect. The CDF's 1980 *Declaration on Euthanasia* recalls the teaching of Pope Pius XII: "Is the suppression of pain and consciousness by the use of narcotics... permitted... (even at the approach of death and if one foresees that the use of narcotics will shorten life)?... 'If no other means exist, and if, in the given circumstances, this does not prevent the carrying out of other religious and moral duties: Yes.'"<sup>13</sup> The CDF explains that in this case, "Death is in no way intended or sought, even if the risk of it is reasonably taken; the intention is simply to relieve pain effectively, using for this purpose painkillers available to medicine" (*Declaration on Euthanasia*, no. 3). The CDF assumes that the actor involved in palliative sedation has an intention for the good (C2), the CDF points to the painkillers, not death, as the means to the good effect of pain relief (C3), and the CDF requires that there is not another effective way of relieving the pain, suggesting the proportionality required by (C4). If there were another effective way to relieve pain, it would not be proportionate to risk the bad effect of death in achieving the good of pain relief.

The United States Conference of Catholic Bishops (USCCB) publishes a reiteration of Church teaching in the form of practicable directives for Catholic Health Care in the United States. These *Ethical and Religious Directives for Catholic Health Care Services* (ERDs) similarly employ language from C2, C3, and C4 of the principle of double effect when addressing the issue of palliative sedation.

Patients should be kept as free of pain as possible so that they may die comfortably and with dignity. . . . Since a person has the right to prepare for his or her death while fully conscious, he or she should not be deprived of consciousness without a compelling reason. Medicines capable of alleviating or suppressing pain may be given to a dying person, even if this therapy may indirectly shorten the person's life so long as the intent is not to hasten death.<sup>14</sup>

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<sup>13</sup> Pius XII, "Address to Those Taking Part in the IXth Congress of the Italian Anaesthesiological Society," February 24, 1957, AAS 49 (1957): 146.

<sup>14</sup> United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, [www.usccb.org/issues-and-action/human-life-and-](http://www.usccb.org/issues-and-action/human-life-and-)

The ERDs require that the actor involved in palliative sedation does not intend the bad effect (C2); the ERDs note that painkillers “may indirectly shorten the person’s life,” indicating death is not the means to the alleviation of pain (C3); and the ERDs require a “compelling reason,” suggesting a proportionate reason, for palliative sedation (C4).

### AMERICAN BIOETHICISTS’ CRITICISM

I now turn to American bioethicists’ criticism of the principle of double effect as it relates to palliative sedation. I begin with Beauchamp and Childress’s seminal work *Principles of Biomedical Ethics*, as it has been highly influential in both academic and popular American bioethics. Beauchamp and Childress identify what they see as two shortcomings of the principle of double effect, which lead them to discard the current formulation of the principle as unconstructive.

The first shortcoming involves what I call the “redescription problem.” According to Beauchamp and Childress, proponents of the principle of double effect generally have no “practicable way to distinguish the intended from the merely foreseen”<sup>15</sup> and so can redescribe an act “to allow persons to foresee almost anything as a side effect rather than as an intended means.”<sup>16</sup> Recall, for Catholic moral theology, that on the principle of double effect there is supposed to be a moral difference between cases of euthanasia, in which an actor necessarily *intends* the death of a patient, and morally permissible cases of palliative sedation, in which an actor *foresees* the death as an effect of his action, but does not intend the death. Beauchamp and Childress argue that a plausible analysis of intention, which is not subject to arbitrary redescription, implies that “any effect specifically willed in accordance with a plan, including tolerated as well as wanted effects”<sup>17</sup> is intended. The problem with this plausible analysis is that it delivers unwanted results for Catholic moral theology. On Beauchamp and Childress’s analysis of intention, the relevant moral distinction between euthanasia and palliative sedation vanishes, as the actor intends the death of the patient in both types of cases. Bereft of a plausible analysis of intention, Catholic moral theology cannot determinately apply the principle of double effect because of the redescription problem. On what basis, or for what reason, can Catholic moral theology distinguish between unintended and intended foreseen

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dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf.

<sup>15</sup> Beauchamp and Childress, *Principles of Biomedical Ethics*, 166.

<sup>16</sup> Beauchamp and Childress, *Principles of Biomedical Ethics*, 167.

