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The principle of double effect
Can it survive combat?

With due respect to pacifists, killing comes in different kinds. To kill a person is always to cause an evil. It is to cause the death of someone with an equal calling to discern, interpret, embody, and represent what is good in the world. Even when the victim is one who has let himself grow monstrously corrupt—think Hitler, Stalin, or Pol Pot—and whose death involves the loss of nothing good, a tragic quality still attaches to it. The tragedy is that someone should have so misdirected their lives that their death amounts to a moral gain and not a loss.

To kill a person is always to cause an evil, but it is not always to do a wrong. History is sometimes very unkind to us and forces us into the position of not being able to do anything without becoming responsible—in some sense—for causing evil. I can kill you out of contemptuous hatred, intending nothing less than your annihilation, constrained by no necessity, and with no proportionate reason to prefer another’s life to yours. Or I can kill you without malice, with respectful and manifest reluctance, necessitated by love for others, and with sufficient reason to prefer their lives to yours. Not all killing is murder. Morally speaking, there are different ways of causing death. Some are culpable, some are innocent, and some (tragically) are commendable. One factor that is important in making the difference is the intention of the killer.

I. The principle of double effect: an interpretation

The Christian doctrine of just war comes from the same Thomist stable as the principle of double effect; and insofar as it remains Thomist, the former involves the latter. The distinction of an act’s effects into those that are intended and those that are foreseen but unintended is, of course, famously controversial; and elsewhere I have sought to negotiate my way through the swirling waters of the controversy and to emerge with a version of the distinction intact.¹

Against consequentialist analyses, which reckon an act’s rightness or wrongness simply in terms of its consequences, the principle of double effect makes the agent’s intention (or his negligence) an important criterion. The reasons for this are several and good. First, it articulates the common intuition that, though their effects are the same, accidental homicide and murder should be distinguished in terms of intention. Next, the subjective, reflexive impact upon the agent himself of his intending harm is an important effect that consequentialist reasoning usually ignores. When we
intend harm, we identify ourselves with evil and thereby corrupt ourselves. Further, while the human agent has relatively little control over the objective effects of his actions, he has complete control over their subjective effects: while the effects upon others of an act of infidelity, for example, run down the generations far beyond the agent’s sight, and through the actions of innumerable other responsible agents, the effect that consists in the agent himself becoming unfaithful depends entirely on his decision. This is one reason why intention should have priority over consequences in deciding the moral quality of an act. Another reason is, fourth, that the growth of virtuous persons is itself a great good in the world. This is partly because as I make myself today, so I dispose myself to act tomorrow. If today I act out of malice or undue carelessness and intend an injustice in one situation, then tomorrow I will be more inclined to do so in others. But virtuous character has more than instrumental or consequential value; it also has an intrinsic beauty that exhilarates the human heart. Finally, for Christians and some other religious believers, virtue is a very great good indeed, since it is a condition of participation in the fullness of life beyond death.

Given the importance of intention in determining the moral quality of an act, the principle of double effect is able to make a crucial moral distinction between the effects of an act that I intend and those that I accept with reluctance. Good effects (e.g. justice) I may intend, but evil effects (e.g. death) I may accept only as side effects.

The upshot of this is to permit some actions whose effects are ambiguous—for example, the shooting of a gun that protects one person and kills another at the same time. I may shoot the gun, provided that I intend protection and only accept the killing. Thus I avoid identifying myself with the evil that my act causes.

