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AQUINAS AND THE HISTORICAL ROOTS OF PROPORTIONALISM

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It would mean that because my deceitfulness has promoted God's glory by giving scope to his truthfulness, I on my side do not deserve to be condemned as a sinner. If so, why should we not do evil so that good may come of it? That is what we are accused of preaching by some of our detractors; and their condemnation of it is just.ⁱ

John Paul II concludes the second chapter of **Veritatis Splendor**, saying:

By acknowledging and teaching the existence of intrinsic evil in given human acts, the Church remains faithful to the integral truth about man; she thus respects and promotes man in his dignity and vocation. Consequently, she must reject the theories set forth above, which contradict this truth.ⁱⁱ

The "theories set forth above" to which the Holy Father refers are known as "consequentialism" and "proportionalism." Classical consequentialism, also called "utilitarianism," begins with Jeremy Bentham (1748-1832) and the two Mills (James 1773-1836, and his son John Stuart, 1806-1873), and culminates in the work of Henry Sidgwick (1838-1900) the last classical consequentialist. The principal thesis of consequentialism is that the morality of an action is nothing but a function of its consequences. Accordingly, consequentialists propose that the action which one ought to do is the one which realizes the greatest net good consequences or the least net bad consequences. In accordance with consequentialism, one reasons, for example, that

it is best to procure the judicial execution of an innocent man for the good of the many.

Consequentialists do not hold that there are actions which one may never perform, no matter what the consequences of not performing them, because they assert that the goodness or badness of each action depends solely upon the consequences of the action. Consequentialism is the dominant ethical theory of our time; nonetheless, it is not the topic of this paper.

Proportionalism, the concern of this paper, has a short history, found exclusively within Catholic moral theology. Proportionalism begins with the rejection of **Humanae Vitae**,ⁱⁱⁱ and with certain Catholic moral theologians' novel interpretations of both **Romans 3:8** and double effect reasoning - often referred to as the "principle of double effect."^{iv} Based on the distinction, one **does not** assert that what an agent foresees, but does not intend has **no** role in assessing the ethical status of an action. By the intended/foreseen distinction one notes only that the agent's intention has greater import in determining the ethical status of the act than what the agent foresees as an effect, but does not intend. Accordingly, the intended/foreseen distinction is proposed as necessary, but not sufficient for a complete analysis of an action which effects both good and evil. Double effect reasoning also depends upon a comparison of the responsibilities which the agent has to realize or to protect the goods at issue in the action which effects both good and evil. According to double effect reasoning, the agent who foresees that his action will cause both good and evil must have a greater or equal responsibility to effect the intended good end than to avoid effecting the foreseen evil. Thus, **speaking generally**, in accordance with double effect reasoning, one

proposes that if 1) an agent foresees that by his action he will effect both an intended good end and a foreseen, but not intended evil and 2) he has a greater or equal responsibility to realize the good end than he has to avoid causing the evil, then, if he acts, his action will be ethically in the clear.

Proportionalism originates with an article on the principle of double effect by the theologian Peter Knauer. This article first appeared in French in 1965. It was revised and published in German in 1967, and then translated into English. The English version, entitled **The Hermeneutic Function of the Principle of Double Effect**, was published in the **Natural Law Forum**.^v Knauer attempts in this article to ground proportionalism on Thomas Aquinas's treatment of double effect reasoning. In what follows, I will present Knauer's interpretation of Aquinas's account of double effect reasoning and give the most compelling reasons for rejecting this interpretation.

I

Aquinas's Account of Private Homicidal Self-Defense

The **locus classicus** of double effect reasoning is Thomas Aquinas's discussion of the private individual's act of homicidal self-defense (S.T. IIaIIae q.64, a.7). Question 64 occurs within his consideration of the vices opposed to commutative justice. Specifically, question 64 concerns death, which Aquinas considers the greatest injury one can inflict on one's neighbor against the will of one's neighbor. In a.7, Thomas asks whether it is licit to kill a man in self-defense. In his discussion of war (IIaIIae, q. 40, a.1), he has previously noted that Augustine judges it licit for one charged with the common good to take life during a war for the sake of the common good. Thomas himself asserts that it is licit for public officials, as public officials, to

take life intentionally for the sake of the common good. According to Aquinas, this prerogative extends to a public official, as a public official, taking life intentionally in self-defense. Thus, the issue in article 7 of question 64 concerns a **private** individual's act of homicidal self-defense. It is here, in his consideration of this issue, that Thomas originates double effect, and here, as I will argue, that Knauer misinterprets him.

