

The Principle of Double Effect and Its Inapplicability to the Case of Natural Family Planning

A Response to Lawrence Masek

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Abstract. In “The Contraceptive Argument and the Principle of Double Effect” (*NCBQ*, Spring 2011), Lawrence Masek tries to use the principle of double effect to show that natural family planning (NFP) is morally justified. This essay presents a summary explanation of the principle of double effect. It demonstrates that Masek wrongly applies the principle of double effect to NFP. It presents the teaching of the 1968 papal encyclical *Humanae vitae* with regard to NFP, and contends that to apply the principle of double effect to the case of NFP is not only incorrect but also contrary to teaching of *Humanae vitae*. Because Masek implies that NFP involves the (justified) permission of evil, his article also counteracts the efforts of the Catholic Church to promote the practice of NFP. *National Catholic Bioethics Quarterly* 11.4 (Winter 2011): 661–667.

In his article “The Contraceptive Argument and the Principle of Double Effect,”¹ Lawrence Masek tries to use the principle of double effect to show why contraception necessarily includes a morally illicit intention while natural family planning (NFP) does not. By employing the principle of double effect in his moral evaluation of NFP,

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¹ Lawrence Masek, “The Contraceptive Argument and the Principle of Double Effect,” *National Catholic Bioethics Quarterly* 11.1 (Spring 2011): 83–97.

Masek implies that NFP involves the permission (albeit justified) of an evil effect. In this essay I wish to show that, contrary to Masek's argument, the principle of double effect is inapplicable to the case of NFP, which does not involve the permission of evil.

The Principle of Double Effect

The principle of double effect is rooted in St. Thomas Aquinas's justification of private self-defense as articulated in his *Summa theologiae* II-II, q. 64, a. 7. In responding to the question of "whether it is lawful to kill a man in self-defense," Aquinas considers that "nothing hinders one act from having two effects, only one of which is intended. . . . Accordingly the act of self-defense may have two effects, one is the saving of one's life, the other is the slaying of the aggressor." So long as the first effect (which is good) is intended and the second (which is evil) is not, and provided that violence to the aggressor is not disproportionate to the end of saving life, Aquinas concludes that the act of self-defense is indeed lawful.

Subsequently, Aquinas's reasoning with regard to self-defense was more broadly applied and rendered as a principle according to which actions that have two effects, one of which is evil, are morally justified under certain conditions. As articulated by Joseph Mangan, these conditions are "(1) that the action in itself from its very object be good or at least indifferent; (2) that the good effect and not the evil effect be intended; (3) that the good effect be not produced by means of the evil effect; (4) that there be a proportionately grave reason for permitting the evil effect."²

The principle of double effect is a summation of a kind of moral reasoning by which certain actions, having both good and evil effects, are shown to be justified. Since these actions always involve the permission of foreseen though unintended evil effects, however, they are always and to that extent regrettable. Let us consider Aquinas's original case, that of private self-defense. The man who defends himself intends to save his life and foresees but does not intend that an effect of his act of self-defense will be the death of his attacker. The man does not intend to kill his attacker because, *ex hypothesi*, he knows that it is not good for a private individual to kill even a guilty human being; that is, he knows that intending to kill his attacker would be evil, and it is in this way that he considers the death of his attacker an evil effect of his action. The man does not regret his choice to defend himself, but he does regret that the death of his attacker must be an effect of that act of self-defense. His action is morally good, but it has an effect that he does not want and would not choose and that is in that way regrettable.

The Contraceptive Argument and NFP

In his article, Masek first applies the principle of double effect to the case of contraception. He states, "According to the principle of double effect, causing a bad effect is morally justified only if the agent's intention is good and other conditions are satisfied" (84). Contraception, Masek says, is not morally justified, because the agent's intention is bad. He bases this assessment on what has come to be called

² Joseph Mangan, "An Historical Analysis of the Principle of Double Effect," *Theological Studies* 10 (1949): 41–61.