The meaning of ‘intention’, however, is susceptible of several interpretations, and it is important for us to be clear about what we mean here. What exactly is it to intend something, and how can we tell an effect that is intended from one that is merely foreseen and accepted? One option is to say that we intend whatever it is that we choose to do. According to this reading, an intention involves a deliberate choice of a purposive course of action. The problem with this, however, is that a single deliberate course of action might be foreseen to involve several effects, and the agent’s will might relate to each of those effects in significantly different ways. Take the following case from the film version of Patrick O’Brien’s novel, Master and Commander, set in the 18th century aboard a warship of the Royal Navy. At one point in the story, the ship is engulfed in a severe Atlantic storm. One of her masts is broken and crashes into the sea—sails, rigging, and all. The midshipman warns the captain that unless the ship is cut free from the fallen mast, it will drag her over and cause her to sink. But there is a dilemma; for clinging to the wrecked mast is a sailor who was blown over with it. If the ship is cut free from the wrecked mast, the sailor will—with a practical certainty—
drown. The captain makes his decision. He calls for axes and orders another sailor standing nearby to help him cut the ropes binding the ship to the fallen wreckage. This sailor happens to be the best friend of the fellow clinging to the wreckage; and as he lifts his axe and brings it down on the ropes, tears stream down his cheeks. The sailor with the axe knew what he was doing. He knew that he was performing an act that would help to cause his friend to drown. He could have disobeyed orders and refused to cut the ropes. But he did not refuse; he chose to obey. Did he therefore intend to kill his friend? To give an affirmative answer would, I think, imply that the sailor was intent upon killing his friend—that that is what he wanted. Such an implication would be entirely inappropriate. What he was intent upon, what he wanted, was to save the ship and its crew by the only means possible. The death of his friend was entirely unwanted, as his streaming tears bear witness. In this case, then, it seems appropriate to say that in choosing to cut the ropes, the sailor intended the effect of saving the ship, but that he only accepted with the deepest reluctance the effect of causing his friend to drown. His friend’s death was quite beside his intention—even though he chose it. What this analysis reveals is that intention is not just about deliberate choice, but also about desire; not just about willing, but also about wanting. An effect that I intend, therefore, is one that I both choose and want; and an effect that I accept is one that I choose but do not want.

However, there are different kinds of wanting. Sometimes I intend to do something that (in a certain sense) I do not want to do. Sometimes I commit myself to doing something only through gritted teeth, fearing the costs and flinching at the pain that my commitment incurs. In a sense, what I do here I do not want. This phenomenon inspires us to distinguish at least two kinds of wanting, two kinds of desire. On the one hand, there is the desire for what one knows to be good, the desire to align oneself with it, and so the desire to do what is right. On the other hand, there is the desire to be in a state of physical and emotional satisfaction and to avoid what is painful. Let us call the first kind ‘rational’, and the second kind ‘sensual’. What matters is that I should want rationally what is good and right, even if at the same time I do not want sensually what is painful.4

It matters that an agent should not want to cause evil simply and as such, for so to want to cause evil is to desire it, and to desire evil is to desire damage to something of intrinsic value. Certainly, that is unjust: good things do not deserve harm from responsible agents. However, to desire evil is not only unjust to someone else, but also corrupting of the one who desires. What we love, we become; where our treasure is, there lie our hearts. To desire evil stunts an agent’s growth into virtue and robs him of fitness for life beyond death. Further, it disposes him to cause further harm, for one who chooses to desire evil today will the more easily choose it tomorrow.
Nevertheless, what the agent intends is not the only determinant of the moral quality of his act. Insofar as he chooses to embark on a course of action that is foreseen to involve an evil effect as well as a good one, he is responsible for what he accepts as well as for what he intends. But to be responsible is not yet to be culpable. To be responsible for causing evil is to be required to give a justifying account for causing it—to show that it was not caused needlessly, in the sense that it could have been avoided; or in vain, in the sense that it undermined the good effect for whose sake it is being tolerated; or disproportionately, in the sense that it did not 'outweigh' the good achieved. If an agent accepts needless, vain, or disproportionately evil, then at very least he has been culpably negligent or careless; and at very worst he actually wanted the evil that he only pretended to accept reluctantly. Either way, his irresponsible acceptance of evil could be such as to render his act immoral. Good intentions are not enough.

So to say of the sailor who brought down his axe on the rope that he did not intend the death of his friend is not to say that he was not responsible for it. He was responsible for it: he knew with a practical certainty that cutting the rope would result in his friend’s death, and yet he chose to cut the rope anyway. One is responsible for everything that one knowingly chooses. But to be responsible is not yet to be blameworthy. So was the sailor blameworthy? No. First, he did not want his friend’s death and he helped to cause it only with manifest and appropriate reluctance. And second, he accepted his friend’s death as necessary and proportionate: that is, as the only way of saving the whole of the ship’s company from drowning. The sailor with the axe did not intend death, but accepted it with due reluctance and for sufficient reasons. He was therefore right in what he did and in why he did it.

