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8 **INTENTION, PERMISSIBILITY, TERRORISM, AND WAR**

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12 Jeff McMahan  
13 Rutgers University  
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16 **1 Introduction**

17  
18 There are many important moral beliefs that have been comparatively stable  
19 over time and across cultures that seem to presuppose that the intention with  
20 which one acts can affect the permissibility of one's action. Until about forty  
21 years ago, the consensus among moral philosophers was that these beliefs are  
22 indeed best explained and justified by the idea that intention is relevant to  
23 permissibility, an idea that has traditionally been articulated in the Doctrine of  
24 Double Effect. This is the doctrine that it can be permissible to bring about  
25 bad effects, including the deaths of innocent people, provided that they are not  
26 intended either as an end or as a means but are unavoidable and proportionate  
27 side effects of the pursuit of good ends. Over the last four decades, however,  
28 the consensus in support of this view has dissolved. Most consequentialists (for  
29 example, act-consequentialists) have always maintained that it is permissible to  
30 intend to cause bad effects when this is a necessary means of producing the  
31 greatest good, so it is unsurprising that the earliest of the recent attacks on the  
32 relevance of intention to permissibility came primarily from philosophers who, if  
33 not avowedly consequentialists, are close enough to be reasonably mistaken for  
34 consequentialists.<sup>1</sup> Over the past two decades, however, a number of distinguished  
35 deontological and contractualist moral theorists have joined the attack, as have  
36 many practitioners of "experimental philosophy," and their combined efforts  
37 have probably reduced Double Effect to a minority position among moral  
38 philosophers. Between 2000 and 2007, when I was one of the editors of *Ethics*,  
39 I reviewed a number of submissions by junior philosophers in which Double  
40 Effect was relegated to a footnote and dismissed as an exploded view that no  
41 reasonable person could take seriously. I saw that as evidence of a decisive shift  
42 in philosophical orthodoxy.

43 According to the Doctrine of Double Effect, an act can be impermissible  
44 if done with a wrongful intention even if the same act — or at least an act  
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2 involving the same physical movements and having the same consequences —  
3 would be permissible if done with an acceptable intention. To accept this claim  
4 for a wide range of acts is to accept what I will refer to as the “relevance of  
5 intention to permissibility.” To deny it for a comparably wide range of acts is  
6 to accept the “irrelevance of intention to permissibility.” Those who accept the  
7 irrelevance of intention to permissibility should not be understood to claim that  
8 intention can *never* make a difference to the permissibility of action. For there  
9 are various special circumstances in which all would agree that the permissibility  
10 of an act turns on the intention with which it is done<sup>2</sup> — such as, to take a  
11 contrived example, circumstances in which one has promised to act only with a  
12 certain intention. This can be true even according to consequentialism. Suppose  
13 that a person’s moving her body in a certain way will have good and bad effects  
14 that are overall better than those of any other way she can move. Since many  
15 consequentialists would accept that an act done with only good intentions is a  
16 better state of affairs than an otherwise identical act done with a bad intention,  
17 they can accept that this person’s moving her body with the intention of causing  
18 the bad effect is worse than her moving in the same way without that intention.  
19 Since they believe that the only permissible act is the one that will produce the  
20 greatest good, they should conclude that it is impermissible for her to act with  
21 the bad intention.

22 In the following section, I will examine and criticize a few of the most  
23 influential arguments that have been advanced against the relevance of intention  
24 to permissibility. Then, in section 3, I will consider the suggestions that those who  
25 reject the relevance of intention to permissibility have made about how we can  
26 manage in the absence of that view.<sup>3</sup> They have had to address this issue because,  
27 as I noted, the idea that intention is relevant to permissibility seems to explain  
28 large areas of common sense morality, and therefore also the corresponding  
29 areas of the law that aspire, at least in part, to enforce the prohibitions of  
30 morality.<sup>4</sup> Those philosophers who have argued for the irrelevance of intention  
31 to permissibility must either, as some consequentialists do, repudiate significant  
32 areas of common sense morality, or else offer an alternative and better defense of  
33 those intuitions that have traditionally been defended by appeal to the relevance  
34 of intention to permissibility.

35 I will focus particularly on what these philosophers have said about the  
36 distinction between terrorism and just war. Acts of terrorism typically involve  
37 the killing of innocent people. But so do attacks on military targets in war that  
38 are carried out in pursuit of a just cause. The traditional way of distinguishing  
39 morally between terrorist acts (even in war) and permissible military action  
40 in a just war that kills innocent people is by reference to intention: terrorists  
41 kill innocent people intentionally, as a means of intimidating and coercing  
42 others who are specially related to the immediate victims, whereas combatants  
43 fighting permissibly in a just war kill innocent people only as an unavoidable  
44 and proportionate side effect of action intended only to destroy military targets.  
45 Those who reject the relevance of intention to permissibility must of course reject

2 this traditional explanation of the difference between terrorism and just war. It  
3 seems that they must either become pacifists, embrace terrorism, or find an  
4 alternative and more plausible way of distinguishing morally between terrorism  
5 and just war.

6 Some consequentialists are unapologetic about accepting that terrorism can  
7 be justified in a much wider range of cases than common sense intuitions  
8 would countenance. They do not regard it as a problem that their view has this  
9 counterintuitive implication because they also reject the assumption that moral  
10 intuitions have a certain normative authority. But most nonconsequentialist  
11 moral theorists who have rejected the relevance of intention to permissibility  
12 cannot adopt this position. For many of their most important arguments against  
13 the relevance of intention to permissibility are based on appeals to common  
14 sense moral intuitions. Yet none of the intuitions to which they appeal are so  
15 widely shared and compelling as the intuition that while terrorism is generally  
16 impermissible and abhorrent, war can sometimes — not just in principle but also  
17 in practice — be not only just but morally required. If the nonconsequentialist  
18 opponents of the relevance of intention to permissibility cannot provide an  
19 alternative and more plausible defense of this intuition, they will have lost the  
20 argument by reference to their own standard of intuitive plausibility.

## 23 **2 Arguments Against the Relevance of Intention to Permissibility**

### 25 **2.1 *Looking Inward***

26  
27 To examine the most influential arguments against the relevance of intention  
28 to permissibility, we will need before us the familiar examples of the tactical  
29 bomber and the terror bomber. Each bomber is a combatant in a just war who  
30 goes through the same set of physical movements, produces the same immediate  
31 effects, and achieves the same end: victory in the war. Each drops bombs on a  
32 military facility, destroying both the facility and a children's hospital adjacent to  
33 it. The tactical bomber intends to destroy the facility, thereby gaining a decisive  
34 military advantage. The destruction of the hospital and the killing of the children  
35 in it are foreseen but unintended effects. The terror bomber, by contrast, bombs  
36 the facility only because that is the best way to create an explosion large enough  
37 to demolish the hospital. He intends the deaths of the children as a means of  
38 intimidating the enemy and coercing their government to surrender.

39 Suppose that one of these bombers asks us in advance whether it is  
40 permissible to bomb the facility. We do not know whether he is the terror bomber  
41 or the tactical bomber. Suppose, Judith Jarvis Thomson writes, that

42  
43 we make the following reply: "Well, it all depends on what your intentions would  
44 be in dropping the bombs. If you would be intending to destroy the [military  
45 facility] and thereby win the war, merely foreseeing, though not intending, the

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2 deaths of the children, then yes, you may drop the bombs. On the other hand,  
3 if you would be intending to destroy the children and thereby terrorize the  
4 [enemy] and thereby win the war, merely foreseeing, though not intending, the  
5 destruction of the [facility], then no, you may not drop the bombs.” What a  
6 queer performance this would be! Can anyone really think that the pilot should  
7 decide whether he may drop the bombs by looking inward for the intention with  
8 which he would be dropping them if he dropped them?<sup>5</sup>

9  
10 According to Thomson, the reasons for and against dropping the bombs are  
11 given by facts about the world that are independent of the bomber’s mental  
12 states. The balance of these reasons is what determines whether the bombing is  
13 permissible.

