

THINKING ABOUT LIFE AND DEATH: KILLING AND LETTING DIE

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«Συνέθιξε δὲ ἐν τῷ νομίζειν μηδὲν πρὸς ἡμᾶς εἶναι τὸν
θάνατον ἐπεὶ πᾶν ἀγαθὸν καὶ κακὸν ἐν αἰσθήσει»

Epicurus, *Letter to Menoeceus*, 124-125

Practical or applied ethics is the subject that applies ethics to actual practical problems,¹ such as life and death, killing and letting die, suicide, euthanasia, abortion, the right to reproduce,² saving life, aid to the Third

1. The list of moral problems is endless, really. For a sample of the moral problems discussed in practical ethics, Cf. J. Rachels (ed.), *Moral Problems*, 3rd ed., New York, Harper & Row, 1979; P. Singer (ed.), *Applied Ethics*, Oxford, Oxford University Press, 1986; Peter Singer (ed.), *Ethics*, Oxford, Oxford University Press, 1994; J. Hospers, *Human Conduct. Problems of Ethics*, 3rd ed., Harcourt Brace & Co., 1996; P. Singer (ed.), *A Companion to Ethics*, Oxford, Blackwell, 1991; H. LaFollette (ed.), *Ethics in Practice: An Anthology*, Oxford, Blackwell, 1997; H. LaFollette (ed.), *The Oxford Handbook of Practical Ethics*, Oxford, Oxford University Press, 2003.
2. In addition to the traditionally discussed problems of euthanasia, abortion and reproduction, a new branch of applied ethics, called bioethics, has recently emerged that deals exclusively with moral issues arising in medical contexts and in health care environments in relation to the developments in the biomedical sciences and in clinical medicine. Such ethical questions are raised by current issues, such as international collaborative clinical research in developing countries, organ transplants and xenotransplantation, ageing and the human lifespan, AIDS, genomics, and stem cell research and are considered in relation to concrete ethical, legal and policy problems, or in terms of the fundamental concepts, principles and theories used in discussions of such problems. Cf. T. L. Beauchamp and J. F. Childress, *Principles of Biomedical Ethics*, Oxford, Oxford University Press, 2001; H. Kuhse and P. Singer, *A Companion to Bioethics*, Oxford, Blackwell, 2001; P. Singer and H. Kuhse (eds.), *Bioethics: An Anthology*, Oxford, Blackwell, 2006; J. Glover, *Choosing Children: The Ethical Dilemmas of Genetic Intervention*, Oxford, Clarendon Press, 2006.

World, charity and philanthropy,³ personal relationships,⁴ war and peace,⁵ immigration,⁶ the treatment of animals⁷ and the environment.⁸ My main aim in this paper is to discuss the distinction between 'doing and allowing' or 'killing and letting die' and to examine whether this distinction is of moral significance. I believe it to be fundamental to the doctrine of 'acts and omissions' and to the doctrine of 'double effect' but also to any ancient or contemporary moral discussion on the so-called matters of life and death.

Let me though, first, say something about the subject of applied ethics and try to explain what it is all about and how it differs from the other branches of moral philosophy. Applied ethics, although in a sense a branch of normative ethics, differs from both the so-called normative ethics and meta-ethics. Normative ethics deals with the investigation of the criterion of right action, while meta-ethics examines the nature of moral judgement. Applied ethics also differs from an individual moral agent's practical thinking in being more general, more systematic and not obliged to reach conclusions. Applied ethics started developing as a separate branch of moral philosophy in the 1960's. Indeed, dealing with 'practical' or 'applied' questions has become a major part of both teaching and research in contemporary moral philosophy. But, of course, practical ethical questions have always been examined by philosophers since the time of Socrates. Aristotle⁹ has written extensively on friendship, Epicurus and Lucretius¹⁰