Thomas, in article 7, takes one objection against homicidal self-defense from St. Augustine's de Libro Arbitrio. 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)

If, as Aquinas notes, corporeal life can be included among the contemptible goods which men may forfeit against their wills, Augustine appears to rule out homicidal self-defense. In his response to this objection, Thomas interprets Augustine as not permitting the **intentional** taking of an aggressor's life.

Thomas claims that in order that the private individual's act of homicidal self-defense be licit, the death of the aggressor must be **praeter intentionem**, that is, outside the individual's intention. He uses **praeter intentionem** to refer to a foreseen consequence of an action which comes about neither intentionally, nor inevitably, nor accidentally, but as a characteristic, non-exclusive result -- that is, as one result amongst a number of normal possibilities. Thus, Thomas distinguishes between the intended means and ends of an act and the foreseen effects of that same act which are not intended. Although Aquinas does not understand the circumstances surrounding the defense of one's life to be voluntary without qualification, he does understand

the agent to act voluntarily within those circumstances imposed by the aggressor (IaIIae, q.6, a.3). Thus, if the assailant dies, the defender causes his death voluntarily, though he does not intend it. Accordingly, the defender must have a justification for killing the aggressor.

What does Aquinas understand such a justification to be? In q. 64, a.7, 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.

When he says that one is "**plus tenetur ... providere**," he notes that one has more of an obligation to watch over one's own life than to do so over another's. Thus, when it comes to preserving lives, one is, **ceteris paribus**, more obliged to preserve one's own than another's. Of course, the "all other things being equal" clause covers factors like the role one has with respect to preserving the other person's life. For example, a captain of a sinking ship may be more obliged to save a passenger's life than his own. Since, on Thomas's account, one is ordinarily more bound to care for one's own life than for that of another, one has no obligation to forego risking an attacker's life. One who would not defend his own life when it entails endangering the life of an attacker might exercise too little responsibility with respect to the great good of the life entrusted to him. Thus, Aquinas understands homicidal self-defense to be legitimate when the death of the attacker is not intended and it results from the individual's intentional preservation of his own life.

Aquinas does **not** say that the moral analysis of an act of homicidal self-defense requires

an evaluative comparison of the lives in question. Nor does he say anything indicating that the life of one who attacks has been forfeited. He does present one criterion as a prerequisite for an ethically acceptable use of force: the force used must be **proportionatus fini**. By demanding that the force used in self-defense be proportioned to the end of self-preservation, he reiterates and explicitly acknowledges a criterion voiced by Gregory: in order for the use of force to be ethical, the force used to repel force must be moderate - **cum moderamine inculpatae tutelae**. A defense is not blameless if it is not moderate. For example, a defense would not be blameless if one could use mace, but, instead, used a machete.

This criterion -- that the means must be proportioned to the end of self-preservation -- appears straightforward. Thomas is not easily interpreted to mean by **proportionatus fini** that the one who defends his own life must weigh the value of his own life against the attacker's. He claims only that one is justified in using moderate force which **may** be lethal because one has a greater obligation to preserve his own life than another's.

Nonetheless, by **proportionatus fini** some have interpreted Aquinas to mean a comparative weighing of goods. This interpretation is demonstrably mistaken, and, more importantly, in taking on a life of its own as proportionalism, has come to occupy a prominent place in contemporary Catholic moral theology, as the Holy Father's rejection of it in **Veritatis Splendor** indicates.