14 Most people throughout recorded history have not found it queer to advise  
15 others that the permissibility of their action can depend on their intention in  
16 acting. Few have supposed that an act that would be impermissible if done  
17 with a neutral intention could become permissible simply by being done with a  
18 good intention. But most have assumed that an otherwise permissible act can  
19 be rendered impermissible by being done with a wrongful intention. They have  
20 not, however, assumed that people should make judgments of permissibility by  
21 inspecting their own intentions. Among other things, the intentions of a person  
22 who is concerned to ensure that her action is permissible will generally remain  
23 undetermined until she has resolved the question of permissibility. What she  
24 concludes about permissibility will usually affect what she finds if she looks  
25 inward for her intentions.

26 Suppose, however, that it is the terror bomber who asks whether it is  
27 permissible to drop his bombs. He already has a determinate intention or  
28 motivating reason for dropping them. What he may want to know is whether  
29 it is permissible to drop them *for that reason*. Both Thomson and proponents  
30 of the relevance of intention to permissibility can agree that this reason cannot  
31 justify the killing of innocent children. The proponents would thus answer the  
32 terror bomber’s question by saying that, in dropping his bombs for that reason,  
33 he would be acting against rather than in accordance with the normative reasons  
34 that they and Thomson agree that he has, independently of his intentions. The  
35 proponents then conclude that he ought not to act for that reason — that it  
36 would be impermissible for him to act on the intention to kill children as a  
37 means of terrorizing the enemy.

38 The terror bomber’s having this intention is, of course, merely a fact about  
39 him; it does nothing to differentiate the tangible effects of his action from those  
40 of the tactical bomber’s action. It is a wholly agent-centered consideration. But  
41 deontological morality has agent-centered dimensions that are inseparable from  
42 some of its victim-centered elements. According to Warren Quinn, people’s rights  
43 not to be harmed are sensitive to the intentions of those who threaten them. In  
44 particular, they impose stronger constraints against the infliction of intended  
45 harms than they do against the infliction of foreseen but unintended harms.<sup>6</sup>

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Hence intention magnifies the extent to which the contravention of a right is morally objectionable.

Frances Kamm denies this. Referring to the innocent victims of the terror bomber, she asks:

Do they have a right that he not act unless he acts for the right reason (or at least for a reason that they do not justifiably resent)? I believe . . . that the potential victims have no such right and that they can point to no grounds affecting them as reasons why the act should not be done. They have no right that the agent not bomb merely so that his wrong intention not lead to the bombing. It is in this sense that they cannot object to the agent's act, and it is in this sense that the act is not impermissible.<sup>7</sup>

These remarks echo T.M. Scanlon's account of moral justification. The suggestion seems to be that the terror bomber's dropping his bombs is permissible if, taking into account only the effects on individuals of a principle's being followed, the victims of the bombing cannot reasonably reject a principle that permits him to drop his bombs *when it would be permissible for the tactical bomber to drop his* (as Kamm assumes, by hypothesis, that it is).

In criticizing the agent-centered character of the view that intention is relevant to permissibility, the deontological critics of that view expose themselves to a risk that this same criticism also applies to another view that many people have thought to be essential in distinguishing deontological from consequentialist morality: namely, the view that doing harm is in general more seriously objectionable than allowing harm to occur. Deontologists believe, for example, that it is in general impermissible to kill one person even if this is necessary, either as a means or as an unavoidable side effect, in order to prevent two other innocent people from being killed by another agent. Whether an agent is instrumental in a killing via doing or via allowing is, it seems, regarded by deontologists as more important morally than the preservation of an additional life.<sup>8</sup>

In this case, however, the victim of the killing would be different from the victims who would be allowed to die — a complication that may introduce morally significant considerations other than the bare difference between killing and letting die. By contrast, in the comparison between the tactical bomber and the terror bomber, the identities and number of the victims are the same in both cases. To see whether the significance of the distinction between doing and allowing is vulnerable to the criticism that has been advanced against the significance of the distinction between intending and not intending certain effects, we should consider a comparison that is parallel to the comparison between the tactical bomber and the terror bomber in these respects. So consider a case in which it is permissible to allow a person not just to die but to be killed. Unless one intervenes to save him, an innocent person will be murdered by his enemy. But the only way one can intervene effectively is to shoot the enemy preemptively, and the only gun one has is one that, when fired, will recoil so forcibly that it

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2 will inevitably break several of one's bones. Assume that if one could save the  
3 innocent person at no cost to oneself, one would be morally required to save  
4 him, but that the unavoidable cost of suffering several broken bones is sufficient  
5 to make it permissible to allow him to be killed. Now add another couple of  
6 features to the example. Suppose that one is a highly altruistic person who would  
7 normally save an innocent person even at the cost of suffering several broken  
8 bones. But one also knows that if this particular innocent person were to die, his  
9 organs could be used to save the lives of several people who could not otherwise  
10 be saved. Being altruistic, one decides to allow him to be killed in order to  
11 make his organs available for transplantation. If it is permissible to allow this  
12 person to be killed in order to avoid the cost to oneself of saving him, then  
13 those who deny the relevance of intention to permissibility should accept that  
14 it remains permissible not to save him if one refrains from saving him with the  
15 intention of making his organs available. (For most of us, this is counterintuitive.  
16 But the point here is to see what those who reject the relevance of intention to  
17 permissibility are committed to, particularly by the claims they make in arguing  
18 against that view.)

19 Now add one last feature to the example. One suddenly realizes that,  
20 although the enemy will certainly kill this innocent person (given that one will  
21 not save him), it is possible that she may do it in a way that will damage the  
22 victim's organs. One therefore decides to kill the innocent person preemptively  
23 by shooting him in the head, thereby ensuring that his organs will be usable for  
24 transplantation (and thereby also causing oneself to suffer some broken bones  
25 from the recoil). Call this case the "Altruistic Killer." The question it raises is  
26 whether, given that one is morally permitted to allow the person to be killed, one  
27 is also permitted to kill him. This is relevantly parallel to the question whether,  
28 given that the tactical bomber is permitted to drop his bombs, the terror bomber  
29 would be permitted, in the exact same circumstances, to drop his, thereby killing  
30 the same innocent people, only intentionally rather than unintentionally.

31 The person threatened by his enemy cannot, it seems, point to anything  
32 affecting him as a reason why one ought not to kill him — *given* that he would  
33 otherwise be killed at the same time by his enemy (for one is not required to save  
34 him and will not do so). This parallels what Kamm says of the immediate victims  
35 of the terror bomber. Yet it seems intuitively that one ought not to kill him, even  
36 though one is permitted not to save him, and that the moral difference between  
37 killing and letting die is reflected in the innocent person's rights. Even though  
38 he has no right that one save him, given the cost to oneself of doing so, he does  
39 have a right that one not kill him — despite the fact that one's killing him will  
40 not be worse for him and might be better for those who need organ transplants  
41 to survive. He does not lose his right that one not kill him just because a villain  
42 will kill him if one does not kill him first.

