Intention, the principle of double effect, and military action.

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INTENTION, THE PRINCIPLE OF DOUBLE EFFECT, AND MILITARY ACTION

A Thesis Presented

By

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INTENTION, THE PRINCIPLE OF DOUBLE EFFECT, AND MILITARY ACTION

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CHAPTER I
THE PRINCIPLE OF DOUBLE EFFECT--AN OVERVIEW

Introduction

The Principle of Double Effect has served as a guide for both statesmen and soldiers since the middle ages in determining which acts in war are morally permissible and which are not. It is used, in particular, by those who make their moral decisions on the basis of certain moral rules that concern the moral consequences of action. This Principle of Double Effect (hereafter referred to as PDE) comes into play in situations where an agent has the option of performing an act with both good and bad consequences. Advocates of PDE believe that it is morally significant whether a bad consequence is intended by the agent or merely forseen as incidental to an act that is in all other respects morally acceptable.\(^1\) Of great interest to moral philosophers discussing acts of war is how this principle applies to the deaths of persons not directly involved in the prosecution of the war. Proponents of the PDE claim that while it is morally impermissible to intentionally bring about the deaths of innocent people during combat, either as a means to a military objective or as a goal in itself, it is permissible under certain circumstances for an agent to choose a course of action which may bring about the deaths of innocent people as a foreseeable consequence.

In order to discuss this principle clearly it is perhaps a good
idea to take a look at it now. One commonly accepted version of this doctrine is that put forth by the Catholic Church. It looks like this:

PDE: An agent is morally permitted to perform an act which results in both good and bad consequences if and only if (1) the act itself is morally good or at least indifferent, (2) the agent does not positively will (intend) the bad effect but merely permits it, (3) the good effect flows from the action at least as immediately as the bad effect, and (4) the good effect is sufficiently desirable to compensate for allowing the bad effect.

As I said earlier the PDE is a moral principle that has been developed because deontological philosophers of a specific sort have recognized that oftentimes there are situations where a particular act brings about both good and bad consequences. They also have seen that the moral rules they accept either give them conflicting guidance in the matter or perhaps even give them guidance which seems to be intuitively wrong.

Let's consider an example which presents the kind of problem the PDE should be concerned with. Major Lee is in charge of a special anti-terrorist unit which has been sent to rescue ten hostages being held by a lone gunman. The gunman is holding the hostages in a local office building and has threatened to shoot them all by a certain time if his demands are not met. Because his demands are so ridiculously exorbitant Major Lee's government refuses to negotiate with the terrorist. Lee moves his men into position and begins to consider the alternatives open to him. If he storms the building, there is a very
good chance that the terrorist will shoot most of the hostages before he and his men can reach them. He does not have the assets to attempt an aerial insertion onto the top of the building. One by one Lee considers other alternatives and finds them unacceptable. He decides that the best alternative is to position his expert marksmen in positions where they can shoot the terrorist if he exposes himself. They then begin their wait.

As time begins to run out the terrorist brings one of the hostages to the window with him to demonstrate his willingness to carry out the threat. He holds an automatic weapon to the head of a young man. Major Lee seeing that the terrorist is about to shoot the hostage, orders one of his marksmen to shoot the terrorist. In doing so, he knows that even if the marksman shoots the terrorist, it is still probable the terrorist will kill the one hostage before he dies. Nonetheless, the nine other hostages will have been spared a similar fate. Yet, all the same, it is both Major Lee's and the marksman's intent to kill the terrorist, not the hostage. In fact, the sharpshooter does shoot the terrorist, but before the terrorist dies he pulls the trigger of his gun and kills the hostage.

Now this might not seem like such a great problem to those of the utilitarian persuasion. Solving the problem would seem to be merely a matter of weighing the positive utility of the good effects against the negative utility of the bad effects. If the overall utility of doing that act is at least as great as that of any per-
formable alternatives, then doing that particular act would be morally permissible. In this case, it seems that no other viable alternatives were open to Lee. Any other action he might take would probably bring about the deaths of all ten of the hostages. However, the action that he did choose only brought about the death of one hostage. Surely, a utilitarian would say, it is much better that only one hostage die than all ten.

However, for the deontologist who is likely to support the PDE, this is not an acceptable means of solving the problem. The particular type of normative ethical system he supposes correct would prevent him from making such an overt appeal to utilitarian considerations. Aquinas was one of the earliest proponents of this kind of system, as well as the PDE. Since Aquinas' ethical system has been widely accepted by many "Just War" theorists, we will examine it to understand better why the PDE is a necessary part of it.

According to Aquinas, we as human beings are rational and have free will. Moreover, as rational men, we perform our actions with particular goals in mind. We do not act just to be acting, but instead to be achieving some end or consequence. Accordingly our actions should be judged not just in terms of the action itself, but also in terms of achieving those consequences we acted to bring about. Now while this theory is teleological (ends oriented) in nature, it is not to be confused with utilitarianism. For under Aquinas' theory the moral arbiter is concerned with specific moral rules. That is, not
only must the act itself be intrinsically neutral or good but the consequences of the act should be in accord with certain specific moral rules that we men hold as binding. For the purposes of this discussion we will assume that the rules that Aquinas had in mind are the Commandments.

An Aquinian deontologist might propose, then, that these Commandments should be couched in terms of specific consequences our acts bring about. One example of such a rule might be:

A: One should not perform actions which bring about the deaths of innocent people.

An action would be right or wrong with respect to this rule in terms of its specific consequences (i.e., whether someone was killed or not), rather than judged right or wrong in terms of the overall utility of all the consequences it brings about, as a utilitarian would claim.

Now Aquinas did not just espouse rules which are prohibitory in nature. He also thought we have a duty to perform actions which result in beneficent consequences. Not only should we endeavor to prevent the evil consequences that the ten Commandments prohibit, but we also should promote good consequences by our actions. Let's consider this as an additional rule in our set of Commandments.

Now the problem with this moral system becomes evident if we consider our example situation. If rule A applies, no action that Major Lee is able to do is acceptable. Yet, this conclusion, as well as being impracticable, runs counter to our basic moral intuitions. Even if we apply our additional rule to act to bring about beneficent
consequences, we run into a dilemma. For now Major Lee is enjoined to save the nine but not to kill the one. Clearly, this is impossible given the circumstances.

It seems that Aquinas recognized that the sort of conflicts I have just described were inevitable in a deontological system where the rules are absolute in the way that rule A is. So, I think it is safe to say that rules like A are not exactly what Aquinas had in mind.

Important to Aquinas's moral theory was the role the agent plays in an action. In particular he was interested in how the agent conceives his action and its consequences when he performs the action. What seems to have concerned him was that not everything that occurs to others as a consequence of one's action is something that one deliberately does to those people. Absolute rules, such as A, did not capture that intuition. One, for example, could be held accountable for any killing that comes about as a consequence of one's action, no matter how remote the consequence or how little control the agent has in the action. Consequently, Aquinas designed the PDE to make a distinction between consequences that are deliberately brought about by the agent and those which are not.

It is important to note, however, that the PDE is not just another rule that is tacked on to some absolutist deontological theory. That is, it is not that there are 10 (or 11) Commandments and then the PDE. For this does nothing to solve the dilemma produced by rules like A. By applying the PDE in this manner, one just confuses the matter all
the more. Using our terrorist scenario as an example, rule A tells us that Major Lee's action is morally wrong (impermissible) while the PDE would probably tell us Lee's action is morally permissible. A dilemma still exists.

Instead, we should think of the PDE as an integral part of each rule in our moral system. It is not, for example, that all acts of killing are wrong. Certain non-deliberate killings are excused. We use the criteria of the PDE to determine which of these actions are excused. One might best think of the PDE's role as something like a caveat on each of the moral rules. Let's adjust rule A to see how the PDE modifies it:

\[(A'):\text{ An action in which the agent brings about the deaths of an innocent person is morally impermissible except when (1) the act itself is not morally wrong, (2) At least one good consequence is brought about by the act, (3) the agent does not intend to bring about the death of the innocent person, (4) the good consequence results from the action at least as immediately as the death of the innocent person, and (5) the good consequence is sufficiently desirable to compensate for allowing the death of the innocent person.}\]

I think that it is safe to say here that the PDE is not just an adjunct to an Aquinian deontologist's moral system, but an essential part of each rule within that system. It allows that certain actions which bring about bad consequences are morally permissible.

By applying rule A' now we are able to extricate Major Lee from his dilemma. Allowing that the act of shooting a rifle is not morally wrong, Major Lee's action fulfills the other four criteria of rule A'. The good consequence brought about is that he rescues nine hostages.
Neither Major Lee nor the marksman intends that the one hostage be killed. Practically speaking, the one hostage's being killed results at the same time as the other hostages' being freed. Clearly though, it is not the death of the one hostage that brings about the saving of the other nine. It is the death of the terrorist (who is not an "innocent person") which brings about both consequences. Finally, a good number of us would say that the saving of the nine hostages is sufficiently desirable to compensate for the death of the one. This is not to say that I do not recognize that there are those who would disagree with me on this last point.

The Central Role of Intention in the PDE

The criterion that the agent should not intend the possible bad effects of his action seems to me to be the foundation of the PDE. We can better understand this intuition if we just pause a moment to consider man's many limitations with respect to his intentions and foreknowledge in the performance of his acts. Clearly, men often act with the intention of adhering to moral prescriptions and with the belief that they do. Yet, in the process of performing what they believe is an act with good consequences they may unintentionally violate some moral rule. Man is inherently limited by his beliefs about what his acts entail, his perceptions of the circumstances that they are performed in, and his physical capabilities. It is a rare situation indeed, where an individual is aware of all the relevant
circumstances that influence his action, all the relevant alternatives open to him, and all the consequences that each alternative entails. It is rarer still for him to see how these factors should be weighted in order to reach the morally correct decision.

Because man is limited in these ways from objectively determining what is right, he can rarely, if ever, be in the position to know with absolute certainty that he is doing the morally right thing. Perhaps realizing this, early deontologists expanded the criterion for a morally permissible act to include the moral quality of the agent's intentions in doing it, as well as the rightness or wrongness of the act and its consequences.

It seems that this is what these men had in mind. Aquinas, among others, clearly said that one's intention in doing an act has a direct bearing on its moral quality. For instance, an agent's bad intention will spoil a good act, but his good intentions will not redeem an act that is known by him to be bad. The intuition was that if one genuinely intended certain good consequences from an act and the act in itself was not intrinsically bad, then the agent had not willingly performed a sin and, hence, was not culpable, as one would be if one had aimed for bad results. They reasoned, it is one thing knowingly to attempt to bring about evil consequences and quite another thing to bring about evil effects that are merely foreseeable as a possible side effect (or not foreseeable at all) of one's intended act.

It is critical to note here that great emphasis was placed upon
how the agent viewed the act he was about to perform. For example, consider the case where John is practicing with his rifle on a range. He is engaging pop-up silhouette targets at a distance of approximately 100 meters from him. Suppose he has been shooting at them for quite awhile. In the meantime his best buddy, Greg, has gone down-range to fix some of the targets that have not been working. Let's assume that John does not know this. As Greg is working on one of the targets he straightens up to stretch his sore back. John, mistaking Greg for one of the silhouette targets, shoots and kills him instantly. It is consistent with this early Christian ethical philosophy to say that John did not intend Greg's death. His aim was to hit a silhouette target, not to kill Greg. Hence, the moral status of the act is much different than it would have been had he intended Greg's death when he shot the rifle. In a sense John intended the act and in a sense did not intend it. How John is judged revolves on his intent and his knowledge of the act. The other criteria of the PDE, although perhaps helpful, are ancillary. They are of help only after we have resolved the question of the agent's intention in the matter.

The PDE is designed to help us in those cases where bad consequences result from an action as well as good consequences, even though the agent intends only the good consequences. If the agent truly envisions his act to have the good consequences he intends, even though the bad consequences are foreseeable, then his act is morally permissible (provided the other three criteria are met).
By applying the PDE to these cases, we add a subjective element. It is not only important whether the agent's action produces a bad consequence which in turn causes him to violate a moral rule. It is also important whether the agent deliberately intends that his action bring about those bad consequences.

The PDE and Just War Doctrine

The PDE, then is extremely important in Christian Just War theory, as Aquinas well knew. He, as much as anyone, recognized that the Christian religion is based upon living according to certain rules. One general rule, stated as a strict deontologist (one who advocates absolute rules like A) might, is that one should not act in a way that will result in harm to other people; in particular one should not destroy their property or kill them. It is readily apparent that if one is fighting a war, it is particularly difficult to win without doing some harm to one's fellow man. That is what war is all about.

Of course, the deontologist critic might immediately reply that this only goes to show that all war is evil and, hence, no war should ever be fought. Nonetheless, there are many deontologists, both past and present, who have rejected that conclusion. Early Christian philosophers, such as St. Augustine and St. Thomas Aquinas, rejected the view that all wars are evil, and hence morally wrong. It was their opinion that there are occasions when war can be justified.

Foremost among the conditions they supposed must be met in order
to fight a "just war" was that one's cause must be just. The practical problem with this criterion is fairly obvious. Typically, each belligerent party in a war believes his own cause to be just; otherwise he would not be fighting. To recognize our enemy as having a just cause, while denying that our own cause is just, is to deny the legitimacy of our fighting the enemy and hence the legitimacy of our disputing the enemy's claim against us. As later just war theorists discovered, this criterion is not suitable. Belligerent nations which adhere to divergent ideologies and religions can be expected to believe their own cause just according to their own ideological and religious beliefs. More recent philosophers have, as a result, turned to a different criterion to eliminate the problem mentioned above. They generally agree that a nation fights justly only if the country they are fighting committed an act of aggression against them first. That is, wars may be fought only in self-defense. While this criterion also may be unequal to the task it is supposed to perform, it is generally accepted today by most nations. This, however, is not to say that they always act in accordance with it. Moreover, the question of who has committed the first act of aggression is often itself in dispute.

What is important to remember here is that many philosophers throughout history have believed that there are occasions when war is justified. The early Christian philosophers, for example, felt that there were surely some instances where one ought to go to war to
"preserve Christianity" or to prevent some great evil that some other country would perpetrate if it were not defeated by military force. I think that the same kinds of reasons appeal to those philosophers and statesmen today who think that war may be justified. Thus, if one is a strict deontologist of the sort who would assert rules like A and accepts the view that there are at least some instances, however few, in which war can be justified, then one had better be prepared to account for those moral rules which are violated in that war.

This is the problem that the early Christian thinkers were faced with. On the one hand, Christian moral teachings required that one ought to refrain from bringing about harm to his fellow man, while on the other hand, he ought to bring about the destruction of the infidel enemy, who fights unjustly. Early theologians such as Augustine and Aquinas resolved part of this dilemma claiming that one's obligation to defeat (even destroy) the enemy while fighting for one's own nation took precedence over the obligation not to harm one's fellow man, but only if the nation's cause was just.11 "Just national causes" took precedence over prohibitions on individual action. As a soldier of a "just nation" the soldier fought for his sovereign and not merely for himself. His killing of enemy soldiers contributed to the overall good consequences of his nation's fighting a just war. Because it contributed to these overall good consequences his action was thereby permissible. Even so, the class of people he was allowed to harm
was limited. Generally speaking, war was the province of soldiers. Soldiers by convention forfeited their right not to be harmed. However, this was not the case for the remainder of the populace who were not actively engaged in the fighting or directly supporting the fighting.

