

JEAN PIERRE GURY'S SOURCES: A MISSING CHAPTER IN THE HISTORY OF DOUBLE EFFECT

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Analysis of Gury's sources for his two principles governing the indirect voluntary both illuminates its historical development and raises questions about its meaning. The historical review reveals not only that Gury relied far more on later theologians than on Thomas Aquinas in formulating his principles, but also that two critical changes in the understanding of the indirect voluntary have created a deceptive appearance of historical continuity regarding double-effect reasoning.

MORE THAN A CENTURY AFTER Catholic ethicists first began to debate its effectiveness, the principle of double effect continues to be a bone of contention in moral theology, with periodic discussions of its utility, scope of application, and historical pedigree.¹ While methodological

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¹ See Walter McDonald's critique in *The Principles of Moral Science* (1904; Whitefish, MT: Kessinger, 2003) iii, 149–51; and the response of Thomas Slater, S.J., “Dr. McDonald's ‘Principles of Moral Science,’” *Irish Ecclesiastical Review*, ser. 4, 15 (1904) 385–401; repr. in *Questions of Moral Theology* (New York: Benziger, 1915) 306–28. While both authors initially assign no specific name to the principle, Slater—perhaps to distinguish this rule from an alternative formulated by McDonald—eventually begins to refer to it as “the principle of a double effect” (*Irish Ecclesiastical Review* 390–93). I believe this is the origin of the principle's English name, especially since Slater repeats it in the first manual of moral theology written in English and in his 1911 collection of casuistry, where it serves as a chapter title (*A Manual of Moral Theology for English-Speaking Countries*, 2 vols. [New York: Benziger, 1908] 1:25; *Cases of Conscience for English-Speaking Countries*, 2 vols. [New York: Benziger, 1911] 1:26–29). See also José Rojas, “The Direct/Indirect

controversies are hardly unusual in Christian ethics, arguments over the principle (in its various formulations) have an unusual locus—its foundation, rather than its sufficiency for the assessment of human acts. Unlike many tools of moral analysis, the principle of double effect has not roused controversy because of what it is presumed to justify. Instead, its basic character is uncertain. What do its criteria reveal about an action, and why is their presence or absence morally significant? Paradoxically, this “method” often seems simpler to apply than to explain.²

While historical research cannot settle every issue regarding the principle of double effect, it can at least help clarify why its nature is so elusive.³

Distinction in Moral Discourse: A Review of St. Thomas' Teaching and a Survey of Manualistic Literature in the Second Half of the Nineteenth Century,” 3 vols. (STD dissertation, Katholieke Universiteit te Leuven, 1986) 1:30. On Slater, see James F. Keenan, *A History of Catholic Moral Theology in the Twentieth Century: From Confessing Sins to Liberating Consciences* (New York: Continuum, 2010) 9–18.

Particularly important in spurring the extensive recent theological literature on double effect was Peter Knauer's article, “The Hermeneutic Function of the Principle of Double Effect,” originally published in *Natural Law Forum* 12 (1967) and reprinted in *Readings in Moral Theology*, ed. Charles E. Curran and Richard A. McCormick, vol. 1, *Moral Norms and the Catholic Tradition* (New York: Paulist, 1979) 1–39. For three recent illustrations of the principle's continuing relevance, see Gerard Magill, “Threat of Imminent Death in Pregnancy: A Role for Double-Effect Reasoning,” *Theological Studies* 72 (2011) 848–78; Daniel P. Sulmasy, “Catholic Participation in Needle- and Syringe-Exchange Programs for Injection-Drug Users: An Ethical Analysis,” *Theological Studies* 73 (2012) 422–41, at 437–38; and Sulmasy, “‘Reinventing’ the Rule of Double Effect,” in *The Oxford Handbook of Bioethics*, ed. Bonnie Steinbock (Clarendon: Oxford University, 2007) 114–49.

² See, e.g., the comments of Joseph M. Boyle, “Toward Understanding the Principle of Double Effect,” *Ethics* 90 (1980) 527–38.

³ Few historical topics in moral theology have received greater attention than the history of double effect. See especially Vicente M. Alonso, S.J., “Explicación de derecho de defensa según Santo Tomás de Aquino,” *Stromata* 1 (1938) 213–46; Joseph T. Mangan, S.J., “An Historical Analysis of the Principle of Double Effect,” *Theological Studies* 10 (1949) 41–61; Jozef Ghoois, “L'Acte à double effet: Étude del théologie positive,” *Ephemerides Theologicae Lovanienses* 27 (1951) 30–52; Boyle, “Understanding Double Effect” 528–32; Joseph A. Selling, “The Problem of Reinterpreting the Principle of Double Effect,” *Louvain Studies* 8 (1980) 47–62; Lucius Iwejuru Ugorji, *The Principle of Double Effect: A Critical Appraisal of Its Traditional Understanding and Its Modern Reinterpretation* (Peter Lang: Frankfurt am Main 1985) 41–44; Rojas, “Direct/Indirect Distinction in Moral Discourse”; Rojas, “St. Thomas on the Direct/Indirect Distinction,” *Ephemerides Theologicae Lovanienses* 64 (1988) 371–92; James F. Keenan, S.J., “The Function of the Principle of Double Effect,” *Theological Studies* 54 (1993) 294–315; Rojas, “St. Thomas' Treatise on Self-Defense Revisited,” in *Thomistica*, ed. E. Manning, *Recherches de théologie ancienne et médiévale*, Supplement 1 (Leuven: Peeters, 1995) 89–123; Christopher Kaczor, “Double-Effect Reasoning from Jean Pierre Gury to Peter Knauer,” *Theological Studies* 59 (1998) 297–316; Kaczor, *Proportionalism and the*

One important clue emerges from the sources cited by the Jesuit Jean Pierre Gury, in his classic 19th-century formulation of the principle.⁴ At first glance, the trajectory of Gury's sources seems straightforward, suggesting that the principle of double effect emerged from the need to clarify an earlier set of criteria for assessing the imputability of indirect actions. However, Gury's text also provides evidence for two critical detours on the road to the principle, each involving a change in the meaning or in the significance of classifying an action as *indirect*. That the terminology remained the same, while the understanding of the term did not, created a deceptive appearance of continuity between the historical phases of the principle's emergence.

To understand these developments, it will be helpful to begin by identifying Gury's importance for the history of the principle of double effect, the context of his discussion, and the sources he acknowledges. Consideration of Gury's predecessors introduces the first detour on the road to double effect: the shift in meaning associated with the indirect voluntary that separates Aquinas from the rest of Gury's sources, and from Gury himself. Next, I will examine Gury's two *principia* governing the *voluntarium indirectum* and their antecedents, with special attention to the contributions of Charles Billuart and Joseph Carrière. Extended analysis of Gury's

Natural Law Tradition (Washington: Catholic University of America, 2002); T. A. Cavanaugh, *Double-Effect Reasoning: Doing Good and Avoiding Evil* (Oxford: Clarendon, 2006) 1–26; Nancy M. Rourke, "Where Is the Wrong? A Comparison of Two Accounts of the Principle of Double Effect," *Irish Theological Quarterly* 76 (2011) 150–63.