3. P. Singer, 'Famine, Affluence, and Morality', in H. LaFollette (ed.), *Ethics in Practice: An Anthology*, op. cit., 572-581; D. Miller, 'Are They My Poor? The Problem of Altruism in a World of Strangers', in J. Seglow (ed.), *The Ethics of Altruism*, London, Frank Cass, 2004.
4. H. LaFollette, 'Personal Relationships', in Peter Singer (ed.), *A Companion to Ethics*, Oxford, Blackwell, 1991, pp. 327-332.
5. Cf. M. Evans (ed.), *Just War Theory: A Reappraisal*, Edinburgh, Edinburgh University Press, 2005.
6. Cf. C. Kukathas, 'Immigration', in H. LaFollette (ed.), *The Oxford Handbook of Practical Ethics*, op. cit., pp. 567-590.
7. Cf. P. Singer, 'All Animals are Equal', in P. Singer (ed.), *Applied Ethics*, op. cit., 215-228; J. Dupré, *Humans and Other Animals*, Oxford, Oxford University Press, 2002; A. Taylor, *Animals and Ethics*, Toronto, Broadview Press, 2003.
8. Cf. R. Elliot (ed.), *Environmental Ethics*, Oxford, Oxford University Press, 1995; A. Light and H. Rolston III (eds.), *Environmental Ethics: An Anthology*, Oxford, Blackwell, 2002.
9. Aristotle, *Nicomachean Ethics*, Bks. VIII and IX; *Eudemian Ethics*, Bk. VIII.
10. Epicurus, *Letter to Menoeceus* and Lucretius, *De Rerum Natura*. Cf. M. Dragona-Monachou, 'Death, Suicide and Euthanasia in Stoic Philosophy', in A. Glycofyridi-Leontsini (ed.), *Vita Contemplativa. Essays in Honour of Demetrios N. Koutras*, Athens, National and Capodistrian University of Athens, 2006, pp. 111-135. Cf. also, Idem, 'The Post-existentialist Neo-stoicism of Jason Xenakis and the Stoic Theory of Suicide', *EKE* 41(1981), pp. 56-65.

have discussed death, and David Hume¹¹ suicide – to give just a few examples.

The most general methods of applied ethics are definition of concepts, appeal to general moral principles with problems of application and conflict, and appeal to judgement in parallel cases which may be either actual or hypothetical thought-experiments. More specific types of argument include 'slippery slope' arguments, distinctions between acts and omissions and appeals to the doctrine of double effect. The use of these arguments seems to be controversial and I will briefly illustrate why this is the case with reference to the distinction between killing and letting die.

The philosophical study of applied ethics is criticised on various grounds. Some say for example that philosophers have no special moral expertise, that philosophy should be morally neutral and that the practice of applied ethics removes the moral autonomy of those who are taking practical decisions. In reply to the first criticism that philosophers have no special moral expertise, we can say that philosophers do not necessarily have greater moral insight but they do have greater expertise in examining moral arguments. In reply to the second criticism that philosophy should be morally neutral, we can suggest that the kind of neutrality to which the philosopher is committed is fair consideration of the arguments on both sides; this is not only consistent with but also required by applied philosophy. Finally, in reply to the third criticism that the practice of applied ethics removes the moral autonomy of those who are taking practical decisions, we could, I suppose, agree that there may be a danger of claiming to give other people moral answers, but, nevertheless, no applied philosophy could ever really remove a moral agent's autonomy.

Two broad classes of ethical theory—consequentialist and deontological—have shaped most peoples understanding of applied ethics. Consequentialists hold that we should choose the available action with the best overall consequences, while deontologists hold that we should act in ways circumscribed by moral rules or rights, and that these rules or rights are defined, partly at least, independently of consequences. In addition to these two main normative theories, there is also another branch of ethical theory called virtue-ethics that is also gaining ground in explaining contemporary moral issues. In what follows, I will briefly illustrate the main arguments of these three normative ethical theories, since it is impossible, according to my opinion, to understand, let alone to theorize upon, applied moral issues without first having grasped normative ethics.

11. D. Hume, 'On Suicide', in his *Essays. Moral, Political, and Literary*, E. G. Miller (ed.), Liberty Classics, Indianapolis, 1987.

All moral argument in practical philosophy depends on one or another ethical normative theory or sometimes on a combination of two.

Roughly, consequentialists claim that we are obligated to act in ways that produce the best consequences. It is not difficult to see why this is an appealing theory. First, it relies on the same style of reasoning that we use in making purely prudential decisions. If, for example, you are trying to decide what you are going to choose for honours in the University of Glasgow, you will consider the available options, predict the likely outcomes of each, and determine their relative value. You will then select a subject (or two, if you want to do joint honours) with the best predicted outcome. Consequentialism uses the same framework, but injects the interests of others into the 'equation'. When facing a moral decision, I should consider available alternative actions, trace the likely moral consequences of each, and then select the alternative with the best consequences for all concerned. When stated so vaguely, consequentialism is clearly an appealing moral theory. After all, it seems difficult to deny that achieving the best available outcome would be good. The problem of course is deciding which consequences we should consider and how much weight we should give to each. For, until we know that, we cannot know how to reason about morality.¹²