43 It could be argued that, in comparing allowing the person to die with killing  
44 him, I have failed to hold other relevant features constant. In particular, while  
45 the cost to the agent of saving the person is high — broken bones — there is no

2 comparable cost in not killing him. This is, however, irrelevant. In most cases,  
3 the cost of saving is substantial (not only because saving usually involves the  
4 sacrifice of time and resources, but also because it excludes all other options  
5 for the agent), while the cost of not killing is low (because it leaves all other  
6 options open for the agent). Some have argued that the explanation of why  
7 people believe that there is a moral difference between killing and letting die is  
8 that they tend to conflate that difference with the closely correlated difference  
9 in cost to the agent. These people argue that while the cost of saving generally  
10 exempts people from being required to save others, there is in general no cost  
11 involved in not killing that exempts people from being required not to kill.  
12 But this argument is self-defeating, because common sense intuition persists in  
13 finding killing to be impermissible even when the cost to the agent of not killing  
14 is high. This would be true in the case we are considering if the cost to oneself  
15 of not killing the innocent person were high. We would still find it impermissible  
16 to kill him. Unlike the reason we have not to allow innocent people to die, the  
17 reason we have not to kill innocent people is resistant to being overridden by  
18 considerations of cost to the agent. In the case as I have presented it, it is the  
19 cost to oneself of *killing* that is high, since the recoil from firing the gun at the  
20 person's head will break several of one's bones. While that could exempt one from  
21 being *required* to kill, it counts neither in favor of nor against the *permissibility*  
22 of killing.

23 Another objection to the argument based on the Altruistic Killer example  
24 is that it *is* sometimes permissible to kill an innocent person because he or she  
25 will otherwise be killed by someone else or die from another cause at much the  
26 same time. The best-known example in the philosophical literature is Bernard  
27 Williams's hypothetical case of the traveler who happens upon a soldier who  
28 is on the verge of wrongfully executing twenty innocent villagers but offers to  
29 allow nineteen to go free if the traveler will kill one. Most of us believe that it  
30 is permissible for the traveler to save nineteen by killing one, but only because  
31 the one who is killed would have been killed in the same way at the same time  
32 anyway, so that the traveler's action is not worse for him than the alternative.  
33 The question, though, is whether it is *always* permissible to kill people when this  
34 would not be worse for them because they would otherwise die from another  
35 cause, or whether there are other elements to the justification in cases in which  
36 killing is permissible that are not present in the Altruistic Killer case. This is a  
37 large question that I cannot pursue here. But there are features of the Altruistic  
38 Killer case that seem to make killing wrong even though it is not worse for the  
39 victim than the permissible alternative of allowing him to be killed. Killing the  
40 person seems wrong because one *could* save him but instead uses killing him  
41 as a means of benefiting others. Those who accept the relevance of intention  
42 to permissibility could, of course, make the same claim about allowing him  
43 to die. But this is not open to those who reject the relevance of intention to  
44 permissibility. Since it does intuitively seem impermissible to kill the person  
45 in this case, those deontologists who give weight to that intuition but reject

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2 the relevance of intention to permissibility must, it seems, appeal to the moral  
3 asymmetry between killing and letting die to explain why killing him would be  
4 wrong. This seems to be a case, therefore, in which these moral theorists must  
5 accept that a fact about an agent — that one kills rather than allows an innocent  
6 person to be killed — is decisively relevant to the permissibility of that agent's  
7 action, even though the victim seems to have no ground for objecting to one's  
8 killing him rather than allowing him to be killed.

9 Kamm, like Thomson, accepts that the distinction between killing and letting  
10 die has moral significance in many cases. According to her view about the moral  
11 significance of causal relations — which is too complex to summarize here —  
12 the fact that the availability of the victim's organs would cause several others  
13 to be saved is not a justification for killing him. Yet she must concede that it is  
14 permissible to allow the victim to die because of the cost of saving him, even  
15 if his organs will then cause the others to be saved. What is problematic is that  
16 the relevance of the distinction between killing and letting die does not seem to  
17 be supported by the form of justification to which she appeals in rejecting the  
18 claim that people can have a right not to be harmed *for a wrongful reason*. For  
19 this form of justification also seems to imply that the victim in Altruistic Killer  
20 has, to echo Kamm's own phrasing, no right that one not kill him merely so that  
21 one's *doing* will not lead to his death. Yet it seems that the victim does have just  
22 such a right.

23 But if the right not to be killed is stronger than the right to be saved from  
24 being killed, even when the victim has no reason to prefer that one allow him to  
25 be killed rather than kill him, then perhaps the right not to be killed intentionally  
26 as a means can also be stronger than the right not to be killed foreseeably as a  
27 side effect — just as Quinn suggests.<sup>9</sup> Although the distinction between doing  
28 and allowing and the distinction between intending an effect and bringing it  
29 about knowingly but unintentionally are quite separate, they are nonetheless  
30 related. They have served together as the mutually reinforcing foundations, or  
31 twin pillars, of traditional nonconsequentialism.<sup>10</sup> There are, therefore, risks for  
32 nonconsequentialists in rejecting one while relying heavily on the other — in  
33 putting all of their nonconsequentialist eggs in one theoretical basket. One of  
34 these risks, as I have tried to show, is that reasons for doubting the significance of  
35 one distinction may also seem to be reasons for doubting the significance of the  
36 other. Another risk, as we will see, is that one distinction alone may be unable  
37 to do all the work that nonconsequentialism requires of it.

## 40 2.2 *The Prohibition of the Permissible*

41 Here is Thomson:

42 Here is Alfred, whose wife is dying, and whose death he wishes to hasten. He  
43 buys a certain stuff, thinking it a poison and intending to give it to his wife to



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2 hasten her death. Unbeknownst to him, that stuff is the only existing cure for  
3 what ails his wife. Is it permissible for Alfred to give it to her? Surely yes.<sup>11</sup>

4  
5 Thomson poses her question in this passage in a way that may seem to evade  
6 what is at issue. It is of course permissible for Alfred to give his wife the stuff. But  
7 the relevant question is whether it is permissible for him to give her the stuff with  
8 the intention to kill her. Defenders of the relevance of intention to permissibility  
9 can answer *this* question in the following way, supplementing their answer with  
10 two further claims that are consistent with it.

- 11  
12
- 13 (1) It is impermissible for him to give her the stuff with the intention to kill  
14 her.
  - 15 (2) It is permissible for him to give her the stuff with an acceptable intention.
  - 16 (3) If, for example, the stuff is inexpensive and there is no better use to  
17 which it could be put, he may be morally *required* to give it to her, albeit  
18 with an acceptable intention.
- 19

20 Thomson has, however, stipulated that “if Alfred were to give-his-wife-the-  
21 stuff, he would in fact give-his-wife-the-stuff-to-kill-her.”<sup>12</sup> This puts pressure on  
22 the reader to concede that it *must* be permissible for him to give it to her with the  
23 wrongful intention, for otherwise morality would needlessly condemn her to die.  
24 One response to this is to note that even if Alfred will in fact act in only one of  
25 two ways — he will either give her the stuff with the intention to kill her or not  
26 give her the stuff at all — his *options* include giving it to her with an acceptable  
27 intention. And what it is permissible or impermissible for him to do depends on  
28 what his options are, not on what he is *willing* to do. His refusal to do what he is  
29 permitted or required to do cannot make it permissible for him to do whatever  
30 is best among the acts he is willing to do. The acts he is willing to do may all be  
31 impermissible.

32 This response, however, ignores an important feature of the example: namely,  
33 that Alfred has a false belief about the nature of the stuff. As long as he believes  
34 that the stuff is a lethal poison, he cannot give it to her for a reason that is both  
35 morally acceptable and accessible to him. But this feature of the case is, for our  
36 purposes, an irrelevant complication. It arises even if Alfred is well motivated.  
37 Suppose he desperately wants to save his wife but reasonably believes that the  
38 stuff is poison. Is it permissible for him to give it to her? Thomson would  
39 again say “Surely yes.” That is because she believes not only that intention is  
40 irrelevant to permissibility but also that belief is irrelevant to permissibility. Most  
41 philosophers, however, accept that there are several senses of permissibility: what  
42 is permissible in relation to what the agent believes, what is permissible in relation  
43 to the evidence available to the agent, and what is permissible in relation to the  
44 facts.<sup>13</sup> If one accepts, as I do, that all these senses have a legitimate role in  
45 our moral thought, one will have to accept that there is no single answer to the

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2 question whether he may give her the stuff. This is because the question itself is  
3 multiply ambiguous.

