

## **Double Effect and the Contralife Argument**

*To the Editor:* The Winter 2011 issue of the *NCBQ* contains an essay by Rev. Jonah Pollock, OP, that criticizes my article from the Spring 2011 issue.<sup>1</sup> My article summarized the contralife argument, which says that people act wrongly whenever they intend to prevent the existence of a human being. I then defended two theses: (1) unlike the contralife argument, arguments based on the meaning of marital intercourse or the requirements of chastity do not apply to all of the actions prohibited by *Humanae vitae*; and (2) the contralife argument does not rule out periodic abstinence or natural family planning (NFP). I based this analysis on the premise that the distinction between intended effects and foreseen side effects is morally significant—which I described as “the central insight of the principle of double effect” (*NCBQ* 11.1, 83).

Pollock expresses disagreement with the contralife argument but adds, “It is not my present purpose, however, to critique the contralife argument against contraception” (*NCBQ* 11.4, 663).<sup>2</sup> Instead, he criticizes me for appealing to the principle of double effect, as he claims that NFP has no evil effect to make this principle relevant. By declining to engage the contralife argument but still asserting that there is no evil effect of NFP, Pollock begs an important question. If the contralife argument is correct, then the nonexistence of a human being is an evil effect, in the sense of something that people may not intend.

Pollock maintains that the principle of double effect applies only to actions that have two effects; but every action has numerous

effects, and I see no non-arbitrary way of counting them. Consider shooting an assailant in self-defense, a classic illustration of the principle of double effect. The shooting might incapacitate the assailant, kill the assailant, startle someone who hears the gunshot, and so on. Choosing sleep over sexual intercourse during a fertile period might make couples feel sexual frustration, leave pillow marks on their faces, and cause couples to miss out on a tax credit. Even if I am mistaken about the possibility of counting effects, the label “principle of double effect” is not essential to my argument. I regard this principle as a helpful tool for understanding other moral principles, not as an independent source of moral obligations. (Surely people could reach correct moral judgments about difficult cases long before anyone formulated the principle of double effect!) Thus, I could have expressed my analysis of NFP as a clarification of the principle “do not intentionally impede procreation” without ever mentioning the principle of double effect. In general, I see the principle of double effect’s relationship to other moral principles as analogous to the relationship of a rule like “to divide by ten, move the decimal point one place to the left” to other rules of division. Like the principle of double effect, this rule clarifies the implications of other rules but does not add to those rules or make exceptions to them.

Pollock asserts that NFP does not have the effect of a human being’s nonexistence (see 11.4, 665–666), but he provides no general principle or definition of effects to support this assertion. Suppose that a farmer decides to take a spring vacation instead of planting seeds. It seems plausible to classify the lack of crops as an effect of the farmer’s

vacation. Likewise, it seems plausible to classify the nonexistence of a human being as an effect of a couple's performing actions other than having sex during the woman's fertile periods. Even if I am using "effect" more broadly than Pollock would prefer, whether one classifies the nonexistence of a human being as an unintended effect of NFP or as no effect at all makes no difference to my argument. The essential point is that the contralife argument does not rule out NFP.

Pollock also alleges that my analysis of NFP contradicts paragraph 16 of *Humanae vitae*, which says of couples who use excluded means of birth control and couples who practice NFP: "It cannot be denied that in each case the married couple, for acceptable reasons, are both perfectly clear in their intention to avoid children and wish to make sure that none will result."<sup>3</sup> I agree that a superficial reading of this passage, at least in its English translation, seems to contradict my position.<sup>4</sup> I find myself in good company, however, as this passage also seems to contradict paragraph 14 of the same encyclical, which prohibits "any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation—whether as an end or as a means."<sup>5</sup> In a part of my article that Pollock does not mention, I explicitly addressed the apparent contradiction between my position and paragraph 16 of *Humanae vitae*. I distinguished two different senses of intention: "people can intend X by having a desire for X that they hope to fulfill, or they can intend X by having X as an end or means of their actions" (11.1, 93). I then argued that couples who use NFP intend the nonexistence of a human being only in the first sense (11.1, 93–96). Someone might reject my position, specifically the claim that an effect can motivate an action without being intended, but Pollock accepts the distinction between intentions and motives as "basically sound" (11.4, 665).

According to Pollock, *Humanae vitae* prohibits contraception "not because contraception involves an immoral intention to prevent new life but because contraception involves an immoral way of fulfilling that intention" (11.4, 664). I disagree with

Pollock's interpretation. (If correct, his interpretation still would not refute the contralife argument, which does not claim that contraception is morally wrong for only one reason.)<sup>6</sup> The term "contraception" does not appear in *Humanae vitae*—and wisely so, since using that term would invite disputes about translations and definitions. As noted above, paragraph 14 identifies the prohibited action by its intention: "Similarly excluded is any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation, whether as an end or as a means." Pollock's interpretation makes hash of this passage. Substitute the phrase "action specifically intended to prevent procreation" from *Humanae vitae* for the word "contraception" in Pollock's statement, and the following unintelligible claim results: "*Humanae vitae* prohibits any action specifically intended to prevent procreation not because any action specifically intended to prevent procreation involves an immoral intention to prevent new life but because any action specifically intended to prevent procreation involves an immoral way of fulfilling that intention."

