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Double Meanings Will Not Save the Principle of Double Effect

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Abstract

In an article somewhat ironically entitled “Disambiguating Clinical Intentions,” Lynn Jansen promotes an idea that should be bewildering to anyone familiar with the literature on the intention/foresight distinction. According to Jansen, “intention” has two commonsense meanings, one of which is equivalent to “foresight.” Consequently, questions about intention are “infected” with ambiguity—people cannot tell what they mean and do not know how to answer them. This hypothesis is unsupported by evidence, but Jansen states it as if it were accepted fact. In this reply, we make explicit the multiple misrepresentations she has employed to make her hypothesis seem plausible. We also point out the ways in which it defies common sense. In particular, Jansen applies her thesis only to recent empirical research on the intentions of doctors, totally ignoring the widespread confusion that her assertion would imply in everyday life, in law, and indeed in religious and philosophical writings concerning the intention/foresight distinction and the Principle of Double Effect.

Key words: double effect, end-of-life, foresight, intention, sedation

I. INTRODUCTION

It is generally accepted that on some occasions (if only rarely) a doctor will feel it necessary to give sedatives to a terminally ill patient for the relief of suffering in doses that may hasten death (Sykes and Thorns, 2003; Cherny et al., 2009). According to the Principle of Double Effect, such an action may be permissible, as long as the patient’s death is not intended but “merely” foreseen as a “side-effect” of treatment; whereas to give drugs with the intention of hastening death is to perform euthanasia, a kind of action that is impermissible (Sulmasy and Pellegrino, 1999). That, at least, is a widely held philosophical view, and it is thought to underpin the law in many jurisdictions (Skene, 1998, 10.13; Cantor and Thomas, 2000, 113, footnote 108). Empirical studies regarding end-of-life care show, however, that the distinction between intention and foresight is sometimes blurred (Douglas, Kerridge, and Ankeny, 2008, 2013). This finding is problematic for those who take a strictly deontological view of ethics. Without a clear distinction between intention and foresight, the Principle of Double Effect cannot be invoked to separate neatly right actions from wrong.

Lynn Jansen takes two alternative approaches to this “problem” (Jansen, 2010). In the latter part of her paper, Jansen argues that intention is important in end-of-life care, even if the intention/foresight distinction is sometimes unclear, and even if the Principle of Double Effect is an unsatisfactory account of reasoning at the end of life. We endorse this general form of argument. Indeed, our recent study of palliative care physicians shows that they are generally committed to the intention/foresight distinction, despite its ambiguities in difficult cases (Douglas, Kerridge, and Ankeny, 2013).

But it is Jansen’s primary approach to research on intention that is the subject of this reply. She questions the validity of the empirical evidence on the basis of a hypothesis that the word “intention” has two distinct common-sense meanings that are likely to be conflated by anyone who is asked about his or her intentions. We argue that this claim has no merit.

II. THE “TWO SENSES OF ‘INTENTION’ HYPOTHESIS” STATED

To show what Jansen means when she says there are two senses or two kinds of “intention,” we repeat here a version of a classic philosophical thought experiment used by Jansen. We have modified the example in morally unimportant ways to make certain that it resembles a real-life dilemma. “Strategic Bomber” plans to bomb a munitions factory, which has been deliberately built by “Enemy” within a village (as Enemy knows that this will cause moral difficulties for those wanting to attack the factory). Strategic Bomber knows that if he bombs the factory he will almost certainly kill innocent children in the village, in houses close to the factory. He greatly regrets causing these deaths, but he believes that this harm is outweighed by the good of defeating Enemy. Critically, the deaths of the children are not a necessary or causally efficacious part of his plan, and he takes steps to reduce the risk of killing the children, including flying over the target once to scare them away. However, he cannot keep doing this, as it will allow Enemy to mobilize and defend the factory, so he proceeds with the bombing of the munitions factory on a second pass, knowing that it is still likely to kill some children. It subsequently becomes apparent that a number of children have indeed been killed in the bombing.

