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AQUINAS'S ACCOUNT OF DOUBLE EFFECT

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In this paper, I present Aquinas's account of double-effect reasoning (DER) -- often called the "principle," "rule," or "doctrine" of double effect. Often, if not always, DER is attributed to Thomas Aquinas **tout court**.ⁱ Yet, I will argue, Thomas's account substantially differs from contemporary double-effect reasoning (DER) insofar as Thomas considers the ethical status of **risking** an assailant's life while contemporary accounts of DER focus on actions causing harm foreseen as inevitable.ⁱⁱ

Of course, if DER applies to cases in which harm is foreseen as an inevitable result of an otherwise good action, it will apply to cases in which harm is foreseen as being a possible consequence. The reverse, however, need not obtain. For example, one might think that it is ethical for an ironworker knowingly to risk his life doing dangerous work while one would not think it ethical for the ironworker knowingly to do work from which his death would follow inevitably. Thus, one might think that it is ethical to risk causing harm which one would not think it ethical to cause inevitably. I will argue that Aquinas holds something like this point in his account of DER.

Q.64, a.7 and "Praeter Intentionem"

The **locus classicus** of double-effect reasoning is Aquinas' discussion of homicidal self-defense found in **S.t. IIaIIae, q.64, a.7.**ⁱⁱⁱ Q. 64 occurs within Aquinas's consideration of vices opposed to commutative justice. Q. 64 concerns what Aquinas considers the greatest injury committed upon one's neighbor against his will: his death.

In article seven, Thomas asks whether it is licit to kill a man in self-defense. He offers a number of objections against the liceity of so acting. St. Augustine voices two objections. The first comes from his epistle to Publicola; the second Thomas takes from Augustine's De Libero arbitrio. There Augustine asks:

How are they free from sin in the sight of divine providence
who, for the sake of these contemptible things have taken a
human life? (q.64, a.7, ob.2)

Aquinas notes that among the slight goods which men may forfeit against their wills, Augustine includes corporeal life. Augustine appears to rule out homicidal self-defense.

Aquinas interprets Augustine as not permitting the **intentional** taking of an aggressor's life. Thomas has noted earlier in his discussion of war (q. 40, a.1) that Augustine thinks it licit for one charged with the public good to take life during a war. Accordingly, in q. 64, a.7, Aquinas considers the bailiff and the soldier to be agents who may in self-defense and as public officials intentionally take the life of an aggressor. Thus, in q. 64, a.7, the self-defense of particular interest is that of the **private** individual, as such, taking the life of an assailant.

The corpus of q.64, a.7 reads:

Nothing prevents one act from having two effects, of which only one is intended, the other being **praeter intentionem**. Now moral acts receive their character (**speciem**) according to that which is intended, not, however, from that which is **praeter intentionem**, since this is accidental, as is evident from what has been said earlier.^{iv} Thus, from the act of self-defense, two effects may follow: one, the conservation of one's own life; the other, the death of the aggressor (**occisio invadentis**). Since what is intended is the conservation of one's own life, such an act is not illicit: it is natural for each thing to preserve itself in existence for as long as it is able. Nevertheless, some act proceeding from a good intention may be rendered illicit if it is not proportioned to the end (**proportionatus fini**). Thus, it would not be licit if someone defending his own life were to use more force than necessary. But, if he repels force with moderation, his defensive act will be licit: for, according to the jurists, it is licit to repel force by force, with the moderation of a blameless defense (**cum moderamine inculpatae tutelae**.) Nor is it necessary for salvation that a man forego an act of moderate force in order to avoid the death of another: since one is more responsible (**plus tenetur**) to care for (**providere**) one's

own life than someone else's. But, since to kill a man is not licit except for the public authority acting for the sake of the common good (as is evident from what was previously said [article 3]), it is not licit for a man **to intend to kill** another man in order to defend himself, except for those who have public authority. These, intending to kill a man in self-defense, refer this to the public good. This is evident in the case of a soldier fighting an enemy, and in the case of a minister of the judge fighting (**pugnante**) against thieves. Nevertheless, even these would sin if they were moved by private animosity.