The major problem that remained for these early just war theorists was to account for those poor souls who were harmed as a side result of the fighting yet who took no active part in it as a belligerent for either side. To solve this problem these philosophers developed the "Principle of Double Effect". Surely, they argued, there are instances in which we are justified in attacking some legitimate military objective; even at the expense of the lives of some innocent civilians whose deaths we neither desire nor intend.

The PDE, then, was their way of reconciling the general prohibition against bringing harm to non-combatants with legitimate attacks on an unjust enemy. Perhaps Suarez best summed up the views of these early just war theorists on the subject of the PDE when he said:

For absolutely speaking whoever has the right to attain the end sought by a war, has the right to use these means to that end. Moreover, in such a case, the death of the innocent is not sought for its own sake, but is an incidental consequence; hence, it is considered not as voluntarily inflicted but simply as allowed by one who is making use of his right in a time of necessity ... 

There are several things implied by this statement. First, there is an assumption that the fighting and winning of a particular battle is a "morally good" act (or at least "morally neutral") and
"necessary" for the production of good consequences; such as winning the "just" war. Secondly, the bad effects of killing the innocent are sufficiently offset by the good effects of winning the battle and, ultimately, the war. Third, the bad effects (the killing of innocent persons) are not the causes of the good effects of winning the battle. Both the good effects and the bad effects are caused by the act of fighting and winning the battle. Finally, the soldier's killing of the innocent must be unintended even though that result might be a foreseeable consequence of fighting the battle.

It seems, then, that Aquinas, Suarez and other just war theorists have given the soldier a means to reconcile at least some of the harm he may produce by his actions in war with the good that is produced by some of those same actions. The PDE appears to resolve many of the moral dilemmas a soldier may be faced with in the course of combat. He can justify the consequences of his action, (sometimes) by an appeal to how he views his act and its consequences.

Thesis

In the last 30 years or so more and more philosophers have taken issue with the PDE. They have felt that with the advent of nuclear weapons and other weapons systems of immensely destructive power, the PDE has been rendered inapposite. Donald Wells has expressed this view in the following way:

Modern weapons make such sensitivity about the recipients of our missiles inoperable and unfeasible. Not only this, but the number of non-
combatants killed in war far exceeds that of soldiers. Whereas medieval man might pardonably weep for the accidentally slain civilians, modern man intends the death of every civilian slain when he drops bombs from the air.

While it may have been a useful criterion in the past, they argue, modern weapons are so devastating and indiscriminate in their killing power that any attempt at justifying their use by means of the PDE makes a mockery of moral discourse. They believe that if atomic war should take place the world would be devastated, if not destroyed. Not only would a large portion of the world's population be eradicated, but also the planet might be made inhospitable to future generations. Life as we know it would cease to exist.

The purpose of this paper is neither to attack nor support this line of reasoning. I believe that the flaws in the PDE are much more deeply rooted than in its inability to resolve cases concerning nuclear weapons and the like. While I, as a soldier, have certain beliefs about the use of nuclear weapons, I wish to keep these attitudes apart from the discussion which will ensue. For I think they are irrelevant in seeing just where the PDE goes wrong. Instead, I intend to take the stance that the PDE is not now, nor has it ever been a useful guide for determining which action among performable alternatives is morally permissible. It is not that the "state of the art" of war has rendered the PDE obsolete. It is, instead, that there are basic flaws in the theory itself which render it ineffective. My strategy then, will be to show that not only is
the PDE not particularly useful in determining which course of action open to the participants in a war is morally permissible, but that one of its conditions is incurably ambiguous to the point of being incoherent. In doing this, I hope to show why any reformulation of the doctrine is unhelpful.

In developing my thesis I will focus exclusively on the central role that intention plays in this principle. The criterion that employs the notion of intention is the one that I find most problematic. While I believe that there are problems with other aspects of the PDE, I will not pursue them in this paper.

I have chosen to discuss the curious role that intention plays in this principle because of its apparent significance in a variety of moral problems; not just those concerned with combat. This concept of how intention plays a role in our moral evaluation of acts has been accepted and used throughout much of the history of the Christian church and the western world. Moreover, it has come to play an increasingly significant role in the moral and legal affairs of our culture in general. Certainly, our legal system reflects this trend. Today, as much as ever, we consider very carefully what a moral agent's intent (or motive) is in doing a wrong act before determining whether he is "guilty" and, if so, how much guilt to ascribe to him. So, it is important whether or not the PDE is a viable doctrine. In the next few chapters I will attempt to show why I think this emphasis on the agent is misguided, if not wrong. However, before discussing
the role of intention in the PDE, I think it best to give some of my basic assumptions with regard to the PDE and "Just War" doctrine, in general.

Some Basic Assumptions

First of all, I want to assume that in all likelihood wars will continue to occur in one form or another. My concern in this paper is neither to determine whether wars can be justified nor to evaluate which criteria must be met for a war to be "just." Instead, I am interested in the practical problems of making moral decisions within the context of war. Whether one finds war, in general, to be justifiable or not, one still has the responsibility for his moral decisions should he find himself fighting in a conflict.

Second, the PDE is a principle which is used (1) by the agent to help him decide which of the alternatives available to him is morally correct and (2) by anyone evaluating the moral worth of the action he does perform. While it might be argued that an agent's intent is purely a private matter that observers do not have access to, I think it is safe to say there are a number of ways we can evaluate an agent's intent. One of the most common ways of doing this is by asking the agent what his intent was in doing the act and then comparing his behavior before and during the act against his claimed intent. This method is often used in our legal system when trying individuals for criminal offenses. Even if the accused has admitted
performing a wrong act, his intent may well be a mitigating or even exonerating factor.

Next, I would like to admit that war is a nasty and brutish business. There is no way to get around this fact, even if one claims the highest of ideals in its prosecution. It is inevitable that lots of people will be killed, including those who neither take part in the fighting nor participate in the material support of it. From the outset I want to recognize that there is a fairly large class of people who fall into the category of "innocent" people. They are innocent in the sense that they are not participants in war. Clearly, there are hard cases in which it is difficult to determine what an individual's status is in relation to the war effort. But our inability to make a clear distinction between the innocent and non-innocent in certain hard cases does not entail that such a distinction does not exist.16

The point in recognizing this class of "innocents" is to confer upon them a special status during wartime. This status is one of immunity. It is wrong to violate this immunity intentionally. Whether or not these people have an absolute right to this immunity is another matter and beyond the scope of this paper. Clearly, how one views the issue of human rights, especially in war, will have a significant impact on the PDE.17 Nonetheless, I would like to set the matter aside and touch upon it as little as possible during the course of this paper. For the purposes of this paper, I will assume
that the right of the innocent to immunity is a right that may be violated. However, the agent who violates this right is under the heaviest of burdens to justify his doing so. I say this in the fullest awareness that this is a most controversial position.

I will assume that soldiers who participate in the fighting of and those civilians who provide direct support to the "war-making effort" forfeit any rights to immunity until they surrender or are unable to perform their war-related missions. By this I mean that a soldier forfeits his immune status until either (1) he surrenders to the enemy, (2) he is physically incapacitated, (3) he deserts and actively avoids the prosecution of the conflict, or (4) hostilities are ended. Civilians in "war support" positions forfeit their immunity until either (1) their nation ceases fighting, (2) they remove themselves from a position of actively performing their job, or (3) they are incapacitated and unable to perform their job.

In addition, I will not assume that the rights and obligations which hold between individuals are the same as those which hold between collective entities, such as warring nations, or those which hold between a nation and the citizens of an enemy nation. Suppose, for example, that we recognize that we have an obligation not to cause the deaths of innocent citizens of an enemy nation, yet may kill its soldiery. What then are our obligations to the enemy state as a collective entity? Are we permitted to bring about the "death" of a state? I will grant that there are certain collective actions
which cannot be done without the participation of all (or at least a great many of) the individual members of that collective entity. But I think that participating members in a collective entity acting as a part of that entity may have different obligations to individuals who are members of other collective entities than they normally would acting on an individual basis.

Finally, I would like to point out that goals of military leaders and statesmen in war oftentimes run counter to the moral prescriptions of the deontologist. Their primary concern is directed towards what is best for the nation state, in terms of its ability to survive and fight the war. They are generally concerned with whether the overall consequences of their military actions are best for their own nation. While moral considerations may play a part in their calculations, they do not necessarily play an integral part. On the other hand the deontologist's considerations concern what is best for everyone in terms of moral good. He determines whether an action in war is morally good by appeal to certain moral rules which apply to the consequences of that action. From this we can see the essential conflict between the moral philosopher and the soldier. Wars cannot be fought without the use of enough force to cause the enemy to sue for peace. Thus, the claims of "military necessity" weigh heavily in any situation in war where moral considerations also play a role. The question then becomes how to square the military objectives desired by the statesmen and generals with the moral prohibitions imposed by
the moralists. I will allow, for the time being, that this problem can be resolved by the PDE. I will have more to say on this matter later.

With these considerations in mind let us now begin our discussion of the PDE in depth. I will begin with some basic considerations of the agent in forming an intent and the notion of intention in general. Both topics are important in establishing a framework for my later discussion.
CHAPTER II

INTENTION

Intention and Foreseeable Consequences

Most people who advocate the PDE feel there is an essential distinction between a person's intending something and his foreseeing that the same thing will come about as a consequence of what he does. They say that if the agent intends to do a morally wrong act, then he most certainly has done a wicked thing. However, if he intends to do an act which is good but foresees that the act will have some bad side-effects, then it is not so clear that the agent has done a morally-wrong thing when he performs that act. It seems to them that an agent's having an intention to perform an act entails, at the least, his belief that his actions will very likely bring about the results he desires. Any side-effects brought about are only "indirectly" intended, if intended at all. Perhaps the consequences of an act are indirectly intended if they are foreseen as probable or possible. If the results are foreseen as not very likely to occur or as not occurring at all, then it is questionable whether the agent even indirectly intends them. An agent who does not foresee the act's side effects at all does not even indirectly intend to produce them.

On the other hand, if the bad side effects are such that the agent cannot even consider the act without seeing that the bad side
effects are inextricably connected to it, then PDE proponents agree that this is no matter of mere "indirect" intention. Surely the agent must intend those consequences which he sees are inevitably bound up in performing the act in question. On this view, the agent who recognizes that his doing an act entails his bringing about bad results as well as good cannot claim he intends the one and not the other.

An Intention as a "Directing of the Will"

Elizabeth Anscombe in her article, "War and Murder" discusses a problem very similar to this one. She states that an actor who knowingly performs an action which produces bad consequences in order to bring about in turn still other good consequences cannot claim his act as morally permissible. The agent in seeing that the bad consequences are concommitant and causally related to the good consequences cannot claim he intended the good but not the bad. She puts it this way:

I know a Catholic boy who was puzzled at being told by his schoolmaster that it was an "accident" that the people of Hiroshima and Nagasaki were there to be killed...It is nonsense to pretend that you do not intend to do what is the means you take to your chosen end.

Thus, for Anscombe and others, if one's act will clearly result in both good and bad consequences (the bad consequences almost certainly being a means to bring about the good), then one intends those bad
consequences as well as the good. Anscombe, then, is concerned with a special case of an action that will produce with a high degree a probability both good and bad consequences. One cannot both "direct" himself to intend the good consequences and then allow himself not to intend the bad consequences.

Anscombe's response above is to a commonly held concept of intentional action. Under this concept the agent's intending to do something may be considered in itself a separate internal act of the mind. This internal mental act may in turn be produced and directed by the mind to the "appropriate intentional object" without regard to whether the agent's intending to bring about good effects also means that he will probably bring about dire consequences. The agent merely has to focus his intent on the appropriate good results and his action, whatever it may be, is permissible.

If this is supposed to be what an intention is, then we must face some conclusions which seem to be counter-intuitive. First of all, we do not always have a voice in our head saying "Well I know my doing _a_ will result in both _b_ and _c_...and that _b_ is bad...But I won't intend _b_; instead I will intend _c_, which is good..." Clearly, if this "mental dialogue" occurred every time we performed a voluntary action, we would certainly respond to the exigencies of our environment much more slowly and perhaps with a much greater awareness of what was going on than we normally do.

Another problem with this conception is that it seems to assume
that one's intention is relevant only at the moment of acting. Every time we act, apparently, we must have a relevant intention. So, if we have some intention of doing an act at some earlier time, we must "reaffirm" that intention by mentally picturing it at the moment of our action. According to this conception we are like the little train in the children's story who went around constantly saying to himself "I think I can...I think I can...I think I can." For one to validly claim an intention of his to be in effect at some time, t, he must be consciously conceiving it at t.

Again, I hardly think this is the way one's intention works. Even though we oftentimes are not distinctly thinking of what we intend while performing an action, when we are stopped and asked what we intend to do we generally are able to give a distinct response indicating a specific objective to which our act is directed. Our intention to do something seems to be more along the lines of a disposition to do an act when certain circumstances obtain. That is, we intend at some earlier time to do an act at a later time or when certain circumstances obtain. When we find ourselves in those particular circumstances or notice that the proper time has arrived, we are disposed towards doing the action without repeating our earlier thought process.

A common instance where this "disposition to act" is not specifically reflected on by the agent may be seen in the combat training of soldiers. A soldier is taught to react immediately in
a particular way to certain stimuli without pausing to deliberate on which action is appropriate. For instance, soldiers are trained to "hit the dirt" whenever they hear weapons firing in their vicinity. They practice this response until it becomes a matter of habit. Thus, when they are shot at in actual combat, they will immediately dive for cover without having had a deliberate thought in the form of intending to dive for cover. Nonetheless, if they are asked afterward what they intended to do when they heard the gunfire, they will undoubtedly respond with something like "I intended to hit the dirt" or "I intended to dive for cover."

Still another difficulty with the view lies in the great emphasis it places on the distinction between the agent's intent and the action that results. The action as it actually turns out is of secondary moral importance if the agent has directed his intention in a morally acceptable manner. Whether an act is permissible is determined by whether the agent's preceeding intent was good. Now, if the agent's intent is such an overriding factor in our morally judging the agent, then why not make it the sole criterion? The answer is obvious. We often have intentions which we do not fulfill. I think that many of us would be in dire straits, morally speaking, if we were judged solely on our intentions alone. Fortunately for us (and everyone else) many of our bad intentions (as purely mental acts) never come to fruition. Moreover, most of us would not like to think that our moral status depended solely upon our intentions alone, especially
considering all the bad ones we have adopted at some time or other.