However, even if an agent intends only what is good and merely accepts with reluctance a concomitant evil effect, and even if his acceptance is necessary, non-subversive, and proportionate, what he does might still not be morally right. For his acceptance of a particular evil might yet be unfair to other people or in breach of an obligation. Take an example I have used before elsewhere. Suppose a professor not long in his current post is offered a more attractive position in another university. Suppose that on balance he has sufficiently good reasons for accepting it. Suppose also, however, that his leaving would damage the morale of his current department (although at the same time it would considerably relieve its chronic financial deficit). If his decision to take the new post is to be morally justified, it is certainly important that he should genuinely not want to cause damage, that he should take all reasonable steps to avoid or minimize it, and that it should be proportionate in some sense. But that is not enough; for it is also important that he should not be bound by any clear moral obligation to stay—for example, a promise made to see his department through a particular set of
difficulties.

If an act that causes foreseen evil (such as death) is to be morally justified, it is important that what is intended by it is something else, something good. However, while right intention is important, it is not sufficient. In addition, the evil must be accepted with an appropriate reluctance that manifests itself in serious attempts to avoid or minimize it—serious attempts to render its acceptance proportionate. But that, too, is not sufficient. In addition, the acceptance of proportionate evil must not offend against any strict obligations.

II. A philosophical pacifist’s objection

Some philosophers, however, argue that intention is relevant only to the moral quality of the agent, not to that of his action. One such is Robert Holmes, whose non-religious argument for pacifism is reckoned by the non-pacifist philosopher David Luban to be ‘as powerful as any I know’. A major plank in Holmes’s critique of just war theory is his objection to Augustine’s turning Christianity ‘inward, emphasizing not so much outward action as purity of heart and motivation’. As a consequence, ‘nothing we do in terms of outward conduct can by itself constitute sin’. This Augustinian interiorization of morality finds expression in the principle of double effect, which prohibits ‘no [outward] action whatsoever’. Opposing this view, Holmes argues that intention is not integral to an act, because we often know and identify the latter apart from the former: an act can be at once objectively right and subjectively wrong. Since the principle of double effect ‘lends itself to the justification of virtually any action its user wants...from a practical standpoint it is vacuous’. Instead, Holmes prefers to think about acts of killing in terms of subjective rights:

everyone has a right not to be harmed or killed by others...
We have a strong prima facie obligation to refrain from [deliberately causing death]...The killing of innocents by an aggressor is no worse as such than the killing of innocents by those who would oppose him by waging war. Human beings have as much right to be spared destruction by good people as by bad...If I choose to kill innocent persons in order to prevent the deaths of others at the hands of an aggressor, I, no less than and perhaps even more than he...am using innocent persons as a means to an end...modern war inevitably kills innocent persons. And this...makes modern war presumptively wrong.

What Holmes says about the principle of double effect is not true in general, since some versions do hold that the deliberate killing of the innocent involves intrinsic moral evil. However, my own preferred version does not hold this view. As I see it, the deliberate killing of the innocent is not wrong as such. Whether it is so depends on the motive and intention of the killer, and on whether
the killing is proportionate. Why do I see things this way? One reason is that to suppose otherwise is to assume a pacifist position in practice. For if the deliberate killing of the innocent is absolutely forbidden, then the successful waging of war would very probably be impossible in practice; and a war whose success is impossible is very probably unjust. Of course, unless one is already a convinced proponent of just war, such a reason will carry little weight. Another, more cogent one is that common moral and legal sense distinguishes different kinds of homicide. It tells accidental from negligent from deliberate kinds; it proceeds to differentiate deliberate self-defence from deliberate aggression; and, when considering mercy killing, it even tells malevolent from benevolent aggression. Holmes appears to say that any kind of deliberate killing of the innocent is wrong. Inadvertently, however, he equivocates and gestures in the opposite direction. He tells us that we have an obligation not to harm the innocent deliberately—and by implication that the innocent have a right not to be harmed deliberately—’prima facie’. What this last phrase implies is that the right and the obligation are not absolute, holding always and everywhere, but that closer inspection of the circumstances—that is, secunda facie—might show them to be lacking. What circumstances might correct first impressions? Holmes does not tell us. Indeed, he cannot afford to tell us, because to do so would be to surrender his pacifist position. If he were to name consequences—for example, where the failure to kill one innocent will result in the deaths of ten others—he would concede a consequentialist justification of killing. And if he were to name motive and intention, he would concede a Thomist justification.