What does Thomas mean by the phrase "**praeter intentionem**?" I will argue that in q.64, a.7, Aquinas uses "**praeter intentionem**" to refer to a characteristic, but not exclusive result which is not accidental, nor intentional, nor inevitable. I will argue that Aquinas understands justified private homicidal self-defense to be an action in which the defendant **risked** killing the assailant.

To do something which one foresees as inevitably resulting in the death of the assailant is not to risk the assailant's life knowingly. To risk the aggressor's life knowingly is not to do something which one foresees as inevitably resulting in the assailant's death. Yet, contemporary accounts of DER paradigmatically apply to knowingly causing inevitable harm. In this respect, Thomas's account substantially differs from the accounts offered by contemporary theorists of DER.

Praeter Intentionem: Intended or Accidental?

To what does "**praeter intentionem**" refer? In this section I argue against three interpretations of this phrase. I will argue first, that "**praeter intentionem**" clearly does not refer to what one intends; second, that it does not refer to something intended **in some special sense**; and, third, that it does not refer to an accidental consequence of one's action.

With respect to what "**praeter intentionem**" in q.64, a.7 means, Aquinas refers his reader to an earlier article. There he maintains that:

[A]ctive scandal is accidental when it is outside the intention (**praeter intentionem**) of the agent: as when a man by his inordinate deed or word **does not intend** to give another an occasion of downfall, but only to satisfy his will.^v

Clearly, Aquinas **does not** use "**praeter intentionem**" to refer to what one does intend.

Yet, as Steven Windass notes, by "**praeter intentionem**" Aquinas has been taken to mean that:

[Y]ou can in case of necessity kill in self-defence, provided that **in a special theological sense** you do not intend to do so.^{vi}

Some interpreters of Aquinas do attribute to him an idiosyncratic **method** of intention. Joseph M. Boyle, Jr. notes:

Aquinas is one of the chief architects of the tradition in which the doctrine of direction of intention was developed.^{vii}

We encounter an account of the direction of one's intention in Pascal's famous parody of Jesuit casuistry found in the seventh of **Les lettres Provinciales**. There Pascal presents his famous Jesuit's infamous **grande methode de diriger l'intention**.^{viii} According to Pascal's Jesuit, by following this method one can stroll about the dueling green, not intending to fight one's opponent, but intending to walk about. Of course, if one's opponent attacked, one could defend oneself. This, following the logic of the method of directing one's intention, would not be dueling.^{ix} Aquinas himself, however, nowhere articulates such a doctrine.

Boyle claims that such a doctrine **grounds** DER. He says:

The doctrine of the double effect presupposes at least this:
that one can **direct his intention** to the good effect of his
action and withhold it from the bad effect if the latter is not
a means to the former.^x

Such a direction of intention or withholding of intention would **itself be intentional**. Insofar as DER theorists think that intentions are ethically relevant, they will presumably think that intentions with respect to one's intentions, second-order intentions, are also ethically relevant. Of course, directing one's intention would be a second-order intention.^{xi}

DER does not repose -- indeed, may not be able to repose -- on the direction, withholding, or paring of one's intentions. It does, however, rest on one's being able to foresee harm without intending harm. It is at best an infelicity to speak of not intending some foreseen harm as directing one's intention away from the foreseen harm. If there were such a method of intention, it would found a "morality of gestures and poses."^{xii} In any case, Aquinas does not propose such a

morality, nor does he use "**praeter intentionem**" to refer to some special way of intending.

Aquinas says that what is **praeter intentionem** is **per accidens**. He has been interpreted as meaning that it is accidental in the sense of being an accidental consequence. For example, referring to q.64, a.7, Anthony Kenny claims:

In the context it is not clear whether Aquinas is justifying accidental killing in the course of a struggle or intentional killing when this is the only way to avoid being killed.^{xiii}

Yet, Aquinas explicitly denies the justifiability of a private individual's intentional killing of an aggressor (q. 64, a.7 **corpus** and **ad 2**). Does Aquinas mean to speak, as Kenny suggests, of an accidental killing in the course of a struggle?