Jansen implies that it is perfectly natural for Strategic Bomber to say that it was his intention to kill the children, that he intended to kill them, that he dropped the bomb with the intention of killing them, and so on. This is so, Jansen suggests, because “intended” means foreseen. But it is also perfectly natural for Strategic Bomber to say that it was not his intention to kill the children, and so on, because “intended” also means something more specific like “aimed at,” “planned,” or “tried to.” Armed with these two different understandings of intention, Jansen thinks Strategic Bomber is going to have trouble answering questions about intention.

It is worth stressing here what Jansen is not saying. Many philosophers of action, and particularly those who have looked closely at the Principle of Double Effect, have discussed the problem of intention consolidation (see, e.g., Bennett, 1998, 205; Foot, 2001; Delaney, 2008). The Principle of Double Effect is based on the idea that an action might have two effects: a “good” effect that is intended and a “bad” effect that is merely foreseen. The problem is this: if the “bad” outcome is closely and inevitably tied to the “good” outcome, it sometimes defies common sense to say that it is unintended. If that problem is not at least roughly solved, then the Principle of Double Effect is “nonsense. . .from the beginning” (Foot, 2001, 145). The problem has certainly not been neatly solved (Bennett, 1998; Mason, 2001; Delaney, 2008). In many cases, it seems to be a matter of genuine disagreement about whether a person intended or merely foresaw a particular outcome.¹

This is clearly not Jansen's point. Confusion arises, Jansen suggests, not because there is a singular concept of intention that is inherently difficult to define and difficult to judge but because there are two separate commonsense concepts that just happen to go under the same name.

Of course, Jansen would have trouble writing an article about intention using the word "intention" without it being obvious that she knows that we know what intention means. So she defines two new terms to replace "foreseen" and "intended." According to Jansen, consequences that are foreseen should henceforth be described as "broadly intended," and consequences that really are intended should be labeled "narrowly intended." So, Jansen says, we have two "types of intention."

Jansen applies her hypothesis to our empirical research on end-of-life care in medicine. She suggests that "Those who have attempted to gather data on the alleged uncertainty and ambiguity of clinical intentions with regard to end-of-life care systematically have failed to take account of a key distinction between types of intention" (Jansen, 2010, 25). No other consequences of her hypothesis are considered. This limited application creates the impression that she may have been looking for a reason to dispute empirical evidence that challenges her philosophical commitments, rather than advancing a hypothesis because it is good philosophy (or perhaps linguistics) and drawing out its implications. We need to consider the broader merits and wider implications of her idea before it is applied to the setting of end-of-life care.

III. POSSIBLE ORIGINS OF THE HYPOTHESIS

Jansen seems to have seized on a passage in Thomas Scanlon's book where he writes that "intention is commonly used in a wider and a narrower sense" (Scanlon, 2008, 10). It seems likely that Scanlon was carelessly imprecise in making this initial statement, because his subsequent claim about a "wider sense" appears to refer only to the use of the words "intentional" and "intentionally." It is not at all clear that Scanlon believes that the noun "intention" or verb "intend" have two senses. In fact, he later states that "to ask a person what her intention was in doing a certain thing is to ask her what her aim was in doing it" (Scanlon, 2008, 10, emphasis added).

In contrast, Jansen suggests that to ask a person what her intention was (or what she intended) in doing a certain thing is not to address her aims unambiguously. Jansen thinks that a question about intention may refer to all the foreseen outcomes of the agent's action, including the "merely" foreseen outcomes that are not aimed at, not desired, not planned—in short, not really intended at all. Jansen seems to get to this point by conflating (much more thoroughly than Scanlon) the use of different members of the family of words associated with "intention." She uses the adverb as an illustration to defend a claim about the noun as follows: "On the broad sense of intention, the person intentionally makes a loud noise when he hits the nail with the hammer" (Jansen, 2010, 23). If the noun really does have a "broad sense," one wonders why Jansen has not illustrated this with the noun itself. Perhaps this is deliberate sleight of hand, or perhaps it has not occurred to Jansen that what is true of one member of the family of words is not necessarily true of all related words or the entire subject. Although Jansen does not explicitly argue the logic of extrapolating in this way, we need to look at whether her implied argument is valid. We also need to look more closely at Jansen's (and Scanlon's) claims about the use of "intentional" and "intentionally."