II

Knauer's Interpretation

Peter Knauer, in what can without exaggeration be called **the** seminal article of

proportionality,^{vi} cites q. 64, a. 7 as an instance of proportionalistic thinking. He pays particular attention to the following passage in that article:

But some act **arising from a good intention** can be made unlawful if it is not proportionate to the end [**proportionatus fini**]. And so, if someone in defending his own life uses greater violence than is necessary, it will be unlawful. But if he moderately repels violence, it will be a lawful defense.^{vii}

One would think that by the phrases "proportionate to the end" and "moderately repels violence" Aquinas would mean, as Knauer himself suggests (not as an interpretation, but as his independent observation), that "one may not kill an aggressor, however unjust, if in other ways one can save oneself and other possible victims."^{viii} Similarly, this concept of an act's being proportioned to its end operates in Knauer's judgement that "a physician may prescribe a drug which has bad side effects only until medical science finds a drug just as effective but without the side effects."^{ix} This criterion -- that an act must be proportioned to its end -- is **not** exotic. It is commonly understood that what should be done to attain an end is that which is requisite to effect the end -- that, and no more. In the case considered by Thomas, the act by which the defender preserves his life while causing the least harm to the aggressor would be proportioned to the end of self-preservation.

Knauer, however, thinks that Thomas proposes something different from, though similar to, this principle of moderation. He understands Aquinas to mean:

In sinning, man seeks a real good, but his act in its total existential entirety is not proportioned to this good. Then the evil arising

thereby, whether it is desired or not, belongs objectively to the act
and is objectively what is "intended."^x

There are two significant problems with Knauer's interpretation. First, he **contradicts** the statement with which Aquinas introduces his discussion of **proportionatus fini**. Thomas says that the act, even if it arises from a **good intention** (therefore, an act in which harm is **not** intended) may not be blameless if it is not proportioned to its end -- in this case, self-preservation. Therefore, Aquinas holds that an act could originate from a good intention **and** not be proportioned to its end. Knauer denies this. Second, he maintains that Thomas, in his discussion of **proportionatus fini**, asserts that a harmful effect is intended if and only if the action productive of it causes less good than evil. Aquinas, however, **distinguishes** what the agent intends as an end from whether or not the act is proportioned to the intended end. Accordingly, he argues that the defender must not intend the death of the assailant **and** that the defender must not use greater force than is necessary to preserve his own life. According to Thomas, if the defender does not intend to take the life of the aggressor, **but** acts with excessive force, he would not act well, insofar as his use of force exceeds what is necessary for self-defense. Thus, Thomas holds that the homicidal act of self-defense must not be either an intentional taking of life, or a use of excessive force. Knauer, however, holds that the act is an **intentional** taking of life if the agent uses excessive force.

Knauer attempts further to explicate Aquinas's account, saying:

Thomas also held that the evil might not be **effected directly**.

According to him, the intention must be accidental (**per accidens**);

it must be beyond intention (**praeter intentionem**).^{xi}

Yet, nowhere in q. 64, a.7 does Aquinas speak of effecting the harm directly or indirectly, as Knauer claims. Moreover, Knauer asserts that Aquinas uses **praeter intentionem** to refer to an "accidental" intention. Thomas, however, clearly denies that what is outside the intention is intended in **any** sense. Knauer describes what is **not** intended as intended **in some special fashion**. By **praeter intentionem** Aquinas refers to an effect which is not intended. Thomas does not use the phrase, as Knauer maintains, to describe a **way of intending**. It is not clear what Knauer means when he says that what is outside the intention is an accidental intention. It is clear, however, that Knauer offers a confused and confusing interpretation of Aquinas.

Further manifesting his misunderstanding of Aquinas's account, Knauer states:

There are further pairs of concepts which also stand in the same relation to the requirement of a commensurate reason. There are, for example, **per se - per accidens** and "in intention" - "beyond intention" in the text cited from St. Thomas [q.64, a.7]. The use of these different concepts for one and the same reality reveals that the scholastics had not reflected thoroughly enough on their meanings.^{xii}

Knauer equates the distinctions **per se/per accidens** and **intentionem/praeter intentionem** with **proportionatus fini** and describes it as "having a commensurate reason." In fact, Thomas holds that what is intended is essential in determining the goodness or badness of an act, while what is **praeter intentionem** does not have the same essential significance. He expresses this by saying that what is intended is **per se** and what is **praeter intentionem** is **per accidens** to the ethical analysis of an act. Because intention is essential to that analysis, Thomas argues that for a private

individual's act of homicidal self-defense to be justified, the death of the aggressor must not be intended. Moreover, because the defender might gratuitously endanger the life of the assailant while not intending to take the aggressor's life, Thomas, as we have seen, reiterates the criterion proposed by Gregory that the force used in defense of life must be **proportionatus fini**, that is, proportioned to the end of self-preservation.