<sup>17</sup> Beauchamp and Childress, *Principles of Biomedical Ethics*, 167.

effects? As Beauchamp and Childress write, “Much depends on the description of the terminal sedation in a particular set of circumstances, including the patient’s overall condition, the proximity of death, the availability of alternative means to relieve pain and suffering, and so on, as well as the intention of the physician and other parties.”<sup>18</sup>

The above suggests that, on account of the redescription problem, persons can redescribe not only intention but also the object of an act, causal relations, and proportionality to match their intuition of whether the action is morally permissible. In other words, persons may come to different conclusions regarding the object, intentionality, causality, and proportionality of an action, and thus will differ on whether a particular act in a particular circumstance is morally permissible. For instance, what is the object of the act of the physician who gives a lethal dose of morphine? Is the object of the act “administering morphine intravenously”? Is the object of the act “killing the patient”? Or, on the question of palliative sedation, what is the proportionality of risking death in order to relieve a patient’s pain? Is it worth risking death in order to alleviate pain? Beauchamp and Childress are correct that much does depend on how the particulars are described.

The redescription problem seems to be a fatal flaw in a moral principle, since it seems that principles ought to yield determinate moral conclusions. Determinacy is one of the principal measures for evaluating moral theories.<sup>19</sup> One way in which principles may fail to yield determinate moral conclusions is if they “are excessively vague and so fail to imply, in a wide range of cases, any specific moral verdicts.”<sup>20</sup> The redescription problem seems a problem for the principle of double effect precisely on this basis. The principle of double effect arguably is “excessively vague”<sup>21</sup> regarding what the object of an act is, when an effect is intended, what makes an effect a means, and when effects are proportionate “and so fails to imply, in a wide range of cases, any specific moral verdicts.”<sup>22</sup> Consequently, as a decision procedure, the principle itself fails to arbitrate among different moral verdicts, though such arbitration is precisely what one expects from a moral principle.

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<sup>18</sup> Beauchamp and Childress, *Principles of Biomedical Ethics*, 168.

<sup>19</sup> See Mark Timmons, *Moral Theory: An Introduction*, 2nd ed. (Plymouth, United Kingdom: Rowman & Littlefield, 2012), 13: “According to the *determinacy standard*, a moral theory should feature principles which, together with relevant factual information, yield determinate moral verdicts about the morality of actions, persons, and other objects of evaluation in a wide range of cases.”

<sup>20</sup> Timmons, *Moral Theory*, 13.

<sup>21</sup> Timmons, *Moral Theory*, 13.

<sup>22</sup> Timmons, *Moral Theory*, 13.

As a second shortcoming of the principle of double effect, Beauchamp and Childress identify the principle's inability to determine "whether death is good or bad for a particular person."<sup>23</sup> They conclude with the criticism that the goodness or badness of death for a particular person, "must be determined and defended on independent grounds."<sup>24</sup> In making this criticism, Beauchamp and Childress seem to evaluate the principle of double effect as an isolated moral principle, and they are correct that the principle itself cannot decide or justify the goodness or badness of death for a particular person.

In a similar vein, Miller and Truog argue in *Death, Dying and Organ Transplantation* that the time has come to abandon the traditional norm that clinicians should not intentionally cause the deaths of their patients.<sup>25</sup> They reject the weight of the principle of double effect against their thesis for a few reasons: (1) It is difficult to distinguish between what one intends and what one merely foresees. (2) The principle of double effect, "begs the question of characterizing death as a bad or harmful effect in this context."<sup>26</sup> (3) In light of cases where living is apparently "a fate worse than death," it is "ethically dubious"<sup>27</sup> that clinicians should not intend the deaths of their patients. (4) Claims to the contrary notwithstanding, clinicians often intend the deaths of their patients (and this can be empirically shown). (5) The principle of double effect "obscures"<sup>28</sup> the fact that clinicians' intentions are "often multiple and ambiguous."<sup>29</sup>

In their objection (1), Miller and Truog, like Beauchamp and Childress, point to the redescription problem. Moreover, Miller and Truog's criticisms, like Beauchamp and Childress's, seem to evaluate the principle of double effect as an isolated moral principle. When the principle of double effect is considered as an isolated principle, some form of Miller and Truog's criticisms (2) and (3) may be appropriate.