4 To assess the intuitive plausibility of the idea that a wrongful intention can  
5 make an act impermissible, what we need is an example of an act that is clearly  
6 permissible if done with a certain intention but that can also be done, in a way  
7 that involves the exact same physical movements and has the same consequences,  
8 for a wrongful reason, or with a wrongful intention. Scanlon, another eminent  
9 critic of the relevance of intention to permissibility, offers what he takes to be an  
10 example of this sort, precisely in order to refute the kind of response I initially  
11 gave to the case of Alfred. He asks us to imagine that a person who is in danger  
12 of dying is rescued by an agent who “hates the person who needs help and  
13 would be happy to see him die, but . . . saves him anyway because she does not  
14 want him to die *right then*, since that would mean that his heir, with whom she is  
15 locked in a bitter political contest, would have much more money to spend on his  
16 campaign.”<sup>14</sup> The response to this case that he thinks will appeal to defenders  
17 of the relevance of intention to permissibility parallels the response I gave to  
18 Thomson’s example: “helping for the wrong reason and not helping at all are not  
19 the only alternatives: what she *ought* to do is to help him for the *right* reason.”<sup>15</sup>

20 Scanlon’s objection to this response is that it presupposes that the agent can  
21 choose to act on the basis of the right reason. The question of permissibility,  
22 he says, is: which of the available options may one choose? This question “thus  
23 applies only to alternatives between which a competent agent can choose.” Yet  
24 agents cannot “*choose* what to see as reasons.”<sup>16</sup> The question of permissibility  
25 therefore cannot apply to the reasons for which an agent acts. If, moreover, it  
26 is not within the agent’s power to choose to act for the right reason, we are left  
27 with the kind of dilemma that Thomson wanted us to confront in the case of  
28 Alfred: either it is permissible for the agent to save the victim for a bad reason  
29 or with a bad intention, or it is impermissible for her to save him at all. Since it  
30 is undeniably permissible for her to save him, it must be permissible for her to  
31 save him with a bad intention.

32 Yet even in the case of the rescue, the rescuer does not act for a *wrongful*  
33 reason, or with a *wrongful* intention, in saving the other person. It is not wrong  
34 to prevent one’s political adversary from obtaining more campaign funding,  
35 provided that one’s means are not wrongful. And there is nothing in itself  
36 wrongful in saving an innocent person’s life. When understood in this way, it  
37 is obvious that there is nothing wrong in saving an innocent person’s life as a  
38 means of limiting an adversary’s campaign funds.

39 When Scanlon suggests that defenders of the relevance of intention to  
40 permissibility might claim that agents ought to act “for the *right* reason,” he  
41 is offering them far more than they need, or ought to accept. Those who believe  
42 that intention is relevant to permissibility need not believe that agents must  
43 always act for the best or “right” reason. All they claim is that agents must  
44 not act for *wrongful* reasons, or with wrongful intentions. They can agree that  
45 it is permissible to act for a reason that is not wrongful — or, as I will say,

2 “acceptable” — however unpleasing it may be. It is, for example, permissible for  
3 people to refrain from theft solely in order to avoid the risk of imprisonment.  
4 That is not the right reason to refrain from stealing from others; it is not an  
5 admirable reason; but it is not a wrongful reason. So the defender of the relevance  
6 of intention to permissibility does not claim that an agent must choose to act on  
7 the basis of the right reason, or even one of a number of equally right reasons.  
8 Rather, there may be a wide range of acceptable reasons for which an agent may  
9 do a particular act.<sup>17</sup>

10 This may not, however, provide even a partial answer to Scanlon’s challenge,  
11 for his claim applies even to the choice to act for an acceptable reason. What  
12 he denies is “that an agent who, for whatever reason, does not see the force of  
13 of . . . a reason is nonetheless in a position to *choose* to see its force, or to act on  
14 it.”<sup>18</sup> Motivating reasons are not the objects of existential choice any more than  
15 beliefs are. This seems right. But does it follow that if, in a particular case, an  
16 agent cannot choose to act in a certain way for an acceptable reason, it must be  
17 permissible for him to act in that way for a wrongful reason, or not to act in that  
18 way at all? There is a particular kind of case that seems to challenge Scanlon’s  
19 view about the connection between choice and permissibility — namely, the kind  
20 of case in which an agent has a positive duty to aid another person but has *no*  
21 reason to provide the aid other than the right reason, or several equally right  
22 reasons. Suppose, for example, that an agent is morally required to save the life  
23 of someone he can save at only a trivial cost to himself. But he cares nothing for  
24 this person and will gain *nothing* — no gratitude, no enhanced reputation, and  
25 so on — by saving her. The *only* reason he has to make the sacrifice to save her  
26 is that it will prevent a great harm to her. But he does not see the force of this  
27 reason and is thus indifferent to it. If he is to act, however, it must be for *some*  
28 reason. As Scanlon notes, “any action is guided by some aim, and in choosing to  
29 perform that action we are choosing to be so guided.”<sup>19</sup> So if this agent cannot  
30 choose to see the potential victim’s need as a reason to save her, it seems that  
31 he cannot act for the only reason he has to save her, and thus cannot choose to  
32 save her. If Scanlon is right that the question of permissibility is the question of  
33 which option to choose, it seems that it cannot be impermissible for this agent  
34 to allow this person to die. It must be wrong, therefore, to have supposed that  
35 the agent is morally required to save her.

36 This is intended to be a *reductio* of Scanlon’s view about the connection  
37 between choice and permissibility. Perhaps I have misunderstood that view. There  
38 is certainly a part of it I do not understand, which concerns the distinction  
39 between choosing and deciding. “We have to decide,” he writes, “whether  
40 something is a reason or not — this is part of our being responsible. But  
41 deciding in such a case is not choosing, because it lacks the relevant element  
42 of free play.”<sup>20</sup> I do not understand why is it choosing rather than deciding that  
43 is connected with permissibility. As far as I can tell, Scanlon offers no reason to  
44 suppose that the question of permissibility applies to alternatives among which  
45 an agent can choose rather than to alternatives among which an agent can

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2 decide. If the relevant difference between choosing and deciding is that choosing  
3 has an element of “free play,” I see no reason to suppose that permissibility is  
4 necessarily connected with free play in the selection of an act, or indeed a reason,  
5 from among the different possible alternatives. When an agent fails to see the  
6 force of a normative reason she actually has, and thus fails to act as she ought to,  
7 we do not condemn her for failing to exercise some supposed capacity to freely  
8 choose to act for that reason. To that extent Scanlon is right. But neither do  
9 we conclude that she has not behaved impermissibly because she could not have  
10 chosen to see the force of the reason that applied to her. Instead we condemn  
11 her for having failed to engage sufficiently in a kind of deliberation of which she  
12 is capable and that should eventually have enabled her to see the force of the  
13 reason and to decide to act on it.

14 If being a morally responsible agent involves being able to decide, after  
15 sufficient deliberation, whether a certain consideration is a reason for acting,  
16 and if agents can decide to act on the basis of what they have determined to  
17 be reasons, then they ought to be able to decide that some reasons for acting a  
18 certain way are acceptable while others are wrong, and to act for an acceptable  
19 rather than an unacceptable reason. A person can, for example, deliberate about  
20 what reasons there are to bomb a military facility next to a children’s hospital and  
21 then decide whether to pursue his just cause as a tactical bomber or as a terror  
22 bomber. Suppose he then drops his bomb with the intention to produce terror. It  
23 is not to demand the impossible to say that he ought instead to have dropped his  
24 bomb with the intention of achieving a military advantage and therefore acted  
25 impermissibly in acting as he did.