⁴ For background on Gury and the various editions of his *Compendium theologiae moralis*, see Gabriel Desjardins, S.J., *Vie du R. P. J.-P. Gury de la Compagnie de Jésus* (Paris, Jacques Lecoffre, 1867); P. Bernard, "Gury, Jean-Pierre," *Dictionnaire de théologie catholique*, 15 vols. with multiple parts (Paris: Letouzey, 1920) 6:1993–95; Renzo Gerardi, *Storia della morale: Interpretazioni teologiche dell'esperienza cristiana; periodi e correnti, autori e opere* (Bologna: EDB, 2003) 413–14; Carlos Sommervogel, S.J., *Bibliothèque de la Compagnie de Jésus: Nouvelle édition*, 12 vols. (Brussels: Oscar Schepens, 1890–1932) 3:cols. 1956–59. Many editions of Gury's manual were published during his lifetime, and editions revised by others continued to be issued long after his death. I have used the first edition of 1850 (2 vols. [Lyon: Perisse Freres Bibliopolas]). Gury outlines his two *principia* regarding the indirect voluntary in *tract. de actibus humanis*, chap. 2, art. 1, no. 2, *De voluntario in specie* (vol. 1, pp. 4–7). Subsequent references to this passage will list only the volume and page numbers.

Because older volumes in moral theology are often quite rare and appeared in many printings and editions, I will follow this procedure for citations from Gury, Elbel, Billuart, Liguori, and Carrière. The first reference to a passage will include the author's internal divisions (e.g. tract, article, paragraph number) followed by the volume and page number in parentheses. Subsequent references to the same passage will use only the volume and page numbers.

second *principium*—which we know today as the principle of double effect—leads me to the second detour: the distinction between Gury's understanding of its operations and our own, grounded again in differing presuppositions regarding the *voluntarium indirectum*. In light of the historical discontinuities camouflaged by terminological repetition, the conundrum at the heart of the principle of double effect becomes more understandable.

GURY'S IMPORTANCE FOR THE HISTORY OF DOUBLE EFFECT

Scholars have long acknowledged Jean Pierre Gury's role in both systematizing and popularizing the principle of double effect for Catholic ethics.⁵ In his influential study of the history of double effect, Joseph Mangan argued: "It is only beginning with the various editions of Gury's admirable and repeatedly reedited *Compendium Theologiae Moralis* in the nineteenth century that the moral theologians universally give an adequate, thorough explanation of the principle of the double effect as a general principle applicable to the whole field of moral theology."⁶ The popularity of Gury's manual, which, according to Charles Curran, "went through forty-three editions between 1850 and 1890," ensured the principle's widespread dissemination as well.⁷

Given historical moral theology's longstanding interest in the origins of double effect—a debate that emerged from the seminal analyses and counterarguments of Alonso, Mangan, and Ghooos—it is interesting that Gury's sources have received relatively little attention. Two factors probably help explain this phenomenon. First, research into the pedigree of double effect has focused primarily on the contributions of Aquinas and his late medieval and early modern successors.⁸ Other elements of its history have received

⁵ See, e.g., Boyle, "Understanding Double Effect" 528–29; Rojas, "Direct/Indirect Distinction in Moral Discourse" 2:177, 185; Kaczor, "Double-Effect" 298, 300; Kaczor, *Proportionalism* 27; Cavanaugh, *Double-Effect Reasoning* 24–25.

⁶ Mangan, "Historical Analysis" 59. See also Rojas, "Direct/Indirect Distinction in Moral Discourse" 2:185.

⁷ Charles E. Curran, *Catholic Moral Theology in the United States: A History* (Washington: Georgetown University, 2008) 7. Curran explains that Gury's *Compendium*, the first moral manual published by a Jesuit after the Society's restoration, functioned during this period as "the primary textbook for moral theology among the Jesuits and the whole Catholic world." See also Keenan, *History of Catholic Moral Theology* 9–10.

⁸ The influential articles by Alonso, Mangan, and Ghooos served as catalysts for the debate over the role of Aquinas. For recent reconsiderations of this topic, see Kaczor, "Double-Effect"; Kaczor, *Proportionalism* 23–26, 34–44; Cavanaugh, *Double-Effect Reasoning*, 1–26; Rojas, "Direct/Indirect Distinction in Moral Discourse" 1:66–142; Rojas, "Thomas on the Direct/Indirect Distinction"; and Rojas, "Thomas' Treatise on Self-Defense."

less consideration.⁹ Since Gury's presentation of double effect lists Aquinas first among his sources, the Jesuit's work may have been absorbed into the broader debate over the role of the Angelic Doctor. Second, some editions of Gury's *Compendium*—many of which were issued after his death in 1866—refer only to Aquinas, rather than to all three authors Gury had originally acknowledged in his discussion of his second principle.¹⁰ Since Gury did not explain what he drew from each of these theologians, it is not surprising that his successors chose to assign sole credit to Aquinas.¹¹

As a result, discussion of Gury's sources has tended to focus upon Aquinas, without giving equal attention to the other moralists Gury cites.¹² Ironically, it is the contributions of Gury's entire group of sources that shed light on the historical emergence of the principle of double effect and its mercurial nature as a tool of moral analysis.

The Context of Gury's Discussion and His Sources

Within his preliminary discussion of human acts, Gury outlines two different (unnamed) *principia* for evaluating indirectly voluntary actions that

⁹ Rojas's "Direct/Indirect Distinction in Moral Discourse" volume 2 provides one of the most helpful discussions of 19th-century developments. See also Kaczor, "Double-Effect" 307–8; Kaczor, *Proportionalism* 35–36. Regarding an earlier aspect of the history that has been overlooked, see Julia Fleming, "The Analysis of Actions with Double Effects in Caramuel's *Theologia praeterintentionalis*, in *Un'altra modernità Juan Caramuel Lobkowitz (1606–1682): enciclopedia e probabilismo*, ed. Daniele Sabaino (Pisa: ETS, 2012) 207–222.

¹⁰ For information on the various editions, see Sommervogel, *Bibliothèque de la Compagnie de Jésus* 3:cols. 1956–58; and Gerardi, *Storia della morale* 414.

¹¹ Because I have not been able to consult all the editions issued in Gury's lifetime, I cannot absolutely exclude the possibility that he rather than a subsequent editor was responsible for eliminating these references. However, a list of sources for the second principle identical to those named in the 1850 edition appears in the 1852 and 1853 Tournai editions (J. Casterman), the 1852 Barcelona edition (Bibliopola historica apud J. Subirana), and the 1857 and 1862 Regensburg editions (G. J. Manz). The same list still appears in the fourth German edition ([Regensburg: G. J. Manz, 1868] 5) published two years after Gury's death. For two examples of posthumous editions by others that identify only Aquinas as a source for Gury's second *principium*, see Antonio Ballerini, ed., *Compendium theologiae moralis P. Ioannis Petri Gury, S.I.*, 3rd. ed. (Rome: Ex Typographia Polyglotta, 1874) 7–8; and Henri Dumas, ed., *Compendium theologiae moralis P. Joannis Petri Gury, S.I.*, 4th ed., 2 vols. (Lyon: Briday, 1885) 1:98. In fact, these editions ascribe both of Gury's principles to Aquinas alone. Mangan chose to work from a posthumous Regensburg edition of 1874; I have been unable to consult it (Mangan, "Historical Analysis" 59).

¹² Kaczor, e.g., mentions only Aquinas as a source for Gury's principle, perhaps because he (Kaczor) is relying upon two posthumous editions of the *Compendium* ("Double-Effect" 306, 307, 301 n. 13; *Proportionalism* 35, 36, 27 n. 7). Rojas lists all

produce a bad effect.¹³ The first lists the three conditions necessary for the bad effect to be imputed to the agent, while the second identifies the four conditions required to render an act with anticipated mixed consequences licit.¹⁴ (For purposes of clarity, I refer to the first as the imputability conditions/criteria and to the second as the justifiability conditions/criteria.)