Objection (4), that clinicians often intend the deaths of their patients, says nothing against the principle of double effect itself, though Miller and Truog claim that "this point tells against both the second and third condition of the doctrine of double effect."<sup>30</sup> In order for this point to challenge C2 and C3, however, C2 (regarding

<sup>23</sup> Beauchamp and Childress, *Principles of Biomedical Ethics*, 168.

<sup>24</sup> Beauchamp and Childress, *Principles of Biomedical Ethics*, 168.

<sup>25</sup> Franklin G. Miller and Robert D. Truog, *Death, Dying, and Organ Transplantation: Reconstructing Medical Ethics at the End of Life* (Oxford: Oxford University Press, 2012).

<sup>26</sup> Miller and Truog, *Death, Dying, and Organ Transplantation*, 16.

<sup>27</sup> Miller and Truog, *Death, Dying, and Organ Transplantation*, 16.

<sup>28</sup> Miller and Truog, *Death, Dying, and Organ Transplantation*, 18.

<sup>29</sup> Miller and Truog, *Death, Dying, and Organ Transplantation*, 18.

<sup>30</sup> Miller and Truog, *Death, Dying, and Organ Transplantation*, 17.

palliative sedation) must affirm that physicians do not intend the death of their patients when participating in palliative sedation<sup>31</sup> and C3 must affirm that death is not the means to the relief of suffering. However, contrary to Miller and Truog's suggestion, C2 does not necessarily affirm that physicians do not intend the death of their patients when participating in palliative sedation. Rather, C2 asks whether a physician intends the death of his or her patient. If the physician does intend the death, the particular act of palliative sedation would not be morally permissible. Likewise, C3 does not necessarily affirm that death is not the means to the relief of suffering. Rather, C3 asks whether death is the means to the relief of suffering. If death is the means to the relief of suffering, the act of palliative sedation would not be morally permissible. Thus, Miller and Truog's objection (4) does not challenge C2 and C3 of the principle of double effect as they claim. Rather, with objection (4), Miller and Truog seem to conflate the principle of double effect with one way in which the principle is often employed (to justify permissible cases of palliative sedation). In other words, this objection seems to appeal to sociological evidence in order to challenge the position often associated with the principle of double effect, that intending death is always morally wrong. Objection (3) already directly challenges this position.

Miller and Truog's claim in objection (5) that intentions are "often multiple and ambiguous"<sup>32</sup> rings true to experience. Even in less ethically significant matters, it seems true that intentions are "often multiple and ambiguous." Even when doing what one knows to be a good action, one may have difficulty sorting out one's motivations. Miller and Truog do not explain why they think the principle of double effect "obscures"<sup>33</sup> the multiplicity and ambiguity of intentions, but they cite an article by Timothy E. Quill.<sup>34</sup> Quill's concern is that the principle of double effect encourages "self-deception"<sup>35</sup> and "secrecy"<sup>36</sup> since it does not allow for an actor to have a "bad"<sup>37</sup> intention (even amidst many good intentions). Quill implies that rather than being honest about their intentions, which include "partial"<sup>38</sup> and

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<sup>31</sup> Miller and Truog's discussion of the principle of double effect focuses on withdrawing life-sustaining treatment, rather than palliative sedation, but I apply their discussion to the closely related issue of palliative sedation in order to maintain this paper's focus on palliative sedation.

<sup>32</sup> Miller and Truog, *Death, Dying, and Organ Transplantation*, 18.

<sup>33</sup> Miller and Truog, *Death, Dying, and Organ Transplantation*, 18.

<sup>34</sup> Timothy E. Quill, "The Ambiguity of Clinical Intentions," *New England Journal of Medicine* 329, no. 14 (1993): 1039-1040.

<sup>35</sup> Quill, "The Ambiguity of Clinical Intentions," 1040.

<sup>36</sup> Quill, "The Ambiguity of Clinical Intentions," 1040.

<sup>37</sup> I put "bad" in quotes since Quill, like Miller and Truog, disputes that intending death is a bad intention.

<sup>38</sup> Quill, "The Ambiguity of Clinical Intentions," 1039.