IV. GAMES WITH ADVERBS AND ADJECTIVES

The Latin word *intendere* means to direct or stretch toward or aim, and this is the origin of words like “intend,” “intention,” “intentional,” and “intentionality” (Scruton, 1994, 40; Oxford Dictionaries, 2010). “Aim” is Jansen’s “narrow” meaning, so how, plausibly, might any of these words have gained a broader meaning?

In philosophy, “intentionality” refers to the property of states of mind such that they represent or are “about” (or are directed toward) something (Searle, 1983, 1; Scruton, 1994, 40). In commonsense speech, to describe an action as “intentional” may only be to assert that it is under conscious control, related to some intentional state, or associated with some aim; and the same goes for the adverb, as in the following sentence:

A: Strategic Bomber acted intentionally.

Because this sentence does not describe Strategic Bomber’s action (in terms of its outcomes), we have not even hinted at what his state of mind is about, or what the aim might be. So, we could allow that “intentionally” at least has some kind of wider sense, although it is limited, and it says nothing specific about outcomes (aimed at or foreseen).

However, it seems (in commonsense) that when an action is described in a specific way, according to an outcome of interest, the words “intentional” and “intentionally” gain the standard “narrow” sense. This is illustrated in the case of the adverb by the following sentences:

B: Strategic Bomber dropped the bombs intentionally, killing the children.

C: Strategic Bomber killed the children intentionally.

D: Strategic Bomber killed the children purposely.

We think that most people responding to proposition B would probably say that it is true, the “narrow sense” of intentionally applying to the dropping of the bombs. With the help of a strategic comma, the sentence seems to imply that “killing the children” was something that the bombs did, not something that Strategic Bomber “did” intentionally. Sentence C is more problematic. If forced to give a true or false value to this proposition, one could argue that it is true. Strategic Bomber did kill the children, and he did it “intentionally” (through “intentional” action, with an intention, albeit not the intention to kill the children).² But we think most people would be inclined to say that the proposition is false, resisting its implication. By describing the action in terms of the deaths of the children, the sentence seems to imply that killing the children is the plan, the aim, that which Strategic Bomber was trying to do. Sentence D obviously has the same problem. We have included it to show that if Jansen’s claim were true about “intention,” it should equally be true of words that are roughly synonymous with intention, for reasons that will become apparent below.

Scanlon suggests something different from what we have acknowledged in regard to sentence A above (Scanlon, 2008, 10, 11). Although it is not absolutely explicit, Scanlon seems to infer a meaning of “intentional” from a use of the word “unintentional.” He says that a man claiming he caused a death unintentionally wants to imply that he did not even know he was causing that death.³ Scanlon asserts that there is a wider sense of “intentionally” that is opposed to “unintentionally,” and which (therefore) means simply “did know” instead of “did not know.” Thus, on Scanlon’s wider sense, an agent causes “intentionally” all that he foresees, and it does seem that Scanlon would think it reasonable to say that Strategic Bomber “intentionally” killed the children.

From an academic perspective, Scanlon’s claim about the “wider” sense of the adverb and adjective is not uncontroversial. He cites a passage from Elizabeth Anscombe in which he thinks she “may” share his understanding (Anscombe, 1958, 9), but there are other passages in which it seems very clear that she does not. For example, Anscombe writes that “Something is voluntary though not intentional if it is the antecedently known concomitant result of one’s intentional action, so that one could have prevented it if one would have given up the action; but it is not intentional” (Anscombe, 1958, 88, emphasis added). And Mele and Sverdlik argue that an outcome unintended but foreseen should be called “nonintentional,” which is a far cry from “intentional” (Mele and Sverdlik, 1996).

Of course, there is no need to go over the philosophical literature exhaustively. What matters here is commonsense meaning, not what academics have argued. There is certainly evidence from empirical studies that statements like C are evaluated by “ordinary people” inconsistently, with many subjects judging unintended side effects to be brought about “intentionally,” but more frequently so when the side effect is a good one than when it is harmful (see, e.g., Knobe, 2003; Leslie, Knobe, and Cohen, 2006; Nadelhoffer, 2006). Jansen presumably knows about this problem because she has used propositions, including the adverb “intentionally,” in her own quantitative research on intention (Jansen and Fogel, 2009). There has been some speculation about what this implies in terms of the way that people mix moral judgments with judgments about intention. However, it seems highly likely that much of the difficulty arises because subjects are forced to dichotomize in relation to ambiguous propositions. Almost all subjects would prefer to say that foreseen but unintended side effects are brought about “knowingly” or even “willingly” rather than “intentionally” (Guglielmo and Malle, 2010).