Utilitarianism, the most widely advocated form of consequentialism, has an answer. Utilitarians claim that we should choose the option that maximises 'the greatest happiness of the greatest number'. They also advocate complete equality: 'each to count as one and no more than one'. Of course we might disagree about exactly what it means to maximise the greatest happiness of the greater number; still more we might be unsure about how this is to be achieved.¹³ Act utilitarians, on the one hand, claim that we determine the rightness of an action if we can decide which action, in those circumstances, would be most likely to promote the greatest happiness of the greatest number. Rule utilitarians, on the other hand, reject however the idea that moral decisions should be decided case by

12. Cf. S. Scheffler, *The Rejection of Consequentialism*, Oxford, Clarendon Press, 1982 and Idem (ed.), *Consequentialism and Its Critics*, Oxford, Oxford University Press, 1988.

13. J. S. Mill (1861), *Utilitarianism*, R. Crisp (ed.), Oxford, Oxford University Press, 1998. It has been argued (R. Crisp, *Mill on Utilitarianism*, London, Routledge, 1997, pp. 102-105 and 173-200) that J. S. Mill in his 'Utilitarianism' essay endorses an act-utilitarianism theory, while later in his 'Liberty' essay (1873) he advocates rule-utilitarianism. Cf. also J. Riley, *Mill on Liberty*, London, Routledge, 1998, pp. 153-157 and 191-2.

case. According to rule utilitarians, we should decide not whether a *particular* action is likely to promote the greatest happiness of the greater number, but whether a particular *type* of action would, if done by most people, promote the greatest happiness of the greatest number. Thus, it seems that an act utilitarian might decide that a lie, in a particular case, is justified because it maximises the happiness of all those concerned, while the rule utilitarian might claim that since everyone's lying would diminish happiness, then it would be best to adopt a strong rule against lying. We should abide by this rule even if, in some particular case, lying might appear to better promote the greatest happiness of the greatest number.

Rule utilitarianism is definitely the most defensible form of utilitarian theory and has recently been developed in various sophisticated ways. Nevertheless, it is not of course without problems. What do you do, for example, when you have to choose between saving your mother or a famous scientist who is about to discover the cure for cancer? Surely you owe more to your family than you owe to your bank or someone you've never seen before in your life, but what about having to choose between saving the life of 100 people and the life of your family? These are not easy dilemmas to answer and indeed most of the main objections to utilitarianism have sprung out of these, such as Bernard Williams' 'integrity objection'.¹⁴

Deontological theories are most easily understood in contrast to consequentialist theories. Whereas consequentialists claim that we should always strive to promote the best consequences, deontologists claim that our moral obligations—whatever these might be—are in some sense and to some degree independent of consequences. Thus, if I have obligations not to kill or steal or lie, those obligations are justified not simply on the ground that following these rules will always produce the best consequences. It is because of this that many find deontological theories so attractive. For example, most of us would be offended if someone lied to us, even if the lie produced the greatest happiness for the greatest number and I would certainly be 'offended', if someone killed me, even if my death might produce the greatest happiness for the greatest number.¹⁵

14. Cf. B. Williams, 'Consequentialism and Integrity', in S. Scheffler, *Consequentialism and Its Critics*, *op. cit.*, pp. 20-50 and J. J. Smart and B. Williams, *Utilitarianism: For and Against*, Cambridge, Cambridge University Press, 1973, pp. 108-118. Cf. also R. Crisp, *Mill on Utilitarianism*, *op. cit.*, pp. 135-153.

15. Like, for example, in the case of the various versions of 'the hospital example', Cf. R. Crisp, *Mill on Utilitarianism*, *op. cit.*, pp. 31-35 and 99-101.

Thus, according to the deontologist, the rightness or wrongness of lying or killing cannot be explained simply because of its consequences. Of course there is considerable disagreement among deontologists about which rules are true. They also disagree about how to determine these rules. Some deontologists, like Immanuel Kant, claim that it is abstract reason that shows us how we should act.¹⁶ Some, like John Rawls talk about principles that can be discovered in reflective equilibrium,¹⁷ while others claim that we should seek principles that might be adopted by an ideal observer.¹⁸