### 28 ***2.3 Third Party Intervention***

29  
30 Suppose that the stuff that Alfred has is inexpensive and that the only way  
31 it can be used to any effect is as a cure for his wife. We might then tell him that  
32 he is mistaken to think it is a poison and that he is morally required to give it  
33 to his wife, for otherwise she will die. If he refuses to give it to her, it would be  
34 justifiable to take it from him, by force if necessary, in order to give it to her. But  
35 suppose that the stuff is his and is in fact so rare and expensive a medicine that  
36 he cannot be morally or legally required to sacrifice it for the sake of his wife.  
37 But he still thinks it is a poison and plans to give it to her. We desperately want  
38 him to give it to her but are not entitled to demand that he do so because he is  
39 morally required to. I suggest that we ought to encourage him to give it to her in  
40 the belief that he will be murdering her. We ought, in other words, to encourage  
41 him to act in a way that I claim is impermissible — though impermissible not  
42 because of the consequences of the act but only because of the intention with  
43 which it would be done.

44 Thomson would disapprove of this suggestion. For she thinks that if we  
45 believe that it would be impermissible for him to give her the stuff in order to

2 kill her, “morality calls for us to feel ashamed of ourselves” even for *wanting* him  
3 to give it to her.<sup>21</sup> While Thomson thinks the conception of morality that calls  
4 for this is excessively agent-centered, I think it is *insufficiently* agent-centered.  
5 Deontological morality demands of us that *we* not act impermissibly, which  
6 includes acting with wrongful intentions. But it makes no similar demand that  
7 we prevent others from acting impermissibly, particularly when the act would  
8 be wrong only because it would be done with a wrongful intention. In many  
9 instances, of course, deontological morality does require that we prevent people  
10 (and other sentient beings) from being *harmed*. And because many of the harms  
11 that people suffer are caused by wrongdoing, the prevention of harm often  
12 requires the prevention of wrongdoing. But we have comparatively little reason  
13 to prevent impermissible acts from being done — particularly acts that are  
14 impermissible not because of their effects but because of the intention with  
15 which, or the reasons for which, they are done — over and above the reason we  
16 have to prevent any bad effects of their being done.

17 We are, in short, primarily responsible for our own action, and our own  
18 intentions. Suppose that a military commander correctly determines that the  
19 contribution that the destruction of a military facility will make to military  
20 victory in a just war is sufficient to justify the concomitant destruction of the  
21 children’s hospital adjacent to it. He needs a pilot to carry out the mission and  
22 has two from which to choose. He knows that one of these would pursue the  
23 mission for the right reason. Yet this pilot is incompetent and would probably  
24 be shot down by enemy air defenses; and even if he were not he would probably  
25 miss the target. The other pilot is highly competent. He is almost certain to  
26 evade the air defenses and to drop his bomb with perfect accuracy. Yet he would  
27 drop the bomb only in order to destroy the hospital, in the hope of winning  
28 the war through causing terror and intimidation. The commander knows this  
29 and believes (correctly, in my view) that the competent bomber — the terror  
30 bomber — would be acting impermissibly. Yet this is compatible with its being  
31 permissible for the commander to choose the competent pilot for the mission. In  
32 general, military commanders and others in authority are responsible only for  
33 the *behavior* of their subordinates. Responsibility for the subordinates’ motives  
34 and intentions lies within the subordinates themselves.

35 The commander does, of course, have various moral reasons not to send  
36 the terror bomber on the mission. For example, because this bomber will be  
37 acting on a wrongful intention, or for a wrongful reason, he will be tarnishing  
38 his moral record. That is bad *for him*. It is not that acting impermissibly is in  
39 itself against his *interests*. But one does have reason to wish, *for his own sake*,  
40 that he not stain himself morally in this way. It may also be worse for the  
41 victims in the hospital to be killed wrongfully than to be killed with justification.  
42 It may be worse for them to be *wronged* in this special way than simply to  
43 be *harmed* as a side effect of morally justified action. Finally, there may be  
44 a respect in which the terror bomber’s act would be worse *impersonally* than  
45 that of the tactical bomber; for an act done with a wrongful intention may

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2 itself be a worse *event* than an otherwise identical act done with the right  
3 intention.

4 All these considerations are, however, outweighed by the importance of the  
5 success of the mission. In general, the prevention of wrongdoing matters little in  
6 comparison with the importance of preventing the harms caused by wrongdoing.  
7 Suppose that one could either prevent 100 people from being maliciously pushed  
8 over a cliff or prevent 101 different people from accidentally stumbling off a cliff.  
9 Assuming that the murderer (or murderers) would subsequently be confined and  
10 thus prevented from causing further harm, I think that one ought to prevent the  
11 101 natural deaths rather than the 100 murders. Indeed, even if the alternative to  
12 preventing the murders would be the prevention of 100 natural deaths together  
13 with the prevention of one other person's breaking his leg, I still think that one  
14 ought to prevent the natural misfortunes rather than the murders. The staining  
15 of the murderer's soul, the wrong to his victims, and the impersonal badness of  
16 the event of an act of murder are together insufficient to outweigh one additional  
17 death, or even an innocent person's breaking a leg.  
18  
19

#### 20 **2.4 The Trolley Loop Case**

21  
22 In the original Trolley case, a runaway trolley will kill five people on the  
23 main track unless a bystander throws a switch that will divert it onto a branch  
24 track, where it will kill one person. In what I will call the "means-variant" of  
25 this case, the only way to prevent the trolley from killing the five is to push a  
26 large man onto the track and into the path of the trolley, which will be stopped  
27 by colliding with his body. Most people believe that it is permissible to kill the  
28 one and save the five in the original version but not in the means-variant. Many  
29 have thought that the obvious explanation of the difference in permissibility is  
30 that in the original case the killing of the one is an unintended side effect of the  
31 saving of the five, whereas in the means-variant it is an intended means of saving  
32 the five. Proponents of the relevance of intention to permissibility have thought  
33 that the plausibility of this explanation supports their view. But Thomson argues  
34 that there is a further variant that undermines that explanation. In this "loop"  
35 variant, the branch track on which one person is trapped loops around the area  
36 on the main track where the five are trapped and rejoins the main track, so  
37 that even if the runaway trolley is diverted onto the branch, it will circle around  
38 and kill the five from the other direction *unless* it is stopped by hitting and  
39 killing the one. It seems that there is no reason to divert the trolley in this case  
40 except to run it into the one as a means of saving the five.<sup>22</sup> But Thomson  
41 believes that it is permissible to divert the trolley in this case, just as it is in the  
42 original case: "we cannot really suppose that the presence or absence of that  
43 extra bit of track makes a major moral difference."<sup>23</sup> If this is right, the Loop  
44 case not only undermines the claim that it is the difference in intention that  
45 explains the moral difference between the original version and the means-variant

but also constitutes a positive counterexample to the relevance of intention to permissibility, since that view implies that diverting the trolley is impermissible. Scanlon shares Thomson's intuition and cites this argument, along with others of Thomson's, in his rehearsal of the case against the relevance of intention to permissibility.<sup>24</sup>

This intuition about the loop case has always been alien to me. Diverting the trolley in this case seems to me virtually indistinguishable morally from using the man to stop the trolley in the means-variant. Perhaps those who find it permissible to divert the trolley in the loop case are influenced by the structural similarities to the original case: all the elements are much the same apart from that "extra bit of track." But one's intuition might be different if one were to focus more on the similarities to the means-variant. Here is a way to make those similarities more vivid. Suppose that after throwing the switch to divert the trolley, the bystander in the loop case discovers that it is possible to free the person on the branch track before he will be hit by the trolley. Call this the "loop-option" case. Ought she to free him? If she had this option in the original case, she would clearly be required to free him. But in the loop-option case she needs his body to stop the trolley. Suppose she refuses to free him. How is this *relevantly* different from placing the man in the path of the trolley in the means-variant? In both cases the bystander *kills* a man as a means of stopping the trolley. The difference is that in the means-variant, she moves the man into the path of the trolley, whereas in the loop-option case she puts the trolley on course for the man and then refuses to allow him to get out of its path. I cannot see these differences as making the difference between impermissibility and permissibility. My intuition is that if she directs a trolley toward an innocent person, she must enable him to get out of its path, if she can, even if she thereby loses the opportunity to save the five. (Similarly, if she has pushed the man into the trolley's path in the means-variant, she must enable him to get out of its path if she can.) But if that is true, it hardly seems plausible to suppose that she may direct the trolley toward him in the first place.