Even if we do accept that there is some potential for linguistic confusion associated with the use of the words “intentional” and “intentionally,” is there any reason to believe that this confusion “spreads” to the associated noun and verb? We think not. First, we note that the literature shows that subjects are far less likely to say that a man “intended” a foreseen side effect than they are to say that he brought about that side effect “intentionally” or “purposely” (Nadelhoffer, 2006). Second, we can show that the ambiguity occasionally associated with adjectives and adverbs is not limited to “intention” and its synonyms, and that it is nonsensical to extrapolate from this problem to the noun and verb. Consider the following example:

The Queen is in a very happy mood because she is watching a wonderful fencing bout. And she “happily” drinks a glass of wine that she does not realize has been poisoned. We can therefore say the following:

E: The Queen happily drank the wine that had been poisoned.

F: The Queen happily drank poison.

G: The Queen happily poisoned herself.

There is nothing wrong with any of these sentences, and they can all be said to be true, but they are misleading to varying degrees. The Queen was in a happy state of mind (in the “wider” sense, roughly analogous to an “intentional” state of mind) as she performed this action, an action that ultimately caused her own death. But the sentences do not specify what she was happy about. If asked “why are you happy?” she would not have said that she was happy about poisoning herself. Similarly, Strategic Bomber was in an intentional state as he caused the children’s deaths, but that statement does not specify the details of his intentional state, and if he were asked what he intended to do, he would not have said that he intended to kill the children.

It is perfectly clear that the possible ambiguity in sentences F and G does not lead us to say that there are two meanings of “happy” such that sometimes it means happy and sometimes it does not, or such that people will become confused when we ask them about happiness. Similarly, there is absolutely no reason to believe that the ambiguity associated with certain uses of the words “intentional” or “intentionally” (or their synonyms) demonstrated in sentences C and D “infects” the whole subject of intention, as Jansen claims.

V. THE ABSENCE OF CREDIBLE EVIDENCE

We should return to examine on their own merits the noun and verb, which Jansen also claims have two senses. Jansen offers no evidence whatsoever in favor of this hypothesis, and there is plenty against it. Dictionary definitions would be a starting point—these are, after all, based on the meanings of words as they are actually used. Jansen gives no dictionary definition, but the Oxford Dictionary offers for “intention” “a thing intended; an aim or plan”; and for “intend,” “have as one’s purpose or intention; plan” (Oxford Dictionaries, 2010). No alternative definitions consistent with Jansen’s “broad” sense are offered.

What about the paradigm case that Jansen introduces, that of Strategic Bomber? We think it is clear enough that the “common-sense” view is that Strategic Bomber did not intend to kill the children, and we think that most people would show none of the confusion that Jansen imagines. But even if there is some disagreement or uncertainty about Strategic Bomber’s intention, the matter is not settled. Jansen wants us to believe that confusion about intention, or difference of opinion about intention, might be due to the “two senses” of the word “intention.” If this is true, then it should not be hard to find evidence of the problem.

Suppose that Michael thinks that Strategic Bomber intended to kill the children. To check whether his belief is consistent with Jansen’s hypothesis, we would need to clarify that Michael thought this because he considered all foreseen consequences to be intended. We could then object thus: “But the dictionary definition of intention is ‘an aim or plan’, and Strategic Bomber clearly did not plan to kill the children.” To this Michael would have to reply along these lines, “oh, sure, now I see, you mean that kind of intention, the dictionary kind of intention. I thought you meant the other kind of intention. OK then, Strategic Bomber did NOT intend to kill the children, in the dictionary sense.”