What would it mean to say that one accidentally killed another in the course of a struggle? It would mean that one were engaged in pushing and shoving and pulling another and that the aggressor's death came about, say, by his tripping, falling, and breaking his neck. Such a death would result accidentally, just as someone could die while engaged in friendly horseplay. If this is what Aquinas means when he claims that what is **praeter intentionem** is accidental, then he has brought out an unwieldy concept to attend to what almost every action-theorist acknowledges: an agent is not responsible for consequences which accidentally result from his actions. Moreover, in the article immediately subsequent to that on self-defense, Aquinas asks whether an agent who has killed a man by chance (**casualiter occidens hominem**, a. 8) is guilty of homicide. He answers in the negative. This discussion already would have been addressed if what is **praeter intentionem** were **per accidens** in the sense of an accidental

consequence. So, besides the generally acknowledged point that agents are not responsible for the accidental consequences of their actions, q.64, a.8 would lead one to think that Thomas does not use "**praeter intentionem**" to refer to an accidental consequence.

Yet, Kenny is not alone in his interpretation. Steven Windass, in a separate investigation, understands Thomas to consider the attacker's death an accidental consequence. Offering what he takes to be Aquinas's position, Windass says:

[I]t is lawful to repel force by force; if this results in the death of the attacker, the death will be **accidental**.^{xiv}

As noted, there are good reasons internal to his discussion to think that Aquinas does **not** mean that the death of the assailant will be accidental. Windass notes that:

[I]t would be very odd [of Aquinas] to discuss the permissibility of different kinds of accident.^{xv}

I agree. It would be **very** odd of Thomas to use such a distinction to discuss kinds of accidental consequences. I take this to be a reason to think that Aquinas does not so use "**praeter intentionem**."

I have argued that Aquinas does not use "**praeter intentionem**" to refer -- as some have thought -- to what one intends, or to what one directs one's intention away from, or to an accidental consequence. In order to understand what he means when he says in q. 64, a.7 that what is "**praeter intentionem** is **per accidens**," I will now briefly investigate Thomas's account of intention and the elements he proposes for the ethical assessment of acts.

Intention and the Ethical Analysis of an Act

In IaIIae, q.12, Aquinas considers intention. In q.12, a.1, Aquinas claims, "intention, just as the very word implies, means to tend to something [**in aliquid tendere**]". Since the will (**voluntas**) moves the powers of the soul to their appropriate ends, it is evident, Thomas asserts, that intention is an act of the will. He argues that intention is the act of the will with respect to the end "as the term towards which something is ordained" (IaIIae, q.12, a.1, ad 4).

According to Thomas, we will the end, we choose the means, and we intend the complex, end-through-means. Using Aquinas's example, when we intend health, we intend health-by-means-of-medicine. We choose medicine-for-the-sake-of-health. How does Aquinas understand the agent's intention to relate to the goodness of the agent's act?

Thomas offers an elaborate account of the goodness and badness of human actions in IaIIae, qs. 18, 19, 20, and 21. For the sake of understanding his statement in q.64, a.7, it is not necessary to articulate his entire analysis. Nevertheless, what he has to say about the relation of the intention of the end to the moral analysis of the goodness or badness of an act requires attention.

Aquinas proposes a complex analysis of actions. Each aspect relates variously to the others. This reflects the Dionysian **dictum** that goodness is integral; evil, the lack of such integrity, vitiates what otherwise is morally good (IaIIae, q.19, a.6, ad 1).^{xvi} For the moral assessment of an act, three aspects of the act require attention, as Aquinas argues: what is being done (the deed or object), the circumstances in which it is done, and the end or reason it is done (IaIIae, q.18, a.1.)

According to Thomas, of the aspects of an action which make up its integral goodness or its disintegrated badness, the intention of the end is a necessary, but not a sufficient condition for a complete analysis of the action's ethical status.