### 3 Efforts to Distinguish Just War from Terrorism

Thus far I have reviewed and criticized some of the most influential arguments against the relevance of intention to permissibility. At this point I see no compelling reason to abandon a view that has offered a reasonable explanation and justification of a wide range of robust intuitions, such as that it is permissible to divert the trolley in the original case but not to place the man in the path of the trolley in the means-variant. The most important intuitions that the relevance of intention to permissibility has traditionally been invoked to defend are, however, those concerned with the difference between just war and terrorism. Intuitions about hypothetical trolley cases are, of course, important for moral theory, but our beliefs about the morality of war and terrorism affect whether

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2 and how we pursue these activities, and this is obviously a matter of the greatest  
3 practical significance. It is widely recognized among moral philosophers that  
4 the belief, which most of them share, that there is a significant moral difference  
5 between just war and terrorism has traditionally been defended by reference  
6 to the relevance of intention to permissibility. It is therefore understood that  
7 those who reject the relevance of intention to permissibility are obliged to say  
8 something about the beliefs whose traditional foundations they take themselves  
9 to have undermined. I propose now to examine the main responses that have been  
10 offered.

11 I suggest that, for present purposes, we understand terrorism as the inten-  
12 tional harming (usually killing) of innocent people as a means of intimidating  
13 and coercing other people associated with them, usually for political purposes.  
14 Various questions are raised by this understanding — for example, whether  
15 the immediate victims of terrorism must actually be innocent in the relevant  
16 sense, whether those doing the harming must believe them to be innocent in  
17 some sense, etc. This is not the place, however, for a precise analysis of the  
18 concept of terrorism. What is important for our purposes is that virtually  
19 everyone agrees that terrorism involves intended harm to innocents and most  
20 people have seen that feature as an essential part of the explanation of why  
21 terrorism is almost always wrong. But if intention does not magnify the moral  
22 objection to killing an innocent person — if, that is, an innocent person's right  
23 not to be killed imposes no stronger constraint against intentional killing than  
24 it does against foreseen but unintended killing — then terrorism should be no  
25 more objectionable, other things being equal, than military action in war that  
26 foreseeably but unintentionally kills innocent people.

### 27 28 29 **3.1 The Two Extremes: Terrorism and Pacifism**

30  
31 Following the established custom in the philosophical literature of discussing  
32 just war and terrorism by reference to the tactical bomber and the terror bomber,  
33 Jonathan Bennett, an early and influential critic of the relevance of intention to  
34 permissibility, summarizes his view by saying that “what the terror bomber does  
35 may be morally all right, but I do not accept that it could be all right for him to  
36 behave in this manner without compunction, without considering the cost to the  
37 civilians, without looking for less lethal alternatives. All of this holds equally, of  
38 course, for the tactical bomber.”<sup>25</sup> It may appear as if Bennett is sternly insisting  
39 that terrorist action meet certain stringent constraints, but in fact all he says is  
40 that terrorists must be sensitive and conscientious, reflect on what they propose  
41 to do to civilians, and make an effort to see whether they could achieve their  
42 goals in some other way. He seems to take it as given that the unavoidable and  
43 proportionate killing of civilians as a side effect of military action in a just war is  
44 permissible. Rejecting the relevance of intention to permissibility, he then adopts  
45



2 a straightforwardly consistent position on terrorism, forthrightly embracing it  
3 as a tactic, subject to the same restrictions that govern the killing of innocent  
4 civilians as a side effect in war.

5 Another admirably consistent position is to retain the intuitive view that  
6 terrorism is impermissible in almost all instances and conclude that acts of war  
7 that foreseeably kill a comparable number of innocent people in the process  
8 of achieving comparable ends are also impermissible. Rather than relaxing the  
9 constraint on intentional killing, as Bennett does, this alternative approach  
10 strengthens the constraint on foreseen but unintended killing.<sup>26</sup> According to this  
11 view, the proportionality constraint on the unintended killing of innocent people  
12 is as restrictive as the prohibition of the intentional killing of the innocent has  
13 traditionally been assumed to be. Since almost all contemporary warfare involves  
14 the killing of innocent bystanders in large numbers, this view entails pacifism as  
15 a matter of practical policy.

16 Notice that this view presupposes a strong moral asymmetry between killing  
17 and letting die. It requires a strong constraint against killing in order to rule out  
18 terrorism. Yet terrorism could also be permissible if there were an equally strong  
19 prohibition of allowing people to die or be killed. If killing innocent people and  
20 allowing innocent people to die or be killed were morally on a par, it would be  
21 permissible to engage in the terrorist killing of  $n$  innocent people as a means  
22 of saving  $n+1$  innocent people. Because saving some innocent people in war  
23 often requires killing others, either as a means or as a side effect, such a view  
24 would permit both war and terrorism as a means of preventing innocent people  
25 from being killed by others. If, therefore, intention is irrelevant to permissibility,  
26 the extent to which terrorism is permissible depends on how strong the reason  
27 to save innocent people's lives is in relation to the reason not to kill innocent  
28 people. Terrorism can be ruled out in most instances only if there is a very strong  
29 moral asymmetry between killing and letting die. Yet, as I noted earlier, the  
30 combination of the rejection of the relevance of intention to permissibility with  
31 the acceptance of a strong asymmetry between doing harm and allowing harm  
32 to occur is an unstable position, since some of the objections to the relevance  
33 of intention seem also to challenge the asymmetry between doing and allowing.  
34 Because this combination of views also entails pacifism as a matter of practical  
35 policy, it is intuitively unacceptable to most of us.

### 38 **3.2 Representative Authorization**

39  
40 If the rejection of the relevance of intention to permissibility forced us to  
41 embrace either terrorism (if we accept that there is no asymmetry, or only a weak  
42 asymmetry, between killing and letting die) or pacifism (if we accept a strong  
43 asymmetry between killing and letting die), then those who have argued against  
44 the relevance of intention *on intuitive grounds* would have lost the argument.  
45

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2 But there are, of course, other possibilities. One quite general suggestion is that  
3 there is a different feature of paradigm instances of terrorism — some feature  
4 other than or in addition to the intentional harming of innocent people — that  
5 accounts for their distinctive wrongness. Different writers have made different  
6 suggestions about what that feature might be. But probably the most plausible  
7 of these is Lionel McPherson's claim that the violence of what we think of as  
8 paradigm terrorist groups — the IRA, the PLO, al Qaeda, and so on — is  
9 specially objectionable because

10  
11 they employ it on their own initiative, so that their political goals, their violent  
12 methods, and, ultimately, their claim to rightful use of force do not go through  
13 any process of relevant public review and endorsement. Nonstate terrorism's  
14 distinctive wrongness does not lie in the terrorism but rather in the resort to  
15 political violence without adequate license from a people on whose behalf the  
16 violence is purportedly undertaken.