Pollock concludes by accusing me of contradicting the Church's teaching that NFP is "positively virtuous" (11.4, 667). After summarizing *Humanae vitae*'s commendation of NFP, Pollock adds, "If this is what the Church teaches about NFP, it is no creditable defense of her teaching to characterize NFP as necessarily involving the regrettable permission of evil" (11.4, 667). The characterization of NFP as "regrettable" is not mine. Pollock assumes that actions permitted by the principle of double effect "always involve the permission of foreseen though unintended evil effects" and "are always and to that extent regrettable" (11.4, 662). I see no reason to limit the principle of double effect in this way. Suppose that a mother runs into a burning building to save her child, foreseeing that the smoke will fatally damage her own lungs. This action is heroic, not regrettable, but someone still could use the principle of double effect to explain why the mother does not intend her own death. In general, an *effect* can be regrettable even when the *action* is

not. Thus nothing in my article entails that NFP is regrettable—or even that people who use NFP must feel regret about not conceiving a child. Whether an agent regrets an effect does not determine whether the agent intends that effect. If a premenopausal woman has a hysterectomy to treat cervical cancer and then feels relieved that she no longer needs to practice NFP, her lack of regret does not make sterility part of her intention.

Neither does my analysis of NFP entail that avoiding procreation is a “harmful” or “unwanted” effect, as Pollock assumes when he writes that “casting NFP as the moral analogate of actions such as lethal self-defense, which, though justifiable, produce harmful and unwanted effects, does no service to the Church’s efforts to recommend this practice to engaged and married couples” (11.4, 667). (This statement again begs the question: it ignores the contralife argument while denying that the nonexistence of a human being is an effect that one may not intend.) Human beings who never exist cannot be harmed, so neither contraception nor NFP harms the children who might have existed otherwise. The example about a premenopausal woman who has a hysterectomy illustrates that an effect can be unintended without being unwanted. My analysis of contraception and NFP focuses on what people *intend*, not on what they *regret* or on what they *want*.<sup>7</sup>

Regarding Pollock’s laudable goal of promoting NFP, my article acknowledged that the contralife argument is not always appropriate for pastoral purposes (11.1, 92). I also entirely agree with Pollock that lethal self-defense provides a poor analogate to NFP. In a pastoral setting, someone who lacks the habit of precise moral reasoning might object, “Are you saying that avoiding pregnancy is just as bad as killing a person?” Of course not. A more appropriate (though still imperfect) analogy would be to compare NFP to the premenopausal woman’s hysterectomy. Both those actions result in fewer human beings than would have existed otherwise, but neither the couple nor the woman must intend this effect.

My training is as a moral philosopher, not as a preacher or pastoral worker. I claim

only to have established that the contralife argument does not have the limitations of some other arguments and that it does not rule out NFP. I leave it in the more capable hands of others to determine how, if at all, the contralife argument can serve pastoral purposes.

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<sup>1</sup> Jonah Pollock, “The Principle of Double Effect and Its Inapplicability to the Case of Natural Family Planning: A Response to Lawrence Masek,” *National Catholic Bioethics Quarterly* 11.4 (Winter 2011): 661–667; and Lawrence Masek, “The Contralife Argument and the Principle of Double Effect,” *National Catholic Bioethics Quarterly* 11.1 (Spring 2011): 83–97.

<sup>2</sup> Pollock refers to Janet Smith and Martin Rhonheimer for “critiques of the contralife argument from two very different orthodox Catholic perspectives” (*NCBQ* 11.4, 663, note 3). My article responds to both Smith and Rhonheimer (see *NCBQ* 11.1, 86–87 and 90–91). See Janet Smith, *Humanae Vitae: A Generation Later* (Washington, DC: Catholic University of America Press, 1991), 340–370; and Martin Rhonheimer, *Ethics of Procreation and the Defense of Human Life* (Washington, DC: Catholic University Press, 2010), 61–65.

<sup>3</sup> Paul VI, *Humanae vitae* (July 25, 1968), n. 16.

<sup>4</sup> The complete Latin sentence, with emphasis added, reads, “Si infitandum non est, coniuges in utroque casu mutua certa que consensione prolem ob probabiles rationes vitare *velle*, atque pro explorato habere liberos minime esse nascituros.”

<sup>5</sup> The Latin in this passage, with emphasis added, reads, “actus, qui, cum coniugale commercium vel praevideatur vel efficitur vel ad suos naturales exitus ducit, id tamquam finem obtinendum aut viam adhibendam *intendat*, ut procreatio impediatur.” Comparing this passage to paragraph 16 shows that forms of the English “intention” are used to translate different Latin terms. I am not qualified to quarrel with the translation, but readers of the English should not assume that paragraphs 14 and 16 are speaking of intentions in the same way. If they were, then the two passages would contradict each other, since NFP would fit the description of an action that “is specifically intended to prevent procreation.”

<sup>6</sup> Even in a famous presentation of the argument that contraception violates the goods of

marriage, John Paul II identifies two problems with contraception: “a positive refusal to be open to life” and “a falsification of the inner truth of conjugal love.” See John Paul II, *Familiaris consortio* (November 22, 1981), n. 32.

<sup>7</sup> I suspect that failing to clearly distinguish feelings and desires from intentions explains why some Catholics are skeptical of the contralife

argument. The argument would be mistaken if it claimed that the problem with some methods of birth control is the way that the agent feels or what the agent desires, rather than what the agent intends. I see no way that an exceptionless moral precept could refer to feelings and desires, which differ from person to person and which often are outside of a person’s control.