An alternative theory to both consequentialism and deontology is virtue ethics. Virtue theory predates both consequentialism and deontology at least as a formal theory, since it was the dominant theory of the ancient Greeks that reached its clearest expression in Aristotle's *Nicomachean Ethics*. Much of the contemporary appeal of virtue theory arises from the perceived failings of the standard alternatives. According to virtue theorists, deontology and consequentialism put inadequate emphasis on the agent and on the ways that he/she should be, or the kinds of character that he/she should develop.¹⁹ Relatively, they fail to give appropriate scope to personal judgement and put too much emphasis on following rules independently of whether these rules are deontological or consequentialist. Certainly on some readings at least of deontology and utilitarianism, it sounds as if the advocates of these theories believed that a moral decision was the mindless application of a moral rule. The rule says, for example, 'Be honest', and then we should be honest. The rule says: 'Always act to promote the greatest happiness of the greatest number', then we need only figure out which action has the most desirable consequences, and then do it. Ethics, in this way, might be seen to resemble mathematics. The calculations may require patience and care, but they do not depend on judgement. Many advocates of standard normative moral theories find these objections by virtue theorists to be right and they have modified over

16. Cf. I. Kant, *The Moral Law. Groundwork of the Metaphysics of Morals*, transl. by H. J. Paton, Routledge, 1948 and *The Metaphysics of Morals*, M. Gregor (ed.), Cambridge, Cambridge University Press, 1996.

17. Cf. J. Rawls, *A Theory of Justice*, Oxford, Oxford University Press, 1971.

18. Cf. O. O' Neill, 'Kantian Ethics', in P. Singer, *A Companion to Ethics*, op. cit., pp. 175-185.

19. Cf. Roger Crisp & Michael Slote (eds.), *Virtue Ethics*, Oxford, Oxford University Press, 1997; R. Crisp (ed.), *How Should One Live? Essays on the Virtues*, Oxford, Oxford University Press, 1998; R. Hursthouse, *On Virtue Ethics*, Oxford, Oxford University Press, 1999; S. M. Gardiner (ed.), *Virtue Ethics Old and New*, Ithaca, Cornell University Press, 2005.

the past two decades their respective theories to partially accommodate some of these criticisms. The result is that the lines of demarcation between these theories have become blurred and the tendency in contemporary moral philosophy in the last decade or so is to attempt various reformulations of the theories, varying from virtue ethics deontology, to utilitarian deontology and to virtue ethics utilitarianism.²⁰

People say that life is sacred and that death is a horrible thing. Of course, as Piter Singer points out, when they say that life is sacred, it is almost always human life they have in mind: "People often say that life is sacred. They almost never mean what they say. They do not mean, as their words seem to imply, that life itself is sacred. If they did, killing a pig or pulling up a cabbage would be as abhorrent to them as the murder of a human being"²¹. However, one of the questions to consider is why human life should have such a special value. Why human life in particular and not the life of other animals for example?

Death, the opposite state of life, also plays an important role in our lives; sometimes a more important one than life itself. We might think that life is sacred and that taking someone's life is a horrible thing to do, but we do not really seem to contemplate about life itself. Some of us just waste our lives, let life slip out of our hands or even find life so unbearable that we contemplate suicide. Sometimes we do nothing with our lives, or we just compromise in a situation that will merely keep us alive. Sometimes we even wish we were dead. We see life as a torture that has to end and the only thing that will put an end to this horrible state we are in would be death: our death. But, even when we do want to be dead, it is really death that we take more seriously than life. We think that death will give a solution to our problems. We value death more than life, since it is by dying that we want to give an end to the miserable life that we think we are living. The scale always seems to point to death.

Even when someone takes his/her life, or when simply one dies from natural causes, or lets say in a tragic accident, it is really the fact that they are dead that we seem to care about. We mind because they have ceased to be, because they are dead. But we do not seem to be frustrated in the

20. Cf. C. M. Korsgaard, *Creating the Kingdom of Ends*, Cambridge, Cambridge University Press, 1996; R. Langton, *Kantian Humility*, Oxford, Oxford University Press, 1998; M. Slote, *From Morality to Virtue*, Oxford, Oxford University Press, 1992; P. Foot, *Natural Goodness*, Oxford, Clarendon Press, 2001.