“the contralife argument” against contraception. This argument, advanced by “new natural law theorists” like Germain Grisez and John Finnis, proceeds from the principle that human life is a basic human good and integral to human fulfillment. From this principle they argue that for a person to intentionally act contrary to the good of human life is morally wrong. They then conclude that, since the voluntary act of contraception proceeds from the intention that human life not begin, such an act is contralife, that is, contrary to the good of human life, and therefore immoral.

I believe that there are problems with the contralife argument and that the Church’s teaching on the immorality of contraception is better articulated and defended by arguments that focus on the meaning of the sexual act and the virtue of chastity.³ It is not my present purpose, however, to critique the contralife argument against contraception. My purpose is to critique the way in which Masek employs the principle of double effect to respond to a perceived weakness of the contralife argument: its inability to distinguish morally between contraception and NFP.

That the contralife argument against contraception should have difficulty distinguishing between the morality of contraception and NFP is not difficult to understand. The argument locates the immorality of contraception in the intention to prevent new human life from beginning, an intention that is considered contralife. But do not couples who use NFP also intend to prevent new human life from beginning? It would seem that they do and that it is this intention that motivates all the actions and omissions involved in their practice of NFP. Not only does this allegedly contralife intention seem, *prima facie*, to be common to couples using contraception and NFP, but this is explicitly acknowledged in the encyclical *Humanae vitae*, which states, “It cannot be denied that in each case [contraception and NFP] 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.”⁴

Humanae vitae teaches that the intention to avoid children can, for couples practicing either contraception or NFP, be perfectly acceptable and even virtuous. This is clear not only in the acknowledgment of “acceptable reasons” in the passage quoted above, but even more so in the encyclical’s affirmation that “responsible parenthood is exercised by those who prudently and generously decide to have more children, and by those who, for serious reasons and with due respect to moral precepts, decide not to have additional children for either a certain or an indefinite period of time” (n. 10). The teaching of *Humanae vitae* is that the intention to avoid having children, which is shared by couples who use contraception and couples who use NFP alike, is an exercise of responsible parenthood so long as this intention is formed for “serious reasons” and is carried out “with due respect for moral precepts.” It is of course the central claim of the encyclical that the practice of contraception does not respect

³For critiques of the contralife argument from two very different orthodox Catholic perspectives, 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.

⁴Paul VI, *Humanae vitae* (July 25, 1968), n. 16.

moral precepts and thus fails to embody responsible parenthood. What I wish to highlight is that *Humanae vitae* comes to this conclusion not because contraception involves an immoral intention to prevent new life, but because contraception involves an immoral way of fulfilling that intention.

The Attempt to Apply Double Effect Reasoning to NFP

In attempting to solve the difficulty of distinguishing, from the perspective of the contralife argument, between the morality of contraception and NFP, Masek again applies the principle of double effect. However, his application of this principle to the case of NFP is mistaken, as was his earlier application of the principle to the case of contraception.

As I have noted, Masek first uses the principle of double effect in his determination that contraception involves a bad intention and is therefore immoral. He does not say why he thinks the principle of double effect should be applied to this case. It seems an odd choice. After all, the principle of double effect, as its name indicates, is a kind of moral reasoning that applies to actions that have two effects. Masek asserts that the intended effect of contraception is the prevention of new human life and that this intention is bad. What is the other effect? One might suppose that it is the pleasure of the sexual act or the mutual expression of love. However, Masek is insistent that his identification of contraception with the intention to prevent new life broadens its definition in such a way that it is not limited to the actions of those who engage in sexual intercourse (86).⁵ The effects of sexual acts are therefore not to be identified with the effects of contraception. In his article, Masek gives no indication that there is a second effect of the contraceptive act that merits consideration.

Masek's application of the principle of double effect to the case of NFP involves a similar mistake. He does try to identify two effects of NFP, namely, "a human being's nonexistence," which couples who use NFP do not necessarily intend, and "goods other than procreation," which they do intend (95). As it turns out, however, neither of these so-called effects are actually effects of any action involved in the practice of NFP. What Masek is considering is therefore not a case to which the principle of double effect can be applied, since the principle of double effect applies only to cases concerning actions that have two effects. Because Masek attempts to apply double-effect reasoning to a case in which it cannot be applied, his argument is doomed to fail.