Holmes is wrong to try and separate intention and action. Intention is what makes an action human and voluntary, distinguishing it from a mere event. A human action comprises ends and means, and is unintelligible apart from its intentional structure. Holmes concedes this, when he writes that [a]cts are the means by which we try to realize the purposes our intentions embody’. 14 But then he adds, puzzlingly, ‘acts do not themselves include the intentions’. 15 He says this because, he claims, [w]e can often know and identify acts apart from their intentions; indeed, we often do not know what those intentions are’. 16 In support he cites proponents of the principle of double effect, who talk of withholding intention or directing it appropriately, implying that ‘one and the same act’ can be accompanied by different intentions. 17 Whatever some proponents of double effect say, this does not make sense. Suppose an act of firing a missile that kills a dozen civilians. The act does not remain one and the same, regardless of whether the civilian deaths were intended or whether they were accepted with appropriate reluctance. Had they been intended, the act would be one where the civilian casualties were integral to the agent’s plan, where no attempt to avoid or minimize them had been made,
where their number was (depending on circumstances) greater than military necessity required, where the agent expressed and confirmed his vindictiveness, and where he thereby disposed himself to perform further acts of indiscriminate vengeance on the morrow. On the other hand, had the casualties been accepted with reluctance, the act would be one where the civilian casualties were incidental to the agent’s plan, where an attempt to reduce them had been made, where (depending on circumstances) they were minimal, where the agent restrained his frustration and anger, and where he had thereby disposed himself to be capable of discriminate conduct in the future.

Such subtle, but morally important, considerations obtain even in cases where an act seems at once objectively right and subjectively wrong. Let us suppose, for the sake of argument, that it is right deliberately to kill a soldier mortally wounded on the battlefield, in agonizing pain, and for whom no other relief is available. Suppose, then, a case where a soldier comes upon an enemy in such a condition, and that this soldier is generally moved by vindictive hatred to annihilate his opponents. With such motivation and with such an intention he cuts the throat of his wounded enemy. Subjectively, his action was morally wrong. But was it objectively right? No, not simply. It is true that his act relieved the wounded man of his physical agony. However, since physical pain is in part socially constructed, it is also true that the vindictive soldier intensified his victim’s agony and despair by the hateful contempt he communicated as he killed him. What is more, the vindictive soldier confirmed his own vindictiveness, so strengthening his subjective disposition to commit thoroughly objective atrocities later on. The subjective and objective aspects of moral action—its inwardness and outwardness—may be distinguishable, but they are not separable.

III. Operating the principle in the field

I have explained my understanding of the principle of double effect, and I have defended it against one philosophical pacifist’s objection. Now let me bring it to bear on the doctrine of just war. Insofar as the life of any human being is a good and his death an evil, it is wrong to intend (or choose to want) to kill anyone. The life of the human individual is precious because it is constituted and dignified by a unique vocation by God to affirm, defend, and promote what is valuable in the world, at very least by bearing witness to it. No one should choose to want or intend to damage or destroy such precious life, for to do so would be to vitiate the agent’s heart and will, to corrupt his moral character, to jeopardize his fitness for life beyond death, and to increase the likelihood of his committing further malevolent harm in the world. Nevertheless, it may be permissible to choose to act in such a way as to cause the death of a human being, provided that what is intended is something other
than his death (e.g. defending the innocent), that the possibility (or even certainty) of his death is accepted with an appropriate and manifest reluctance, and that this acceptance is necessary, non-subversive, and proportionate. Morally speaking, deliberately to cause death in this fashion is not the same as intending to kill.

Conceptually, this is all very neat and tidy. It is coherent and consistent, and coherence and consistency are necessary qualities of intelligibility. Sometimes, however, we can buy intelligibility at the expense of reality. So the question that arises here is: Can this theory of double effect really get up and walk on the battlefield? Does this kind of moral analysis do justice to the empirical reality of war, or does it do violence instead?