21. P. Singer, *Practical Ethics*, 2nd ed., Cambridge, Cambridge Univ. Press, p. 83.

same way when they waste their lives or when their life is miserable. To someone who is suicidal and tell us that he/she wants to end it all, we give anti-depressant drugs if we are GP's, while we say 'get a grip of yourself' and 'don't be silly' if we are his/her friends or relatives. We get angry at someone we care about when he/she is wasting his/her talent or his/her entire life, but we do not weep at the time as much, or at all, as we will do at his/her funeral. So, what is it that is so important about death? As Thomas Nagel points out,

"If death is the unequivocal and permanent end of our existence, the question arises whether it is a bad thing to die. There is conspicuous disagreement about the matter: some people think death is dreadful; others have no objection to death *per se*, though they hope their own will be neither premature nor painful. Those in the former category tend to think those in the latter are blind to the obvious, while the latter suppose the former to be prey to some sort of confusion. On the one hand it can be said that life is all we have and the loss of it is the greatest loss we can sustain. On the other hand it may be objected that death deprives this supposed loss of its subject, and that if we realise that death is not an unimaginable condition of the persisting person, but a mere blank, we will see that it can have no value whatever, positive or negative"²².

As we know, Epicurus (241-270 B.C.) produced a very good argument about why we should not care about death. Death should not be feared, according to Epicurus, because, as he argued in his *Letter to Menoeceus*: "Accustom yourself to believe that death is nothing to us, for good and evil imply awareness, and death is the privation of all awareness; therefore a right understanding that death is nothing to us makes the mortality of life enjoyable, not by adding to life an unlimited time, but by taking away the yearning after immortality. For life has no terror; for those who thoroughly apprehend that there are no terrors for them in ceasing to live. Foolish, therefore, is the person who says that he fears death, not because it will pain when it comes, but because it pains in the prospect. Whatever causes no annoyance when it is present causes only a groundless pain in the expectation. Death, therefore, the most awful of evils, is nothing to us, seeing that, when we are, death is not come, and, when death is come, we are not. It is nothing, then, either to the living or to the dead, for with the living it is not and the dead exist no longer. But in the world, at one time

22. T. Nagel, 'Death', in P. Singer, *Applied Ethics*, Oxford, Oxford Univ. Press, 1986, p. 9.

people shun death as the greatest of all evils, and at another time choose it as a respite from the evils in life. The wise person does not deprecate life nor does he fear the cessation of life. The thought of life is no offence to him, nor is the cessation of life regarded as an evil. And even as people choose of food not merely and simply the larger portion, but the more pleasant, so the wise seek to enjoy the time which is most pleasant and not merely that which is longest. And he who admonishes the young to live well and the old to make a good end speaks foolishly, not merely because of the desirability of life, but because the same exercise at once teaches to live well and to die well. Much worse is he who says that it were good not to be born, but when once one is born to pass with all speed through the gates of Hades. For if he truly believes this, why does he not depart from life? It was easy for him to do so, if once he were firmly convinced. If he speaks only in mockery, his words are foolishness, for those who hear believe him not. We must remember that the future is neither wholly ours nor wholly not ours, so that neither must we count upon it as quite certain to neither come nor despair of it as quite certain not to come".²³

Epicurus' point was that death is not present when we are alive; and we are not present when death is present. Therefore, Epicurus concludes, death should not concern us. Epicurus was actually worried about the time people spend frustrating about death, since he rightly thought that the fear of death does not allow us to live a meaningful and productive life. Despite the correctness of his point, there are several, practical at least, difficulties with Epicurus argument. For one thing, although it makes perfect sense (it is logically possible), it does not seem real. We do care about death, no matter how rational or reasonable we are. Dying, one way or the other, has always been an important source of frustration for human beings at least, and most likely even for animals if we judge from the way that they react to it when faced with it.

The discussion about life and death bring us to the distinction between killing and letting die and to whether such a distinction could be of moral significance. Questions surrounding this distinction relate to whether the rightness of an action ever depends on whether it counts as a doing or as an allowing, on the bearing that this question might have on the permissibility of various kinds of euthanasia, on the bearing that it might

23. Epicurus, *Letter to Menoeceus*, in A. A. Long and D.N. Sedley (eds.), *The Hellenistic Philosophers*, Vol. I, Cambridge, Cambridge University Press, 1987, pp. 149-150.

have on letting people starve in the Third World or in any other place, and also on its bearing on killing people in a war or in a terrorist attack even if this does have a just cause.

As Jonathan Glover points out, 'many of us find moral problems about killing difficult, and most of those who do not should do. It is often said to be always wrong to take human life, but many people find it hard to say this when confronted with questions of killing set in some specific contexts'²⁴. For example, very few people are committed to absolute pacifism; some people would even support capital punishment, while there are several different views about abortion, euthanasia, physically-assisted suicide and so on.