Masek begins his argument by making a distinction between intentions and motives (92–94). A person intends something, he says, when that something is an end or a means of that person's action. A person is motivated by something, but does not in the strict sense intend it, when that something is desired but is not an end or a means of that person's action. To illustrate this distinction, Masek uses the example of a baby with an illness that causes both constipation and earache. Both symptoms cause equal discomfort to the baby and are equally treatable, but they cannot be treated at the same time. The parents must choose which symptom to treat first and,

⁵ Masek offers the example of "a physician who places a progestogen implant into a woman without her consent" as one who would be guilty of contraception without engaging in sexual intercourse (86).

because the lack of dirty diapers will be convenient on their upcoming car trip, they choose to treat the earache first and, for the time being, allow the baby to remain constipated. Masek claims that in this case the parents intend to treat the baby's earache—this is the end they are pursuing in administering the medicine. They do not intend to allow the baby to remain constipated, although the continued constipation of the baby during their car trip is a motivating factor in their decision to treat the earache first. Therefore, he concludes, the parents in this case have acted morally.

I think Masek's distinction between intentions and motives is basically sound, although I would use different terms to account for the same reality.⁶ I also think he is correct in his assessment of the case that serves as his example. The parents intend to relieve their baby's earache, they do not intend the baby's continued constipation, and their being motivated by the consideration of their own convenience does not prevent our coming to the conclusion that their action is morally justified. Furthermore, Masek's analysis of this case is a correct application of the principle of double effect. The parents' choice to treat their baby's earache is a choice of an action that has two effects. The first, which is good and which they intend, is the relief of their baby's painful symptoms. The second, which is bad and which they do not intend, is allowing their baby's constipation to go untreated. The parents do not want their baby to remain constipated, but allowing this evil effect is a necessary consequence of choosing the good effect of curing the earache. The choice is good. Permitting the evil effect that the choice necessarily involves is justified, but regrettable.

Masek's argument becomes problematic when he attempts to apply to NFP the same double-effect reasoning that he applied to the previous case. He asserts,

As the parents [in the previous case] treat the good of their baby's recovery from constipation, couples who use NFP treat the good of human life. As the parents promote their baby's recovery from another condition, couples who use NFP promote goods other than procreation. As the parents do not intend their baby's constipation as an end, couples who use NFP do not intend a human being's nonexistence as an end. As the parents do not intend their baby's constipation as a means to the end they do pursue (i.e. their baby's recovery from an earache), couples who use NFP do not intend a human being's nonexistence as a means to whatever ends they do pursue (i.e. raising other children, completing an education, etc.). (94–95)

The problem is that the two cases are not parallel. In the case of the parents of the sick baby, the good that they pursue, "their baby's recovery from an earache," and the evil that they permit, "their baby's constipation," are effects of the action they choose. The act of administering the medicine to treat the baby's earache causes both effects to come about. In the case of the couple that practices NFP, the goods that they pursue, "raising other children, completing an education, etc.," and the evil that they supposedly permit, "a human being's nonexistence," are not effects of any

⁶I think that what Masek calls "motives" would be accounted for in a Thomistic framework within the category of "circumstances." A circumstance can motivate a chosen action without being morally relevant. For example, one might be motivated to steal a car because it is blue.

of their chosen actions.⁷ No act they choose pursuant to their practice of NFP causes these effects to come about.

The raising of children, the completion of an education, and the like may indeed be goods that couples who use NFP pursue and are motivated by, but neither these goods nor “a human being’s nonexistence” are effects of any action they choose. A couple using NFP may choose to test the fertility of the woman and have intercourse only during infertile periods. These actions may be motivated by their desire that one or both of them complete a graduate degree. Neither action, however, will bring about the completion of the degree. Completing a graduate degree cannot be an effect of an action involved in the practice of NFP. What it can be is an end, for the sake of which couples who use NFP choose to avoid the conception of a child.