“contradictory”<sup>39</sup> intentions, clinicians will give the impression that their intention is only to relieve the suffering of a patient so that their actions are justified by the principle of double effect. Like Miller and Truog’s objection (4), this objection does not seem to be an objection against the principle of double effect itself but rather an objection against the influence of the principle of double effect and the closely associated positions that death and intending death is bad. Miller and Truog’s objections (2) and (3) already directly challenge these positions. Quill concludes his article with a call for physicians to be honest about their intentions. Plausibly, then, Miller and Truog’s objection (5) is also an objection against clinicians who do not admit that they intend the deaths of certain patients, insofar as this silence encourages the legal and ethical prohibition of physician-assisted suicide. Criticisms regarding the influence of the principle and clinicians’ silence, however, are not challenges to the validity of the principle itself.

#### **RESPONDING TO THE CRITICISMS**

Although some of Miller and Truog’s criticisms of the principle of double effect as it relates to end-of-life issues (objections (4) and (5)) are not applicable to the principle itself, other criticisms from Beauchamp, Childress, Miller, and Truog still stand. In particular, the principle problematically presupposes the contentious positions that death and intending death are bad. Additionally, the principle lacks determinacy due to the redescription problem. The principle of double effect indeed is susceptible to some forms of these criticisms when it is considered as an isolated moral principle. However, I argue that the current formulation of the principle of double effect is not undermined by these criticisms when it is evaluated as a part of Catholic moral theology. I argue, first, that Catholic moral theology does not merely presuppose that death and intending death are bad. Rather, within Catholic moral theology the principle of double effect is understood as an aid to discernment of the morality of an action, as one moral principle in the context of a broader moral system. This broader moral system does not presuppose but provides justification for the contentious positions. Second, I argue that although the principle does lack determinacy, this is not as problematic as the objection supposes. Moreover, the principle of double effect is still valuable within the Catholic tradition in at least four ways, and, according to one of these ways, the redescription problem can have a positive role in Catholic theology.

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<sup>39</sup> Quill, “The Ambiguity of Clinical Intentions,” 1039.

To contextualize the principle of double effect within Catholic moral theology, consider that the principle of double effect in Catholic moral theology is understood as an aid to discernment of the morality of an action. This consideration is both a historical point and a point regarding how the principle functions as a decision procedure. Historically, moral theologians originally adopted the principle as a general principle to aid priests in their role as confessors.<sup>40</sup> That is, the principle of double effect aided the priest in discernment of the rightness or wrongness of a penitent's action.

As a decision procedure which aids discernment, the principle of double effect serves as a reminder to consider the three traditional fonts of morality: the action (in itself and in its relation to the good and bad effects), the intention, and the circumstances (proportionality). In addition, the four conditions of the principle of double effect can also aid discernment in their interdependence. More precisely, insofar as it is a decision procedure, the principle of double effect can reveal to an actor, through his or her consideration of each condition, an honest description of each aspect of his or her act. For example, one's consideration of the relation of an action to the foreseen good and bad effects, as well as one's consideration of the proportionality of the good to the bad, can aid in discernment of one's true intention. One may be able to admit that, given the causal relations or the disproportionate ends, I "cannot not intend" the bad effect of this action. Imagine a physician who orders a dose of morphine sufficient to kill a patient, instead of ordering a low dose of morphine with instructions to titrate up as necessary. When the physician uses the principle of double effect as a decision procedure to judge whether his act is morally permissible, he may be forced to reflect on his using a lethal dose and thus the death of the patient as a means to relieve the patient's pain. Such reflection could lead to the realization that he or she intends the death of the patient.