If we do think that there is any kind of killing that can be justified, then we are confronted with the problem of drawing boundaries between killings that are permissible and those that are not. In what circumstances, if any, is for example war justified? When is euthanasia justified? Some people tend to think that there are cases where taking life under such circumstances is justified. Are there any general principles to tell us then when, if ever, it is morally obligatory to save life? Why is there a moral significance between killing someone and intentionally failing to save his life or, to put it differently, 'letting him die'? When I spend money to go to the cinema instead of giving it to Oxfam, it is likely that I am allowing someone to die whom I might have saved by giving my fiver or whatever to Oxfam or Cancer Research or any other charity organisation or, at the end of the day, to a homeless person asking for some change outside Glasgow Hillhead Underground Station or Athens Syntagma Square Station. Is this so much less bad than killing someone or is it as bad as killing someone, and, if, so, why would any of these two be the case or not? Do we have a moral duty to save lives in general?

The question in moral philosophy is whether we can formulate any general principles to tell us which acts of killing, if any, are right and which are wrong. In addition, are there any general principles to tell us when, if ever, it is morally obligatory to save life? These questions can be roughly divided into two classes: problems that arise in medical contexts and those that arise in more general social and political contexts. The more general social and political questions include those about the morality of war, revolution, assassination and capital punishment. Others are suggested by reflection on some of our society's priorities. In some contexts, lives are

24. J. Glover, *Causing Death and Saving Lives*, Harmondsworth, Penguin, 1977, p. 19.

saved at great expense while other people die when far less money could have saved them. To what extent should we spend money on a dramatic rescue of a small number of known people, rather than on higher safety standards that will save a larger number of people in the future, but whose identity will never be known to us? The problem seems to be that, although we need general principles to show us how to act in specific cases, the specific cases also act as tests of the adequacy of our principles.

There is a common moral belief that there is an important moral difference between acts and omissions, say between killing and 'not striving to keep alive'. Some codes of medical practice implement the old injunction, 'Thou shalt not kill, but need not strive to keep alive'. Opposition to euthanasia from within the medical profession often cites the shock a doctor faces if, trained and accustomed to sustain life, he is suddenly asked to terminate it. On this reasoning, if a child is born terribly handicapped and needing outside support to live, or if a person is certainly dying and their life is dependent on outside support, it would be wrong to administer a lethal injection, but all right to stand by and do nothing to support their life. This may salve some consciences, but it is very doubtful whether it ought to, since it often condemns the subject to a painful, lingering death, fighting for breath or dying of thirst, while those who could do something stand aside, withholding a merciful death. But if I then withhold food, don't I murder you? In this case, I am responsible for you being dependent on me. But suppose you just happen to get into a situation where you are dependent upon me? Suppose by bad luck you just happen to be in my dungeon? Withholding food seems just as bad, or worse, than shooting you.

Ethical thought seems to need some distinction between what we permit to happen and what we actually cause. These cases only show how fragile the distinction can be. The distinction fits with a deontological cast of mind, insisting that it is what we do that raises questions of right and wrong, justice and duty. It is as if what we allow to happen, or happens anyhow, without our intervention, is not on our criminal record. This why it seems so important to decide which of the enemies murdered the traveller. But is it law rather than ethics that needs these cut-and-dried verdicts? Returning to the euthanasia issue, should we really admire the doctor waiting for nature to take its course, as opposed to the one prepared to bring down the curtain? Shouldn't really be just a question of making sure that life, including the part of life that draws it to a close, goes better?

When discussing whether it is morally right to kill someone, two principles are often either cited or else tacitly presupposed. These are the doctrine of double effect and the doctrine of acts and omissions. It should be noted that discussions on the morality of killing shape themselves most around those who adopt a consequentialist view and those who adopt a deontological one. According to the doctrine of double effect, the objections to killing rest to a large extent on consequences, although the need to respect someone's autonomy is also given some weight independent of good consequences. This can be seen as accommodating part of what is valued when it is said that we ought always to treat people as ends in themselves and never merely as means. But many people disapprove of giving the consequences of acts even restricted, though still important, role that they play in moral beliefs advocated here. These beliefs will to them still be close to traditional utilitarianism to provoke the criticism that, in an objectionable way, 'the end justifies the means'. Those who make this criticism will want some set of principles according to which the relations between the consequences of an act and its morality are more indirect.

According to the acts and omissions doctrine, "in certain contexts, failure to perform an act, with certain foreseen bad consequences of that failure, is morally less bad than to perform a different act which has the identical foreseen bad consequences"²⁵.