Some certainly doubt its viability. Among them is the eminent theological ethicist, James Gustafson. After reading my defence of a version of the principle of double effect in *Aiming to Kill*, he wrote to me as follows:

I hope that you and other refiners of the principle of double effect know that in the course of critical events there is no way to think through the distinctions that are made and argued about. I knew the double-effect literature and its applications up and through the writings of...[Paul] Ramsey and [Richard] McCormick, and only once lost my temper with them orally. It was when they and an older Jesuit insisted that soldiers are justified in killing only if they intend to maim.20...[A]ll my life of studying and teaching ethics, including the principle of double effect, [I] have been wary of the rationality that is assumed of agents in times of crisis.

Gustafson then proceeded to explain why he has long been sceptical of casuistry, while nevertheless recognizing the importance of something like it. His explanation came in the form of a story from his own experience in Central Burma during the Second World War, when, as a nineteen-year-old soldier on midnight guard duty in the summer of 1945, he suddenly came under attack by a drunken comrade. 'I fired my rifle into the air, and held it against Pancho's stomach. He kept swinging his knife at me, and kept saying that I was chicken and did not have the guts to shoot him.' Fortunately, an officer intervened quickly, so in the event Gustafson did not have to pull his trigger. But the point of the story is this: when you suddenly find yourself under terrifying life-threatening assault, you do not have the leisure or the presence of mind to examine your motives, sift your intentions, weigh up alternatives—and consider whether wounding rather than killing would be proportionate, and whether a shot in the stomach delivered in the middle of wartime Burma in 1945 would or would not be lethal.

Gustafson is surely right. Life often demands a response from us without granting time for reflection. Often we have to react viscerally rather than cerebrally. And if, with the advantage of hindsight, it seems that we made an understandable error in the heat of the
extraordinary moment, then judgement should not stint on forgiveness. Nevertheless, it is also true that instincts can be trained to become more virtuous and educated to become wiser, so that in reacting we do not overreact. Surely that is exactly what many modern armies are doing when they train their soldiers to conduct themselves in counter-insurgency operations in such a way as to be discriminate and proportionate in the use of violent force. One cannot reasonably expect squaddies to plough their way through the mind-bending literature on the principle of double effect, but one can expect those who instruct their officers to do so—or at least those who instruct their instructors. Out of dialogue between instructors and officers one can expect rules of conduct to emerge that are practicable in the field. And one can expect those rules to be—literally—incorporated into military training, especially into the training of junior officers, and so into military leadership in the field. Indeed, these things not only can be expected; they already happen.\textsuperscript{21}

IV. Can soldiers really not intend to kill?

James Gustafson’s response raises a more difficult question against my reading of the principle of double effect, however. As he wrote above, the expression of the principle that once provoked him to an angry outburst was the claim that soldiers should intend never to kill but only to maim. My reading leads me to make an even more irritating claim: that soldiers should not intend either to wound or to kill, but only to accept maiming or killing with due reluctance as the necessary, non-subversive, and proportionate side effects of intending something good—say, the protection of the innocent. I have no difficulty understanding why such a view tests the patience of those who have first-hand experience of war-fighting, or even those inexpert who have given more than a passing thought to what is actually involved in it. I can quite see how morally fastidious—how distastefully precious—my view might look. If soldiers in battle may not intend to wound or kill their armed enemies, how on earth may they pull their triggers at all? How can they be soldiers?

Part of what is at issue here is the meaning of ‘intention’. To say that soldiers should not intend to wound or kill might be taken to mean that they are being required to adopt a rationale for pulling their triggers that makes wounding or killing accidental; and that is surely sophistical, for wounding or killing is surely integral, not accidental, to what they are choosing to do. According to my broader understanding, however, to say that soldiers should not intend wounding or killing does not mean that they should not choose to cause such things; nor does it mean that they are not responsible for so choosing. In the limited sense of choosing to embark on a course of action with certain foreseeable effects, of course it is true that soldiers must intend to wound and kill, if they wish to conduct themselves as soldiers in
battle. However, as I explained above in the light of the *Master and Commander* case of the sailor who obeyed the order to cut the ropes tying his precarious ship to the wrecked mast, knowing with a practical certainty that this would cause his friend to drown, to intend something is not just to choose it, but also to want it. So in saying that soldiers ought not to intend wounding or killing, I am saying that they ought to choose and accept such things with reluctance, rather than choose and want them.