On the other hand, the principle of double effect is merely an *aid* to discernment of the morality of an action because the principle of double effect is a principle and not a complete moral theory. Herein lies my response to Beauchamp, Childress, Miller, and Truog's criticism that the principle of double effect fails to justify and thus presupposes death as a "bad effect" and intending death as a "bad intention." The problem with these criticisms is that the authors seem to evaluate the principle not only as a principle pertaining to right action but as a principle pertaining to moral value as well. As a principle, the principle of double effect has limited scope. It is a principle that can help to evaluate the moral permissibility of acts (having both good and bad effects). It is a principle pertaining to right

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<sup>40</sup> John Berkman, "How Important Is the Doctrine of Double Effect for Moral Theology? Contextualizing the Controversy," *Christian Bioethics* 3, no. 2 (2007): 91.

conduct. The principle of double effect cannot also help to evaluate the moral value of effects and intentions because the principle of double effect is not a principle pertaining to moral value. Thus, in criticizing the principle of double effect for failing to justify death and intending death as bad, Beauchamp, Childress, Miller, and Truog seem to expect the principle of double effect to function as a principle pertaining to moral value in addition to its functioning as a principle pertaining to right conduct. If this is their expectation, they misunderstand the scope of the principle.

Moreover, the principle does not presuppose the moral beliefs that death and intending death are bad. The principle of double effect makes no claims about the moral value of death or intending death. It would be consistent to uphold the principle and to believe that death and intending death are not morally bad. Consider the “values conflict case” in which someone is using the principle of double effect to determine if physician-assisted suicide is right for him or herself. This person does not view death and intending death as morally bad. This person would see the act of physician-assisted suicide as morally good or neutral (C1), but still might hold that the act has a good effect (e.g. relief of pain)<sup>41</sup> and a bad effect (e.g. separation from loved ones). The person might reflect that his or her intention is for the good effect (C2) and that the bad effect (separation from loved ones) is not the means to and does not cause the good effect (relief of pain) (C3). The person might decide that right now his or her level of pain is not proportionate to the bad effect of separation from loved ones and so determine that physician-assisted suicide is not morally permissible at this time. On the other hand, the person might decide that his or her level of pain is proportionate to the bad effect of separation from loved ones and so determine that physician-assisted suicide is morally permissible at this time.

Perhaps Beauchamp, Childress, Miller, and Truog intend to direct their criticisms, regarding the presupposing of contentious positions, to proponents of the principle of double effect, rather than the principle itself. If these criticisms are directed toward proponents of the principle, there is some truth to their claim: the principle of double effect is often invoked along with the moral values that death and intending death are bad. Nonetheless, if Beauchamp, Childress, Miller, and Truog intend to direct these criticisms to proponents of the principle of double effect, they cannot simply charge that proponents presuppose contentious positions since many proponents have good reasons for viewing death and intending death as bad. Rather, in

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<sup>41</sup> I use relief of pain as the good effect in this example, even though studies show this is not the most common reason people request physician-assisted suicide.

fairness, they ought at least to acknowledge the broader moral theory or theories in which proponents employ the principle and contend with these theories if they disagree. If Beauchamp, Childress, Miller, and Truog wanted to direct their criticisms at the Catholic Church, for instance, they could not say that the Catholic Church merely presupposes death and intending death as bad. Rather, the broader Catholic moral system<sup>42</sup> includes a rich theology and philosophy of life and death matters, which includes justification for death and intending death as bad. Thus, the principle of double effect is not susceptible to the criticism that it problematically presupposes the contentious value positions. First, the principle does not presuppose any value positions, and second, the broader moral system in which the principle is commonly employed does not merely presuppose but rather provides argumentation for these positions.

This leaves Beauchamp, Childress, Miller, and Truog's criticism that the principle lacks determinacy due to the redescription problem. When the principle is evaluated as an isolated principle, there is an epistemic problem: how does one know when each of the four conditions is met? If persons cannot know when the four conditions of the principle of double effect are met, the principle fails to be determinate. Yet the principle's vulnerability to criticism regarding determinacy does not stop there. In the "values conflict case" above, a person could conclude via the principle of double effect that physician-assisted suicide could be morally permissible, but the Church teaches that physician-assisted suicide is never morally permissible. Thus, the principle seems to have at least two determinacy issues. First, as Beauchamp, Childress, Miller, and Truog indicate, the principle lacks determinacy due to the redescription problem: how does one know when object, intention, causal relations, and proportionality are correctly described? Second, the principle lacks determinacy regarding moral value as well: how does one know the moral value of effects and intentions? I address this second determinacy issue, which arose in my above response to Beauchamp, Childress, Miller, and Truog, before I respond to the first determinacy issue, since my response to the former also supports my response to the latter.