In explaining each of these principles, Gury cites Aquinas and two other authors as his sources. Aquinas, Alphonsus Liguori, and Benjamin Elbel serve as Gury's authorities for the imputability conditions. For the justifiability conditions, Gury cites Aquinas, Billuart, and Carrière.¹⁵ Three of these authors (Liguori, Billuart, and Elbel) were born in the last decades of the 17th century (a little more than 100 years before Gury). By contrast, Carrière was Gury's slightly older contemporary, and the volume of his work to which Gury refers was published only eleven years before the Jesuit's famous *Compendium*.¹⁶

THE FIRST DETOUR: BETWEEN AQUINAS AND GURY'S OTHER SOURCES

In their approach to the indirect voluntary, Liguori, Elbel, Billuart, Carrière, and Gury all diverge from Aquinas in one important respect: each conflates this category of actions with those described as *voluntarium in causa*. As a number of scholars have pointed out, Aquinas restricts the scope of the *voluntarium indirecte* to omissions: as, for example, when a negligent pilot's inaction leads to a shipwreck.¹⁷ By contrast, Aquinas applies the term *voluntarium secundum suam causam* (or *voluntarius in sua causa*)

four sources in a footnote, but discusses only Aquinas ("Direct/Indirect Distinction in Moral Discourse" 2:184, 3:527 n. 47).

¹³ As noted by Kaczor, "Double-Effect" 300; Kaczor, *Proportionalism* 27.

¹⁴ Gury, *Compendium* 1:5–6. ¹⁵ *Ibid.*

¹⁶ The dates for these figures are as follows: Alphonsus Liguori (1696–1787), Charles Billuart (1685–1757), Benjamin Elbel (1690–1756), Joseph Carrière (1795–1864), Jean Pierre Gury (1801–1866). For background information on all but Carrière, see Gerardi, *Storia della morale* 399–404, 389, 368, 413–14. For background information on Carrière, see Louis Bertrand, *Bibliothèque sulpicienne; ou histoire littéraire de la Compagnie de Saint-Sulpice*, 3 vols. (Paris: Picard, 1900) 2:272–81; T. J. O'Mahony, *Joseph Carrière, Late Superior-General of the Sulpicians and Vicar-General of Paris: St. Sulpice and the Church of France in His Time* (Dublin: J. Mullany, 1865); John F. Fenlon, "Carrière, Joseph," *Catholic Encyclopedia*, 15 vols. (New York: Appleton, 1908) 3:379; and Hugo Hurter, *Nomenclator literarius recentioris theologiae catholicae theologos exhibens qui inde a concilio Tridentino floruerunt aetate, natione, disciplinis distinctos*, vol. 3 (Innsbruck: Libreria Academica Wagneriana, 1886) 1200–1201.

¹⁷ See Thomas Aquinas, *Summa theologiae*, 3d. ed. (Madrid: Biblioteca de Autores Cristianos, 1962) 1–2, q. 6, a. 3; 1–2, q. 77, a. 7; 1–2, q. 19, a. 6. On Aquinas's

in his analysis of the impact of passion upon moral responsibility. Here Aquinas distinguishes acts rendered involuntary by unavoidable passion (e.g., the rages of an insane person) from those in which the agent induced his or her passion through a voluntary act (e.g., drunkenness). Aquinas regards the second group of acts as voluntary in respect to their cause, since the agent chose to posit the cause that ultimately produced the effect, even though he or she did not pursue the effect deliberately.¹⁸ This is quite distinct, however, from the indirect voluntary that Aquinas in this passage again associates with negligent omissions.¹⁹ (It is worth noting that no reference to the indirectly voluntary or the *voluntarius in sua causa* appears in Aquinas's discussion of self-defense, which instead emphasizes the distinction between intended effects and those that result *praeter intentionem*.²⁰)

Gury and his other sources, however, have another understanding of "indirect voluntary." First, they treat this term as largely interchangeable with the *voluntarium in causa*. Although Liguori's classification of voluntary acts initially distinguishes the two, he notes that the second category (i.e., the indirect voluntary) can easily be collapsed into the first.²¹ Billuart employs the two phrases as synonyms.²² While these theologians subsume the indirect voluntary under the *voluntarium in causa*, Elbel, Carrière, and Gury do the opposite. In his discussion of the indirect voluntary, Elbel mentions that it is often called the *voluntarium in causa*.²³ Carrière and Gury do not list *voluntarium in causa* as a separate term, but each incorporates the phrase *in causa* into his definition of the indirect voluntary.²⁴

terminology, see, e.g., Rojas, "Direct/Indirect Distinction in Moral Discourse" 1:91–96; Rojas, "Thomas on the Direct/Indirect Distinction" 375–78, 387–88; Victor Frins, *De actibus humanis*, 3 vols. (Freiburg im Breisgau: Herder, 1897) 1:216; Ghoos, "L'acte" 31 n. 5; Selling, "Problem" 50 n. 10.

¹⁸ *ST* 1–2, q. 77, a. 7. See the important comments of Selling, "Problem" 50 n. 9.

¹⁹ *ST* 1–2, q. 77, a. 7: "quod voluntas potuit prohibere, sed non prohibet."

²⁰ *ST* 2–2, q. 64, a. 7. See Rojas, "Thomas on the Direct/Indirect Distinction" 387–88.

²¹ Alphonsus Liguori, *Opera moralia Sancti Alphonsi Mariae de Liguorio doctoris Ecclesiae: Theologia moralis*, 4 vols., ed. Léonard Gaudé (Rome: Typographia Vaticana, 1907), lib. 5, *tract. praeambulus, de actibus humanis in genere*, a. 2.9 (2:691). Note his treatment of omissions in 2.11 (2:691).

²² Charles René Billuart, O.P., *Summa S. Thomae hodiernis academiarum moribus accomodata, sive cursus theologiae . . .*, 3 vols. (Venice: Savioni, 1787), *tract. de actibus humanis*, diss. 1, a. 1 (vol. 1, part 2:96). Note his reference to "hoc voluntarium indirectum seu in causa."

²³ Benjamin Elbel, *Theologia moralis decalogalis per modum conferentiarum . . .*, 6 vols., 2nd ed. (Augsburg: Matthias Wolff, 1733) conf. 1, §1.7 (1:9).

²⁴ Joseph Carrière, *Tractatus de actibus humanis et conscientia ad usum scholarum accomodatus* (Lyon: Lambert-Gentot, 1843) chap. 1, a. 1, §1.13 (7). This was not a commercial publication, but a printing for Carrière's students. It is preserved in the Bibliothèque Nationale de France. Gury, *Compendium* 1:3.

Thus, for all five theologians, what had originally been distinct classifications for actions become interchangeable designations.

Moreover, when these authors conflate the terms *indirect voluntary* and *voluntarium in causa*, the meaning originally associated with the second serves as the meaning for both. This becomes obvious when one compares the various authors' definitions of their dominant term: *voluntarium in causa* (Ligouri and Billuart) or *voluntarium indirectum* (Elbel, Carrière, and Gury). Ligouri says of the *voluntarium in causa*: "it is willed not in itself, but in something else perceived, at least vaguely, as the cause of some effect."²⁵ Billuart's definition is similar: "it is not in itself immediately intended, elicited, or commanded by the will, yet it follows from something else willed per se and in itself."²⁶ When Elbel, Carrière, and Gury speak of the indirectly voluntary, they use very similar language. Elbel, for example, explains that the agent does not intend the indirectly voluntary act, but desires something other than the effect he or she foresees will follow.²⁷ Carrière describes the indirect voluntary as "that which is intended in something else."²⁸ Gury asserts, "the indirect voluntary is that which is not intended in itself, but in something else directly willed."²⁹ Thus, Gury's second principle (double effect) emerges from an understanding of the indirect voluntary that he shares with all his acknowledged sources except Aquinas, and results from a consideration, not of the ethical consequences of omissions, but of the foreseen, yet undesired, consequences of a means to an acceptable end.