Is *that* realistic? I think so. I would not dare to deny that war loosens the reins on lethal malevolence, nor that in any given war there is likely to be malevolence on the battlefield. I would not deny that soldiers sometimes regard their enemy as vermin to be exterminated at every possible opportunity. Nor would I deny that, when soldiers are killed—or worse, tortured and mutilated—by the enemy, their comrades will probably be animated by fierce anger against them. (Whether and how far this is malevolent is not immediately clear, however, since atrocity actually warrants and deserves fierce resentment. Love for what has been atrociously harmed demands no less.) What I do deny is that soldiers necessarily or as a rule want their enemy maimed or dead. There is considerable evidence that many soldiers are reluctant to harm. Brigadier S.L.A. Marshall’s argument that only 15 to 25 per cent of US riflemen in certain combat theatres during the Second World War actually shot at the enemy might be methodologically flawed, but his general conclusion about a widespread reluctance to kill finds corroboration elsewhere. A British analysis of killing rates in more than one hundred battles in the 19th and 20th centuries has shown that the killing potential of the weapons in the hands of soldiers with the opportunity to kill far exceeded the actual number of casualties inflicted. Besides, as Tony Coady points out, ‘the widespread acceptance of Marshall’s claims for so long in the military and elsewhere suggests that there is something in the “reluctance to kill” thesis’. There is indeed. We have it on record that some soldiers do actually make a deliberate decision to wound the enemy, rather than kill him. Take Harry Patch, advancing with his unit against the Germans in the Third Battle of Ypres in 1917: ‘Patch’s Lewis gun team was struggling towards an enemy second-line trench when three German soldiers climbed out of it, one advancing on them with bayonet fixed. Guessing correctly that the man had used all his ammunition, Patch drew the Colt revolver the Number 2 carried and shot the man in the shoulder [and] then, as he still came on, in the leg. As a good shot with the Colt, he could easily have killed him, but he chose to spare his life.’

While reluctance sometimes prevents killing, at other times it qualifies it. The twenty-one-year-old First World War flying ace, Albert Ball, was quite resolved to shoot his enemies out of the sky, but not because he took any pleasure in their deaths. As a fellow pilot wrote of him:
‘He had but one idea: that was to kill as many Huns as possible, and he gave effect to it with a swiftness and certainty that seemed to most of us uncanny.’ Nevertheless, ‘almost from the beginning the mild bragging in [his] letters home is matched by disgust at what duty led him into...’26 In 1939 the British went to war with markedly less enthusiasm than in 1914, responding to it with ‘a grim determination to shoulder the unwelcome task that history had thrust upon them’;27 and this reluctance ad bellum often survived in bello. As one RAF fighter pilot wrote in the midst of the Battle of Britain in the summer of 1940, ‘We carry on here you know, hating it rather, but continuing to shoot down our quota of [Messerschmidt] 109s...I can’t write. The war comes between me and my words, and I can’t find them.’28

All this is true. But it is also true that when soldiers are themselves under fire, (unlike Harry Patch) they cannot be expected to be too particular about exactly where they aim to hit the enemy. Their overriding concern will be to make sure that he falls down and does not get up again, and one way to ensure that is to shoot him in the head. Such a wound will very probably be lethal. Does it follow that, in fact, soldiers in combat must intend to kill? No, it does not. When a soldier intends to kill, in the sense of having as his primary aim the death of his enemy, then, having shot and felled him, should he draw near in the aftermath of battle and find him still breathing, he would shoot him again until his breathing stopped. If he does not shoot his incapacitated and non-threatening enemy, then that implies that it was not his death—as such—that he wanted. Take the case narrated by Patrick Bury in his account of soldiering as a junior officer in Afghanistan in 2008. His platoon is in combat with the Taliban. A small Afghan boy is spotted repeatedly popping his head over the lip of a roof in the enemy’s vicinity to watch the soldiers. The British strongly suspect that he is scouting for the enemy. Bury fires at the lip of the roof directly in front of the boy, to warn him away. He then says to the man next to him, ‘If he does that again, kill him.’29 Did Bury intend that the boy should be killed? I think not. I doubt very much that, had he come across the boy’s still breathing body after the fight was over, he would have shot him dead. If the boy’s death had really been his aim, that is what he would have done. So his conditional order to kill was actually efficient shorthand for something more complicated: namely, ‘Shoot him, so as to be sure that he does not raise his head over that wall again. Since only his head is visible, that is where you should shoot him. It is very probable that you will kill him. Do it anyway.’ Strictly speaking, what Bury wanted or intended was absolutely assured incapacitation. Under the circumstances, that would very probably amount to death. Nevertheless, the boy’s death would have been accepted rather than strictly intended. Had the boy actually been killed, I have no doubt that Bury would
have regretted it—after the battle. Regret, however, is retrospective reluctance, sorrow for tragic necessity. It is not the same as guilt.