A fourth worry with this view of intention concerns the idea that we must constantly maintain good intentions. If we are always conscious of our intention just before we act (as this view supposes) and are judged primarily upon our intention, we are responsible for any act in which we have had intentions. So now we are acting in a morally blameworthy manner if our intention is not good. That is, if we perform an act which on all other accounts is morally permissible and yet our intentions are wrong, then we are acting wrongly. Even if we agree that we should not be praised for such acts, I think we would agree that we should not be adjudged as doing wrong either.

My final concern with this concept is the notion of "an intention produced at will." As we have already seen, according to this theory, we are capable of "directing" our intentions towards morally suitable results. Now, if we are able to "direct" our intentions, then it seems that this is an action requiring an intention also. But, if this is so, then it appears to be the case that we "intend to intend." Moreover, it appears that these "intentions to intend" must be of the morally suitable kind, (i.e., good ones). However, if we accept this, then it is possible that we could have a bad intention to have a good intention. On top of that, our bad intention in having a good intention would negate the goodness of the overall act.

There are really two problems expressed in this last worry. The first concerns how intentions get initiated. If intentions are
interior acts of the mind which are willed (or intended), then must the second-order intentions in turn be intended, and so on? Without a doubt, we are faced with a possible infinite regression if we cannot establish at what point our intention and, hence, action is initiated.

The second problem stems for the first. If we do have intentions to intend, and so on, with succeeding higher order intentions, then there is a problem in establishing which level of intention is morally relevant. For example, do we say the intention that immediately causes the action is the intention to be judged? Or is it the intention to intend to act? Or is it somehow a combination of the two?

I think it is fairly evident that these kinds of problems bring about more confusion than assistance to the moral judgment of acts. Because this particular view of intention leads to these kinds of problems, we are probably safe in assuming that it is not correct. Perhaps we ought to consider another view of intention that is held by many.

A Humean Conception of Intention

Another concept that many people hold postulates that intention is "nothing but the internal impression we feel and are conscious of when we knowingly give rise to any new motion of our body, or new perception of our mind." This conception, articulated by Hume, is also problematic. As with the first conception of intention men-
tioned, there seems to be an assumption that we always have an occurrent intention whenever we perform an intentional act. This notion is worrisome for the reasons I have already mentioned.

A more important trouble with this concept is that it seems to render the causal connection between an act and its intention irrelevant. Intention is a mere mental adjunct to physical action. Hume seems to have believed that we could show no causal relationship between a person's intention and the subsequent action done to fulfill that intention. For him at least, an intention is merely something that occurs cotemporaneously with the action. To claim more than this is to claim more than we can empirically substantiate.

If an agent's intention is, therefore, nothing but a mere "feeling" accompanying the initiation of his action, then the agent may well have an intentional feeling when he performs a particular act that is good. However, it is not clear that this intentional feeling plays a direct role in influencing the agent's action. So, one could argue it is not a factor that bears on the moral worth of the action.

A Humean conception of intention, then, undermines the PDE in a subtle way. Because we cannot make the strict claim that an agent's intentions generate his actions, we may be forced into a quandary as to what role, if any, intentions should play in our moral evaluation of actions. For whatever intention the agent may have had preceding the action, good or bad, we cannot say that it was that intention that triggered the action.
We can see that if this is true, then the distinction between foresight and intention which is so crucial to the PDE virtually disappears. The difference between an agent's intending good consequences and merely foreseeing bad consequences becomes a matter of the agent's attitude towards what he envisions will be the potential consequences of his action. The intended consequence is the foreseen one which the agent desires and, as a result, places a special mental emphasis on. If this is the case, then it seems that all we have to do is properly align our "intentional attitude" with the morally acceptable consequence(s) that we foresee as resulting from our action. Since the most we can say under this Humean conception of intending is that there is an "association" between a person's intention and the resultant action, all a person has to do is make sure that he has the proper intentional feeling associated with his action. His action is then morally permissible regardless of what he does. Clearly, this view of intention is as undesirable as the one I discussed previously. In divorcing the agent's action from his intention, it makes morality a mental exercise.

Aune and Intention as a "Disposition to Act"

While these theories are clearly problematic, we should not yet give up hope of making sense of the notion. A more recent and plausible view has been presented by Bruce Aune in his book *Reason and Action*. His ideas on intention are as follows:
We have to learn to think in conceptual terms and in learning this we develop propensities to behave (verbally and otherwise) in ways appropriate for various thoughts. Part of what is involved in learning to think in a volitional way is that we develop a propensity to make appropriate movements in response to thoughts like "I will now do such and such." Thus, the words "I will now raise my hand" may run through our minds but if they do not trigger off a propensity to move our hand in the required way, they will not express, for us, the relevant volitional thought.

For Aune, then, intentions are to be thought of as propensities to speak and act in particular ways that are in accordance with certain intentional thoughts. As we proceed through life we learn that certain behaviors are appropriate for particular circumstances. We learn that doing a particular action in a set of circumstances will bring about certain results. If the results are those that are acceptable for us or perhaps even desirable, then we infer that this behavior will be appropriate in the future. The individual learns to conceptualize in a particular set of circumstances that it is correct for him to try to do a particular act or manifest certain behavior. Thus, if he finds himself in that particular set of circumstances he will tend to conclude that he will do the appropriate act at that time. That, in turn, usually prompts the appropriate movements needed to perform the act. The relation of intention with action is, then, a causal one; but one of selective causality. Not all intentions trigger action and not all action is set off by intentions. Aune says this the following way:
...belief and intentions are best thought of as propensities to think certain things or to use certain premises, and a simple pattern of reasoning involving thoughts appropriate to both beliefs and intentions is this: If we have the premises "I will do A in C" and "I am now in C," we will tend to conclude "I will now do A"...the transition from...complex thoughts to the appropriate movements, may be viewed causally: the premises prompt the volitional conclusions, and the volitional conclusion triggers off the movements. There is thus a causal chain from thought to action.

The important point to remember here is that in order for this chain of reasoning to obtain, the agent must believe both that he is in the appropriate circumstances to do his act and that his doing the act will bring about the state of affairs he desires. It is my opinion that much of the trouble with the PDE lies in trying to justify these beliefs. One's intent is inextricably linked with his beliefs about the world around him and his relation to other things in it. In a later section of this paper I will discuss this dicey problem of applying the appropriate beliefs and perceptions one has about the world while at the same time trying to determine if they are, in fact, accurate. As one might well imagine this is a problem of monumental proportions in war.

Two Uses of the Term "Intention"

In the foregoing discussion I have used the term "intention" in two different ways. I think it is best at this point to look at the distinction between the two uses of the term. One way we use the term
is to refer to an agent's mental state. In everyday language we often say "Yes, he had the intention of doing something." When we employ the term in this way we are marking an agent's mental state. We are saying nothing about what the mental state is directed toward.

The other way we use the term is to denote the object of the agent's mental state. We use it in this sense to refer to what is intended as a result of the agent's action. For instance, we might say, "Captain Jones' intention, in positioning his company at battle position "Trasimene," was to ambush and destroy an enemy armored column." In this sentence we are talking about the object of the agent's action, the state of affairs the agent desires to bring about, not his mental state. It is important that we do not confuse these two uses of the term. Generally speaking, when I use the term I mean to express the object of the agent's action.

**Intention as a Relativized Notion**

There are other relevant points about the notion of intention that I think need to be discussed before continuing. We will need to grasp them for our discussion later. The first point is that it often makes more sense to talk of an agent's intention in an action (as the object of his mental state) with respect to a time, desired consequences, and a set of circumstances. In other words, it is often best understood as a relativized notion. To see why it is, let's consider the sentence "John intended." This sentence certainly
tells us little if anything at all about John. One might think it says something about a particular feeling that John had. But, it seems to me that I do not have the same "feelings," or even the same kind of feeling each time I intend something. That is, my emotional state and physical sensations differ each time I have an intention. So, this sentence probably does not report a feeling that John has. What does it report? Your guess is as good as mine. Nevertheless, in examining this sentence we can see that the word "intends" has a much clearer meaning when used to refer to an intentional object. The sentence, "John now intends to join the army on his eighteenth birthday" is much more helpful, because it puts John's intention in a referential context.

To be perfectly clear when we discuss a person's intention, then, it is useful to specify what action the person intends, the time he intends the action, and the relevant conditions that apply to the situation. Our knowing what action the agent thinks he is intending to perform gives us an idea what act should follow and a frame of reference to judge his act. It tells us something about what the agent expected to do and perhaps allows us to infer something about the kinds of acts he did not want to do. For example, suppose Captain Jones says to us "I intend to trap and annihilate the approaching armor column." It seems reasonable (taking this sentence at face value without considering the surrounding circumstances or the time at which it was intended) to infer that Captain
Jones does not expect that his own unit will be defeated. Moreover, we may reasonably infer that the enemy column is not composed of non-combatants. Practically speaking, we can tell a great deal about how Captain Jones envisions what he is doing and the results he wishes to obtain. Moreover, we can tell a great deal more about what he does and does not intend to do.

The notion of time is also very important. Many intentional acts only make sense to us if we know when they are intended. For example, it would have made no sense for President Truman to have said in 1940, "I intend to drop an atomic bomb on Hiroshima." At that time the bomb had not been developed and, so far as we know, Truman had no idea that such a bomb could be developed. He first learned of its existence in the spring of 1945, only a few months before he gave the actual order to use it. Besides, it is reasonable to assume that he vacillated before he finally decided to use the bomb. As in this case, we need to know when an individual had an intention before we evaluate it.

Whether the agent's description of the act he intends is consistent with relevant circumstances also plays an important role in our understanding what an agent's intention is at a particular time. The circumstances serve either to justify or invalidate the agent's claim to have such-and-such an intention. To see this, let's consider the case in which a soldier says, "I intended to shoot that enemy soldier in self-defense." Normally we would say that this is a reasonable way to describe the actions of soldiers participating in
combat. But, if the enemy soldier was in the act of surrendering, or if he was lying on the battlefield seriously wounded, we would be much less inclined to describe the intention that way.

We have now seen that an agent's intention is more clearly understood when relativized to the factors I have mentioned. These relativizing factors, however, are not the only considerations relevant in considering an agent's intention. There is still another factor that plays an important role. When we discuss an agent's action, we normally try to consider what options were available to him at the time he made his choice and committed himself to his chosen action. At almost any time an agent has a number of relevant alternatives available, each of which is performable by him. On many occasions the agent either is not aware of all these alternatives or does not perceive them all as being performable. An agent's intention is based upon a choice to perform one action instead of the others that he perceives open for him to do. We will doubtless want to consider his intended act not only in relation to some absolute standard of right and wrong but also in light of what the agent thought he could have done otherwise. One's intention is a matter of choice. A deontologist attempts to determine what all the relevant performable acts open to him are. He then tries to determine which of the possible actions are morally right. That is, he determines which of his actions in terms of their consequences do not violate the moral rules he accepts. The one or ones that do not violate these rules are permissible acts, acts morally open for him to intend to perform.
Some Epistemological Considerations of Intention

I have been sidestepping an important issue for quite awhile now. All along I have been talking about "relevant" circumstances, "relevant" alternatives and the like. What I have not said is what makes these things relevant for the agent. The success an agent has in making moral choices will be limited by the way he perceives the situation and the actions open to him. We can put these perceptions and beliefs that the agent entertains into three general categories. They are (1) beliefs about the circumstances the agent is in and the correctness of the intended action for those circumstances, (2) beliefs of the agent about his ability to perform the intended action and bring about the intended consequences of it, and (3) beliefs about potential consequences occurring other than those intended. Let's turn to the first of these categories.

When an agent is in a position to make moral choices, he generally tries to evaluate the circumstances he is in and ascertain what courses of action are available to him. Once he has completed these preliminaries, he determines which acts are relevant for the situation and then decides which of these are morally appropriate for the accomplishment of the consequences that he intends to bring about. Now, it is fairly evident that different people may, and often do, perceive the same situation in different, even radically different, ways. An important factor is what evidence and which facts are readily available to the agent. Certainly one's cognizance or ignorance of critical
information will play an important role in one's decision-making process.

Not all individuals have the same access to relevant information in a given situation. This difference may be attributed to any number of factors. There may not be enough time to collect and digest all the relevant information. Perhaps an individual's data collecting ability is limited. Maybe the individual's ability to analyze the given information is hampered due to his own intellectual limitations. Perhaps there are external factors which limit his evaluating this data effectively and completely.

These limitations are compounded by an individual's natural predisposition towards evaluating raw data in a biased manner. One's cultural indoctrination, ideology, religion, past experience, and previous moral and professional training will all play an important role in influencing the agent's understanding and evaluation of a given situation. So, I think it is fair to say that there are many factors which preclude the agent's making completely unbiased and objective evaluations with respect to any given situation.

Assuming that each of our perspectives on the world is slanted by different sociological, experiential and environmental factors, it is not surprising that different persons may describe the same situation in different terms, different enough to influence their understanding of what alternatives are open to them, and perhaps even the determination of which action they choose. One can well imagine that these
factors play a critical role in the perceptions of those leaders of warring nations who are faced with making moral decisions. Moreover, it is fairly easy to see why different nations may view the same incidents in radically different ways.

A second type of belief which is critical in an individual's intent is his belief about the performability of the course of action he chooses and how likely it is that his performing it will bring about the ends he intends. Once again the agent's training, past experience, innate resourcefulness, his ability to predict realistically and account for how external influences will affect his action, and his ability to evaluate realistically his own capabilities will all play a role in his determining whether he believes he is capable of accomplishing the task at hand. Remember, the agent must believe he is capable of doing the action in terms of how he envisions it when he is considering his alternatives. If the alternative he chooses is described as, for example, "destroying the enemy's main manufacturing center without killing a large number of innocent civilians," then the action he believes he can perform must fit the description above. The agent must believe his act is performable, as he describes or envisions it. Thus, if the agent believes that he cannot perform the act under this description, then he believes that it is not an alternative available to him.

It is important to note here that whether or not the agent is actually capable of accomplishing the action is not the critical issue.
The agent's decision and subsequent intention to do the act is based upon his belief that a certain state of affairs will obtain as a result of his doing that act. It may well happen that the agent believes he is capable of performing the act when, in fact, he is not. Conversely, he may believe that he is unable to perform the act and yet, in actuality, be able to do it.

In the last category of beliefs are those that have to do with potential consequences of the act that are not intended. Generally, when an agent considers a potential act he tries to determine what the consequences of this act might be. Some consequences are readily apparent while others are not. The agent will be able to foresee with reasonable certainty that certain consequences will occur while others may be less probable or even just barely possible. It is fairly clear as a general rule, that the agent will tend to place greater emphasis on the consequences he foresees as more certain and pay less attention to those consequences which are less probable or only possible. For instance, suppose that a soldier intends to shoot his rifle at an enemy soldier. Let's also suppose that he is an excellent marksman. Whenever he fires at a target, he usually hits it. Today, however, he misses the enemy soldier with his first shot. The bullet ricochets off a nearby rock and kills a civilian passing nearby.