GURY'S IMPUTABILITY CONDITIONS

Gury's first *principium* posits three conditions that must be present before a bad effect that is indirectly willed can be imputed to the agent: (1) the agent must have foreseen, at least vaguely, that the bad effect would result; (2) the agent must have been able to avoid producing the cause from which the bad effect arises; and (3) the agent must be obliged not to produce the cause. As his sources, Gury cites Aquinas, Ligouri, and Elbel (although in fact Billuart and Carrière offer very similar claims).³⁰

²⁵ "Volitum non in se, sed in alio quod apprehenditur saltem confuse uti causa alicujus effectus" (Ligouri, *Opera moralia*, 2:691; note also Ligouri's reference at no. 10 to the "voluntarius indirecte in causa").

²⁶ "In se immediate non intenditur, elicitur, vel imperatur a voluntate, sequitur tamen ex aliquo per se & in se volito" (Billuart, *Summa S. Thomae* 1.2:96).

²⁷ Elbel, *Theologia moralis decalogalis* 1:9.

²⁸ "Illud quod in alio intenditur" (Carrière, *De actibus humanis* 7).

²⁹ "Voluntarium indirectum illud est quod non intenditur in se, sed in alio directe volito" (Gury, *Compendium* 1:4-5).

³⁰ Gury, *Compendium* 1:5; Billuart, *Summa S. Thomae* 1.2:96-97; Carrière, *De actibus humanis* 7. Interestingly, the 1862 Regensburg edition of the *Compendium*,

Because Gury mentions Aquinas first, one might naturally assume that he is Gury's primary source for the imputability conditions. However, comparison of Gury's sources suggests instead that Aquinas's influence on Gury's argument was secondary and mediated. The passage from the *Prima secundae* to which Gury seems to be referring in this discussion is not part of Aquinas's treatment of the indirect voluntary; instead, it considers whether external consequences increase an action's goodness or malice.³¹ The real connection between this passage and Gury's first principle is that Liguori (another of Gury's sources) refers to it explicitly in his (Ligouri's) treatment of the indirect voluntary, where he lists three conditions for imputability that are very similar to those that Gury mentions.³² Thus, it is fair to say that Gury's first principle relies on Ligouri's interpretation of Aquinas rather than on Aquinas himself. Gury, in fact, streamlines Ligouri's presentation by condensing his ideas into a principle.

Elbel's imputability criteria parallel those of Ligouri, and he adds a description of what will happen if the various conditions are not met, arguing that a defect in the first condition (foresight) means that the agent will not incur grave guilt, while a defect in the second (under some circumstances) or in the third eliminates sin entirely.³³ Elbel's consideration of the imputability criteria thus pushes him toward the next logical question: If some actions classified as indirectly voluntary are not imputable, how should one interpret them ethically? In this way, Elbel's analysis of what Gury presents as the first principle governing the indirect voluntary is already anticipating Gury's second principle.

When explaining his first principle, Gury, in contrast to Elbel, asserts that a defect in either of the first two conditions renders the action

published during Gury's lifetime, replaces the references to Ligouri and Elbel with a citation from Billuart, while retaining the reference to Aquinas (4). The posthumous editions edited by Ballerini and Dumas retain only the reference to Aquinas (*Compendium* [Rome: 1874] 7; *Compendium* [Lyon:1885] 1:98).

³¹ See *ST* 1–2, q. 20, a. 5. Gury identifies the question but not the article. While foresight plays an important role in both passages, their foci are quite distinct. Aquinas argues that goodness or badness of an act increases if the consequences are foreseen. Even if they are not, the act's gravity nonetheless increases if the consequences generally or always follow from the nature of the action, in which case, one presumes, though Aquinas does not say so explicitly, they should have been foreseen. Gury, by contrast, is simply discussing foresight as an imputability criterion for indirect actions. In chronological terms, Aquinas is of course the earliest of Gury's sources.

³² Liguori, *Opera moralia* 2:691. The language in Ligouri's list is not identical to Gury's.

³³ Elbel states that a defect in the second criterion removes guilt if the agent has an official responsibility to perform the act. He does not explain why a defect in the first criterion only diminishes guilt (*Theologia moralis decalogalis*, conf. 1 §3.23 [1:23–24]).

involuntary.³⁴ Gury essentially argues that if the agent in no way foresees the bad effect or is powerless to prevent it, then the agent's action is not *willed* in any sense.³⁵ Criteria one and two simply require that the agent have enough knowledge and freedom for moral responsibility.³⁶ But criterion three shifts the focus from the agent's capacities to the moral character of the action. If the act is only imputable when the agent has an obligation to avoid the bad effect, what makes that obligation present or absent? Gury's second *principium* is really an attempt to specify what one might call the absence criteria, that is, the conditions under which the agent has no obligation to avoid the bad effect.

GURY'S JUSTIFIABILITY CONDITIONS

"It is licit to posit a cause [to attain] a good effect, although from this, a bad effect will follow," Gury's second principle explains, "if the following conditions are present, namely (1) if the end of the agent is honest; (2) if the cause is good or indifferent in itself; (3) if the good effect follows equally immediately from the cause as the bad; and (4) if the good effect at least compensates for the bad."³⁷ To support that claim, Gury appeals to four sources: Aquinas's discussion of self-defense, Billuart's explanation of the indirect voluntary, Billuart's treatment of coerced participation in the sin of another, and Carrière's analysis of that same problem.³⁸ Gury thus drew inspiration for his justifiability conditions from a wide range of topics in his predecessors' work.

Aquinas's analysis of legitimate self-defense in the face of unjust aggression is the most frequently cited (and debated) antecedent for the principle of double effect.³⁹ Yet even prescinding from the question that ethicists have debated for centuries—what precisely did Aquinas mean by asserting that those endangered must not *intend* the death of their unjust aggressors?—one cannot fail to notice some important differences between Gury's principle and Aquinas's evaluation of self-defense.⁴⁰ Aquinas is analyzing an action

³⁴ Gury, *Compendium* 1:5.

³⁵ Gury does not discuss the issue of prior negligence here, although he mentions it later (*Compendium* 1:7).

³⁶ Note that Elbel seems to interpret criterion two as a reference to the agent's official responsibilities, not to his/her capacity to act (*Theologia moralis decalogalis* 1:24).

³⁷ Gury, *Compendium* 1:5: "Licet ponere causam ad bonum effectum, quamvis ex ea sequatur effectus malus, si adsint sequentes condiciones: scilicet: 1° Si finis agentis sit honestus; 2° si causa sit in se bona, vel indifferens; 3° si bonus effectus aequae immediate ac malus ex causa sequatur; 4° si bonus effectus malum saltem compenset."

³⁸ *Ibid.* 6.

³⁹ *ST* 2–2, q. 64, a. 7.

⁴⁰ On the debate over the interpretation of Aquinas, see the sources cited in note 3, especially Rojas, "Thomas' Treatise on Self-Defense."

with mixed consequences, but not one that he would classify as indirectly voluntary. He focuses on the intention of the agent, and makes no reference to the chronological relationship between the two effects (Gury's third criterion). While proportionality plays an important role in Aquinas's discussion, the Scholastic theologian emphasizes the proportionality of the act to the end, not of the good effect to the bad effect, as Gury does.⁴¹ Whatever inspiration Gury may have drawn from Aquinas, he seems to have interpreted Aquinas's legacy rather broadly. Perhaps it is worth remembering that, although Gury also invokes Aquinas to ground his first principle, he draws more directly on Ligouri's interpretation of Aquinas than on Aquinas himself. One may reasonably ask whether Gury's second principle owes less to Aquinas than to his other sources' interpretations of Aquinas. In this case, however, the sources in question are not Ligouri and Elbel, but Billuart and Carrière.