Again, the epistemic problem highlighted by the "values conflict case" is: how does one know the moral value of effects and intentions? The principle does not presuppose contentious value judgments, as Beauchamp, Childress, Miller, and Truog charge. On the contrary, the principle as an isolated principle fails to be determinate partially insofar as it does not provide a way to distinguish between morally

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<sup>42</sup> I use "moral system" in a looser sense than "moral theory," which I take to refer to a particular, fully-developed moral theory. A moral system may include elements of multiple, non-contradictory moral theories, and it may not be fully developed.

good effects and intentions, and morally bad effects and intentions. I have argued that it is not within the scope of a principle of right action to make such value judgments. But it is within the scope of a moral theory to make such value judgments. Indeed, determinacy as a critical measure properly refers to a moral theory, together with its principles.<sup>43</sup> As I have alluded, when one employs (or evaluates) the principle within the context of the broader Catholic moral system however, the principle becomes more determinate regarding moral value.<sup>44</sup> This contextualized use of the principle of double effect has also been the historic use: in discernment of the rightness or wrongness of a penitent's action, priests drew from the broader Catholic moral system in order to inform their application of the principle of double effect.<sup>45</sup>

One way in which the principle becomes more determinate regarding moral value within the context of the broader Catholic moral system is in the Catholic Church's identification of certain acts, including euthanasia (defined as, "an act or omission which, of itself or by intention, causes death in order to eliminate suffering" [*Catechism*, no. 2277] as per se "intrinsically evil" (*Veritatis Splendor*, no. 79). It is always wrong to formally cooperate with or intend these acts, whether as means or ends. Thus, within Church teaching, there is clarification regarding the value of things whose moral value is contentious.

Moreover, in Catholic moral theology, the principle of double effect is part of more complicated teaching regarding discernment of moral value (and right action): the Church upholds the need for a conscience informed by Church teaching, the need for prayer, the virtues, especially prudence, and spiritual direction. It should not be denied that all four conditions of the principle of double effect can require very difficult work of discernment: there is a need to discern the moral value of the act in itself, effects, and intentions. There is also a need to discern the object of the act, actor's intention, causal relations, and proportionality between effects, which may involve the weighing of apparent incommensurables such as alleviation of pain

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<sup>43</sup> Timmons, *Moral Theory*, 13.

<sup>44</sup> Note that to affirm that the principle becomes more determinate within a broader moral system does not contradict the view that the four conditions of the principle are sufficiency conditions. Sufficiency conditions are understood in propositional logic to refer to a logical relationship. In this case, if the conditions are satisfied then an act which has good and bad effects is morally permissible. Of course, this logical relationship does not tell one how to determine if the conditions are satisfied. In other words, the logical relationship indicates that the conditions are sufficient, but what satisfies the conditions may still require explanation.

<sup>45</sup> Berkman, "How Important Is the Doctrine of Double Effect for Moral Theology?" 91.

and risk of death. The theological helps (e.g., Church teaching, prayer, virtues, spiritual direction) that are part of the Church's broader moral system aid in this difficult discernment.

Applied to the "values conflict case" above, in which a person considers the moral permissibility of physician-assisted suicide, Church teaching that euthanasia is an intrinsic evil, together with a conscience informed by Church teaching, could guide the person's decision-making. Using the principle of double effect in the context of the Church's broader moral system, the person could now conclude that physician-assisted suicide is not morally permissible since the act fails to meet the first condition of the principle of double effect: the act in itself is not a morally good or neutral act since it meets the Church's definition of euthanasia. When employed in the context of Catholic moral theology, then, which includes value judgments and theological helps, the principle becomes more determinate.

However, as I have noted, even within Catholic moral theology, there is often substantial disagreement regarding application of the principle of double effect. Catholics do not always come to the same conclusion regarding the object, intentionality, causality, and proportionality of an action<sup>46</sup> and thus differ on whether a particular act in a particular circumstance is morally permissible. Regarding the "values conflict case," the person could question whether the act of physician-assisted suicide does morally constitute euthanasia on the basis that his or her description of the act in itself does not match the Church's description of the act of euthanasia. Indeed, often differences in application of the principle of double effect are due to the redescription problem, to which Beauchamp, Childress, Miller, and Truog rightly allude. Since employing the principle within Catholic moral theology does not solve the redescription problem, a defense against Beauchamp, Childress, Miller, and Truog's second criticism that the principle of double effect lacks determinacy due to the redescription problem is more difficult than a defense against their first criticism that the principle presupposes contentious value judgments. I acknowledge that the principle is still susceptible to the redescription problem even within Catholic moral theology's broader moral system, though the Catholic moral tradition does help to alleviate some of the principle's determinacy issues.