In this case it is fairly clear that the probability of the soldiers' killing the civilian in the way he did was very low, certainly much lower than his chances of shooting the enemy soldier.
Moreover, it would seem reasonable to say that when the soldier fired his rifle, he envisioned that the enemy soldier would be shot as a direct result of his action, not the civilian. So it seems that the relative probability of the potential consequences plays an important role here. Generally speaking, we intend those consequences which we believe will be direct consequences of our action and which we believe are likely to occur as a result of our action. If we perceive the results of our actions as I have stated, then we incorporate those beliefs into our intention. That is, we commonly think that the intended consequences of an agent's action are (1) foreseen by him and (2) believed by him to be a direct result of his action.

I should point out here that there are various problems with the conception of intention I have portrayed above. One major question has to do with whether an agent's belief that a foreseen consequence is certain and a direct result of his action is a necessary and sufficient condition for that consequence to be intended by him. We might well agree that it is necessary for an agent to believe his intended consequence is likely to occur as a result of his act. In addition, we would probably agree that it is necessary for him to believe the intended consequence stems directly from his action. Yet, it is fairly clear that these beliefs do not constitute a sufficient condition for intent. To see this we need only consider the following example.

Let us suppose that our Captain Jones is given the mission of moving his tank company from position A to position B. Unfortunately,
this mission requires Jones to cross farmer Williams' freshly planted 
corn field. This will in all probability ruin Williams' corn harvest 
for the year. We will also suppose that this unpleasant consequence 
is foreseen by Jones as a likely direct result of performing his 
mission to move his tank company to position B. Moreover, let's set 
Williams' field across a valley floor in between two very steep and 
rugged mountains. These mountains are so steep that Jones and his 
tank company cannot go around the field: they must traverse it. 
About five minutes later Jones' battalion commander calls him on the 
radio and tells him that he must move his company to position B 
immediately and prepare a defensive position to block an enemy 
penetration.

Now the question is whether Jones' belief that the field will 
probably be destroyed as an immediate consequence of his action is 
sufficient for us to say that he intends to destroy the crops and 
thereby ruin farmer Williams' harvest. It seems that his intending to 
cross the field in the pursuit of accomplishing his mission is quite a 
different thing from his intending to destroy the farmer's crops even 
if that is a direct result of the action. It seems to me that the 
beliefs I have attributed to Jones are not sufficient enough to con-
stitute his intending to destroy the field. Of course, it may be correct 
to say that Jones has not intended not to destroy the field. Jones' 
failure to intend that the field is not destroyed does not entail, 
however, that he intended the field to be destroyed.
Intention and the Problem of Agent Control in Actions

Another problem we encounter when discussing the notion of intent is the degree of control the agent has in bringing to bear the action and resultant consequences he intends. There are those actions which the agent has the physical power to bring about without the assistance of other actors. The agent in these actions has immediate voluntary control over what he does with his own body and how those bodily motions result in the action. For example, if Captain Jones intends to drive his own tank to position B, then his action is under his immediate voluntary control. He uses his own physical movements to manipulate the controls of the tank. This in turn brings about his driving to position B.

Not all results that agents intend are under their immediate control. Whether the intended result obtains sometimes depends, at least in part, on the contributory actions of other individuals. In the case of Captain Jones, we would say that although he intends full well to move his company to position B, he cannot do this by himself. He is dependent on his subordinates' responses to his order and on how well they carry it out. Many actions in combat are cases in which the intending agent's control over the outcome of the situation is much less than optimal. In this sort of intending the agent's action is dependent upon a number of "sub-actions" performed by other agents who each has his own intents and beliefs about the overall situation and the nature of his own "subaction." When this type of situation occurs, it
is far more difficult to assess the resultant action and consequences with regard to the primary agents' intent.

This problem is complicated further in those cases where an agent's intended action is based upon an expected response by an opponent whose own intent is to thwart that action. Commanders in combat are constantly faced with this type of situation. They have an overall plan that they intend to put into action. The plan's successful execution is dependent upon how well the commander's subordinates follow the plan. In addition, the plan's success depends upon whether the enemy responds in the way the commanders have envisioned. A problem in any of these three areas may directly affect both the agents intended action and its consequences. I will have more to say about this after I have discussed the notion of foreseeability in greater detail.

The Notion of "Bare" Intentions

There is one final point about intention that I would like to take up at this time. We often say that there is a difference between an agent's intention in an act he is performing or has performed and his intention in a potential action that he may perform in the future. In the first case the agent's intention has a direct causal relation to the action and its consequences. However, there is no such relationship in the second case because the agent's intention is as yet unrealized. Is this a critical distinction? And if so, what should we
make of it?

I think, first of all, that if we consider an intention a propensity to act in a certain way, given a certain set of circumstances, then we have to consider both intentions in occurrent actions and intentions for hypothetical future situations as bona fide intentions. It seems to me that a major concern with the PDE is how intention relates to actions. The agents' performance of an intended action and its results are what we are trying to determine as either permissible or impermissible. This being the case, we might have a tendency to say that an intention to act in some future situation has no moral worth until that situation is actualized. This is an assumption which might lead to some serious philosophical problems.

One thing that concerns me with this idea is that there is a great deal of similarity between unrealized intentions concerning the future and current intentions not to perform actions. In both cases there is no change in the agents' behavior that we can point to. The agent's intention may have produced no overt physical action. In both cases the agent may in no way influence the action going on around him. He is a willing non-participant, so to speak (at least for the moment). Yet I think that there are occasions when we do not act and yet behave in a morally impermissible manner. For instance, consider a situation where a soldier comes across a wounded soldier from another unit. Let's suppose that the wounded soldier has been shot in the leg and is bleeding profusely. Prompt first aid will stop the
bleeding and possibly save the wounded soldier's life. On the other hand, if the soldier is allowed to continue bleeding, he may well die. Our soldier, Private Smith, knows how to treat the wound correctly and exposes himself to no risks if he gives first aid to the wounded soldier. Would we say that it is impermissible and blameworthy for Smith to pass on without giving the wounded man first aid? I think so. Even though Smith might do no further harm to the soldier, we would say that in this case that Smith's inaction is wrong. If Smith intends not to act in this case and passes on, then he is morally culpable. We would probably say he is obligated to help the wounded soldier in this case. That is, he morally ought to act.

Now it seems to me that if intentions not to act can be morally wrong, they can also be morally right. Hence, intentions which result in no change of behavior may have moral worth. In a similar manner, intentions for contingent future situations may also have moral worth. For example, the stated or inferred intentions of one person may well influence the behavior of another person, even though there is no apparent physical cause-and-effect relationship. In fact, deterrence theory is based upon this possibility. Even though the United States has never used any nuclear weapons against the Soviet Union, our expressed intention to do so should certain Soviet actions obtain has apparently prevented the Soviet Union from using their arsenal of nuclear weapons thus far. So it seems, in one sense anyway, that "bare" intent can have moral worth both in the case of intention for future
contingent acts and intentions not to act (or act omissions).

As we have seen in this somewhat lengthy discussion, the concept of intention has many aspects which complicate our evaluation of it in actual situations. Closely tied to the notion of intention is the concept of foreseeability. We have already touched upon it somewhat because it is almost impossible to talk of intention without also considering it. In the next chapter I will discuss the notion of foreseeability in greater detail and also consider some of the factors of combat, and gaming strategy which have an effect on a soldier's ability to clearly foresee the consequences of his actions. Essential to this discussion will be my attempt to identify some confusions in distinguishing an act from its consequences. With that in mind, let's turn to the concept of foreseeability.
FORESIGHT

Foresight and Belief

As I have already implied, the notion of foresight is rather difficult to come to grips with. It seems to me that foresight is a special variety of belief. However, it is belief not about current states of affairs but instead states of affairs likely to occur in the future. More specifically, the agent believes that because a certain state of affairs is now true, a certain other state of affairs will obtain at some future time.

In having a foresight, the agent must make certain inferences from the knowledge, beliefs, and perceptions he currently holds. He generally bases his inferences on his observations of similar situations that have occurred in the past. If a certain state of affairs occurs under a particular set of circumstances, then the agent will tend to believe that similar results will occur as have occurred in similar situations in the past. Of course the tricky part of this process is to insure one is in a suitably similar set of circumstances so that he may be justified in making the inference. In fact, the agent must be able to determine the relevant aspects of his current situation before he ever makes the comparison. I will argue later in this chapter that the inherent nature of combat works against the agent's being able to assess accurately his own
situation and, hence, against his making an accurate forecast of what will result from his action.

Foresight as a Relativized Concept

Before turning to that discussion, however, it will be in our interest to discuss some other relevant aspects of foresight. Foresight, like intention, is a relativized concept. First and foremost, it must be understood as a term that has meaning in relation to a particular individual. In legal discussions we often hear phrases like "what the common man would foresee" or "the judgment is based upon what a reasonable man would foresee." In moral discussions we are concerned about what a particular person actually does foresee in a situation. We are concerned about his own particular foresight (and intention) because it is his own foresight that directly bears upon his action. What a "reasonable man" would foresee in the same action might not necessarily be the same thing as what any particular individual does foresee. In fact, I think all of us can think of occasions where the results of our actions were evident to almost everyone but ourselves. If we were wrong in the situation, we undoubtedly made clear the point that the obvious result everyone else foresaw played no role in our decision, intention and action. We did not foresee that consequence.

One major reason why we often foresee consequences of an action that other people do not is that we conceptualize our action differ-
ently. Our beliefs are about states of affairs which may be envisioned and expressed in a multitude of different ways. Since we each cannot think of all these ways, it is not surprising that we often think of some situations differently. For example, the following two sentences might express the same situation.

\[ p: \text{Sergeant Brown fired his tank at a suspected enemy headquarters building, destroying it.} \]
\[ q: \text{Sergeant Brown killed nine innocent civilians.} \]

Clearly, in this case, how the act is described makes a great deal of difference to our moral attitudes about it. Brown's perception of the states of affairs involved in this action is likely to be different from that of a civilian observer standing near the building who, to his horror, is aware that there are women and children in the building.

So there are really two considerations involved here. The first concerns how the agent envisions his action. How he genuinely thinks of it affects his moral attitude toward it. The second consideration is that the agent's conception of his act limits somewhat the consequences he will foresee as stemming from it. For example, Brown's believing that he is firing on an enemy headquarters greatly limits the reasonableness of the thought that nine innocent civilians will die as a result. From a moral point of view it may be helpful for an agent to consider his action under several different descriptions.

Unlike one's intention, which is often focussed narrowly on one particular consequence, one's foresight may include a whole range of
consequences. As a result, it seems to me that a moral agent is much better off with an active and vivid imagination. For then he is able to consider the act itself under a greater range of descriptions and can thereby foresee more of the probable consequences of his action. The number and moral acceptability of the probable consequences, other than those intended, will play a major role in influencing the agent's eventual action.

By the foregoing discussion I have not meant to imply that each time before we perform an action we consider a whole list of act descriptions that our act might fall under. What we do instead is consider as many of the circumstances which could play a part in our action as we can. We then try to envision what consequences would be likely to occur from our doing the act under those circumstances. It is in this way that we conceptualize the various states of affairs which characterize our intended action and its probable consequences.

Foreseeability and Probability

The next point which should be discussed here is what constitutes "probability" for the foreseen consequences of an act. We know that not all of the things we foresee are certain to occur. Yet, on the other hand, the consequences of our acts would not be foreseen if they were not in some way believed by us to be likely to occur. The notion of foresight, then, connotes that what is foreseen is more than a mere possibility. There are grounds for us to believe that a
particular state of affairs is likely to happen. One way this concept has been expressed is that a state of affairs is probable if and only if it is epistemically possible and it is more reasonable to risk something of value on that state of affairs occurring than to not risk anything of value on its occurring. Thus, when we say some state of affairs is foreseen we are at least reasonably confident that it will occur. An agent's foresight, as I mentioned in the beginning of this chapter, is a special belief about a future state of affairs. So we should characterize foresight in terms of belief about the future and the degree of reasonableness necessary for the act to be foreseen. Accordingly, let's say a state of affairs is foreseen by a person at some time if and only if that person believes at that time it is at least probable for that state of affairs to occur at some future time. It is fairly easy to see, then, that an intended state of affairs is also a special case of a foreseen state of affairs. An agent must foresee that the intended consequences are probable. That is why he intends to do the act in the first place, to attain that state of affairs. The major difference between the two notions then is that the agent in intending something must have an interest vested in bringing about that particular state of affairs. To foresee something, by contrast, the agent need not have an interest vested in the foreseen consequence. An intention is always foreseen, but a foreseeable state of affairs is not always intended.
Factors That Bias One's Foresight

Earlier in this paper, I mentioned a number of sociological, experiential and environmental factors which tend to color each person's perception of the world. What a person attempts to forecast from known facts is based to a very large degree on how these factors have influenced the agent in the past. Each of us has learned a particular set of cultural values, had different experiences and has been affected by different external environmental factors. So, for instance, I as an American army officer may well have a very different outlook on the world than my Soviet counterpart. Many of the ideals I hold may be incompatible with his. After all, the Soviet social system promotes a different set of values than our system does. In terms of education and occupational training, our backgrounds may again differ. It is fairly evident that because we each have different perspectives on political and social issues, we will choose our courses of action based on different criteria. Accordingly many of our chosen actions will differ as a result. In addition, what we foresee as relevant and important will differ somewhat. Those things which we each tend to emphasize will be more likely to be considered as the immediate consequence of our actions than those we do not consider important.

In wartime some of these factors take on even greater importance than in peacetime. External environmental factors and actions performed by the enemy, in particular, are critical elements in our
decision-making process. Generally speaking, these two factors tend to work against methodical, well-thought-out plans of action. It is perhaps more difficult in battle to foresee what exact consequences our actions will produce than, say, in ordinary day-to-day situations. Moreover, it will be much more difficult in war to fulfill our intended actions as we would like them fulfilled. Of course, the main problem is that the enemy is acting in such a way as either to thwart our intended actions or to deceive us about how our intended action will affect him. That is, our opponents are not just passive objects of our actions. They are also trying to act on us. Hence, war is a series of moves and counter-moves in which each move of ours is taken only after considering both the enemy's last move and the next move we expect of him.

Foresight and Inductive Reasoning

Prediction or foresight is usually based on inductive reasoning. We observe a certain activity for a period until we recognize a set pattern emerge. Then, we continue observing that pattern to reaffirm that it recurs regularly. If it does, then we feel justified in asserting that if one thing in that type of pattern occurs, then another related thing will occur. We use inductive reasoning continually in our every day lives. A common instance of inductive reasoning in war is as follows. We know enemy doctrine states that the best time to attack is in the very early hours of the morning,
say, between two and five o'clock. Moreover, every enemy attack that we know of has occurred in this general time period. Because we know these two facts, we tend to infer that the next time the enemy attacks he will attack during that time period. Consequently, we make it a point to be the most alert and prepared to fight at that time.