17  
18 While this does indeed identify a morally significant feature of most instances  
19 of terrorism by nonstate groups, it is not the feature that accounts for or justifies  
20 our special revulsion at such terrorist acts. Authorization of the use of violence  
21 by those on whose behalf the perpetrators claim to be acting is important for at  
22 least two reasons. One is that making such authorization a condition of acting  
23 imposes certain institutional and procedural constraints on the resort to political  
24 violence. Yet violence that lacks this authorization may be fully justified, so  
25 that it would have satisfied the constraints had it been subject to them. More  
26 importantly, terrorist violence sometimes does have full democratic authorization  
27 or, in the case of nonstate groups, the enthusiastic support of the majority of  
28 the people on whose behalf it is committed. British bombing raids on German  
29 cities in World War II and the American destruction of Tokyo, Hiroshima, and  
30 Nagasaki are examples of democratically authorized and popularly supported  
31 state terrorism. More recently, the people of Gaza elected Hamas to govern  
32 them in full awareness of its commitment to a policy of firing rockets into  
33 civilian areas in Israel. Yet authorization by legitimate democratic governments  
34 does nothing to mitigate the wrongness of annihilating entire cities. Nor does  
35 widespread approval among Gazans do anything to diminish the wrongness of  
36 Hamas's efforts to kill ordinary Israelis. If anything, formal authorization and  
37 popular support for terrorist attacks makes them even more repugnant. The  
38 mass slaughter of the innocent is all the more horrifying when the great majority  
39 of an entire population is implicated in it. The complicity of so many ordinary  
40 Germans in the aggressions and atrocities of the Nazis is, for example, part of  
41 what makes the history of Nazi Germany so awful to contemplate. And I doubt  
42 that any American's indignation over 9/11 would be appreciably diminished if  
43 it were to emerge that the populations of Saudi Arabia and Egypt had voted  
44 overwhelmingly in a clandestine plebiscite to authorized their fellow citizens to  
45 fly civilian planes into the World Trade Towers.

2 The second reason why there is a general requirement that political violence  
3 committed in the name of a group be authorized by the members of that group  
4 is that this helps to protect the members from being dragged into violent conflict  
5 against their will. This consideration is, however, in general more important in  
6 the case of states than in the case of nonstate groups, which are the primary focus  
7 of McPherson's argument. This is because political violence by a state tends to  
8 implicate all its citizens in ways that members of groups associated with nonstate  
9 terrorists may not be. Citizens face conscription, taxation and other forms of  
10 sacrifice to finance the state's military operations, and in some cases even violent  
11 retaliation by the victims of their state's action. These can be substantial burdens  
12 and people ought not to be compelled to suffer them without their consent. But  
13 when nonstate terrorist groups announce themselves to be acting on behalf of  
14 some group, they cannot in general involve the members of the group in these  
15 ways. When, for example, members of al Qaeda claim to be acting on behalf of  
16 Islam, and therefore on behalf of all Muslims everywhere, their action may be  
17 no more than a cause for shame — and perhaps misplaced shame at that — for  
18 most Muslims. There are, of course, exceptions. No one can doubt that Hamas's  
19 commitment to terrorist tactics has had appalling consequences for the people  
20 of Gaza.

21 McPherson's claim — that terrorism is distinctively objectionable when, and  
22 because, it is unauthorized by those in whose name it is done — is vulnerable to  
23 two objections that together seem decisive. The first is that what is distinctively  
24 repugnant about terrorism is a matter of what it does to its immediate victims  
25 and the reasons for which the victims are treated in these ways. These aspects of  
26 terrorism are not made worse by not having been approved by the members of  
27 some larger group — indeed, it might have been worse, for the reason I gave, if  
28 they *had* been approved. If the members of the group in whose name a terrorist  
29 act is done are not consulted, they may well be wronged by having their group  
30 invoked as part of the alleged justification for the act; but *that* wrong is not what  
31 makes terrorism distinctively wrong.

32 The second reason why lack of the relevant form of authorization is not  
33 what makes terrorism distinctively wrong is that this lack of authorization may  
34 be equally present in political violence by nonstate groups that is *not* terrorist  
35 in character. McPherson is explicit that the lack of authorization is what is  
36 distinctively *wrong* about terrorism, not what is *constitutive* of terrorism. Political  
37 violence by a nonstate group directed solely against the military forces of an  
38 occupying power, for example, would not constitute terrorism. But it might be  
39 carried out without the authorization of the occupied people, or even knowingly  
40 against their will. (The resistance fighters might believe that their fellow citizens  
41 are a mix of cowards, collaborators, and fifth columnists.) If McPherson's  
42 argument were correct, this nonterrorist violence would be distinctively wrong in  
43 just the way unauthorized terrorist violence by a nonstate group is. Yet it clearly  
44 is not. It might be wrong for a variety of reasons but it would not have the  
45 features that make terrorist violence particularly repugnant.

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### 2 3.3 “*There is a war on*”

3  
4 As my earlier discussion attests, the most influential critic of the relevance  
5 of intention to permissibility is Judith Jarvis Thomson. Like the other critics,  
6 she has to say something about the contrast between the tactical bomber and  
7 the terror bomber. But unlike most of the others, she begins her discussion with  
8 an expression of skepticism about the permissibility of the action of the tactical  
9 bomber. She compares the case of the tactical bomber with another variant of  
10 the trolley problem, which she calls “Trolley-Preemption,” in which one is in the  
11 path of a runaway trolley and the only way one can prevent oneself from being  
12 killed by it is to blow it up. But blowing it up will involve killing an innocent  
13 bystander as a side effect of the explosion. Thomson claims, and I agree, that  
14 it would be impermissible to blow it up. “But,” she says, “Trolley-Preemption  
15 is [Tactical] Bomber without the war.”<sup>27</sup> Since she intuitively judges that the  
16 tactical bomber may permissibly drop his bomb, she suggests that the difference  
17 between the cases must be that in the case of the tactical bomber “there is  
18 a war on.”<sup>28</sup>

19 The idea that morality becomes more permissive in conditions of war is  
20 familiar but it turns out to do no actual work in Thomson’s discussion. She  
21 ends this discussion by confessing that she is unable to say how conditions of  
22 war might alter the requirements of morality: “I will have to bypass as too hard  
23 the question how the fact of war affects questions of self-defense. . . . We here  
24 bypass the question what makes it permissible for the pilot to drop his bombs  
25 in [Tactical] Bomber, and impermissible (if it is) for him to do so in Terror  
26 Bomber.”<sup>29</sup> But she does offer one suggestion — namely, that in war “the stakes  
27 are higher.”<sup>30</sup> This, I think, provides a full explanation of the difference between  
28 the situation of the tactical bomber and one’s situation in Trolley-Preemption. If  
29 one were not alone in the latter case but were one of five people who would be  
30 killed if the trolley were not blown up, most people would find it permissible to  
31 blow it up — just as they find it permissible to kill one to save five in the original  
32 trolley case.

33 But if it is permissible for the tactical bomber to drop his bombs and  
34 intention is irrelevant to permissibility, why does Thomson suggest that it is  
35 “impermissible (if it is)” for the terror bomber to drop his? The reason is  
36 simply that she assumes that large-scale terror bombing “mostly is, or even  
37 in fact always is, unnecessary for the accomplishing of any morally acceptable  
38 wartime purpose.”<sup>31</sup> Hence the parenthetical phrase: if terrorism *were* necessary,  
39 or even just a little more effective than tactical bombing, it would presumably be  
40 permissible, on her view. For Thomson, then, the moral difference between just  
41 war and terrorism is just a matter of presumed effectiveness. Her position turns  
42 out to be the same as Bennett’s, though she combines it with optimism about the  
43 greater effectiveness of attacking military rather than civilian targets, an optimism  
44 that a great many military and political leaders have not shared. (Curiously, she  
45 rejects the permissibility of placing the man in the path of the trolley in the

2 means-variant.<sup>32</sup> But I do not see how using the killing of an innocent person  
3 in this case to save a greater number of innocent people is relevantly different  
4 from terror bombing, except that it is guaranteed to be effective in a way that  
5 Thomson claims that terrorism is not.)