In the light of his account of the relation between intention and the ethical analysis of action, it becomes clear what Aquinas means in q.64, a.7 when he asserts that, "moral acts receive their character according to what is intended, not according to what is **praeter intentionem**, for this is **per accidens**". Clearly, Thomas asserts that what is **praeter intentionem** is not essential to establishing the agent's action as good or as bad.

If the assailant's death results from a private individual's justified act of self-defense and the death is neither intended nor accidental, how is the death further, and positively, characterized? In q.64, a.7, Aquinas proposes and contrasts two cases of homicidal self-defense, that of a public official and that of a private individual. I will contrast these two cases in order to characterize, in a positive manner, the death of an assailant in the case of a private individual's justified homicidal self-defense.

Two Cases Contrasted

Aquinas holds that an officer of the polity -- a police officer in contemporary terms -- can **intend** to take the life of his aggressor as long as he uses minimal force (**proportionatus fini**), refers the slaying to the common good, and does not harbor animosity against the attacker (q.64, a.7.) In the case of a private individual's justified homicidal self-defense, Thomas accepts the slaying

of the assailant as long as it results from the use of minimal force and is **not intentional**. In both cases there is the common requirement that the force used is **proportionatus fini**. I take this to mean that the force used is minimal; that is, not more than is necessary for the preservation of one's life.

Say that I am a private individual. Both I and my assailant have swords. We begin to fight with them. I realize that my aggressor has far greater endurance than I and that the only way I can preserve my life is to kill him, say by cutting off his head. According to Thomas, I **cannot** do so because I cannot intentionally kill him. Thus, if this case were to obtain, then, according to Thomas, I, as a private individual, would not be permitted so to defend myself. If I were an officer of the state, however, executing my role as such, and I were in this same situation, Aquinas holds it permissible for me intentionally to take the life of the aggressor by cutting of his head.

Thus, while in both cases the force used must be **proportionatus fini**, this corresponds to a **larger** set of possible responses in the case of the officer of the state. For, according to Thomas, the officer of the state may proximately intend to take his assailant's life. Therefore, he may use a neck-severing sword stroke, for it is proportioned to this end.

In the case of a private individual, however, minimal force does not include cases in which such force corresponds to an intention to take the life of the attacker. For, according to Thomas, the private individual cannot intentionally take the assailant's life. Thus, the private individual cannot use means proportioned to the taking of the aggressor's life. A neck-severing sword stroke is such a means. Such a sword stroke is proportioned to the preservation of

one's own life only insofar as it is proportioned to the taking of the aggressor's life. Therefore, according to Thomas, a private individual cannot use such a sword stroke.

Thus, when Windass asserts that asking for double effect's reading of an ethical act of self-defense, "you can be fairly sure that ... your original impression of what you could actually **do** would not be changed,"^{xvii} he is right about the pilloried Jesuit of Pascal's seventh provincial letter, but not about Thomas.

I have assumed that Aquinas would permit the use of a weapon, and even a potentially deadly one, a sword. A weapon is an instrument. As an instrument it admits of **characteristic** ends. One defending his own life with a sword may not maintain that the assailant's death results **accidentally** from the employment of a sword. One of the ends to which sword-makers fashion swords is the taking of human life. Presumably, a sword not fit for the taking of another's life is not much of a sword.

The use of a sword contrasts with pushing an attacker, who then stumbles on the curb, falls, and dies of a broken neck. Characteristically, pushing, shoving, pulling, scratching, biting, kicking, gouging, and generally being a great nuisance to an aggressor does not result in his death. If death were to result from such acts, it would result accidentally. Because death does not characteristically result from the ingenious deployment of teeth, nails, knees, elbows, and fists, one's attacker could not charge one with endangering his life by so defending oneself.

If one were to use a sword, however, the attacker could claim that his life had been endangered. This is significant for two reasons. First, although the one defending himself by means of a sword may not intend to take the life of the

aggressor, he is willing to **risk** taking the aggressor's life. Second, if intending to take another's life differs from knowingly endangering another's life, then there is something else besides either the assailant's death resulting intentionally or the death resulting accidentally; namely, there is the assailant's death resulting as a **risked** consequence. I will now develop this point.