**Contributory Actions and Foresight**

While we will agree that people tend to act in certain general patterns we cannot rely too much on this fact in combat. The reason is apparent. If the enemy always acted in the same way, we could easily predict his actions and prepare ourselves to counter them. Our task of securing victory would be much simpler if our enemies did act in this way. Unfortunately they do not because they are also well aware of the disastrous consequences of their acting in a predictable manner. Accordingly they attempt, as we do, to vary their "tactical behavior" and subsequently mislead or deceive us as to their true intentions. Moreover, they attempt to do everything in their power to prevent our observance of them for any prolonged period. They do this, of course, to prevent us from obtaining enough data about their activities to draw any accurate conclusions about them.

One of our objectives in war, then, is to vary our activity significantly enough to prevent the enemy from inferring anything from it. Our enemy, of course, will try to do the same thing. Misleading tactical moves, deceptive or encoded communications and other counter-
feit activity play an extremely important role in both strategic and
tactical planning. Not only do we attempt to confuse the enemy about
which of our actions are significant, but also about how they are
significant.

In actual combat, then, the enemy's actions may pose a signifi-
cant problem for us in forecasting accurately what will result from
our own actions. Not only do we have to account for what the enemy
is currently doing, but also what he may be doing in the immediate
future and also how he is responding or might respond to our actions.
Foresight then becomes a matter of determining not only what the
enemy's current actions are, but also what actions he intends to per-
form in the future. Looking at this from another perspective, we can
say not only that our actions have a direct effect on the enemy, but
also that how the enemy perceives our intention in the act influences
his actions. So when we perform an action which affects the enemy, it
is very often difficult to determine whether the consequences result
directly from our action alone or result from the enemy's response to
our action in conjunction with the act itself. Clearly it is difficult
for anyone to foresee in some cases whether an agent's action directly
brings about the foreseen results.

**Foresight and the Limitations of the Battlefield**

So far we have been merely discussing foresight with respect to
strategy. However, one's foresight is also affected by battlefield
conditions. These battlefield conditions affect the actions of everyone from the highest-ranking generals to the lowest-ranking privates. They affect a unit's communication, command and control structure, and observation of the enemy. If any of these three things is affected, one's ability to plan and act is seriously impaired. It must be remembered that battlefield decisions are often made far from the actual engagement. Moreover, many of the supporting weapons systems, such as artillery, are fired without the benefit of being able to observe the battlefield directly. Accordingly, the correct application of relevant battlefield information is dependent on whether units engaged in the fighting accurately report the information, are able to pass and receive the information, and finally put into affect the resultant orders in the manner that they were intended. It is easy to see that if there is a breakdown anywhere along the line, those people who make the decisions will have inaccurate or confused perceptions of what, in fact, is going on. Once their beliefs about the situation becomes distorted, any attempt to predict accurately or plan for the future becomes almost impossible. It is easy to see, then, that a commander's perception of a given situation may be inaccurate and, thereby, may cause him to blunder with respect to both the enemy and those civilians caught between his unit and the enemy.
Time Limitations and the Factor of Stress

Still another limiting factor in a soldier's perceptions of a situation is the factor of time. In the middle of combat rapid decisions are often required. The leader is not always blessed with an unlimited amount of time to weigh all the appropriate circumstances and consider all the possible alternatives. The amount of time available to make a decision may only be a minute, if it is even that long. Moreover, the life-and-death decisions that are required in combat situations place a considerable amount of stress on the decision maker. Certainly the combination of stressful situations and time constraints is not conducive to rational or well-thought-out action. It is not surprising, then, that gross mistakes are made in combat due to poor foresight.

Foresight and the Actions of the Innocent

Now you may be wondering what all this has to do with the unintentional, yet foreseen, killing of innocents in combat. Well, innocent people are often caught in the middle of military actions. Sometimes they are there of their own volition and sometimes they are not. In some cases people refuse to leave their homes. Their whole life is centered around their homeland and, in particular their, village. It is inconceivable for these people to leave these areas even though they know they might be caught in the middle of a battle. That is, they take the risk of remaining in the danger zone even though, as
they know, they may lose their lives. On the other hand, other innocent people may be overtaken by the action. This is the case with those who get caught in the initial attacks of a war and those who live near war-making industries in cities well behind friendly lines.

The important point here is that, like our adversary, innocent people are sometimes in a position to control events and their relation to them. It is not as if they are always unaware that there is a war going on around them or that they are unable to remove themselves from the scene of fighting. Like most agents, innocent persons also have choices they can make in regard to the war. In many cases they choose to be where they are, knowing that there are inherent risks in doing so. While they are innocent of war-making activity, they still have contributed, in a way, to their being in a dangerous situation. When an innocent person chooses to continue to live two blocks from an arms factory or an oil refinery, he may be running the obvious risk of annihilation. I do not advocate the wholesale slaughter of women, children and the elderly; but one must admit that their voluntary presence on the battlefield may be a strong factor contributing to their own harm.

Soldiers of one warring nation are able to influence the enemy's activity and the actions of the civilian populace. But they do not make choices either for the enemy or for non-combatants. That is something those individuals do for themselves.
The major thrust of this argument, then, is that the soldiers of one warring party are not the only actors in the scenario. It is not always the case that one individual (say a soldier) performs an action on another while that other person passively allows himself to be acted on. Other people and external circumstances often contribute directly to an action or a state of affairs. While we are acting on others, they are acting in a way that also affects us and our decisions. The combination of the factors I have mentioned so far may make it very difficult to foresee with any degree of certainty what will be the exact consequences of one's action in combat. Military planners, as well as soldiers on the ground, deal in the world of probability. The probabilities they work with rarely approach certainty. Even the simplest activity, such as pulling the trigger on a rifle and attempting to hit a target, is an action in which the intended consequences may be foreseen, at best, as only probable.

The Problem of Distinguishing Acts and Their Consequences

We cannot complete our initial discussion of foresight without touching upon the problem of distinguishing acts and consequences. In talking about intending or foreseeing specific actions we presuppose that all acts are "atomic" in nature. By saying that we suppose that all acts are atomic, I mean that we seem to think of acts as being individual entities of a special sort which may be considered independently of each other and that there is a clear delineation
between each act and every other act. We tend to treat the continuum of action as if it is easily divisible into neat individual parcels called acts. Act A is distinct and separable from Act B and so on. In order to speak about a particular segment of action we tend to treat that segment as a unique individual act. It is as if our mental and linguistic division of action corresponds with some actual dividing lines between acts.

While this view of action may be useful for us in our normal discourse about the world, it does not capture the world the way it really is. The current controversy over the problem of act individuation makes this point quite obvious. With this debate have come a number of theories, all of which purport to tell us the definitive way in which we may delineate between different actions (and also between actions and their consequences). These theories may be grouped into two general categories. In the first category are those theories of action which I call "unifier theories." The philosophers who espouse them believe that actions (or events) are a basic ontological entity and that they each can manifest a multitude of different descriptions. For them actions are identical if and only if they have the same causes and effects.

The second major grouping includes those theories of action which I call "multiplier theories." Those who have proposed these theories believe that actions are not basic ontological entities. Instead, what we refer to as actions (or act-tokens) are logical
constructs. That is, an action is some "act-property" that is exemplified by some object at some time. An act-property, then, is a property which a specified agent can exemplify. An example of such an act-property might be "loading the howitzer" or "assaulting the hill." These are properties because they can be true of some person at some time.

Whenever one performs an act, he exemplifies at least one property. That property is expressed by a gerundial noun clause. Accordingly, when Private Doe shoots his rifle he exemplifies the property of "shooting a rifle." An act (act-token), then, is a particular instantiation of an act-property by a particular person at a specified time (or time interval). Under multiplier theories two acts, A and B are identical if and only if (1) the act property exemplified in A is identical to that exemplified in B, (2) the agent of A is identical to the agent of B, and (3) the time that A occurs is identical to the time that B occurs.

In writing this paper I have assumed a "unifier" position. While I recognize that there are some serious philosophical objections to this position, I feel that it best exemplifies our natural intuitions about the nature of action. Moreover, I think that it is easier to see some of the problems of relating intention to action using this theory. However, I feel that the problems I am about to point out to a degree are applicable also to the "multiplier" position. Moreover, even though not all of the problems I will bring up will be
problems for "multiplier" theories, these theories are beset by a set of their own peculiar problems.

Let's now turn to the question of act individuation. In order to see why individuating between acts is problematic, we might do well to take a look at an example. But first, let's consider the following sentences which describe actions:

\[ p: \text{Smith squeezed his trigger finger.} \]
\[ q: \text{Smith pulled the trigger.} \]
\[ r: \text{Smith shot Ivan.} \]
\[ s: \text{Smith killed Ivan.} \]

How many actions are described here? One? Two? Three? Four? It is extremely difficult to answer this question without knowing what circumstances each of these sentences describes. Surely these sentences describe anywhere from one to four actions depending on the situation they describe and how we look at the situation.

Let's suppose that the agent referred to in these four sentences is the same person and that the four sentences all apply to the following vignette. Private Smith is on watch one evening in his foxhole. All of a sudden he hears a voice in front of him. Immediately he peers in the direction of the noise through his night-vision device. Instantly he spots a figure and identifies him as an enemy soldier. We will call this enemy soldier "Ivan." From the nature of Ivan's motions, Smith can tell that Ivan is not aware that he is being observed. Consequently, Ivan remains in the open making himself a
splendid target for Smith. Smith slowly picks up his own rifle so as not to make any noise himself and takes careful aim at Ivan. Once he has Ivan in his sights, he squeezes his trigger finger thereby pulling the trigger and shooting Ivan. Ivan dies a few short minutes later.

Our first intuition is to claim that all four sentences describe the same act. And, in a sense, we are right to do so. Nonetheless, there are some curious problems in making that assertion. One thing that might puzzle us is the relation between sentences p and s, for example. While we might want to say that they both describe the same state of affairs we also might have to admit, grudgingly, that s could be considered a consequence of p. That is, Smith's killing Ivan is the direct result of his squeezing the muscles in his trigger finger in this case. Now, can we say that the consequence of an act is also that same act? This surely sounds absurd. Nonetheless, we do not want to claim that they are two separate acts. For it is a fact that in squeezing his trigger finger Smith killed Ivan. What are we to say about this? Well, one thing we might say is that it does not make clear sense to say that action over a continuum may be divided up neatly into a definitive set of acts. We only act for convenience as if it could. In reality a segment of action we refer to as one act may well overlap with a segment of action we refer to as another act. The relation between sentences p through s seem to indicate this. As a result, I think that it is fairly safe to conclude that no
"act" is completely separable from every other "act." Hence, it is dangerous to assume that individual acts are atomic entities.

We use the notion of "act", then, as an arbitrary and artificial "delineator" to talk about particular aspects of an individual's overall action. It is more convenient to talk about a person's action in terms of specific properties which may describe it at a particular time or in terms of propositions which describe the states of affairs of which the actions are a part. It is readily apparent that a particular action or state of affairs can be described in a multitude of ways, perhaps even in an infinite number of ways. Perhaps any action can be described in a way that would make it seem morally right (permissible) under that description. Perhaps we could describe the very same action in terms that make it seem morally unacceptable.

Our problem now is twofold. First, we must decide which of the act descriptions are morally relevant and important. Second, we must know if we are considering all of the morally relevant act descriptions. Concerning future actions, we must decide which descriptions of the action in terms of potential foreseeable results are probable and also morally relevant. While we can foresee to a degree what consequences will result, we are not always aware which are the most probable or morally relevant.

Throughout the course of history there have been actions and events of such magnitude and far-reaching effects that it is difficult to assess them morally at all. Should we judge these events in terms
of the more immediate consequences which resulted from the action or in terms of the more far-reaching consequences which we are aware of today? There have been any number of these events where the immediate moral consequences were bad while the long-term moral consequences may have been good and vice versa. The point I am trying to make is that it is difficult to determine at which point in time it is fair to judge the act. Do we judge the act in terms of (1) what is foreseen beforehand as probable, or (2) what is observed as an immediate result or (3) what is observed as a residual consequence some time later?

It seems to me we run into great problems when we begin to classify an action in terms of its consequences. In our example above, sentence r not only describes the same action as p but also incorporates the consequences of doing p into the description. The same relation holds between r and s. Our doing this makes it easy for us to take the basic physical movement Smith makes and describe this action in the terms of its consequences. The problem here is to determine at what point it is no longer reasonable to describe Smith's action in terms of its consequences. In certain cases we seem to beg the question that an action is wrong by describing it in perjorative terms. Now this may be ultimately a correct description of the action in terms of what information we have about the action after it occurs. However, it does not seem correct to me to claim that such a description applies to the foreseen act unless the relation between the two des-
scriptions is analytic and the agent is aware that they are. The fact that a description may probably apply to one's act in the future depending on what, in fact, occurs is not a sufficient condition for us to say that it is appropriate to describe that act in that particular way at the earlier time.

We can see this more clearly if we consider the following example. Suppose Sergeant Williams fires an antitank missile at a target some 2000 meters in the distance. There is an enemy position located at the target, but the target is in the midst of a populated village. If there are any civilians in the general vicinity of the target, they will in all likelihood be killed or seriously injured when the missile impacts on the target. Let's assume that Williams foresees this probability. Nonetheless, at the time he fires the missile Williams does not consider his act a "killing of innocent civilians." In fact, the correctness of this description is contingent on several factors which are beyond Williams' control. First, innocent people must wander into a location close enough to his target to be hurt. Second, the missile must hit the target and detonate upon impact. Third, the target must explode in such a way as to kill any innocent bystanders. If all three of these conditions are met, then Williams will have killed some innocent people but he will not have foreseen that killing innocent people is a concommitant of firing the missile system.

Now we know from our earlier discussion that some deontologists are committed to saying that particular actions are wrong because
they conflict with some general prohibition against acts that pro-
duce consequences of a certain kind. Now, if the deontologist
judges Williams' action at the time he fires the missile, he cannot
say that Williams has violated any moral prohibitions. 37 For him to
say that Williams' action is wrong, he must say that Williams' action
is "killing innocent people." But, he cannot say the act of "firing
the missile" is wrong because it has not produced the bad consequences
of killing innocent people yet. Instead, he must say that the act of
"firing the missile" is wrong because it is the same act as "killing
the innocent people." Yet, it is not clear the two are the same act
until the deaths occur as a result of the missile's impacting on the
target. Clearly, then, an act that seems morally permissible under
one description becomes wrong only when it can be described as wrong
under another description. Williams' act, however, does not seem to
be wrong at the time he fires the missile because there seems to be
no correct description of his act at that time which makes it wrong.

"Overall" Actions and "Act-Components"

There is another curious relationship between an action and its
consequences. Once we describe an act in terms of its consequences,
that act becomes an "act-component" of the newly described act. In
our example "Williams' firing the missile" becomes an act-component
of "Williams' killing innocent people." If we think about it, every
act has innumerable act-components. Now, do act-components carry the
same moral worth as the overall act they are a component of? One would think they should. However, as we have seen, we are often confused about whether we should assign the same moral worth to them or not. For it all depends at what point in the agent's continuum of action that we make the evaluation. Moreover, to make the evaluation is to make a moral evaluation on a segment of an agent's overall action without considering its causes and, in turn, its effects. We fail to consider it in relation to the overall continuum of action as a whole.