Understanding his version of double effect to be the whole of morality, Knauer reduces the moral analysis of human action to his flawed interpretation of what it means for an act to be **proportionatus fini**. With such whimsy, he founds proportionalism:

I say that an evil effect is not "directly intended" only if there is a "commensurate ground" for its permission or causation. There are not two distinct requirements when I speak of the "indirect causing" of evil and of "a commensurate reason" for the act. [Double effect reasoning] may be adequately formulated as follows: One may permit the evil effect of his act only if he has a commensurate reason for it.^{xiii}

While Aquinas distinguishes the intention of evil from any quantitative relation between the evil and good caused, Knauer maintains that an agent intends an evil effect if, and only if, the agent does not cause greater good than evil. Thus, if the agent were to cause **greater good** than evil by the act, the agent, according to Knauer, would not intend the evil. There could be no more serious and potentially pernicious misconstrual of double effect.

By **proportionatus fini** Aquinas does not mean what Knauer asserts: that "an objective is sought which has an appropriate price (**tantum - quantum**)."^{xiv} What would such a requirement

amount to, if not a **quid pro quo**, a tit for tat, his life for mine? Aquinas proposes **proportionatus fini** to denote a precondition for the use of such force as endangers the life of an attacker: the act of self-defense must be moderate. Thus, the use of a potentially lethal weapon is not to be countenanced when all that needs to be done is to turn on a light, or let the dog out of the house, or call 911, or throw a net or blanket over an attacker, even though the act of self-defense endangering the attacker's life would proceed from the good intention of self-preservation. The defender using force proportioned to the end of self-preservation does not hold the aggressor's life to be of lesser value than his own. Knauer's attempt to ground proportionalism on Aquinas's account of homicidal self-defense does not withstand a careful scrutiny.

Knauer's account has another significant defect. As we have seen, he maintains that an agent intends a bad effect if and only if the agent does not cause more good than evil. If the agent effects greater good than evil, the agent does not intend the evil; for, Knauer holds, in such a case the agent has a commensurate reason for effecting the evil -- the good which he will bring about. Such a position cannot be attributed to Aquinas; nor is such an account of the intention of evil tenable in its own right. The objects of intentions are ends and the means ordered towards those ends. Since means are discovered by deliberation, one intends them when one discovers them in deliberation and chooses them as ordered towards a given end. Accordingly, the question which arises when one asks whether or not something is intended by an agent is not "how much good did the agent realize by causing this thing?", but, rather, questions such as "did the agent's willing of the thing lead him to deliberate about how to achieve it?" and "was this thing done by the agent insofar as it was ordered towards the realization of some end the intention of which

caused him to enter into deliberation?" Knauer, however, focuses exclusively on the quantitative relationship between the evil and the good effected by an agent. Thus, Knauer fails to account for the salient role of deliberation in determining what an agent intends and does not intend.

Moreover, he cannot account for our application of the concept of intention to **ordinary** cases in which one **does not** cause evil. By means of double effect reasoning, we analyze **exceptional** cases in which we cannot realize a good end without also causing a bad effect. Nonetheless, the concept of intention by which we illuminate such situations is not limited to those situations. We examine such cases by employing the concept of intention which we acquire from ordinary cases, independently of our analysis of extraordinary cases in which the causing of good and evil are conjoined. Knauer, however, relies on an account of intention which is **necessarily** limited to cases in which both good and evil are effected. Thus, he lacks the resources to explain what it usually means for an agent to intend some object.

More importantly, Knauer's understanding of the intention of evil nullifies St. Paul's statement in **Romans**. For, according to Knauer, evil would not be intended by one who causes greater good by doing evil. St. Paul, however, teaches that no matter **how great** a good may be effected by the doing of evil, we are not to do evil for the sake of that good. St. Paul implicitly separates the doing of evil from the quantitative relation between the evil done and the good effected by doing it. In opposition to St. Paul, Knauer maintains that if an agent causes greater good than evil, he does not **do** the evil because he does not intend it. In such a case, according to Knauer, the evil simply happens and cannot be attributed to the agent; for the agent causes greater good, and therefore, by definition, does not intend the evil.