Masek has drawn a false comparison between the goods and the evil that couples who use NFP supposedly pursue and permit and the good and evil *effects* that the parents in his example pursue and permit. For this reason, his claim that “as the parents do not intend their baby’s constipation as a means to the end they do pursue (i.e. their baby’s recovery from an earache), couples who use NFP do not intend a human being’s nonexistence as a means to whatever ends they do pursue (i.e. raising other children, completing an education, etc.)” is also false. Since the goods and the evil that Masek considers couples who use NFP to be pursuing and permitting are not effects of any of their actions, double-effect reasoning does not apply. Therefore, “a human being’s nonexistence” cannot be considered an unintended side effect of an action intending to bring about “raising other children.” The goods that couples who use NFP pursue, such as the raising of children or the completion of an education, are ends or goals, and what they choose to do in order to achieve these goals, such as avoiding the conception of a child, they choose as means to those ends. Therefore, if intending to avoid conception as an end or a means were in fact evil, as Masek says it is, we would have to conclude that NFP is immoral, since it would entail the choice of an evil means in pursuit of a good end. In truth, however, and according to the teaching of *Humanae vitae*, the intention of couples who use NFP to avoid the conception of a child can be good and even virtuous.

In Defense of NFP

I cannot here attempt a theological defense of the teaching of the Catholic Church on NFP. I have not the space, and it is not my purpose to do so. I can reiterate that teaching as presented in *Humanae vitae*. As noted earlier, the encyclical teaches that “responsible parenthood is exercised by those who prudently and generously decide to have more children, and by those who, for serious reasons and with due respect to moral precepts, decide not to have additional children for either a certain or an indefinite period of time” (n. 10). It affirms that “the Church is the first to praise

⁷I say “supposedly” because I do not think that couples using NFP permit “a human being’s nonexistence” any more than anyone else who does not presently aim to bring about the conception of a child. Here my quarrel is with the contralife argument, which is not the purpose of this essay. My present quarrel is with the assertion that “a human being’s nonexistence” can be considered an *effect* of an *action* involved in the practice of NFP and therefore subject to double-effect reasoning.

and commend the application of human intelligence to an activity in which a rational creature such as man is so closely associated with his Creator” (n. 16). It concludes,

If therefore there are well-grounded reasons for spacing births . . . , the Church teaches that married people may then take advantage of the natural cycles immanent in the reproductive system and engage in marital intercourse only during those times that are infertile, thus controlling birth in a way which does not in the least offend the moral principles which We have just explained. Neither the Church nor her doctrine is inconsistent when she considers it lawful for married people to take advantage of the infertile period but condemns as always unlawful the use of means which directly prevent conception. . . . In reality, these two cases are completely different.” (n. 16)

The encyclical acknowledges, however, that the difference between these two cases is not a difference in intention:

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. But it is equally true that it is exclusively the former case [NFP] that husband and wife are ready to abstain from intercourse during the fertile period as often as for reasonable motives the birth of another child is not desirable. And when the infertile period recurs, they use their married intimacy to express their mutual love and safeguard their fidelity to one another. In doing this they certainly give proof of a true and authentic love. (n. 16)

In *Humanae vitae*, the proper practice of NFP is characterized as an exercise in responsible parenthood and a demonstration of true and authentic love. It is a practice that the Church praises and commends and considers not the least bit offensive to moral principles.

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. The Church praises and commends NFP and considers its proper practice positively virtuous. 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. Against such a defense, the Church’s teaching needs to be defended.

In the end, Masek’s use of the principle of double effect to justify the practice of NFP turns out to be both a misuse of the principle of double effect and an injustice to the Church’s teaching on NFP. In the interest of sound moral theology, it is important to recognize the limited application of the principle of double effect. It is a principle that arises from the thought of Aquinas and operates within the Thomistic framework of actions and effects, means and ends, good and evil, objects and intentions. It applies only to cases in which an action has two effects. If one is not talking about actions and effects, the principle does not apply. In the interest of the pastoral care of the faithful, it is important reaffirm the Church’s teaching on and commendation of the practice of NFP. It is not something that brings about both good and evil, whether intended or permitted. It does not cause “a human being’s nonexistence.” It is not motivated by a contralife desire. It is not regrettable. On the contrary, NFP, practiced properly, is to be commended as an exercise of responsible parenthood that proceeds from good intentions and gives evidence of true love.