Deontologicalism and Consequences

Of course, foresight is merely the consideration of the truth of a possible state of affairs at a particular time in the future. To consider that state of affairs is to isolate it from all others which describe the action. The agent isolates that state of affairs in the sense that he morally evaluates it independently of the other states of affairs which might apply to the same situation. So, in a sense, the deontologist is a consequentialist in a bizarre way. Instead of considering some basic action and trying to weigh all of the possible consequences of that action as does a utilitarian, he instead considers all of the consequences of a simple physical action which might be incorporated into a correct description of that same act and then checks to see which of these act descriptions are such that the act under that description violates his moral rules. If the act can be described in terms of any of its consequences in a way so that the
act can be said to violate a moral rule, then the act is wrong and
impermissible. Hence, for a deontologist consequences are important,
but only insofar as they affect the act description. One way of
looking at deontologicalism, then, is that an act is permissible
until we are able to describe it as an act which violates a moral
rule.

Seen in this light, we can begin to see one major problem with
deontological theories which will also provide troubles for the PDE.
Almost any act we can think of can probably be described in such a
way that we would think it to be wrong under that description. To
demonstrate this problem let's consider an action which we would
normally consider innocuous. Suppose Corporal Allen is in the act of
digging a foxhole. He is merely shoveling dirt out of a hole in the
ground to prepare his fighting position. Now most of us would probably
say that there is nothing wrong with this action. However, Allen is
employed as a mercenary in an army which fights for a known war cri-
minal. In fact, while Allen has committed no atrocities himself,
other soldiers in other units of the same army have. The cause for
which the army Allen is fighting is unquestionably unjust and Allen
knows this. Now we could describe Allen's actions in the following
way:

\[ \begin{align*}
  t &: \text{Allen is contributing to a morally unjust cause.} \\
  u &: \text{Allen is willfully failing to stop atrocities.}
\end{align*} \]

Under these descriptions Allen is acting wrongly by digging the fox-
hole. Yet, I think we are at least hesitant in this case to say that Allen's action is morally wrong. While we would have to agree that $t$ and $u$ are consequences of his digging the foxhole, we would not want to say that their incorporation into the act description has any bearing on the moral worth of digging the foxhole.

**Single Agency versus Collective Agency**

Having examined only acts that have a single agent, we can see that complex actions in which more than one agent is involved will be just as problematic. These actions can be difficult to assess because it is difficult to establish agency for the action and its resultant consequence. Is one agent the agent of the overall action or is the collective group the agent? If we say that a particular agent within a group effort is responsible for the action, then we must claim that his sub-action is key in the overall action. But this is not always so. It may be that if some other individual failed to perform his sub-action, then the overall action would not occur. So, it would not be correct in these cases to attribute agency to a single individual. However, on the other hand, if we attribute some sort of collective agency to the group then we must consider how this collective agent "foresees" and "intends" acts. I contend that what each individual intends or foresees as a result of the action he contributes may well be very different from his fellow contributors. We are faced with several intentions in just one overall action. In light of this,
it does not seem to make much sense to talk about collective foresight and intention.

In a collective action the matter of determining which descriptions of the action are morally relevant is greatly exacerbated. For now we are not merely concerned with each of the individual's perceptions about his relation to his own sub-action under any number of act descriptions which apply to it, but are also concerned with his perception about the relation of his sub-action to the overall-action, his perception about the nature of the other contributing agents' sub-actions to the overall action, and his beliefs what the sub-actions entail as opposed to what the overall action entails. It is fairly obvious that these factors make application of the PDE extremely complex and difficult. For each of the contributing agents can and probably do have different beliefs about the nature of their own actions, their fellow contributor's actions and the overall action in general.

I will discuss these problems in greater detail in the next chapter. By the use of several fairly common examples of action in war, I intend to show that the PDE is unhelpful in deliberating whether these actions are right or wrong. We will see that under the PDE, seemingly innocuous acts can be shown to be morally wrong and heinous crimes can be shown to be permissible. Let's consider these problems now.
CHAPTER IV
SOME BASIC PROBLEMS FOR THE PDE

A Short Review

We have already seen that it is difficult to discuss the notions of intention and foreseeability without understanding something of the problems with action theory and the limitations of human perceptions. In this chapter I intend to show how these two factors combine to make it difficult for us to make much sense of the PDE. Depending on how we understand the relation of intention and foresight to action, we may come away with moral conclusions which run contrary to our most basic intuitions. Some acts which we normally would consider wrong come out, according to the PDE, as permissible whereas some acts we normally consider permissible are according to it, quite wrong. Moreover, if we attempt to remove the ambiguity from this doctrine we find that either the doctrine is so strict that virtually no act in war is permissible or it is so loose that almost any act in war may be deemed permissible provided that the agent has a "good intention" and that the good consequences compensate for the bad consequences.

So far we have considered some important aspects of foresight and intention which play an important role in our moral decisions. First, we have been concerned about how the agent perceives a situation. We know he has certain beliefs about what his action is and what will be its consequences. We also know that these beliefs
are limited by any number of external factors to include the agent's physical environment and the actions of other agents. The consequences of an agent's action can be foreseen, but foreseen with less than full certainty. Essentially, the same limitations apply to the notion of intention.

A second important consideration in applying the PDE is that of time. We are concerned not only with how much time an agent has to decide and then act in a given situation, but also with the time in the action continuum at which the agent has his intentional attitudes. Time places limitations on an agent's decision-making capability and it plays an important role in determining what intention is appropriate for what action.

Third, how the agent envisions or describes the intended action or foreseen consequences is an important factor in determining if the action is morally appropriate for achieving the desired consequences. The more detailed picture an agent has of his intended act and its foreseen consequences, the more adept he is going to be in seeing that the act is morally right, or morally wrong. We find that many of the controversial cases in our discussion of the PDE concern those actions where the agent (1) intends a somewhat ill-defined action and foresees some specific states of affairs as a consequence, or (2) intends a specific and well-defined action but is unclear as to the specifics of the foreseen consequences or, (3) intends an ill-defined action and foresees only general unspecified results.
Some Additional Considerations

Finally, three other factors come to play that I have not yet discussed. The first factor has to do with the agent's rationality and mental competency. If the agent is insane or is unable to think at a level of intelligence that we would expect of most human beings, then we are going to be less apt to say that this agent is one to whom the PDE applies. For if a person's perception of reality is seriously distorted or impaired, then we may not think that he is capable of making the moral distinctions necessary for applying the PDE. Hence, we may not hold an agent morally responsible for his acts and intentions (under the PDE) if he is not rational and mentally competent.

The second additional factor has to do with actions in which more than one agent is required for an action to be done. As we all know, certain actions are group efforts in which each agent makes a separate contribution to the act but the overall act cannot be performed without all these sub-actions being done at roughly the same time. In performing his sub-action, each agent may have a different intention and foresight with respect to his own action and that action's consequences than any other cooperating agent has with respect to his action and its consequences. It is a matter of concern for us to determine which, if any, of these individuals' intentional attitudes are appropriate for assessing the overall act.

The last additional factor that plays a role here is that of
habit. By "habits" I mean an action that an agent performs customarily without reflecting on it when certain circumstances occur. I take certain actions that are inculcated by training and experience to be habitual. For example, a well-trained soldier will habitually dive for cover when he hears an explosion or small arms fire. He also will take overt aggressive action in certain other situations. While we are probably inclined to call these actions intentional, we may still find it difficult to determine what the agent considers the consequences of his action, if he considers the consequences at all. Many habitual actions are instantaneous responses to stimuli. In some relatively minor cases, the agent often is not even aware that he is performing the action, let alone considering the consequence of it. In combat situations many habitual actions are performed as a self-defense measure. There is no other intention than survival. That intention moreover, is unlikely to have been mulled over. Indeed, such action is almost Pavlovian in nature. 39

A Review of the PDE

Before considering some examples which I think pose problems for the PDE, we ought to refresh our memory on some of the stipulations of the PDE. To make this possible, I will present a truncated version of the PDE I presented in the first chapter. I will do this merely as a convenience to help us focus our attention on the part of the PDE that I think is most important. So, for the purposes of this discussion I
will drop the third and fourth condition of the earlier version and simply assume that our examples fulfill those two conditions. The revised version of the PDE now looks like this:

PDE\textsuperscript{1}: It is morally permissible for an agent to perform an act which has both good and bad consequences if and only if (1) The act itself is morally good or at least indifferent and (2) The agent does not positively will (intend) the bad effect but merely permits it.

Condition (1) is the requirement that the action, as intended, must be such that it is not intrinsically evil. The intended action must be either morally good or morally neutral. Condition (2) says that the agent must not intend the bad consequences even though they are foreseen. In foreseeing these consequences, he merely allows them to occur. He is not required to do anything to prevent them nor is he required to intend that the bad consequences not occur. The agent is merely required to withhold his intention of producing these bad effects. By "withhold" I mean that he fails to have an intention either of producing the bad consequences or preventing them.

A Closer Look at Condition (1) of the PDE

While this version of the PDE may seem acceptable upon a cursory look, I think a closer examination by us will help us see why it is unclear and not particularly helpful. The first condition is particularly problematic. Having discussed the problem of delineating acts and their consequences we can see better why this condition is troublesome. What do we mean when we say the "act itself is morally
good?" As we know the "act" can take on any number of descriptions. These descriptions can range from talk about an agent's own basic physical movements all the way to talk of the most far-reaching consequences of this basic physical action. For instance, if we say the "act itself" is the agent's squeezing his finger then we are prone to say that it is at least "morally neutral." On the other hand, if we say that the "act itself" is "shooting an innocent child," then we are apt to say it is morally wrong.

As we have already seen, under deontological moral theory an act is wrong if it falls under a description which makes it as described a violation of a moral rule. But if all the acts we are considering have some bad results, then each "act itself" can be described as morally bad. Hence, if we read the first condition as saying that the act under any description must be good, then we have made it virtually impossible for any such act to be accepted as permissible under the PDE. This is not, however, what I think the framers of the PDE intended. For they were very much concerned that certain acts of killing in war should be accepted as morally permissible.

In order to avoid the difficulty mentioned above we might instead read "the act itself" as meaning only the basic bodily movements the agent himself performs in producing the action. Yet this interpretation is also problematic. We can describe almost any human action this way without violating any moral rules. We do not say that a person's squeezing his finger is morally wrong: we say it is the
result of the agent squeezing his finger that is wrong. The physical act is wrong because it can be described in terms of its evil consequences.

It seems to me that we need to find some middle ground between these two extremes which captures the moral intuition that the advocates of the PDE are trying to convey. On the one hand, condition (1) can be read as such a strict condition that no actions with bad consequences are permissible under the PDE while, on the other hand, it can be read so loosely that virtually any action is morally permissible under the PDE. Perhaps we ought to consider "the act itself" in terms of how the agent himself envisions it. We said earlier that beliefs and intentions are about states of affairs (or propositions). Moreover, we said that different formulations of these states of affairs describe our actions differently. Moreover, we have indicated that it is possible to hold different beliefs or intentions about what is, objectively speaking, the same state of affairs. For instance, I can intend to shoot at a silhouette of a person approaching my position, thinking it to be that of an enemy soldier, without intending to shoot my company commander, whose silhouette it actually is.

So, it appears that "the act itself" must refer to a specific state of affairs that the agent believes will come about or intends to bring about by doing the action. The action, then, must be morally good as the agent intends it. We have now added the subjective element to our condition one. It is not so important that the intended
state of affairs may be expressed as a moral wrong. Instead, the agent's belief about what state of affairs he is producing is of critical importance. The state of affairs that his action is directed towards must not be in violation of some moral prohibition. With that in mind, let's reformulate our condition (1) of the PDE in the following way:

(1') The action as intended by the agent is morally good, or at least morally indifferent.

This reformulation seems to capture the intuitions of those who conceived the PDE much better than condition (1) does. By the phrase "as intended by the agent" I mean under the description the agent conceives the intended action. Thus, according to condition (1') the action must be morally good (neutral) according to the description the agent considers it under when he intends it.

A Closer Look at Condition (2) of the PDE

Let's now turn our attention to the second condition, especially to the phrase "the agent...merely permits it (the bad effect)." We might be tempted at first to attack condition (2) by saying that the act of "permitting" is itself a form of intentional action. That is, when we "permit" some evil foreseen consequences, we have intended not to prevent them. By attacking the PDE this way, however, I think we are being a bit unfair to it.‡‡ We are denying the proponent of the PDE the very distinction upon which the PDE is grounded, the distinction between the intended and the merely permitted. The proponent of the
PDE would most probably deny that in permitting these bad consequences the agent intends not to prevent them. He would probably say that the agent entertains no intentions at all with respect to the bad consequences. He neither intends them nor intends not to prevent them.

While we have eliminated that particular objection to the second condition, I think that another issue regarding it warrants discussion. Condition (2), as I have already stated, is predicted upon the distinction between intending bad consequences and merely permitting them. I think that it is reasonable to say that the deontologist proponent of the PDE wants to claim that intentionally bringing about bad consequences is morally worse than merely permitting them. Looking at this distinction another way, we might say that acting to bring about bad consequences is worse than failing to act to prevent them. But, if we look at the distinction this way, it would appear that intention does not play as central a role in the PDE as we might like to think. Instead the theory seems to turn on a distinction between acts and omissions. 41 If this is, in fact, the case, then the PDE proponent is committed to the view that there is a moral difference between our duties not commit intentional wrongs and our duties to perform good acts. By saying that it is worse to bring about evil by acting than to bring it about by failing to act, he is saying (in an oblique way) that our duties to refrain from doing evil acts are greater than our duties to perform good acts.
Now we can begin to see the dilemma condition (2) places us in. In most of Western society we accept the view that we have both a negative duty not to kill and we also have a positive duty to save lives. If we accept condition (2) as it stands, we are saying that the agent must not intend the bad consequences (i.e., killing innocent civilians). But, in permitting the deaths of innocent people, we are failing in our duty to save lives. If we suppose that our act as we intend it is good and that it brings about an early end to a war, thereby preventing many needless deaths in the long run, then by intending the "good" act and "permitting" its bad consequences, we have both fulfilled our duty to save lives and have failed in our duty to save lives. Looking at it another way, we have said that our duty not to kill takes precedence over our duty to save lives. In general, then, our duties not to commit intentional wrongs take precedence over our duties to perform good acts.

For me, this conclusion is counter-intuitive. There are many occasions on which I believe that an agent is obligated to perform some positive act even if it means that he violates some duty to refrain from doing an evil act. My intuition is that positive and negative duties should have equal status. But, if they do have equal status, then our only means of resolving conflicts between positive and negative duties seems to be through some sort of utilitarian calculation of the consequences.