Gury mentions two passages from Billuart in grounding the justifiability criteria. The first is the Dominican's general discussion of voluntary acts, including the *voluntarium indirectum*. Though Gury does not provide a precise reference, the section of Billuart's analysis most relevant to Gury's principle appears in Billuart's consideration of the imputability conditions associated with the indirect voluntary.⁴² While discussing the same imputability criteria that Ligouri identifies, Billuart asks: "When is one bound to omit or avoid a cause, from which an evil effect will follow?"⁴³ His answer emphasizes the comparative weight of the two effects and degree of influence (i.e., proximate or remote) that positing the good effect exercises over the emergence of the bad. One is obliged to avoid producing the bad effect when it outweighs the good effect, or when one's action per se and proximately results in the bad effect. The situation is different when the good effect outweighs or is at least equivalent to the bad—Billuart mentions self-defense against an unjust aggressor as an illustration.⁴⁴

To support his second principle, Gury also cites Billuart's analysis of the necessity of restitution after participating in another's misdeeds.⁴⁵ Here

⁴¹ See Kaczor, "Double-Effect" 307–11; Kaczor, *Proportionalism* 35–41. Note especially his comments on the different meanings of proportionality for Aquinas and Gury.

⁴² Unfortunately, Gury identifies this passage only as *de act. hum.* diss. 1, art. 1 (*Compendium* 1:6).

⁴³ Billuart, *Summa S. Thomae* 1.2:97: "Quandonam autem quis tenetur omittere seu auferre causam, ex qua sequitur malus effectus?" Billuart admits that this question is difficult to resolve in practice because of the diversity of cases involved; he refers the reader to his discussions of indirect pollution and of cooperation.

⁴⁴ Billuart, *Summa S. Thomae* 1.2:97–98. For Billuart, considerations of charity can also come into play.

⁴⁵ Gury, *Compendium* 1.6.

Billuart evaluates a complex ethical debate: the responsibility of a person who unwillingly takes part in another's sins out of fear of death or another grave evil. Noting the range of theological opinions regarding this question, Billuart rejects the two extremes (i.e., universally excusing or universally condemning the unwilling participant) and argues that the agent's culpability depends on the nature of the act that he or she performed.

I say first, to perform, out of fear of death, an action that is immediately injurious, such as overturning or digging through walls, snatching money or other goods, throwing them out of a window, driving cattle from stables, setting fire to a pile, etc., is illicit and creates an obligation of restitution. [This is] because such actions are intrinsically evil—for what is this other than stealing? What is intrinsically evil cannot be justified by any good end, and evils must not be done so that good may result.⁴⁶

Billuart then imagines that his reader offers the following objection:

From such an act, a double effect follows, one good (my safety) and the other bad (the injury to my neighbor). I am able to intend the good effect and to permit the bad; just as, in defensive killing of an unjust aggressor, . . . I intend to defend myself and permit the death of the aggressor, . . . which is licit, according to St. Thomas in q. 64, a. 7.⁴⁷

Thus, the appeal to Aquinas's discussion of self-defense appears as a hypothetical counterargument to Billuart's position, not as a primary justification for it. Billuart explains, however, why Aquinas's reasoning does not apply in this case. In Aquinas's discussion of self-defense, the safety of the defender "follows equally immediately [aeque immediate sequatur]" as the death of the aggressor. "Yet in our case," Billuart explains, "my safety does not follow immediately from my injurious act, but from the changed will of the person threatening me."⁴⁸ Because the bad effect emerges first,

⁴⁶ "Dico 1°. Exequi metu mortis actionem immediate damnificativam, ut evertere muros, perfodere parietes, pecunias, mobilia alia arripere, ejicere per fenestram, percora stabulis abigere, ignem in acervum injicere, etc. est illicitum et parit obligationem restituendi. Quia tales actiones sunt intrinsece malae; quid est enim hoc aliud quam furari? Quod autem est intrinsece malum, nullo bono fine cohonestari potest, et non sunt facienda mala, ut eveniant bona" (*Summa S. Thomae* . . . Vol. 2 *Secunda secundae* [Venice: Savioni, 1778], *tract. de jure et justitia*, diss. 8, art. 13, §6.II [237]).

⁴⁷ "Ex tali actione sequitur duplex effectus, unus bonus, scilicet salus mea, alter malus, nempe damnum proximi; possum autem intendere bonum effectum & me habere permissive ad malum; sicut in defensione occisiva contra injustum aggressorem, . . . intendo defensionem meam & permissive me habeo ad mortem aggressoris . . . quod est licitum, secundum D. Th. infra qu. 64, a. 7" (*ibid.*).

⁴⁸ "At in nostro casu salus mea non sequitur immediate ex actione mea damnificativa, sed ex voluntate mutata minantis." Note Billuart's additional comment: "unde prius fit malum, quam sequatur bonum, quod est proprie facere mala, ut eveniant bona" (*ibid.*).

Billuart argues, the agent is essentially performing an evil to achieve a good. Billuart's focus on how the two effects emerged from the original act corresponds to the third criterion of Gury's second principle: "bonus effectus aequae immediate ac malus ex causa sequatur."⁴⁹

One can also find a parallel for Gury's second criterion ("causa sit in se bona, vel indifferens") in Billuart's analysis of unwilling participation, especially later in the discussion when he describes the types of actions that he considers justifiable. As I have noted, Billuart refuses to excuse coerced cooperation in "immediately injurious" acts on the grounds that they are *intrinsece malum*.⁵⁰ Under some circumstances, however, he is willing to accept unwilling participation in acts that are not immediately or per se injurious, such as opening a door for a threatening intruder, or transporting the property he has already stolen. Billuart can accept this type of participation because such acts are "*secundum se* indifferent," and performed for a good end.⁵¹ Billuart's distinction between unwilling participation in intrinsically evil acts and unwilling participation in indifferent acts thus anticipates Gury's second justifiability criterion. One cannot help noticing, however, that none of the examples of "immediately injurious"—and hence, illicit—acts that Billuart mentions (breaking down walls, driving cattle from stables, etc.) would qualify as intrinsically evil *ex objecto* in the modern sense. Whether such actions represent theft or saving a neighbor's property from fire, for example, depends on the agent's motives and concrete circumstances, not on the object of the action alone.

Later in his analysis of coerced participation, Billuart revisits the explanation for the distinction between the direct and indirect voluntary included in his tract on human acts. Here, however, he adds a list of four factors that help identify a "reasonable cause [*causa rationabilis*]" for producing a foreseen, but unintended, negative consequence. One might summarize them as a sliding scale for bad effects: (1) The worse the bad effect, the greater reason one needs to justify producing it; (2) the closer the relationship of the cause to the bad effect, the greater reason one needs to justify the cause; (3) one's grounds for acting must be particularly compelling if the bad effect would not occur without one's action, in contrast to circumstances when the bad effect would occur independently; and (4) violations of justice toward a third party require greater justification than sins against the other virtues (e.g., temperance). In essence, Billuart has provided a series of prudential considerations regarding the anticipated, but undesired,

⁴⁹ Gury, *Compendium* 1:5.

⁵⁰ *Ibid.*; Billuart, *Secunda secundae* 237.

⁵¹ "*Secundum se indifferentes*" (Billuart, *Secunda secundae* 237).

production of bad effects, instead of formulating a general principle, as Gury does.⁵²

One can easily see the threads that unite the thought of Billuart and Gury. Billuart recognized that the third of the imputability conditions required clarification, and his efforts anticipate Gury's second principle in many respects (e.g., an emphasis on the comparative weight of the two effects, and on the distinction between good or indifferent and intrinsically evil acts). However, the Dominican does not systematize these elements, which appear at various points within his discussion of other questions. Billuart's formulation of a strategy for dealing with actions with mixed consequences is a sliding scale, not a principle. Thus, while his thought influenced Gury's development of the justifiability principle, he is not its proximate ancestor. A closer parallel with Gury's work appears in the last of his acknowledged sources for the second principle, Joseph Carrière.