Although proportionalism began with Knauer, it did not end with him. Richard

McCormick, who has been described as "the champion of proportionalism in the United States,"^{xv} denies Knauer's account of the intention of evil. McCormick thinks that Knauer renders the concept of intention vacuous insofar as Knauer makes the intention of evil depend on one's not causing greater good than evil. McCormick amends Knauer's basic position by asserting that, for a great enough good, evil may be done **intentionally**.^{xvi} McCormick thus makes proportionalism less ambiguous and more clearly opposed to St. Paul's admonition and the consistent tradition of Catholic moral theology which teaches that there are some actions which are evil and are, therefore, not to be done -- no matter how great a good may be brought about by doing them.

In the three decades since Knauer's seminal account, proportionalism has shown itself to be a hydra.^{xvii} Whatever disagreements exist within the proportionalist camp, there is one common feature of all such accounts: the denial of **Romans 3:8**. In **Veritatis Splendor**, John Paul II reiterates the Pauline doctrine that evil is not to be done for the sake of good -- no matter what the consequences. Since proportionalism departs from St. Paul's admonition and the theological tradition which follows from reflection on that admonition, the Holy Father notes the ultimate untenability of the account as a guide for human action.

NOTES

ⁱRomans 3:7-8.

ⁱⁱVeritatis Splendor, #83.

ⁱⁱⁱHoose, Bernard, 1987, Proportionalism: The American Debate and its European Roots, Washington:Georgetown University Press, pp. 37-38.

^{iv}Double effect reasoning, which originates with Aquinas's discussion of homicidal self-defense (S.T. q.64, a.7), is an analysis of the ethical status of one's causing an effect which, if one is to act ethically, one cannot **intentionally** cause. Double effect reasoning is used to analyze an action such as bombing a military installation when one foresees that this will cause the deaths of innocent civilians. In this case, an agent intends to bring about some good end and foresees that if he acts in order to realize this end, he will cause some bad effect which he does not intend and which, if he could, he would avoid causing. Double effect reasoning partially reposes on a distinction between what an agent intends either as the end or means of his action and what he foresees as an effect of his action, but does not intend. This is the intended/foreseen distinction. In double effect reasoning, this distinction is thought to be philosophically tenable. Moreover, the distinction is thought to reveal an ethically relevant difference between an agent's bringing about a foreseen bad effect and that agent's causing that same effect **intentionally**. Employing this distinction, one would maintain that an agent's intention has more significance than what he foresees in establishing the goodness or badness of his action.

^vNatural Law Forum, Vol. 12, No.1, pp. 132-162.

^{vi}Hoose, Bernard, 1987, Proportionalism: The American Debate and its European Roots, Washington:Georgetown University Press, p. 1.

^{vii}Knauer, 1967, **The Hermeneutic Function of the Principle of Double**

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- Effect, Natural Law Forum**, Vol. 12, No. 1, pp. 132-162, p. 133, emphasis added.
- ^{viii}Ibid., p. 152.
- ^{ix}Knauer, 1967, **The Principle of the Double Effect**, **Theology Digest**, 15, p. 102.
- ^xKnauer, 1967, **The Hermeneutic Function of the Principle of Double Effect, Natural Law Forum**, Vol. 12, No. 1, p. 134.
- ^{xi}Ibid., p. 136, emphasis added.
- ^{xii}Ibid., p. 139.
- ^{xiii}Ibid., p. 137.
- ^{xiv}Knauer, 1967, **The Hermeneutic Function of the Principle of Double Effect, Natural Law Forum**, Vol. 12, No. 1, p. 142.
- ^{xv}Hoose, Bernard, 1987, Proportionalism: The American Debate and its European Roots, Washington:Georgetown University Press, p. 4.
- ^{xvi}McCormick, Richard, 1973, Ambiguity in Moral Choice, Milwaukee:Marquette University Press, p. 94.
- ^{xvii}See: Hoose, Bernard, 1987, Proportionalism: The American Debate and its European Roots, Washington:Georgetown University Press.