Arguably, the determinacy vulnerability of the principle of double effect highlighted by the redescription problem is due to differences in moral judgment. There is a growing philosophical consensus that the application of all moral principles involves moral judgment. There is no mechanistic procedure for applying an abstract principle to

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<sup>46</sup> Disagreement persists, especially regarding beginning-of-life issues, despite appeals by Catholic academics to Thomistic theories of action and causality.

concrete cases.<sup>47</sup> The growing consensus is that persons have a capacity for moral judgment—something like what Aristotle called *phronesis* or like some, including the Catholic Church, call the virtue of prudence—the proper development and use of which helps them correctly to apply abstract moral principles to particular situations. As a result, moral theorists have become less concerned with a degree of indeterminacy. They recognize that insofar as all principles involve moral judgment, they will fail to be completely determinate. Catholic moral theology likewise presumes such a capacity for moral judgment, and, as I have already mentioned, proposes theological helps to the development and application of moral judgment. Thus, the redescription problem and the determinacy vulnerability of the principle of double effect is not necessarily a fatal flaw.

Perhaps these points attenuate the determinacy criticism of the principle of double effect but do not completely nullify the criticism. The more determinate a moral theory and its principles are, the stronger the moral theory.<sup>48</sup> The less determinate a moral theory and its principles are, the weaker the moral theory. Would the principle of double effect still have value if the redescription problem were insuperable? I argue that the principle of double effect is still valuable within Catholic moral theology in at least four ways.

First, the principle of double effect can be used as one way to articulate more fully why the Church teaches what it teaches (particularly since Church teaching already utilizes the language and conditions of the principle of double effect). The principle therefore has some explanatory power. More precisely, the principle of double effect goes some way toward *explaining* why certain act types are right and others are wrong.<sup>49</sup> Once one begins to apply the principle as a

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<sup>47</sup> Maïke Albertzart, "Principle-Based Moral Judgment," *Ethical Theory and Moral Practice* 16, no. 2 (2013): 339-354; John K. Davis, "Applying Principles to Cases and the Problem of Judgment," *Ethical Theory and Moral Practice* 15, no. 4 (2012): 563-577; Rosalind Hursthouse, *On Virtue Ethics* (Oxford: Oxford University Press, 1999).

<sup>48</sup> Timmons, *Moral Theory*, 258.

<sup>49</sup> Keenan seems to reject the notion that the principle of double effect has any explanatory power, and he would reject my implying throughout this paper that the principle has a justifying function. He argues that the principle of double effect "is a shorthand expression of the taxonomic relationship among a number of paradigm cases" (Keenan, "The Function of the Principle of Double Effect," 295). An action is not permissible because it meets the conditions of the principle of double effect; rather the "rightness of the solution is already internal to the case," as shown by its congruence with recognized paradigm cases. Keenan seems to argue that to use the principle in "geometric" fashion, as an explanatory or justifying moral principle, "vests the principle with unwarranted authority." As a result of using the principle geometrically, moralists attempt to resolve difficult moral issues in morally permissible ways (according to the principle of double effect), by proposing practical solutions that cause unnecessary harm. Keenan seems to grant that using the principle

decision procedure to a particular act, the principle becomes susceptible to the redescription problem; however, considered in the abstract, the principle's conditions can still accurately explain what makes certain actions right and others wrong. In other words, the principle of double effect indicates what it is about good/bad-effect-type actions that makes them right or wrong (object, intention, causal relations, and proportionality of the good to the bad), even if one cannot determine which features of a token act are referred to by the relevant terms. For instance, one knows that a bad intention makes an act impermissible, but one may not be able to determine if  $x$  is a bad intention.