Risking Homicide

Accidental homicide differs from homicide which results from having endangered life. In an accidental killing, the agent inculpably does not foresee the death. When death results from having knowingly endangered someone's life, however, the agent foresaw the death as a possible consequence of his action. Accordingly, when one kills someone accidentally, one is **not** ethically responsible for his death; when one kills someone whose life one has knowingly endangered, one **is** ethically responsible for his death. Thus, killing someone accidentally importantly differs from killing someone whose life one has knowingly endangered.

Does intentionally killing someone differ from killing someone as the result of risking his life? When one intends to take another's life, one certainly endangers his life. Indeed, being the object of someone's intention to kill is probably the most extreme case of having one's life endangered. Does one intend to take another's life if one endangers another's life? For example, does one intend to take one's own life when one endangers one's own life?

Soldiers, stuntmen, race-car drivers, police officers, firefighters, and construction workers knowingly endanger their lives. Do they intend their own

deaths? Perhaps some of them do and perhaps some of them ought not so to endanger their lives even if they do not intend to take them. In any case, it would indeed be an eccentric theory of intention which concluded that anyone who knowingly imperilled his life intended his death. Similarly, there is no reason to say that knowingly jeopardizing **another's** life is to intend the other's death.

Chancing the assailant's life is precisely what I do if I do not intend to take his life, but I knowingly risk it in defense of my own life. I choose to risk his life rather than to forfeit my own, and such a choice on my part is ethically assessable. That the assailant's death characteristically might follow from my using a sword in defense of my life indicates that I am more willing to preserve my life than I am to forego hazarding the assailant's.

As I understand Aquinas, he proposes that a private individual may not intend to take the life of an assailant, while he may knowingly risk the assailant's life by defending himself with such force that the aggressor's death, if it results, would be **one** of the foreseeable characteristic consequences of the self-defensive act.

This interpretation may strike some as novel. Nevertheless, it accords with what Aquinas himself implies when he asserts that:

[T]he act of fornication or of adultery is not ordered to the conservation of one's own life out of necessity as is the act from which sometimes (**quandoque**) follows homicide (q.64, a.7, ad 4).

Aquinas restricts "**praeter intentionem**," as he uses it in his consideration of self-defense, to what occurs sometimes, but not always. Thus, in q.64, a.7

Aquinas does not appear to consider the foresight of an inevitable consequence, for such a consequence would not be said to follow "sometimes."

Joseph Boyle, Jr., however, offers an interpretation of q.64. a.7, which substantially differs from my account. He notes that:

The use of '**quandoque**' to describe the frequency of the deadly consequence following from an act of self-defense suggests that the assailant's death is not a natural and totally predictable consequence of the act as such.^{xviii}

Boyle, nonetheless, **denies** that "**quandoque**" has this meaning in q.64, a.7. He asserts that the assailant's death **is** foreseen as a totally predictable and inevitable consequence of the act of moderate self-defense proposed by Aquinas.

Having noted that with "**quandoque**" Thomas seems to exclude some acts of self-defense, Boyle observes:

[T]here appear to be types of self-defense in which the use of the minimum force needed to preserve one's life does have the assailant's death as a natural and certainly foreseeable consequence.^{xix}

I agree. There are such instances, such as the neck-severing sword stroke I mentioned earlier. As I have argued, Aquinas rules out **precisely** such a case. Boyle, however, thinks that Aquinas considers such an act to be ethically in the clear.

Boyle notes that Thomas uses "**praeter intentionem**" one hundred and forty-three times in his massive **œuvre**.^{xx} Boyle concedes that Thomas usually uses this term to refer to consequences which follow sometimes, or rarely. As

Boyle notes, Aquinas **infrequently** uses "**praeter intentionem**" to refer to consequences which follow always or for the most part.^{xxi} I do not dispute this point. I do maintain, however, that Thomas does not use "**praeter intentionem**" in q.64, a.7 to refer to an assailant's death foreseen as inevitable. That is, q.64, a.7 is not one of the rare cases in which Thomas uses "**praeter intentionem**" to refer to what happens always or for the most part.