This is the view that there is a morally important difference between doing something and allowing something to happen. The question here is whether it is worse to kill someone than not to save his life. According to the acts and omissions doctrine, intuitively it is worse to kill someone than to allow them to die. As Philippa Foot has pointed out, "we make a distinction between allowing people in the underdeveloped countries to die of starvation and sending them poisoned food"²⁶. There is, therefore, according to the acts and omissions theory, a morally important difference between doing something and allowing something to happen. The doctrine states that even though a certain kind of action is wrong, allowing an identical set of consequences to occur is not necessarily wrong. Killing and allowing someone to die are not morally equivalent, although each has the consequence that the person dies. Letting someone die is not necessarily as bad as killing someone. If we were to make use of the distinction between

25. J. Glover, *Causing Death and Saving Lives*, *op. cit.*, p. 92.

26. P. Foot, 'The Problem of Abortion and the Doctrine of the Double Effect', in *Virtues and Vices*, Berkeley, University of California Press, 1978, pp. 26-27.

acts and omissions in this way, we could consistently maintain that killing people is always wrong. To the objection that a refusal to kill may result in even more deaths, we could reply that the refusal to kill would then be a case of letting people die, and this is not absolutely prohibited, whereas killing is.

Therefore, according to the acts and omissions theory, we could consistently maintain that killing someone is always wrong. It should be noted though that the claim of the acts and omissions doctrine is not merely that there is a difference between killing people and letting them die (since this would be a trivial claim), but that there is a difference which is morally important. At the same time, the acts and omissions doctrine does not claim that there is nothing wrong in failing to prevent a death, since that would obviously be a very implausible claim. There is no question that, clearly, there are occasions when we ought to act in order to prevent someone from dying, and failure to do so would be wrong. But the question is whether the wrongness of letting someone die is on a par with the wrongness of killing.

But, what are the implications that this distinction might have to the application of euthanasia? Would it mean that withdrawing treatment is morally permissible? And, moreover, could we imply that withdrawing treatment is morally permissible whereas injecting someone who is unconscious with a lethal injection in order to relieve his pain would be considered as 'killing' instead of a 'mercy killing'? For a start, the moral relevance of the distinction is fiercely contested. Some reasons for this are obvious, since we are more than frequently held responsible for what we don't do as much as for what we do. So it is far from obvious that the moral position supports a rigid distinction between acting and omitting to act. James Rachels has argued that the distinction has no moral basis, taking acting and passive euthanasia as the test case. This is because he can see no difference between 'killing' and 'letting die'.²⁷ But others have argued that there is a legitimate notion of positive and negative agency, different from that between action and inaction which is at work in our thinking in this point. Furthermore, they argue that this distinction appeals to something which the doctrine of double effect appeals to as well, namely that between intended and unintended consequences. Negative rights, that is, rights not to have things done to you, are more fundamental and morally important than positive rights.²⁸

27. J. Rachels, 'Active and Passive Euthanasia', in P. Singer, *Applied Ethics*, *op. cit.*, 29-35.

28. Cf. P. Foot, 'The Problem of Abortion and the Doctrine of Double Effect', *op. cit.*, pp.

So, what is wrong with the acts and omissions doctrine? Who would accept it and who would reject it? For a start the doctrine seems to imply that the doctor who gives the terminally ill patient a lethal injection does wrong; the doctor who omits to give the same patient antibiotics, knowing very well that without antibiotics the patient will die, does not. One can argue of course that to undermine the general belief in the acts and omissions doctrine would have very bad consequences. Our greater willingness to blame people for harmful acts than for equally harmful omissions may be thought to serve a useful social purpose. What would happen if people came to view not giving to Oxfam as being not very different from murder? It could be argued that this would make them, no more willing to giving to Oxfam, but less reluctant to murder. But, surely, this could not be enough in order to defend the acts and omissions doctrine. The suggestion may not be that the acts and omissions doctrine is defensible, but that it is a beneficial irrationality that ought not to be publicly criticised. Taking the rule against killing to apply to omissions would make living in accordance with it a mark of saintliness or moral heroism, rather than a minimum required of ever morally decent person. The demands of morality would be too much on any moral agent. The so-called 'Demandingness Objection' (that utilitarianism is too demanding as a moral theory) is one of the standard objections to J. S. Mill's utilitarianism and to any kind of utilitarianism in general²⁹. The morally important distinction is not between acts and omissions, but between intended and unintended consequences. So, omissions can sometimes be morally equivalent to acts. In conclusion, an ethic that judges acts according to whether they do or do not violate specific moral rules must, therefore, place moral weight on the distinction between acts and omissions. But an ethic that judges acts by their consequences will not do so, for the consequences of an act and an omission will often be, in all

19-32; W. Quinn, 'Actions, Intentions, and Consequences: The Doctrine of Doing and Allowing', *Philosophical Review*, 98 (1989), pp. 287-312; J. Thomson, 'Killing, Letting Die, and the Trolley Problem', in her *Rights, Restitution, and Risk*, Cambridge, Mass., Harvard University Press, 1986, pp. 78-93.