Notwithstanding a certain prima facie implausibility, therefore, I still think that it makes sense to say that military personnel ought not to intend to kill their enemy—insofar as ‘intend’ means ‘choose and want as a goal’ rather than ‘choose and accept with reluctance’. Nevertheless, there is an alternative moral analysis of killing that avoids testing the patience of realists and straining credibility; and I need to explain why I have not adopted it, in spite of that advantage. The analysis that I have in mind is one offered by Thomas Aquinas.

V. Reckoning with Aquinas

Aquinas’s ethic of killing is complex to the point of inconsistency. He holds it wrong to intend to kill not just any human being, but specifically the innocent, since these are not a threat to a community (being ‘innocent’ or non-harming) and, indeed, are a support to it (‘the life of righteous men preserves and forwards the common good’). It is also wrong for a private citizen to intend to kill an unjust aggressor in self-defence. He may nevertheless kill him, however, provided that the aggressor’s death is ‘beside the intention’, that the natural end or good of self-preservation is what is intended, and that the violence employed is proportioned to the latter.

In Aquinas’s view, however, not all intentional killing of human beings is wrong. When he argues that members of a community who are ‘dangerous or infectious’ to others may be killed by those with public authority ‘in order to safeguard the common good’, he makes no distinction between killing that is intended and that which is unintended. This is because it is not ‘an evil in itself’ to kill sinners, since in sinning a man ‘falls away from the dignity of his manhood...and falls into the slavish state of the beasts’; and to kill a sinner is therefore no more evil than to kill a beast.

There are two problems with this analysis. First, the dangers of justifying killing on the ground that one’s victim is a mere beast are obvious to those of us who live in the aftermath of the 20th century’s several genocides, and who recall that the machete-wielding Hutu used to refer to their Tutsi prey in Rwanda as ‘cockroaches’. To view the enemy as subhuman loosens all restraint and invites atrocity. And if that consequential consideration does not tip the scales, then one might add the weight of Christian theological anthropology and its endowment of all other human beings with the status of fellow creatures and fellow sinners. For sure, we ought not to be sentimental here. There are human beings who have so persisted in choosing and wanting gross evil that they seem to be one with it; and in such cases we might well wonder what exactly would be lost to the world by their summary annihilation. I think here of Hitler or Stalin or
Pol Pot, or of any battlefield sadist who wantonly perpetrates grotesque cruelty. It might well be that some humans are so identified with evil as to be inextricable from it, with the consequence that to intend to kill them is to intend harm to nothing valuable at all, but rather something simply bad. I am quite prepared to believe this. Nevertheless, the history of a person’s spiritual and moral corruption is largely opaque to human view; and his fellows would be wise to refrain from claiming the competence to judge it irreversible.

To his credit, Aquinas himself was not at all consistent in arguing (as he does in the Summa Theologiae, 2a 2ae, question 64, article 2, reply to objection 3) that one may intend to kill sinners on the grounds that they have forfeited human dignity, and that there is therefore no evil in their deaths. In the very next article, where he addresses the question ‘Whether it is lawful for a private individual to kill a man who has sinned?’ he rows back in asserting that public authorization is needed, because sinners are not ‘by nature’ distinct from good men and so equivalent to beasts;35 and three articles further on he confirms this by saying that ‘in every man, though he be sinful, we ought to love the nature which God has made, and which is destroyed by slaying him’.36