Boyle's interpretation is problematic insofar as he discounts "**quandoque**" in **ad** 4 while noting that the **minority** of uses of "**praeter intentionem**" apply to cases in which a result follows always or for the most part. Thomas's use of "**quandoque**" in response to the fourth objection and his preponderant use of "**praeter intentionem**" to apply to what occurs infrequently, militate against Boyle's interpretation of "**praeter intentionem**" in q.64, a.7. Moreover, Boyle does not explain **what** Aquinas means by "**quandoque**" in **ad** 4 if he does not mean to restrict "**praeter intentionem**" to consequences which do not result for the most part. The onus of proving that "**praeter intentionem**" in q.64, a.7 refers to a consequence foreseen as inevitable falls upon Boyle.

In objection to my interpretation, one might argue that "**quandoque**" refers not to homicidal self-defense, but to self-defense in general. Thus, Thomas would be noting that self-defense is justified, even though the death of the aggressor sometimes follows from acts of self-defense. This, however, is a non-starter, for the question is whether homicidal self-defense is justified, not whether self-defense **simpliciter** is justified. Although it sounds awkward, one could say that Aquinas argues that when the conditions of DER have been met, a private individual's act of homicidal self-defense that is **sometimes** homicidal is

justified.

I have argued that in q.64, a.7, Aquinas uses "**praeter intentionem**" to refer to a risked consequence. In his discussion of homicidal self-defense, he does not extend this concept to inevitable results. In fact, in his response to the fourth objection, he limits his use of the distinction to cases in which the result follows sometimes, and thereby excludes from his justification cases in which the harm follows always.

In the standard contemporary cases of DER, such as strategic bombing which harms noncombatants and palliative morphine administration to a terminally ill patient which hastens or causes death, the harm is foreseen as an **inevitable** consequence of the action. In his account of a private individual's justified homicidal self-defense, Thomas holds that the defender knowingly **risked** the assailant's life. This excludes the use of means which one foresees as inevitably resulting in death, for one could not be said knowingly to risk killing the aggressor if one foresaw that one would inevitably kill the aggressor. Thus, Aquinas's originating account of DER substantially differs from what DER has become insofar as Thomas restricts his account to cases in which one can be said to risk foreseen harm.

The Second Condition of DER

Aquinas's account of DER is not simply that it is ethically in the clear to risk causing the death of one's assailant insofar as one does not intend to kill one's assailant.^{xxii} This is only the first condition of his account: the foreseen risked consequence is not intended. Like contemporary accounts of DER, Aquinas

argues that in addition to this first condition, a second condition must be met for the risking of the harm to be justified. He argues that:

It is not necessary for salvation for a man to forego
(**praetermittat**) an act of moderate defense in order to
avoid (**evitandum**) the death of another, since a man is
more responsible to provide (**plus tenetur .. providere**) for
his own life than for that of another (q.64, a.7).

Thomas asserts that one has a greater obligation to watch over one's own life than to do so over another's. Thus, when it comes to preserving lives, **ceteris paribus**, one is more obliged to preserve one's own than another's. Of course, covered by the "other things being equal" clause are such factors as the role one has with respect to the other's life at risk. For example, a captain of a sinking ship may be more obliged to care for a passenger's life than for his own.

When one's own life has been put at risk by an assailant, since one is, **ceteris paribus**, more bound to care for one's own life than for another's, one need not forego risking the attacker's life. One who would not defend his own life when this entails endangering the life of the attacker might exercise too little responsibility with respect to the good of life in his care. So, not only may self-defense be permissible, it may be required when not to defend one's own life is to act with too little care for what has been entrusted to one.

Summary

Aquinas offers the following analysis of an act that is ethically in the clear, but for its risking foreseen harm. First, the harm cannot be intended. Second, the

act fulfills some responsibility the agent has which is greater than the responsibility the agent has to avoid the harm.