Alternatively, suppose Wendy has trouble answering the question about whether Strategic Bomber intended to kill the children or not. Jansen's hypothesis would be supported if Wendy were to say something like this: "I can answer easily enough, but first you have to clarify something, because the question is ambiguous. I am not sure whether you mean the kind of intention where Strategic Bomber is planning to kill the children, or the kind of intention where Strategic Bomber is not planning to kill the children."

This makes clear how absurd Jansen's hypothesis is. These misunderstandings do not happen, and these clarifications are never requested. When a man asks his son whether he hit his brother with a stick on purpose, the child will say, "I was just swinging the stick around my head; I did not do it on purpose." He will not say anything remotely resembling: "do you mean broad purpose or narrow purpose?" Nor does he say, "yes, I did it on purpose" (meaning "broad purpose") or even "I do not understand the question, Dad," which might get him sent straight to "time out" (along with Jansen) for being disingenuous. He knows that he is being asked if he tried to hit his brother, not whether he could foresee that physical contact was a possibility. Even a child knows that "purpose" has only one common-sense meaning in this context. Similarly, we do not hear the accused in court stopping to ask for clarification about questions of intent: "Did I intend to kill him, your Honour? Do you mean in the broad sense or the narrow?" And, although Jansen insists on replacing "intention" with "(narrow) intention" throughout her paper to create the illusion that there is some need for clarification, this "problem" is feigned. Jansen is the only one who feels the need to clarify, and even in her own earlier publications, Jansen uses the word "intention" repeatedly without specification (Jansen and Fogel, 2009).

Despite all this, if Jansen genuinely believed her hypothesis worthy of testing, then she could have interviewed people about their understanding of intention and foresight in some appropriate setting to see if they do routinely seek the kind of clarification she imagines is necessary. While Jansen does not appear to have conducted this type of research, we have (Douglas, Kerridge, and Ankeny, 2008, 2013). In approximately 30h of in-depth interviews focused on the distinction between intention and foresight in end-of-life care, not a single participant ever responded in the ways that Michael and Wendy do in the hypothetical instances above. In our interviews with general physicians, respondents were repeatedly encouraged to "disambiguate," being offered the intention/foresight distinction (or the "narrow intention"/"broad intention" distinction as Jansen would have it) under multiple different descriptions using different words. Respondents repeatedly resisted the distinction. The efforts we made to clarify were explicitly described in our published paper but that point has not been acknowledged by Jansen. Instead, she speculates that our data provides support for her hypothesis on the basis of one nonspecific quote: "it's all a matter of words" (Douglas, Kerridge, and Ankeny, 2008, 391). She chooses to ignore many other quotes provided in our paper that are inconsistent with her hypothesis. For example, one respondent said, "if I know that it's going to do that (hasten death). . . in a way that's part of the intention." Arguably, he could be talking about the "broad" sense of intention. But he also says "the intention's not to kill," which would suggest that he is talking about the "narrow" sense. But then he says, "do you intend hastening the patient's death? Well, yes, you do." So maybe he is talking about the broad sense after all. And then he says, "there's a necessary ambiguity." But at no point does he ever suggest that there is an unnecessary ambiguity that we could easily clear up with a change of language. Similarly, another respondent says, "although the question is very clear, I don't think in the practical situation it can be interpreted in black and white" (Douglas, Kerridge, and Ankeny, 2008, 391).

VI. BORROWED REPUTE

In addition to misrepresenting the findings of our research, Jansen appears to misrepresent other published works in order to imply that her hypothesis is already established. Jansen writes that “the two senses of intention I am referring to have been discussed extensively in the philosophical literature.” In support of this claim, she quotes Thomas Scanlon, as previously noted. She also cites two other philosophers, Elizabeth Anscombe and Michael Bratman (Jansen, 2010, 23). Perhaps not surprisingly, these are the two authors cited by Scanlon in his paragraph on the “wide” and “narrow” senses of intention (Scanlon, 2008, 10, 217).