29. For more on the 'Demandingness Objection', see S. Wolff, 'Moral Saints', in R. Crisp and M. Slote (eds.), *Virtue Ethics*, Oxford, Oxford University Press, 1997, pp. 79-98; J. S. Mill, *Utilitarianism*, Ch. 2 (any edition); R. Crisp, *Mill's Utilitarianism*, Routledge 1997, Ch. 6; J. Lenman, 'Consequentialism and Cluelessness', *Philosophy & Public Affairs*, 29, 4 (2000), pp. 342-370.

significant respects, indistinguishable. For instance, omitting to give antibiotics to a child with pneumonia may have consequences no less fatal than giving a child a lethal injection. Consequentialism believes in the moral significance of visible consequences. The acts and omissions issue seems to pose the choice between these two basic approaches in an unusually clear and direct way.

The Doctrine of Double Effect is roughly the view that "it may be permissible to perform a good act with some foreseeable bad consequences, but that it is wrong to do a bad act for the sake of the good consequences that will follow"³⁰. The doctrine of double effect has traditionally been a component of Catholic moral teaching where it is typically applied in conjunction with absolute principles, as the prohibition against killing the innocent. A most discussed idea, is that in war civilians are 'innocent' but combatants are not. The deliberate bombing of cities in the Second World War, for instance, has been condemned on these very grounds. Another example, would be the case where the use of medicaments with the intention of relieving pain is good, and if by repeated pain relief the patient's resistance is lowered and he dies earlier than he would otherwise have done, this is a side effect which may well be acceptable. But, nevertheless, to give an overdose with the intention that the patient should never wake up is morally wrong and it constitutes killing.

Elizabeth Anscombe has famously illustrated the doctrine of double effect with the case of killing in self-defence: "If you attack me, I may, if necessary, defend myself by striking you so hard that your death results. (The 'if necessary' is important here: I have a duty to use the minimum force necessary.) But, if I know you are searching for me to kill me, I am not morally permitted to arrange for you to be poisoned before you find me"³¹. The explanation usually given of this moral difference is that, where I arrange for you to be poisoned, I must intend your death as a means to my own safety. On the other hand, when I hit you in self-defence, I intend only to prevent you from killing me. If you do die, this can be a foreseen but unintended consequence of my blow, rather than itself the intended means of my defence.

Jonathan Glover mentions some applications of the double effect

30. J. Glover, *Causing Death and Saving Lives*, *op. cit.*, p. 87.

31. E. Anscombe, 'War and Murder, in W. Stein (ed.), *Nuclear Weapons, A Catholic Response*, London 1961, p. 4.

doctrine to cases of abortion: 'The doctrine allows that a pregnant woman with cancer of the womb may have her life saved by removal of the womb, with the foreseen consequence that the foetus dies. But, if the doctor could save only the mother's life by changing the composition of the amniotic fluid and so killing the foetus while still attached to the womb, this would not be permitted. In the second case the death of the foetus would be an intended means; in the first case it would be merely a foreseen consequence'³². The two abortion cases would each have the same outcome: the death of the foetus and the saving of the mother. A consequentialist is bound to see this moral doctrine as unacceptable: depending on a distinction without a difference. If the death of the mother is a worse outcome than the death of the foetus, it seems to a utilitarian immoral to act as the double effect principle tells us. As Peter Singer points out, famously denying the distinction between 'Killing and letting die' and defending the utilitarian moral standpoint, 'those who appeal to this distinction are cloaking their consequentialist views in the robe of an absolutist ethic; but the robe is worn out, and the disguise is now transparent'³³.

32. J. Glover, *Causing Death and Saving Lives*, *op. cit.*, pp. 87-88.

33. P. Singer, *Practical Ethics*, 2nd ed., Cambridge, Cambridge Univ. Press, 1993, p. 211.