In his account of a private individual's justified homicidal self-defense, Thomas presents the seeds of DER as it is presently understood. Yet, in one important feature, his contribution differs from contemporary double-effect reasoning. That feature became evident in Thomas's use of "**quandoque**" to characterize the assailant's death as **risked**.

It requires a considerable, and, as I have argued, ultimately untenable interpretive stretch to attribute to Thomas the application of "**praeter intentionem**" in his treatment of a private individual's act of homicidal self-defense to cases in which the assailant's death is foreseen as resulting inevitably. Accordingly, one cannot attribute contemporary double-effect reasoning to Thomas **tout court**.

The point of this paper has been to argue that Thomas does not use DER to justify a private individual's homicidal self defense in cases in which the aggressor's death is foreseen as inevitable. He does use it in cases in which the assailant's life was risked. What is the value of noting this difference between Aquinas's account and contemporary accounts of DER?

If one does not note this difference, then one will attribute to Aquinas an idiosyncratic account of intention which he does not have. For example, Jeff McMahan, following the customary interpretation, says:

Aquinas ... assumes that it is possible for one to foresee with certainty that one's act will kill one's assailant without intending the killing as a means of self-defence. ... To

illustrate [this] view, consider:

Self Defence 1: One's only defence against an unjust and potentially lethal attack is to shoot the attacker at close range with a flame-thrower.^{xxiii}

McMahan thinks that Aquinas and "the followers of Aquinas" hold that this case is an instance of self-defense justified by DER.^{xxiv} If one thinks that a defender can shoot one's attacker at close range with a flame-thrower, and that this is **not** intentional, then one seems to rely on a very narrow conception of what it is to intend a means. But, if one relies on such an account, then how will one argue, for example, that a terror bomber cannot drop bombs on noncombatants **without** intending their deaths? If one can use DER in the case of self-defense presented by McMahan, then one seems able to use it in terror bombing as well. As McMahan notes, such an account of DER, "results in an unacceptably permissive doctrine."^{xxv}

I trust that readers will realize that Thomas's account of DER is one which concerns the risking of harm. Accordingly, Thomas does not rely on an idiosyncratic account of intention which turns DER into the laxist account parodied by Pascal and rightly rejected by McMahan.

What does Thomas's account imply about the contemporary application of DER to cases, such as death-hastening palliative morphine administration to a terminally ill patient and strategic bombing which harms non-combatants, in which agents foresee the harm as resulting inevitably? Are there ethically relevant differences between self-defense and other cases of DER?^{xxvi} These questions deserve consideration; nonetheless, they belong to a paper other than the present

one.

NOTES

i. The standard article on the history of DER is Joseph Mangan's "An Historical Analysis of the Principle of Double Effect," **Theological Studies** 10 (1949):41-61. J. Ghos differs with Mangan over exactly where in Aquinas's work the sources of DER can be found: J. Ghos, "L'Acte a Double Effet; Étude de Théologie Positive," **Ephemerides Theologicae Lovanienses**, XXVII (1951):30-52. In fact, what Ghos notes, although not explicitly, is the conflation by Thomas's interpreters of two distinct strands in Aquinas's work: the indirect voluntary of S.t. IaIIae, q.6, a.3 and double effect of S.t. IIaIIae, q.64, a.7. For a more recent consideration of the history of DER see L.I. Ugorji, The Principle of Double Effect; A Critical Appraisal of its Traditional Understanding and its Modern