Second, for moral questions that Church teaching addresses, the principle of double effect can also be used to guide application of Church teaching to a particular situation. For instance, knowing the Church's general teaching on euthanasia versus palliative sedation, the principle of double effect can help one discern whether he or she may consent to palliative sedation for a family member. The individual would have assurance that palliative sedation is not intrinsically evil and that the death of the family member would not be the means to relieve pain if the pain medication were properly titrated. Attending to the particulars of the situation, the individual would discern whether his or her own intent was for relief of pain and not for death, and he or she would also discern whether the severity of the pain the family member is experiencing is proportionate to the risk of death.

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geometrically will result in some correct moral conclusions, though he does not think that geometric use of the principle will necessarily give correct moral conclusions. On the other hand, the principle may be used in "taxonomic" fashion, highlighting the congruency of new cases with paradigm cases, but, on this use, the principle is unnecessary, as one might directly appeal to paradigm cases. Keenan's paper deserves a full-length response, but let these following remarks suffice for now. I do not dispute Keenan's historical point that the principle developed in the context of casuistry. I also do not disagree with Keenan that epistemically, the principle of double effect is not necessary to prudentially discern the moral permissibility of an action. Nor do I necessarily disagree with Keenan that the principle of double effect may not be the best moral principle for evaluating all acts with both good and bad effects. However, none of these points exclude the possibility that in some, or even many cases, the principle of double effect explains why an act is morally permissible or impermissible, serving a justifying function. Keenan seems to argue that actions are permissible or impermissible due to their own "internal or prudential certitude" (Keenan, 309), but it is unclear what he means by this, so it is unclear why or how his position is incompatible with further explanation and thereby justification for an act. Moreover, I dispute an implication of Keenan's argument, that only taxonomic use of the principle of double effect reveals the misuse of the principle. Rather, in demonstrating the geometric use of the principle, Keenan entirely passes over the redescription problem. Even when the principle is used geometrically, attentiveness to the redescription problem can also highlight possible misuse of the principle. So, Keenan does not seem to successfully argue that the principle of double effect does not have explanatory or justificatory value or that geometric use of the principle is wrong.

Third, for open moral questions in the Catholic Church, the principle of double effect can assist theological debate, not despite, but because of the redescription problem. The redescription problem can be a sign of many diverse minds and hearts coming to the table. Such diversity can stimulate discussion, and so the redescription problem can in this way contribute (with the guidance of the Holy Spirit) to the development of Church teaching. When possible, academics can use the principle of double effect as a vehicle of case-based reasoning. They can think through an open question in Catholic morality using the description of object, intention, causal relations, and proportionality suggested by Church teaching on a relevantly similar issue.

Fourth, for open moral questions, or practically unclear issues, the principle of double effect can also aid individual discernment in particular situations. As I have mentioned earlier, the principle of double effect can serve as a reminder to consider the three traditional founts of morality (act, intention, circumstance), and the principle's four conditions can aid discernment in their interdependence. Additionally, individuals can also use the principle of double effect as a vehicle of case-based reasoning, drawing on the description of object, intention, causal relations, and proportionality suggested by Church teaching on a relevantly similar issue.

In these four ways, the principle of double effect is still valuable within Catholic moral theology. Although it is important to point out (as Beauchamp, Childress, Miller, and Truog do) that the principle of double effect cannot always be determinate even within the Catholic moral tradition, and even less so outside of it, it should be clear that this does not render the principle useless within Catholic moral theology.

## **CONCLUSION**

I have detailed two criticisms of the principle of double effect: that the principle presupposes contentious value judgments, such as the badness of death, and that the principle is unacceptably indeterminate due to the redescription problem. In response to these criticisms, I began by situating the principle in its historical and practical context: as an aid for Catholic priests to discern rightness and wrongness of the acts confessed by penitents. I argued that the broader Catholic moral system in which the principle is embedded does not presuppose the relevant contentious value judgments but contains an extensive account of values and disvalues. In addition, I argued that the indeterminateness of the principle is not clearly unacceptable, since all principles are indeterminate to an extent and since the teaching of the Church relating to value theory and moral discernment rendering the

principle more determinate than it is when considered in isolation. Finally, I suggested that even if the indeterminacy remains problematic, the principle serves valuable functions within Catholic theology. According to one of these ways, the redescription problem can have a positive role by spurring discussion and development of Church teaching. **M**