Carrière and His Influence on Gury

Joseph Carrière's *De justitia et jure*, like his other major works, the *De matrimonio* and the *De contractibus*, was part of a collection of *praelectiones* (public lectures) originally presented to his students at the seminary of Saint-Sulpice in Paris.⁵³ Carrière taught moral theology at Saint Sulpice, first at the elementary level and later within the *cours supérieur* established by the Sulpicians for students who had already completed their training for ordination.⁵⁴ As Carrière explains in the preface to *De matrimonio*, this advanced training served those seeking a deeper investigation of complex theological questions than the basic seminary course could provide, especially those called by their bishops to teach in French diocesan seminaries.⁵⁵

⁵² Ibid. 237–38. Indeed, Billuart, insisting on the necessity of prudence, argues that no single rule can resolve all cases. In a *nota* regarding *Principium 2*, Gury also mentions a sliding scale of considerations, although they are not identical to Billuart's list (see Gury, *Compendium* 1:6).

⁵³ The complete title of the collection is *Praelectiones theologicae majores in seminario Sancti-Sulpitii habitae: De matrimonio*, 2 vols. (Paris: Méquignon Jr., 1837); *De justitia et jure*, 3 vols. (1839); *De contractibus*, 3 vols. (1844).

⁵⁴ See Bertrand, *Bibliothèque sulpicienne* 2:273; O'Mahony, *Joseph Carrière* 44–46, 53–57.

⁵⁵ Carrière, *De matrimonio* 1:i–ii. Carrière alludes to the impact on French advanced theological education of the vicissitudes of the Sorbonne during the Revolution and under Napoleon; see also O'Mahony, *Joseph Carrière* 53–57. Carrière had no advanced degree and had begun teaching in the seminary at Issy while he was still a deacon (Bertrand, *Bibliothèque sulpicienne* 2:272).

Carrière distributed his public lectures to his students, and this material enjoyed a wide popularity. In time, Carrière discovered that others had redacted his unpublished work, and included parts of it within their own writings, sometimes with and sometimes without attribution. Forestalling plagiarism was therefore one of Carrière's motives for publishing his three major treatises in the 1830s and the 1840s.⁵⁶ Carrière was vicar general of Paris at the time that these works appeared, and in 1850 he became superior general of the Sulpicians, a responsibility he held until his death in 1864. His period of theological publication, therefore, was relatively brief, although some of his works had multiple editions and continued to be issued after his death.⁵⁷

In the passage that Gury cites as a foundation for his second principle, Carrière analyzes the same question that had intrigued Billuart: coerced participation in another's wrongdoing. Carrière immediately draws a connection between this problem and the indirect voluntary, explaining the distinction between the two cases: "If the bad effect follows from the action performed without the intervention of another person, it will be indirectly voluntary, but not cooperation in the proper sense."⁵⁸ To address both of these problems, Carrière asserts that he will outline certain general principles:

Two things are commonly admitted as certain by theologians. First, it is never licit to perform an act that is *in se* intrinsically evil: this is clear from the exposition of the terms alone. But it is often very difficult to determine whether an act is or is not intrinsically evil. Second, it is licit to perform an action that is *in se* indifferent, from which follow two effects, one bad and the other good; provided that the good does not follow from and at least compensates for the bad, and that the end of the agent is honest. From these two principles is fashioned the rule, already cited by us in no. 845, which is nothing else than the celebrated utterance of Saint Thomas about an act that has a double effect.⁵⁹

⁵⁶ See Carrière, *De matrimonio* iv–v; Bertrand, *Bibliothèque sulpicienne* 2:279–80. Carrière also published compendia of these volumes during the same period (see Bertrand, *Bibliothèque sulpicienne* 2:276–79).

⁵⁷ Bertrand, *Bibliothèque sulpicienne* 2:275–80. Carrière's first publication was in 1828 (*ibid.* 275).

⁵⁸ "Si enim ex actione posita sequatur effectus malus sine interventu alterius personae, erit voluntarium indirectum, sed non proprie cooperatio" (Carrière, *De iustitia et jure*, part III, sect. 1, chap. 2.vi, no. 1197 [3:243]).

⁵⁹ "Duo veluti certa communiter admittuntur a theologis. Primum, nunquam licere ponere actum in se et intrinsece malum: patet ex sola terminorum expositione. Sed saepe difficillimum est determinare an actus sit intrinsece malus, necne. Secundum, licitum esse ponere actum in se indifferentem, ex quo sequuntur duo effectus, unus bonus et alter malus, dummodo bonus non sequatur ex malo, saltem compenset malum, et honestus sit finis agentis. Ex his duobus principiis efformatur regula a nobis jam allata (no. 845), quae nihil aliud est quam celebre S. Thomae effatum de actu qui duplicem habet effectum" (*ibid.* 3:243–44).

Applying this rule to various cases involving participation, Carrière explains, requires the resolution of three issues: (1) whether the act is intrinsically evil; (2) whether the good effect follows at once [*simul*] from the original act, so that it is not obtained through a mediating evil act; and (3) “whether the good effect at least compensates for the bad, or whether the reason that impels one to elicit the act is sufficient.”⁶⁰

The similarities between the arguments (and sometimes, even the phrasing) of Carrière and Gury are evident, especially when one includes Carrière’s three diagnostic questions. Regarding the comparative weight of the effects, Carrière argues, “bonus effectus saltem compenset malum”; while Gury says, “bonus effectus malum saltem compenset.” The two theologians also use the same language regarding the agent’s intentions: “honestus sit finis agentis” (Carrière); “finis agentis sit honestus” (Gury).⁶¹ While their wording is less similar for the other two conditions, both moralists emphasize the character of the act and its causal relationship to the two effects in determining its legitimacy. Gury says that the act must be “*in se* good or indifferent”; Carrière asserts that it is licit to perform an act “*in se* indifferent,” but not one that is intrinsically evil.⁶² In reference to the relationship between the effects, “bonus effectus aequae immediate ac malus ex causa sequatur,” according to Gury, while Carrière insists: “bonus non sequatur ex malo,” and “simul sequatur bonus effectus, qui non obtineatur tantum mediante malo.”⁶³ Gury describes his approach as a *principium*; Carrière calls his a *regula*.⁶⁴ Finally, each author explicitly invokes Aquinas’s teaching on self-defense in *Summa theologiae* 2–2, q. 64, a. 7, as a source for his ideas. Gury, as I have shown, credits Billuart and Carrière as well as Aquinas regarding the justifiability criteria. Carrière gives even greater emphasis to Aquinas, by insisting that the rule he has given is “nothing else” than Aquinas’s teaching about an act with double effects.⁶⁵

One can find some other interesting parallels between Gury and Carrière if one expands the investigation to include two texts that Gury does not cite explicitly in his discussion of the justifiability conditions. The first is the argument to which Carrière refers in the passage previously cited, i.e., his tract on justice, no. 845. Here Carrière is analyzing the indirect killing of

⁶⁰ “An ille bonus effectus saltem compenset malum, seu an ratio quae impellit ad actum eliciendum sit sufficiens” (Carrière, *De justitia et jure* 3:244).

⁶¹ Carrière, *De justitia et jure* 3:244; Gury, *Compendium* 1:5.

⁶² “In se bona, vel indifferens” (Gury, *Compendium* 1:5); “in se indifferentem” (Carrière, *De justitia et jure* 3:243). Carrière’s first diagnostic question is also whether the act “sit intrinsece malus” (3:244).

⁶³ Gury, *Compendium* 1:5; Carrière, *De justitia et jure* 3:243, 244.

⁶⁴ Gury, *Compendium* 1:5; Carrière, *De justitia et jure* 3:244.