The second problem with Aquinas’s analysis is a certain equivocation over the meaning of ‘intention’. In the case of the private individual we are told that he may kill a wrongful assailant only if he intends self-preservation and not the other’s death, and if his violence is proportioned to the former. How does Aquinas explain this? First, he implies that the assailant’s life deserves a certain care and therefore has a certain value (that is to say, is a good), when he says that ‘one is bound to take more care of one’s own life than of another’s’.37 This is confirmed by his statement that ‘it is unlawful to kill any man, since in every man though he be sinful, we ought to love the nature which God has made, and which is destroyed by slaying him’.38 Second, the private individual has not been entrusted with care for the common good and therefore lacks the public authority ‘to decide what is to be taken from the parts for the welfare of the whole’.39 Third, since public authorities are wrong to kill ‘if they be moved by private animosity’,40 then presumably so are private citizens. What Aquinas’s rationale implies is that even the life of a wrongful aggressor is a good that deserves care and not hostility. If one may nevertheless take such a life, as he allows, then in what sense may one not intend to do so? Clearly one may choose to perform an act that in fact causes death. If we go further and assume what Aquinas does not make clear here—that the possible effect of death is foreseen—then we may take him to say that one may intend death in the narrow, simply voluntary sense of ‘choose to perform an act that is foreseen to involve the possibility, more or less probable, of death’. In what alternative sense, then, is he saying that one may not intend death? In the sense
that one may not be moved by animosity against the good of another's life so as to want his death. Thus far Aquinas's rationale is entirely in line with my own.

Thereafter, however, it begins to diverge. Aquinas proceeds to tell us that one who has public authorization—for example, a soldier or someone commissioned to enforce judicial decisions—may intend to kill in self-defence. What explanation does he offer? He gives (or implies) three alternatives. One is that the wrongful assailant, being a sinner, has forfeited his human dignity and no longer has a life whose loss would be an evil; in which case to choose and want to take it—to intend to take it, in my broader sense—would involve no failure of due care. As I have pointed out above, Aquinas is ambivalent about this dangerous rationale—to his credit.

The second explanation is that public officers 'refer this [their self-defence] to the public good' and are not motivated by private animosity (or by any other kind of animosity). That is to say, what moves them is public spiritedness, not a desire to hurt; and what they intend is to serve the common good, not to maim or kill the wrongdoer. According to this analysis, however, the public officer does not intend (in the broader sense) the wrongdoer's death, but only accepts it.

The third explanation is a modification of the second: that public officers intend (that is, choose and want) to serve the common good, that they are motivated not by private but by public animosity against the wrongdoer, and that therefore they also intend (that is, choose and want) to kill him instrumentally. This reading does enjoy the advantage of recognizing that resentment is an entirely appropriate response to a seriously wrongful injury (provided that it is proportionate), as I explained in the previous chapter; and that soldiers who believe that they are defending their country against injustice will probably and rightly view the enemy with some such resentment. It might also be supposed to enjoy the advantage of having moral analysis recognize the allegedly necessary fact of hatred on the battlefield: the soldier may hate the wrongdoer, although not because of some wrongful injury to himself, but only because of his offence against the common good. I do not think, however, that resenting the enemy's invasion is quite the same as hating his troops—RAF pilots were quite capable of bitterly resenting German attempts to bomb their homeland without turning their machine guns onto Luftwaffe pilots who had baled out of their burning aircraft. Besides, I have already cast doubt on whether hatred is a necessary battlefield fact that must be taken into account by any realistic moral analysis. That is one, empirical problem with this interpretation. Another is exegetical: Aquinas makes no mention whatsoever of any kind of animosity other than the private one.

We are left, then, with the first two rationales. The second one is tantamount to the analysis that I espouse:
the soldier does not intend (in the broader sense of 'choose and want') his unjust enemy's death, but merely accepts it as the necessary and proportionate side effect of intending service of the common good. The first rationale is Aquinas's alternative to my preferred analysis: the soldier does intend (choose and want) the death of his unjust enemy, because in doing wrong the latter has forfeited his human dignity and no longer has a life whose loss would constitute an evil. I have explained why I think this view both dangerous and contrary to Christian anthropology; and I have noted that Aquinas himself contradicted it on anthropological grounds.

VI. Conclusion

I continue to hold, therefore, that military personnel ought not to intend to wound or kill their enemy—insofar as 'intend' means 'choose and want as a goal' rather than 'choose and accept with reluctance'. This view is, I think, more Christian and better calculated to restrain violence. And although it may seem empirically implausible at first glance, further reflection shows it sufficiently realistic about military psychology as to be able to get up and walk on the battlefield.