One way to avoid the conclusion above is to alter condition
(2) so that does not turn on the distinction between doing good and refraining from doing evil. We might do this in the following way:

(2') The agent has no intention with respect to the bad consequences of his intended action, even though he foresees them as likely.

In this revised version of condition (2), the agent must withhold his intention with respect to the bad effects. He must neither intend them nor intend them to be permitted.

Unfortunately, if we now accept condition (2'), we are faced with a problem of a different sort. In requiring the agent to have no intention whatsoever with regard to the foreseen bad consequences of his action, we may be asking too much of him psychologically. In essence, what we are saying to the agent is, "Even though you foresee the killing of innocent people as a probable consequence of the action as you intend it, you cannot intend killing them nor can you intend not to prevent their deaths." I suggest that it is psychologically impossible to perform all three of these mental acts at the same time. If the agent believes that particular bad consequences are likely to result from his action and yet goes ahead with that action, then he has tacitly intended to permit those bad consequences.

A Reformulation of the PDE

It now appears that we are in a difficult situation. If we accept condition (2) then, we must say that, for example, our duty not to kill takes precedence over our duty to save lives. As we have seen this is
not a particularly satisfactory alternative. On the other hand, if we accept condition (2'), then we require the agent to perform a psychologically impossible feat. In summary, then, (2) requires us to accept a counter-intuitive moral concept while (2') requires us to accept the idea that a psychologically impossible feat is possible. Neither alternative, then, is particularly attractive. What now you ask? Well, perhaps we ought to grudgingly stick with condition (2) and see where it leads us in terms of practical examples. Consequently, let's clean up PDE\(^1\) and reformulate it this way:

\[
PDE^2: \text{It is morally permissible for an agent to perform an act which has both good and bad consequences if and only if (1) the action, as intended by the agent is morally good, or at least morally neutral and (2) the agent does not intend the bad effect as a direct consequence of his action but merely permits it.}
\]

As I have stated before, I am not particularly happy with this formulation of the PDE. However, I can think of no better formulation which eliminates the problems I have already enumerated.

Let's press on and see how this version of the PDE stands up to some difficult practical problems. I will discuss four cases that I believe that the PDE should resolve, but which cannot.

**Nine Factors that Affect the PDE**

Before looking at these examples, though, I would like briefly to review some of the major factors that I feel play a part in how an action is evaluated under the PDE. These factors are:
(1) How specifically the agent envisions his intended action and its foreseen consequences.

(2) How much the agent knows of (and perceives as relevant) the circumstances surrounding his action.

(3) How much moral emphasis the agent gives to each of the alternatives he sees as available to him.

(4) How rational and mentally competent the agent is.

(5) How much time the agent has available to make his decision.

(6) How much stress the agent is under when making his decision.

(7) Whether or not the agent is reacting to the situation in a habitual manner.

(8) How much of a role other actors play in the agent's action.

(9) Whether the agent's intent is to perform some positive act or refrain from performing some positive act.

The "No-Win" Situation

My first example concerns cases in which the agent is caught in a "no-win" situation. That is, there are situations in which the agent is confronted with only two basic alternatives. Either he performs a particular action or he does not. If he performs the deed, he will bring about good and bad consequences. If he does not perform it, he will also bring about good and evil consequences.

Perhaps this example will aid us in seeing this point. An army unit is defending one of its country's own cities. Instead of leaving
their homes and becoming refugees, many of the civilian populace have decided to remain in the city with this army unit. Perhaps they feel more protected in doing so. However, in the course of a larger battle the city is surrounded by enemy forces who begin preparation to assault the city. The enemy army is known for its brutal treatment of both military and civilian prisoners. They have committed all sorts of crimes against innocent civilians in the past, including murder, pillaging, plundering and the like. The commander of the army unit charged with the defense of the city is faced with two basic alternatives. Either he orders his army to fight or he orders his army to capitulate. Let's assume that either action might be considered good under the description which the commander intends to perform them. Moreover, his intended direct result of choosing either alternative is other than to produce the harm of civilians. However, it is foreseeable (or perhaps even certain) that widespread civilian harm will result from either alternative. The choice boils down to either fighting and bringing about harm to civilians or capitulating (not fighting) and bringing about harm to civilians. In either case the harm done to the civilians is a direct result of his decision.

As we already know from our previous discussion, the PDE is supposed to aid us in deciding which acts among our alternatives are permissible and which are not. However, if all the alternatives we have open to us are such that in order to perform any of them we must intend an action which produces some bad results, then our
decision seems to come down to a matter of deciding which of the
two evil consequences is preferable. It comes down, that is, to
some form of utilitarianism. This is what seems to be the case in
the example. Instead of focusing on the moral worth of the commander's
two alternative actions, we must shift our consideration to the con-
sequences of the action.

A deontologist, in order to avoid this result, seems to have only
two possible replies here. The first thing he might say is that he
admits there are these "no-win" situations in life where the agent is
committed to doing wrong whichever alternative he chooses. He might
add that even though these situations do occur, that does not mean
that the PDE is not useful for many other situations.

The deontologist's other alternative is to say that in situations
like this what is important is whether the agent produces the evil
by a positive intentional act or by intentionally refraining from
doing that act. In our example case, he must say that there is a
putative moral difference between fighting and not fighting (capitu-
lating). Perhaps he might say that not fighting is the correct alter-
native in the example case because the commander and his men do not
actively bring about the bad consequences. The enemy does.

Whatever reply the deontologist makes here, he has weakened his
position. If he makes the first reply, he admits that the PDE can
give no guidance in terms of the relative moral worth of two actions,
be they good or bad. The PDE merely assists us in determining
whether acts are permissible or impermissible. The commander in our example must perform one of the two alternatives. By not doing the one he necessarily does the other. To tell him it is impermissible to do either of the acts is no help whatsoever. If the deontologist makes the second reply by saying that there is a moral difference between acting and refraining, then he places himself on very controversial philosophical ground. I have already given my opinion on this matter earlier in the chapter.

The Problem of Taking Moral Risks

A similar yet separate problem to the one I just discussed is what I call the problem of moral risk taking. Often in combat soldiers must take dangerous risks to perform good acts. In fact such acts of bravery are encouraged to a degree. However, if the PDE makes a moral distinction between acting and refraining from acting, then in essence it implies that we not take moral risks. To see what I mean let's consider this example.

Private Hill has been wounded seriously in a fire fight. Sergeant Ramos sees that Hill is wounded badly and realizes that Hill must be evacuated immediately or he will probably die. However, to get Hill to safety Ramos must first drag Hill across an open area. The chance of both of them being shot and killed in this open area is also fairly high. If Ramos intends to save Hill's life, then we would probably say that this is a morally good action. But, then again, we would not
say that he would be acting in a morally wrong manner if he left Hill alone, considering the risk involved. It is fairly clear that if Ramos intends to save Hill's life some bad consequences are likely to occur. On the other hand, if Ramos intends not to save Hill's life some bad consequences are also likely to occur. Many of us would probably say that since there is a chance of saving Hill's life by getting him out of the location he presently is in, this course of action is at least morally permissible, if not preferable to the other course of action. PDE advocates, however, are in the uncomfortable position of saying that it is morally preferable for Ramos to take no physical action with regard to Hill. Letting Hill die is better than causally contributing to his death. This seems to me to be plainly counter-intuitive. Almost any action where harm is risked to prevent harm from coming about falls into this category. Clearly, we would like to keep this kind of option open to moral agents. The deontologist who supports the PDE says this is not an acceptable option.

The Problem of Non-Specific Intentions

The third type of problem case that the PDE is unable to resolve adequately is that situation where the agent is not sure what his specific intention is in an action. In the second chapter I characterized an intention as a disposition to act. And I said that we have a disposition to act in a particular manner when we suppose we are in
special circumstances that warrant our acting in that manner. As I also pointed out in that chapter, one of the most critical problems of justifying our intentions, and consequently our behavior, is that of insuring that we are, in fact, in the appropriate circumstances which trigger our intentions. Now, this problem is not merely an epistemological problem. It is not just a matter of being skeptical about what our senses seem to tell us is the case. It is also a matter of what things we do and do not perceive, what emphasis we place on each particular perception we do have, and in which way we put all these perceptions together into a "complete picture" of the situation.

We have all been in situations at some time or other where we have performed an action which, after reflecting on it, we were not sure what our intention was in doing the action. In combat this type of situation is relatively commonplace. The agent's perception can be obstructed in any number of ways. For instance, both the enemy's tactics and the effects of the weapons the enemy uses serve to obfuscate what is actually occurring. We can imagine situations where the agent has a fairly general intention in mind which his action will satisfy. Moreover, we can imagine that he will foresee some general consequence which may be construed as evil. Nonetheless, his action will, in fact, be a different one than he had intended and its evil consequences will be different ones than he had foreseen. Let's consider a practical situation which exemplifies
this problem.

Let's suppose that a certain commander receives an intelligence report that informs him that an enemy battalion is occupying a strategically located town. He knows that if he can destroy, or at least effectively defeat, that battalion, then it will be to his own unit's great advantage. Perhaps the enemy is in a position to disrupt his own tactical activities.

Now, let's also imagine that our commander knows only that an enemy battalion is in that town. He does not know which enemy unit it is, what kind it is, nor who any of the individuals are in that battalion. In drawing up this plan he states only the intention of attacking and destroying "the enemy battalion" located in the town.

Let's also suppose that our commander foresees that some innocent civilians located in the town will be killed by his action. His foresight is also somewhat non-specific. He foresees only that the potential innocent victims of his action are "occupants" of the town. Again, he does not envision them as "lifelong residents of the town" or as specific individuals who reside in the town.

In our example, we will make believe that some curious things happen the night before our commander is due to attack the town. A battle erupts in the sector adjacent to our commander's. As a result of that battle, the enemy unit in the town redeploys to reinforce other enemy units already fighting the battle. Unbeknownst to our
commander, the enemy battalion moves out of the town he is supposed to attack the next day. (The raging battle engages his intelligence sources and distracts them from observing the town that night.) Let's also say that the battlefield noises and smoke veiled the noise of the enemy battalion's movement and blocked any visual observation of it.

That very night the civilians located in the town, rightfully fearing for their own lives, decide to evacuate the town. All of them leave. Our commander is not aware of this fact either. So, let us imagine that the town is unoccupied for a short period of time.

Later that night, however, another enemy battalion moves into the town to replace the now deployed battalion. It reoccupies the positions the other battalion had held. In addition, a large number of civilian refugees fleeing the ensuing battle also filter into the town looking for shelter. We will suppose that there are many more of these civilians than there were in the town before. Once again, we will also imagine that these events go unnoticed by our commander.

It is now early the next morning and the commander has his unit poised and ready to attack the town. He still has the intention of attacking and destroying "an enemy battalion" and he still foresees that "innocent civilians" will be killed in the town as an unintended side effect of his attack. Nonetheless, the specific individuals upon whom the intention and foresight are directed have completely changed.
At 0430 hours that morning the commander orders the attack. In the following melee the commander does accomplish his mission. His intention of destroying the enemy battalion is accomplished. Let's say that this action is at least morally indifferent, or perhaps better in that it will serve to shorten the war and, as a result fewer lives will be lost overall and less damage will be done to the area where the war is being fought. Just to be safe, we will also say it is morally good in terms of some short-range moral consequences.

Unfortunately, despite the good consequence, the act also produces some very bad "side effects." Due to the fact that a large number of civilians are present in the town, many of them are also killed in the battle. Some are killed by artillery fire that impacts on the buildings in which they are hiding while many others panic and are killed in the exchange of fire between the two units when they try to escape. Because of the smoke, noise, and limited light, many of them are mistaken as soldiers moving about in the town and are gunned down.

What are we to say about this episode with respect to the PDE? I think in several respects it is difficult to see exactly how the PDE applies here. First of all, it is confusing just who the intentional objects of our commander's attack are. Did our commander intend to destroy the unit that moved out of the town or did he intend to destroy the unit that replaced it? His intention of "destroying
the enemy battalion" is not specific enough for us to determine which unit the commander meant. Any unit that fits the description of being an enemy battalion would have been satisfactory as the object of the commander's intention (even an enemy medical battalion).

The same sort of thing could also be said about the commander's foresight as to who would probably be killed as a result of his action. His foresight that "innocent civilians" in the town would be killed could apply to a wide range of people who were unlucky enough to be in that town at the wrong time.

In one sense we are tempted to say the PDE applies here and that the commander's action has met our criterion. However, in another sense, many of us might be reluctant to say that the commander actually "intended" to destroy the battalion that he did or that he "foresaw" the deaths of the civilians that were killed. His intent and foresight were just not specific enough to say what he intended or foresaw. That is, we tend to think of intention and foresight applying to specific people, things, and situations. For example, I intend to write this sentence with this particular black pencil that I am holding in my left hand, on this particular piece of paper, and at this particular time. We are also tempted to say that the commander's stated intention and foresight really do not qualify as a true intention and foresight.

If we make the claim that the commander's intention and foresight are not specific enough and claim that one must have more specific intentions and foresights in mind, then we run into a difficult problem.
That problem is how to determine that the described object of one's intention is specific enough to meet the criteria of the PDE. In our example case we might want to say that the commander had to know specifically which unit he intended to destroy and which group of people he foresaw were going to die as a consequence of his attack. But, surely this is an absurd, if not impossible demand to make in many cases. It requires us, for instance, to determine just what unit is attacking us (if we are attacked) before we fight back. It also requires us to determine moment to moment just who our potential victims are. In war that is, practically speaking, impossible. To have a perfectly specific intention we would have to know who each and every individual involved in the situation is. Surely, we do not want to require that! So we are caught in a dilemma. Do we allow "non-specific" intentions and foresight to count and thereby "ambiguate" the PDE or do we require "strictly specific" intentions and foresight thereby precluding any action under the PDE in situations where we are not sure exactly of what we intend or foresee? And, if so, where do we draw the line between "specific" and "non-specific" intentions?

The important point here is that the individual who advocates the PDE must be willing to agree that either the PDE does not apply to all situations in which good and bad consequences are produced or that some questionable assumptions with regard to agent intentions must be made. If he agrees that the first disjunct is true,
then he admits that practical application of the PDE is much more restricted than he might like to admit. That is, it does not apply to many cases in which he would be tempted to use it. On the other hand, if he wants to say that the PDE applies to all actions that have good and bad consequences, then he has to make some basic presumptions about all action which are not necessarily true. These presumptions are that a conscientious moral agent will always (1) be able to consider alternative actions and consequences and that it is to his moral advantage to do so and (2) be able to think of his intended action and consequences in specific enough terms so that it is not ambiguous as to whom or what they are directed. I think that it is dangerous to make either of these assumptions. So it seems that whichever disjunct the PDE advocate chooses here, he should agree that either of them substantially undermines the scope and force of the PDE.