- Reinterpretation (Frankfurt am Main:Peter Lang, 1985).
- ii. See: Jeff McMahan, "Revising the Doctrine of Double Effect," **Journal of Applied Philosophy**, 11.2 (1994):201-212; Warren Quinn, "Actions, Intentions, and Consequences: The Doctrine of Double Effect," **Philosophy and Public Affairs**, 18 (1989):334-351; and Joseph Boyle, "Toward Understanding the Principle of Double Effect," **Ethics**, 90 (1980):527-538.
- iii. Unless noted otherwise, references to Aquinas's work will be to the Summa theologiae, Roma:Editiones Paulinae, 1962, I-IIae; translations by the author.
- iv. Editors normally cite q.43, a.3 which concerns scandal and I-IIae, q.72, a.1 which concerns the inordinateness of sin.
- v. Q.43, a.3.
- vi. Steven Windass "Double Think and Double Effect," Blackfriars 44 (1963): 261, original emphasis.
- vii. Boyle, 1978 "**Praeter Intentionem** in Aquinas", **Thomist**, 42.4, (1978):649.
- viii. Blaise Pascal Les Provinciales (Paris:Éditions de Cluny, 1943), 243.
- ix. For an extended discussion of Pascal's critique, its fairness and its influence, see Stephen Toulmin's and Albert Jonsen's The Abuse of Casuistry (Berkeley:University of California Press, 1988).
- x. Boyle, "**Praeter Intentionem** in Aquinas," **Thomist**, 42.4, (1978):649-650, emphasis added.
- xi. See Elizabeth Anscombe on this point; Intention (Ithaca: Cornell University Press, 1957), 47.
- xii. Jonathan Bennett "Whatever the Consequences," Analysis 26.3 (1966):91.
- xiii. Anthony Kenny, The Anatomy of the Soul: Historical Essays in the Philosophy of Mind (Great Britain:Harper and Row, 1973), 140.
- xiv. Steven Windass "Double Think and Double Effect," Blackfriars 44 (1963): 260, emphasis added.
- xv. Steven Windass "Double Think and Double Effect," Blackfriars 44 (1963): 260-261.
- xvi. **Bonum ex integra causa, malum ex quocunque defectu.**
- xvii. Steven Windass "Double Think and Double Effect," Blackfriars 44 (1963): 261, original emphasis.
- xviii. Boyle, 1978 "**Praeter Intentionem** in Aquinas", **Thomist**, 42.4, (1978):658.
- xix. Boyle, "**Praeter Intentionem** in Aquinas", **Thomist**, 42.4,

(1978):658.

xx.Boyle, "**Praeter Intentionem** in Aquinas", **Thomist**, 42.4, (1978):659, n. 39.

xxi.For example, in **Summa Contra Gentiles**, 3, 6, paragraph 5, cited by Boyle.

xxii.**Pace** Alan Donagan. Donagan (perhaps misled by the exclusive attention paid by some advocates of DER to the intended/foreseen distinction) asserts:

Finally, the doctrine underlying all forms of the theory of double effect is that what lies outside the scope of a man's intentions in acting does not belong in his action, **and so is not subject to moral judgement** (Alan Donagan, The Theory of Morality Chicago:Chicago university Press, 1977: 164, emphasis added; see also 122.)

If this were the case, the second condition would be otiose. Clearly, Thomas understands the first condition to be necessary, but not sufficient for DER.

xxiii.McMahan, "Revising the Doctrine of Double Effect," **Journal of Applied Philosophy**, 11.2 (1994): 202.

xxiv.McMahan, "Revising the Doctrine of Double Effect," **Journal of Applied Philosophy**, 11.2 (1994): 211.

xxv.McMahan, "Revising the Doctrine of Double Effect," **Journal of Applied Philosophy**, 11.2 (1994):212.

xxvi.Most contemporary theorists do not use DER to justify a private individual's homicidal self-defense. This is remarkable considering that Thomas's originating account concerned self-defense. However, as Jeff McMahan notes, some theorists do use DER to justify a private individual's homicidal self defense: G.E.M. Anscombe "War and Murder", in J. Rachels (ed.), Moral Problems (New York:Harper and Row, 1975):288-289; R. L. Phillips., War and Justice (Norman:University of Oklahoma Press, 1984):44-46; and J. Finnis, J. Boyle, and G. Grisez Nuclear Deterrence, Morality, and Realism (Oxford:Oxford University Press, 1987):310-318. Anscombe, however, offers a nuanced account in which the private individual, **if given the authority of law**, may intentionally take the life of the aggressor. This account would retain Aquinas's position that what is at issue in the private individual's act of self-defense is the authority to take life.