

The principle of dual effect

I am finding it increasingly difficult to practise medicine unless it is set in a framework of guidelines or legislation. Although I am not entirely comfortable with them, I have welcomed recent clarifications and the increased role of the courts as part of the necessary changes in practice and approach. I thought Charles might have a different view so I discussed it with him over dinner where we joined Benedict, a recently retired physician, whom I knew to have sincere traditional religious views.

After the initial greetings I ventured, 'Charles, at last we seem to be getting some firm guidance to help with some of the ever-increasing ethical problems in our practice. Presumably this will help us to solve them and, dare I hope, reduce their numbers?'

Benedict added, 'I really did not have much trouble with these problems. I would be interested in your views, Charles – is it simply because now we can do more?'

'I'm sure it isn't, Benedict, as I am sure that Coe's hopes are forlorn,' Charles replied. 'I'm afraid that all that the well-intentioned interventions will do is to set up a vicious circle of a lower threshold for perceiving problems as difficult as well as increases in legislation and guidance.'

'Why, Charles?' Benedict intervened.

'I can see two driving forces,' Charles replied. 'Patients will feel more often that there is a problem requiring an independent decision and legislation and guidance will expand to cover new aspects.'

'And from our perspective, Charles?' I asked.

'The courts will find problems that you have not anticipated thus reducing the profession's confidence in dealing with these matters unaided. Furthermore, some doctors will take the easy way out and refer everything when in doubt. Normal distribution determines that as more cases are raised the proportion of marginal ones which appear to be a matter for the courts will increase, so both prudence and laziness will expand the business almost exponentially.'

'Certainly things were different when I was a resident medical officer at a postgraduate teaching hospital,' Benedict continued, 'Most of the consultants were part-time and true to their name were only occasionally available for consultation and much was left to me. This was the time of post-registration house officers, essentially underpaid SHOs. One of them, Raffles, was bombastic in speech and action and unique for the time in being not only married but also divorced!'

'Clearly a scenario for drama.'

'How did you guess? One morning I had two knocks on my office door in quick succession. The first was by a rather obsessional colleague of Raffles who reported that the latter had given a large dose of intramuscular chlorpromazine to a panicking asthmatic girl and gone straight to bed. The second was by the effusive Spanish head cleaner, Miss Ajous, known to all as "Ajax the Foaming Cleanser" after a well known advertisement. She complained that she could not do Raffles' room that morning "because his bed is full of woman!"'

'What did you do?' I asked.

'Although I liked to keep good relations with the domestic staff, I was not unduly concerned whether or not Raffles's bed was made. I was not particularly worried but I summoned Raffles to my office.'

'And the outcome?'

'Raffles said that he thought both of them needed a good night's sleep and they both had had one. He told me that the next morning she was sitting up in bed wheeze-free and raring to go. I told him that there were various ways of interpreting a good night's sleep and gave him an unwritten reprimand for having an unauthorised visitor in his room over night.'

I could see Charles's eyes light up as this sent him on a train of thought, 'The principle of dual effect!' he exclaimed. 'Not just once but twice, both Raffles "slept" well and she, the patient, slept well. Her asthma was cured because the vicious circle of panic and emotional induction of wheeze was broken.'

‘But against all clinical guidance!’ I said. ‘Though I must confess, more than once I have seen an emphysematous patient in his last days temporarily improved with an opiate in a dose which might be expected to depress his respiration, perhaps terminally. There are possible physical rather than emotional explanations for both, reduction of exercise induced wheeze in the asthmatic and of counter-productive work of breathing in the emphysematous.’

‘Be that as it may, Benedict’s story has many relevant points. He administered informal paternalistic summary justice. This requires a universally accepted moral and disciplinary ethos. This no longer exists and so now it is perceived that only a detached tribunal can administer justice. The process has to be “transparent”. In another field, military law is to be changed to achieve this.’

We both asked what else.

‘It shows there is much uncertainty in what we do despite modern society yearning for the opposite.’

‘But might not uncertainty sometimes make decisions easier to make?’ *I asked.*

‘It may well be true that where the potential evil outcome is less than certain, the principle of dual effect is easier to apply, at least emotionally. In the past intellectual climate, Benedict had no difficulty in accepting the principle intellectually and emotionally. I am sure that that is why he slept soundly in his bed rather than worried all night, and why he could give firm advice to his patients and their relatives without them feeling the need for confirmation in the courts.’

‘But modern philosophy would disagree,’ *I interjected.* ‘I have read erudite articles which clearly show the principle to be nonsense. You cannot do something and not intend each and every one of its consequences.’

‘That is true if you do not accept the fundamental dichotomy of the physical and the metaphysical. I personally believe that intention and consequence can be separate – one being essentially metaphysical and the other physical. Nevertheless, in applying the principle justly and ethically one is operating in both territories and one must consider not only the probability, but also the weight and order of the two consequences.’

‘But the principle hardly applies in the commonest of these problems – withdrawal of life support,’ *I interjected.*

‘Not if you believe death is not the end.’

‘Quite,’ reflected Benedict.

I took Charles’ point that life was easier in days of greater unanimity about morals coupled with willingness to tolerate uncertainty, but as I walked home I began to wonder whether he was suggesting, indeed with the tacit agreement of Benedict, that in these days of the artificial prolongation of life there is an ethical case for a more proactive approach to ending life within the Judeo-Christian tradition. Perhaps one day I will ask him whether there is, and whether it prevails.

Coemgenus