The Problem of "Collective" Intention

The last type of problem case I would like to discuss is that in which an action requires multiple agents. We can think of innumerable situations where this is the case. Of these many situations two types seem to stand out. First, there are those cases where a group of individuals must act simultaneously for an action to be performed. A bomber crew in the process of accomplishing its mission is a good example of this. One man must be flying the aircraft, one man must
be navigating it to the proper target, and one man must be prepared to drop the bombs once the aircraft gets to its target. If any of these simultaneous efforts are absent then the specific action cannot be completed. For the airplane must be flying to drop the bombs, it must be in the correct location to destroy the proper target and someone must drop the bombs when the aircraft is over the target.

The second situation I want to consider is that in which a chain of action must occur in order for some overall action to occur. This is an especially problematic situation when different agents perform different actions in this chain of action. The kind of specific situation I have in mind is that where the chain is initiated by an individual who has one intention, foreseeing certain consequences, and is completed by an individual who has another intention, foreseeing different consequences. This type of case might occur when a general gives an order with the overall perspective as to how the ordered action is to fit in with the overall circumstances. Yet, his order is executed by individuals who may have very limited perspectives as to how the action is to fit in with the overall situation. We can see that this perspective may be distorted with the addition of intermediaries between the general and the persons who carry out his orders. One situation that illustrates this idea well is that case in which an Air Force general orders a missile to be fired on a particular target. The order is then passed down through the chain of command until it reaches a particular missile
crew located inside a missile silo. The crew, however, is aware only that the missile will be directed at an enemy target; which one they do not know.

The Bomber Crew Example

Now that we have identified what I take to be two problematic cases, let's take a closer look at each one of them. Suppose that a bomber crew has been given the mission to bomb a particular industrial complex deep in the enemy country's heartland. (We will assume that the enemy country was the aggressor in this war and that without the industrial capabilities provided by this complex the enemy will not be able to continue fighting the war.) However, there is one particular problem. This industrial complex borders on a large inhabited residential area. In the act of destroying the industrial complex, the bomber crew will undoubtedly damage some of the residential area, thereby killing and injuring some of the civilian residents of the area.

Each member of the crew has the intention of performing his own particular duties which must be performed if the action is to occur. Each crew member also intends that the mission of dropping the bombs is completed satisfactorily. Moreover, they all also foresee that some innocent civilians will be killed. When they reach the target each member of the crew performs his particular sub-action, the bombs fall on the complex and destroy it. A number
of innocent civilians are killed as a result.

My concern in this example is not with the intention involved here, but instead with just who or what agent has the intention. If we concern ourselves merely with the actual dropping of the bombs on the target, we probably would point to the bombadier and say that he is the fellow who has performed the action. But clearly it is unfair to charge only the bombadier with the action, especially if it has large-scale bad effects. He has not acted in a vacuum. His being able to perform the act of dropping the bombs is dependent on the appropriate action of other members of the crew. Similarly, if we try to blame either the pilot or the navigator individually we run into the same problem. It seems, then, that the action must be attributed to the crew as a whole. But as Joseph Margolis put it:

Nothing can perform an act or have an interest that is not at the very least alive, sentient, intelligent. Human beings singly or aggregatively, satisfy these conditions. But a collective entity—a corporation, for instance—can only have interests imputed to it by human agents.

Margolis is saying, essentially, the corporations or bomber crews are fictitious entities. It is only in a manner of speaking that we can attribute intentions to them. To attribute an intention in reality to a bomber crew or corporation is an error. For bomber crews and corporations are not thinking beings. So to say that "the bomber crew intends to bomb an industrial complex" is not literally true.
Where does this leave us? On one hand we want to say that it is unfair to attribute the intention for the whole action on any one individual in the crew while on the other hand we want to say that it is not correct to say that the intention lies with the bomber crew, as a collective entity, either.

Now, the PDE seems to be designed so that we can presuppose that collective agents intend, foresee, act, etc. However, I think this is an unsatisfactory supposition for the foregoing reasons. We cannot assume that "collective intentions" are representative of the sum of individual intentions of the persons who compose this group.

The Missile Silo Example

Another way to look at this problem is by considering the case where the overall action is such that several different agents each contribute an individual sub-action in a chain of action. As in our second example, let's suppose that a general gives the order for a missile to be fired on some military target. He intends for that military target to be destroyed. However, he also foresees that a number of civilians may be killed by the detonation of the missile on its target. We will assume that the general does not know which specific missile will be fired to accomplish this task. Nonetheless, the general does know what impact the firing of the missile is to have on the overall situation, as he is aware of it. That is, the firing of this missile plays a part in a grand strategy which he,
but none of his subordinates, is aware of.

Let's say now that this order is given to some lesser-ranking general in charge of the missile units. We will say that this general's understanding of the use of the missile in the overall strategy is less comprehensive than his superior's but he still has a pretty good idea what the intended effect is to be. This general, however, does know which specific unit under his command he will assign the task of firing the missile. He does not know which missile will be fired, though.

This general who is in charge of the missile units then passes the order to the specific missile unit commander, a colonel, who has virtually no idea of the "grand strategy" but knows which missile crew to assign the mission. His foresight of the effects of firing the missile at the target is far less comprehensive than the two generals. This colonel in turn orders the captain in charge of the crew to arm and fire the missile. While the captain controls the overall procedure in the missile silo, one of his subordinates, a certain lieutenant, will actually perform the launch procedures. We will assume that neither the captain nor the lieutenant knows specifically where the missile is targeted. They know only that it is aimed at some enemy military target. Their intention then is to perform a successful launch of the missile at an unknown enemy target.

It should be becoming clear now what the problem is here. If
the missile is successfully launched and destroys the enemy target, then we have an interesting problem with regard to the PDE. The individual who initiates the overall action by giving the command that a specific target be destroyed, thereby foreseeing the resultant deaths of innocent civilians, does not perform the actual firing of the missile nor does he even know which missile is to be fired. On the other hand, the person who completes the action by firing the missile has a much more limited intention in doing so than the original general. Moreover, his foresight in the matter is extremely limited, since he is ignorant of where the missile is targeted and for what reasons it is being used.

Once again the PDE gives us no real assistance in the consideration of the overall action. For, we are not talking of a single agent performing the entire action. The intention of the general who initiates the action is not the same as that of the lieutenant who eventually performs the action. In addition, what the general foresees is much different than what the lieutenant foresees.

We can safely say here that the lieutenant's act would not be performed if the general did not give the order. The general's intention is inextricably linked to the lieutenant's action. But, we do not want to say what the general intends is what the lieutenant intends. That is, the lieutenant's action is not caused by the general's intention, at least not in any direct sense. The considerations the general entertains in giving the order are not those that
the lieutenant entertains in carrying out the order. So, if we try to consider the entire chain of action as a single overall action we have a difficult problem in connecting the intention that is involved in the overall action with the intentions in each of the sub-actions which make up the overall action.

If we consider the general's sub-action and the lieutenant's sub-action as two separate and causally related actions, then we run into a problem of a different sort. The general's action is merely one of ordering and its consequences is that of bringing about certain actions on the part of his subordinates. The problem, however, is that although we say that his order induces these subordinates to perform certain actions, the subordinates at each level have the option of either following or not following the order. So, it is not as if the general directly and unavoidably causes the ultimate consequences of his action. The consequences are not the necessary results of his action. So, it is difficult to morally judge the permissibility of the general's action.

The lieutenant, on the other hand, is in a position such that he does not intend the specific action the general does nor does he foresee the bad consequences of his action in the specific way the general does. Earlier, when I discussed the notion of foresight, I stated that we normally think that an agent has done no moral wrong if he could not foresee the bad effects of his performing an action. In the lieutenant's case he is in an epistemically blind
position with regard to the specific consequences of his action. He believes that his intended action will produce the effect of "destroying an enemy military target." He can in no way specifically determine whether innocent civilians will be killed as a result of an action or not. That is a matter of pure speculation for him. As a result, we are in the peculiar position of having to say that his act is permissible, even though it might have the vilest of consequences, because the lieutenant neither intends, nor foresees these evil consequences.

Conclusion

In conclusion, then, I find the PDE most unhelpful in many situations where it is supposed to be of assistance. First, for the PDE to be a viable doctrine one has to say that one's duty not to perform harmful actions takes precedence over one's duty to perform beneficial actions. At the very least, this is a notion very much open to debate. If it is incorrect as I believe, then the PDE collapses as a viable doctrine.

Second, there are many situations where the agent may formulate a general intention in doing some action. The agent's view of the situation, however, may be so loose and non-specific that any number of actual situations can fulfill his expressed intention and foresight. The question becomes whether the agent intends each and every one of these state of affairs. I think not. Unfortunately, the PDE does not give us strict enough criteria for how specific the agent's
intention and foresight must be. As a result, it probably allows more questionable intentional actions than it should because these actions are couched in non-specific terms.

Finally, the PDE fails to help us with actions in which more than one agent is involved. To apply the PDE, we must assume that we can make sense of notions like the "intentions of corporate entities" and intentional "chains-of-actions" where one agent has the overall intention and foresight for the act which is to be judged, while another agent actually performs the action. Once again, I find both of these notions confusing.

The PDE is not a viable theory. The problem is not as some philosophers have suggested, that is is unable to account for the massive and indiscriminate effects of modern weapons; the problem is that it is grounded in doubtful philosophical concepts. My contention is, then, that the PDE has been incorrect and unhelpful all along; we have just failed to understand that is so.
FOOTNOTES

Chapter I


3 It should be noted here that this principle is not merely applicable to the type of actions I have already mentioned, but also to supererogatory acts. The same considerations are involved when a policeman is deciding whether to apprehend an armed robber or when a fireman is deciding whether to go into a blazing room to save its occupants. In these cases some good state of affairs will result if each man successfully completes his mission. But, it is also possible that some very bad consequences may ensue. These men may possibly lose their lives in their respective attempts to secure the good ends they intend.

4 Aquinas, Treatise on Law, (South Bend, Indiana, 1979), pp. 20-21.

5 I am indebted to Professor Fred Feldman for bringing this point to my attention.


7 For an interesting historical analysis of both Augustine's and Aquinas' views on the subjects of 'just war' and the status of non-combatants in just wars see Richard Hartigan's "Noncombatant Immunity: Reflections on its Origins and Present Status," The Review of Politics, Vol. 29 (1967), p. 204-220. If the reader desires to read more pertinent material written by these two men, Arthur F. Holmes has edited an anthology entitled War and Christian Ethics, (Grand Rapids, 1975), which presents a number of major philosophers' views with respect to just war theory starting with the early Greeks and continuing up to modern christian theologians.

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Aquinas, in fact, set down three conditions for a war to be just. These conditions were: (1) a legitimate sovereign must declare the war; (2) the men who fight the war must have the right intentions so that good is brought about by the war and that a just peace is restored; and (3) the sovereign must declare the war for a just cause.

This idea can be found in Lynn Miller's, "The Contemporary Significance of the Doctrine of Just War," *World Politics*, Vol. 16 (January, 1964), p. 278.

This idea is expressed and discussed in great length in Michael Walzer's book, *Just and Unjust Wars*, (New York, 1977), especially in Chapter 4.


Ibid, p. 221

Ibid, p. 222.


Chapter II

This distinction between direct and indirect (or oblique) intention was first brought up as far as I can tell, by Jeremy Bentham. For him, a man was not said to strictly intend the consequences of his voluntary actions which he merely foresaw. Still, the agent intended the action which happened to bring about those results. Hence, he coined the notion of indirect or "oblique" intention.


It might be argued that this sentence tells us so little because it is incomplete. I will admit that it is debatable whether it is or not. However, my remarks about it still apply regardless of its grammatical status.

Much has been written on the relative moral merits of doing good versus refraining from doing evil. This is an issue which is of great importance to the PDE. Bonnie Steinbock in her anthology, Killing and Letting Die, (Englewood Cliffs, 1980) has collected a number of the most important works written on the act/omission distinction and its relation to the PDE. It is an invaluable resource for anyone interested in the PDE and its application to real world moral problems. I shall return to this point in my Chapter 4 of this paper.
Chapter III

Of course we might also be interested in what a reasonable person could be expected to foresee. Negligence and wanton recklessness are moral as well as legal notions. Nonetheless, what the agent does foresee is the major consideration involved when judging both the agent's culpability and the degree of his culpability. See H. L. A. Hart, "Intention and Punishment," Oxford Review, Vol. 4 (1967), pp. 5-11.


I am indebted to Herb Heidelberger for making this point in his graduate seminar on Epistemology at the University of Massachusetts.

A famous example where adversary relations serve to induce the participating opponents to choose less than the optimal solution for the situation is the so-called "Prisoner's Dilemma." A clear account of the problem has been presented by W. G. Runciman and Amartya K. Sen in "Games, Justice and the General Will," Mind, Vol. 74 (October, 1965), pp. 554-562. I think that their example may be adjusted to show how adversary interests affect the agent's moral choices thereby producing less than optimal moral consequences.

For a relatively simple and easy to understand explication of inductive reasoning see Wesley Salmon's, Logic, (Englewood Cliffs, 1973), pp. 81-117.

A variation on the "unifier" position has been offered by both Judith Jarvis Thompson and Lawrence Davis. Like Davidson and Anscombe, they understand actions as events capable of multiple descriptions. However, unlike them, Thomson and Davis deny that all acts are "primitive" ones. They suggest that some acts are sequences of causally related events including both a fundamental bodily movement and some of its effects. See Lawrence Davis, "Individuation of Actions," Journal of Philosophy, Vol. 67 (August, 1970), pp. 520-530; and Judith Jarvis Thompson, "The Time of Killing," The Journal of Philosophy, Vol. 68 (March, 1971), pp. 115-132.


We could adjust this comment to also fit with the "multiplier" position. While Goldman, for example, wants to claim that each act properly exemplified by an agent at a time is a distinct act, he allows for the intuitive unity between certain of his acts by means of an "act-tree." It seems to me that to make the same point against Goldman we just have to say that there is probably at least one act on a particular act tree that has a property which we consider morally bad.

I am assuming here that Williams has made a reasonable effort to take proper precautions against injuring innocent civilians. For example, he should observe the target long enough to determine the time when it would be least likely for him to fire and kill civilians yet still destroy the target.
Some psychologists and philosophers have suggested that we have "unconscious intentions" or intentions that we do not consciously reflect on in some actions. Others have accounted for these actions by saying that such activity is voluntary but non-intentional. It seems to me that the idea of intention revolves on the agent knowingly willing his action. The term "unconscious intention" is, to me at least, self-contradictory.

I want to thank Gary Matthews for bringing this point to my attention.

A number of interesting articles have been written on this topic. If the reader is interested in pursuing this matter further, then I suggest reading Bonnie Steinbock's anthology, Killing and Letting Die, (Englewood Cliffs, 1980).

We can see that the "problem of moral risk-taking" is relevant to many major decisions in combat. Most people recognize, for example, the Normandy Invasion as a great turning point in World War II. Great good was brought about by this action (i.e., a much earlier end to the war in Europe, etc.) and yet tremendous risks were also taken. Had the allies not been successful many soldiers on both sides would have died needlessly and perhaps the Nazis would have been able to continue with their many nefarious projects.

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