⁶⁵ Gury, *Compendium* 1:6; Carrière, *De justitia et jure* 3:244: “nihil aliud.”

oneself, and invokes the “general rule” regarding the liceity of positing a cause from which a bad effect follows.⁶⁶ While Carrière offers the same general principle that he employs regarding coerced cooperation, his phrasing, in this instance, is in some ways even closer to Gury’s, for this time he asserts that the act must be “in se bonus, aut saltem indifferens.”⁶⁷ Once again, Carrière claims that his rule is a restatement of Aquinas’s teaching on self-defense. But in this passage, Carrière adds an interesting clarification regarding the consequences of meeting or failing to meet conditions established in his general rule. If the agent meets its requirements, then the bad effect is “not considered voluntary, or at least morally imputable”; however, the action is imputable, if the conditions are not met.⁶⁸

Carrière’s clarification stands as a fascinating alternative to Gury’s explanation of why performing an action with foreseen, but not intended, adverse consequences is sometimes justifiable. Gury essentially breaks down the action into three components: the end, the act itself, and the consequences. Since the agent’s end is good, and the act itself is either good or indifferent, neither alternative vitiates the action when considered in its entirety. As for the consequences, the good effect compensates for the bad, and persons have a right to use legitimate means to obtain a good end, provided that the negative impact of the means does not outweigh the positive.⁶⁹ Thus Gury argues that the action is acceptable because neither the act nor the end nor the consequences render the action illicit. Carrière’s language, by contrast, seems to suggest that the action is licit precisely because the convergence of the conditions makes the bad effect involuntary. While the two authors specify the same conditions, they differ, at least to some degree, on why the presence of those conditions justifies an act that would be unacceptable, if any of them were to be absent.

Since Carrière’s discussion of indirect killing appears in the same treatise as his analysis of coerced cooperation, Gury could presumably have consulted the passage, although he does not refer to it directly. The analysis at no. 845, however, refers to another passage from Carrière’s works, this time from his unpublished tract on human acts and conscience.⁷⁰ Here Carrière analyzes the indirect voluntary and offers his own versions of the imputability and the justifiability conditions. His discussion, which is far

⁶⁶ “*Regulam generalem*” (Carrière, *De justitia et jure*, part 2, sec. 2, chap. 1, §2, no. 845 [2:463]).

⁶⁷ Ibid. The entire phrasing of the rule is as follows: “Licet ponere actum ex quo sequitur pravus effectus, modo actus ille sit in se bonus, aut saltem indifferens, et ex eo sequatur simul effectus bonus, qui non obtineatur mediante malo effectus, qui saltem compenset illum malum effectum, et qui solus ab agente intendatur” (2:463).

⁶⁸ “Pravus effectus non censeatur voluntarius, aut saltem moraliter imputabilis” (ibid.).

⁶⁹ Gury, *Compendium* 1:5–6.

⁷⁰ See above, n. 24.

more extensive than Gury's, provides another possible confirmation of the relationship between the general principles.⁷¹

Carrière notes first that, although in theory the distinction between direct and indirect seems perfectly clear, in practice, determining when an agent is responsible for an indirectly voluntary action can prove very difficult. For that reason, he outlines a two-pronged argument, first to identify the conditions under which an indirectly voluntary act is imputable, and second to specify the conditions under which "it is licit to posit an act from which it is foreseen that a bad effect will follow."⁷² Thus, like Gury, Carrière moves directly from the imputability conditions to the justifiability conditions.

While Gury identifies his summary rules as *principia*, Carrière calls his rules *propositiones*. *Propositio* 1 (the imputability conditions) lists the same basic factors that Gury cites: foresight, ability to avoid the action, and an obligation to do so. But unlike Gury, Carrière discusses these conditions at some length, devoting more than four pages to a topic that Gury summarizes in a single paragraph.⁷³ Carrière acknowledges, as does Gury, that an unforeseen or unavoidable act is necessarily involuntary, although Carrière considers the possible role of negligence in explaining the agent's lack of foresight.⁷⁴

Turning to the third condition, Carrière develops the argument in an interesting way. It is not sufficient for imputability, he maintains, that the agent be bound to omit the cause as such; the obligation must exist to forestall the bad effect, and not for other reasons. His example is the cleric who accidentally kills someone during a hunting trip, despite his observance of hunting protocols. While the cleric has an obligation not to hunt, this is because of his ecclesiastical status, not as a means of preventing homicide. The cleric is responsible for following canonical restrictions. Yet this obligation does not make the homicide imputable, because avoiding homicide is not the grounds for the canonical prohibition. On the other hand, Carrière explains, an act need not be prohibited or evil for the agent to have an obligation to avoid it. Even a good action might engender a bad effect that a particular agent must avoid. Carrière is clearly trying to work through a problem that he acknowledges a little later: the third condition of the imputability criteria is very difficult to apply in practice.⁷⁵

For that reason, Carrière adds a second proposition, his version of the justifiability conditions. Here it is useful to compare the Latin vocabulary

⁷¹ Carrière, *De actibus humanis*, chap 1, art. 1, §1.13–20 (7–17).

⁷² "Ut liceat ponere actionem ex qua praevideatur secuturus malus effectus" (ibid. 7).

⁷³ Ibid. 7–11; see Gury, *Compendium* 1:5.

⁷⁴ Carrière, *De actibus humanis* 8–9. ⁷⁵ Ibid. 10–11.

of his opening sentence to Gury's. Gury asserts: "Licet ponere causam ad bonum effectum, quamvis ex ea sequatur effectus malus, si adsint sequentes conditiones."⁷⁶ Carrière uses this formulation: "Ut liceat ponere actionem ex qua secuturus praevideatur malus effectus, requiruntur et sufficiunt tres conditiones sequentes."⁷⁷ Gury identifies four conditions and Carrière, three, with the latter's omission of an emphasis on the chronological relationship between the two effects as the central difference between his formulation and Gury's.⁷⁸ Once again, Carrière offers a lengthy explanation and defense of his proposition, from which two points merit particular consideration. First, as a proof of the sufficiency of his three conditions, he quotes Aquinas on self-defense in some detail and concludes: "from these words of the Angelic Doctor it appears clear, that our proposition is nothing else that the principle admitted by St. Thomas in the terms expressed."⁷⁹ Second, Carrière argues that consequences of fulfilling his conditions are to render the bad effect morally involuntary; thus, causing the bad effect is licit precisely because it is "praeter intentionem."⁸⁰

One cannot know, of course, whether Gury was familiar with Carrière's unpublished notes on the indirect voluntary, or indeed with anything beyond his discussion of coerced participation.⁸¹ Yet even with this limitation, there are solid grounds for designating Carrière as the proximate ancestor for Gury's second principle, with some additional influences from Billuart. Both Gury and Carrière formulate a rule to explain when it is licit to posit an action with foreseen, but undesired, negative consequences. Carrière's articulation of the rule in his treatment of participation includes all of Gury's conditions, and in two cases their wording is almost identical. Each author claims inspiration for his principle from Aquinas's discussion of self-defense. Finally, one can reasonably tie each theologian's formulation of the justifiability conditions to a prior principle regarding the indirect

⁷⁶ Gury, *Compendium* 1:5.

⁷⁷ Carrière, *De humanis actibus* 11.

⁷⁸ *Ibid.* In this case, Carrière's three conditions are that the action must not be *in se prohibita*, but must be good or indifferent; that the good must outweigh the bad; and that the end of the agent must be *rectus*. As we have seen, Carrière does refer to the chronological relationship in his discussion of cooperation, although it seems to play a less central role in his reasoning than in Billuart's.

⁷⁹ "Ex his verbis doctoris angelici clare patet, nostram propositionem nihil aliud esse quam principium, apud S. Thomam expressis terminis admissum" (*ibid.* 16–17).

⁸⁰ *Ibid.* 17. To defend the principle, Carrière also appeals to widely accepted case solutions and to arguments from reason, including the claim, also put forward by Gury, that a person has the right to pursue a good end through an action with a double effect, provided that the bad does not outweigh the good.