With regard to the books by Bratman and Anscombe, it is difficult to know what sections of these texts Jansen has in mind, because she provides no page numbers. We believe that neither of these authors says anything even close to what Jansen claims, and we think that the following passages show how seriously Jansen has misled her readers. Here is what Bratman has to say:

Strategic Bomber. . . does not intend to kill the children. . . it might be suggested that although he does not directly intend to kill the children (he) does obliquely intend to kill them. And you can say this if you like (but) I think that talk of oblique intention is likely to mislead. (Bratman, 1987, 142, emphasis in the original)

So Bratman does talk of another sense of intention, but this second sense is a philosopher’s sense; it requires qualification with the word “oblique,” and it is in Bratman’s view misleading. Bratman clearly believes the word “intention” has a single commonsense meaning; this is evident from his unqualified use of the word throughout his book (long before he gets to the idea of “oblique intention”). Indeed, Scanlon only cites Bratman as an example of someone who “emphasizes” the “narrow” sense (Scanlon, 2008, 10, 217). With regard to the specific example of Strategic Bomber, against Jansen’s claim, Bratman is very clear that there is a commonsense view that Strategic Bomber does not intend to kill the children (Bratman, 1987, 140, 143).

The reference to Anscombe’s work is even more troublesome, because Anscombe writes on the very first page of her book *Intention* that there are not two senses of intention:

[I]t is implausible to say that the word (intention) is equivocal. . . . where we are tempted to speak of “different senses” of a word which is clearly not equivocal, we may infer that we are in fact pretty much in the dark about the character of the concept which it represents. (Anscombe, 1958, 1)

VII. WHERE DOES THE CONFUSION BEGIN AND WHERE WOULD IT END?

For a very long time there has been a dialogue about the moral importance of the “intention/foresight distinction,” and philosophers, judges, lawyers, religious instructors, and medical educators have relied on the meaning of “intention” in probably millions of unqualified uses of that word to debate or explain what we may and may not do, and what we may or may not be punished for doing. But now Jansen tells us that intention means foresight. So does she think that the “intention/foresight” distinction may have just been the “foresight/foresight” distinction all

along? Does she think that we should dismiss all of the articles, books, and pieces of legislation that have “failed to take account of a key distinction between types of intention”? We doubt it. We think that she would say, in the context of this dialogue, we have known that “intention” specified aim.

But if that is the case, when and why did we lose this contextual grip on the word “intention”? In Jansen’s paper she selects, from the sea of literature on intention, two articles where she thinks confusion about intention may have arisen. One of these is our own paper. In the other, Timothy Quill reflects on his own intentions relating to the possible assisted suicide of one of his patients (Quill, 1993). Jansen suggests that Quill did not know which sense of intention he was being asked about, even when he posed the question to himself!

The appropriateness of the language of intention in everyday life (setting aside philosophers’ musings) has not been seriously challenged, even by Jansen, until recently. But now that empirical studies on intention have been conducted, using exactly the same language that we have always used, Jansen proposes a double-meaning hypothesis that she thinks has created confusion. It is difficult not to conclude that Jansen’s hypothesis is simply an (ill-founded) attempt to rescue deontic ethics from the challenges of empirical research.

It has been a long time coming, but the claims of moral philosophy are now gradually being put to the test, and some claims have been found wanting. The Principle of Double Effect is proving to be (as many have previously argued) an idealized and somewhat unrealistic account of the way that people reason. Indeed, many of those who are committed to the importance of intention in end-of-life care reject the Principle of Double Effect (Douglas, Kerridge, and Ankeny, 2013). In the latter part of her paper, Jansen responds appropriately to this challenge by considering “rougher” but more realistic accounts of the importance of intention. This is surely where the debate should be headed from now on, and it will be interesting to see how easily this debate can proceed without the use of the “broad” and “narrow” qualifications of intention that Jansen imagines to be necessary.

VIII. CONCLUSION

We think that Jansen’s hypothesis that there are “two senses of intention,” referring separately to intention and foresight, is without merit. Her argument is contrived, it misrepresents the views of others, it is unsupported by evidence, and it defies common sense. It is much more likely to paralyze critical thought than to promote considered reflection of decision making and care at the end of life.

Footnotes

1. See, for example, the case of Captain Oates as discussed by Holland and O’Keeffe (Holland, 1969; O’Keeffe, 1984, 357).
2. Of course, by this argument, Strategic Bomber causes “intentionally” even those consequences he does not foresee.
3. Undoubtedly, this is sometimes true, although even here the adverb could be used in two ways.

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