⁸¹ It is certainly not impossible that Gury might have read Carrière's treatise on human acts, given the wide dissemination of Carrière's printed notes.

voluntary (the imputability conditions) and the need to clarify the final criterion of that more traditional analysis.⁸²

THE SECOND DETOUR: BETWEEN GURY AND CONTEMPORARY MORAL THEOLOGY

Like Carrière, Gury presented two rules for the assessment of the indirect voluntary. In general, contemporary moral theology emphasizes only one: the principle of double effect. While one might argue that the second principle renders the first redundant, the eclipse of the imputability conditions points to a fundamental change in the meaning and significance of the indirect voluntary, a change that distinguishes Gury's perspective from our own.

Here it is helpful to recall how the term *indirect* has recently functioned. In the late 20th century, Catholic moralists often described the principle of double effect by highlighting the contrast between direct and indirect actions. Richard McCormick, for example, asserted: "The 'principle of the double effect' is a kind of code name to summarize the distinction between what is said to be directly willed and what is said to be indirectly willed in certain key areas of human life."⁸³ Similarly, according to Germain Grisez, "the so-called principle of double effect is an attempt to formulate the conditions under which an indirect action would be upright if the corresponding direct action would be wrong."⁸⁴

Such juxtapositions of *direct* and *indirect* in the discussion of double effect might reasonably lead one to assume: (1) the principle's purpose is to distinguish indirect actions from direct actions; and (2) an indirect action is, by definition, a justifiable action.⁸⁵ Gury, however, made neither of these claims. Instead, he posited two principles governing indirectly voluntary actions: the first, to specify when a foreseen bad effect is imputable,

⁸² I.e., *more traditional* in the sense that Ligouri, Billuart, Elbel, and others identify and discuss three very similar criteria for assessing when an indirectly voluntary action is imputable. Carrière and Gury synthesize these criteria into a *propositio* or a *principium* (the imputability criteria) and then clarify them by developing a second *propositio* or *principium* (the justifiability criteria).

⁸³ Richard A. McCormick, S.J., *How Brave A New World? Dilemmas in Bioethics* (Washington: Georgetown, 1981) 431.

⁸⁴ Germain Grisez, *The Way of the Lord Jesus*, vol. 1, *Christian Moral Principles* (Chicago: Franciscan Herald, 1983) 240; see also Grisez's comments on 299.

⁸⁵ Note, e.g., Martin Rhonheimer's recent explanation of the consequences of meeting the double-effect criteria: "if these four conditions are met, it can be said that the evil effect is not willed but only 'indirectly willed,' i.e., that it is a side effect for which one does not bear any responsibility" (*Vital Conflicts in Medical Ethics: A Virtue Approach to Craniotomy and Tubal Pregnancies*, ed. William F. Murphy [Washington: Catholic University of America, 2009] 2 n. 1).

and the second, to specify when causing such an effect is permissible. The critical distinction in Gury's presentation was not between direct and indirect actions, but between two morally disparate categories of indirect actions. For Gury, the mere classification of an action as *indirect* was not morally decisive.⁸⁶ Nor did he say that an action that fails one of his four justifiability criteria should be considered *directly* willed.⁸⁷ His brief presentation tells us only that it would fail to meet the standard for a licit indirect action with foreseen mixed effects. Thus, while Gury's *principium* has the same practical goal as modern formulations of double effect (i.e., to distinguish licit from illicit acts), it rests upon different theoretical presuppositions regarding the *voluntarium indirectum*.

CONCLUSION AND FINAL QUESTIONS

Review of Gury's sources other than Aquinas for his (Gury's) two principles regarding the indirect voluntary reveals several valuable clues about the origins of the principle of double effect. First, in the formulation of his principles, Gury draws more directly on his more chronologically proximate sources, especially Liguori, Billuart, and Carrière, than on Aquinas. Second, the need—already recognized by Billuart—to clarify the last of the imputability conditions provided the impetus for Carrière and later Gury to formulate a second general rule regarding the indirect voluntary, this time specifying when an agent might legitimately perform an act with foreseen negative consequences. Gury's version, of course, proved more influential than Carrière's, and the debate eventually engendered by Gury's ideas is now in its second century.

Yet a comparison of Gury's *Compendium* text with Carrière's far more extensive analysis raises some very interesting questions regarding the grounding for the justifiability conditions and the indirect classification itself. If one assumes, for the sake of argument, that Gury's principle identifies licit actions with foreseen negative consequences, why are these actions acceptable? Is it because I have a right to use any good/indifferent means to a good end, provided that the negative consequences of those means do not outweigh their benefits? Or is it because the negative effects are, in Aquinas's language, *praeter intentionem*—that is, foreseen but not intended? If so, then why describe them as *indirect* rather than as *involuntary*? This seems particularly strange when one considers the discussions of

⁸⁶ For a similar point regarding Aquinas see Rojas, "Direct/Indirect Distinction in Moral Discourse" 1:91, and "Thomas on the Direct/Indirect Distinction" 391.

⁸⁷ In fact, the words *directum* or *directe* do not appear anywhere in Gury's discussion of the two *principia* governing the *voluntarium indirectum*, or in the illustrative cases that he argues these principles can resolve (Gury, *Compendium* 1:5–7).

coerced cooperation from Billuart and Carrière that Gury cites.⁸⁸ If I carry stolen property for a thief who threatens me at gunpoint, my action is acceptable, according to Gury's criteria, but surely this is not because I "indirectly willed" the theft in which I participated under compulsion. And since Gury's first principle—reiterating the position of Ligouri, Elbel, Billuart, and Carrière—indicates that some indirect actions are imputable, then classifying an action as indirect really tells us less than one might assume, given the importance that the term sometimes acquires in contemporary debates.⁸⁹ For Gury and his sources, the critical question regarding the indirect voluntary was not whether an action was direct or indirect, but whether a particular indirect action was licit or illicit.

Ironically, therefore, a review of Gury's acknowledged sources for his principles regarding the indirect voluntary both illuminates the historical emergence of the principle of double effect and muddies the waters concerning its practical applications. What precisely do the double effect criteria demonstrate regarding an action with foreseeable mixed consequences? Do they show that an act is indirect, or that it is involuntary? And if an indirectly willed action can be imputable, does the designation itself have any great moral significance?⁹⁰ If historical analysis cannot resolve these questions, it at least suggests why they have become so confused.⁹¹

⁸⁸ Sulmasy ("Catholic Participation" 437–38) makes an important argument regarding the current distinction between cooperation and double effect, yet the review of Gury's sources (and even some of his arguments) reflects an earlier linkage between the two. Note Gury's fourth illustrative case regarding usury (*Compendium* 1:6–7). As I have noted, two of his four sources for his second *principium* are discussions of participation in another's wrong acts.

⁸⁹ See, e.g., the emphasis on whether the therapeutic abortion performed in the recent Phoenix case represented a direct or indirect abortion. See Kevin O'Rourke, "What Happened in Phoenix: The Complicated Reasons Behind an Abortion at a Catholic Hospital," *America* 202.20 (June 21, 2010), Web only: <http://americamagazine.org/node/149787>; and Magill, "Threat of Imminent Death in Pregnancy" 862–78. I do not question the importance or the appropriateness of this argument, especially in these historical circumstances. The nature of the debate simply indicates how the meaning associated with the term *indirect* has changed.

⁹⁰ Among the many helpful critiques of direct/indirect language, see Rhonheimer, *Vital Conflicts* 147–49; and Cavanaugh, *Double-Effect Reasoning* 74–78.

⁹¹ I am very grateful to the anonymous reviewers of this article for their corrections and suggestions, especially regarding the contemporary implications of my historical research.