6 Recently, however, Thomson has revised her moral views quite radically. She  
7 now accepts that it is impermissible to kill one to save five in the original trolley  
8 case. Put crudely, her claim is that since the bystander at the switch would not  
9 be willing to kill herself to save the five, she is not entitled to kill the person  
10 on the branch track for that same purpose.<sup>33</sup> This general claim also applies  
11 in Trolley-Preemption. Since none of the five who are threatened by the trolley  
12 would agree to kill himself to save five others in a similar situation, none of them  
13 is permitted to kill the unconsenting bystander by blowing up the trolley. Unless  
14 she thinks that conditions of war are such that this reasoning does not apply in  
15 war, her new position commits her to the view that the tactical bomber's action  
16 is impermissible as well. And if it is impermissible for him to drop his bombs, it  
17 must also be impermissible, on virtually any view, for the terror bomber to drop  
18 his. So, while Thomson earlier confronted the problem of distinguishing between  
19 just war and terrorism by embracing the in-principle permissibility of terrorism  
20 while hoping that terrorism would turn out to be impermissible in practice, she  
21 now embraces a view that entails pacifism — at least as a matter of practical  
22 policy. She does not note that implication in her recent work, but it follows from  
23 her explicit acceptance of a strong moral asymmetry between killing and letting  
24 die together with her rejection of the relevance of intention to permissibility.  
25 This means that the implications of her position are likely to be more difficult  
26 to accept than any of the implications she attributes to the view that intention  
27 is relevant to permissibility. For example, the Allies killed a vast number of  
28 innocent people as a side effect of preventing the Nazis from intentionally killing  
29 many more than that. (The Allies also killed a vast number of innocent people  
30 through terror bombing, but put that aside.) The strong asymmetry between  
31 killing and letting die that is presupposed by Thomson's new view of the trolley  
32 cases suggests that the Allied resistance to the Nazis was unjustified. The only  
33 way she can avoid that implication is to claim, as she does, that the permissions  
34 and prohibitions of morality are different in conditions of war. I believe that that  
35 claim is untenable, but I cannot argue for that here.<sup>34</sup>

### 38 **3.4 Military Advantage**

39  
40 T.M. Scanlon accepts the common sense view that killing innocent people as  
41 a side effect of military action in a just war can be permissible even when killing  
42 a comparable number of innocent people to achieve the same ultimate goal via  
43 terrorism is not. He seeks to defend this position by arguing that the moral  
44 difference between the tactical bomber and terror bomber lies in an account of  
45 the reasons that can and those that cannot justify exceptions to the prohibition

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2 of knowingly killing innocent people. He takes as given a familiar account of the  
3 morality of permissible killing in war:  
4

5       In war, one is sometimes permitted to use destructive and potentially deadly  
6 force of a kind that would normally be prohibited. But such force is permitted  
7 only when its use can be expected to bring some military advantage, such as  
8 destroying enemy combatants or war-making materials, and it is permitted only  
9 if expected harm to noncombatants is as small as possible, compatible with  
10 gaining the relevant military advantage, and only if this harm is “proportional”  
11 to the importance of this advantage.<sup>35</sup>  
12

13 It is important that Scanlon does not offer this as just one possible way that  
14 a justification for killing innocent people in war might go. As in the case of  
15 other critics, the plausibility of his rejection of the relevance of intention to  
16 permissibility depends on his ability to provide a convincing explanation and  
17 justification of our belief that there is a significant moral difference between just  
18 warfare that kills innocent people as a side effect and terrorism. His claim is  
19 that there is an exception to the prohibition of killing innocent people when the  
20 act that kills them brings a military advantage but not when an act operates to  
21 achieve the same ultimate outcome via the creation of terror and intimidation.

22       The principle that an act that kills innocent people can be permissible  
23 provided that it also achieves a military advantage (and satisfies constraints  
24 of necessity, minimal force, and proportionality) is a curiously restricted moral  
25 principle. For there is no area of life other than war in which military advantage  
26 has any significance or justificatory force. But perhaps military advantage is  
27 an instance that can occur only in war of a broader kind of justificatory  
28 consideration that appears in other contexts, such as self-defense. Perhaps  
29 what is significant about the achievement of military advantage is that the  
30 force it requires is necessarily directed against opposing force. According to  
31 the traditional view, this is a sufficient justification (given the satisfaction of the  
32 constraints Scanlon mentions). I believe that this is a mistake and that the use  
33 of force is justified by military advantage only when the advantage serves a just  
34 cause. But we can leave this aside and simply treat military advantage as an effect  
35 in war the achievement of which can justify an exception to the prohibition of  
36 killing innocent people.

37       Suppose that a tactical bomber’s dropping his bomb achieves a decisive  
38 military advantage, thereby giving his side victory in its just war. In a parallel case,  
39 a terror bomber’s dropping his bomb effectively terrorizes the enemy population,  
40 forcing their government to surrender, thereby giving his side victory in its just  
41 war. Assume that both kill an equal number of innocent people, that both achieve  
42 the same just cause, and that the killing is proportionate in relation to the  
43 importance of the cause. According to Scanlon, the tactical bomber’s action is  
44 permissible but the terror bomber’s is not. This is also what a defender of the  
45 relevance of intention to permissibility would say. Whose explanation is better?

2 Military advantage is not good in itself. On its own it provides no reason or  
 3 justification for killing innocent people. It is a neutral phenomenon that derives  
 4 all its power to justify the killing of innocent people from its being an effective  
 5 means of achieving what is good as an end: the just cause. Ultimately, therefore,  
 6 the tactical bomber's killing of the innocent is justified not by reference to the  
 7 value of military advantage, since that value is entirely instrumental, but by  
 8 reference to the value of the just cause. Yet the killing of the innocent is not  
 9 justified by reference to the achievement of the just cause in the case of the terror  
 10 bomber. That must be because of the way the killing operates causally in that  
 11 case. It operates as a means to a further means that is not neutral: the creation  
 12 of terror among other innocent people.

13 Scanlon's view can be illustrated as follows. This causal sequence, initiated  
 14 by the tactical bomber, is permissible.

15 Act → military advantage → achievement of just cause  
 16 → unavoidable and proportionate killing of civilians

17  
 18 Figure 1.

Q1

19  
 20 Yet the causal sequence initiated by the terror bomber is not.

21 Act → proportionate killing of civilians → creation of terror → intimidation of  
 22 government → achievement of just cause

23  
 24 Figure 2.

25  
 26 The reason why there is an exception to the prohibition of the killing of  
 27 the innocent in the case of the tactical bomber seems to be that his act operates  
 28 through neutral means to achieve the just cause. All that lies on the causal path  
 29 between the act and the achievement of the just cause is the neutral phenomenon  
 30 of military advantage. Again, however, it is the achievement of the just cause  
 31 rather than the mere achievement of military advantage that ultimately justifies  
 32 the killing of the innocent people. The terror bomber's act, by contrast, operates  
 33 through morally objectionable means. It achieves the same just cause but that  
 34 does not justify the killing of innocent people when the just cause is reached via  
 35 this objectionable causal route.

36 Consider now a third bomber who is also fighting for the same just cause  
 37 as the other two bombers. His enemy's society is organized so that it will  
 38 continue to pursue its unjust war only if a certain proportion of the civilian  
 39 population supports it. It conducts periodic referenda and if the percentage of the  
 40 population supporting the war drops below a certain threshold, the government  
 41 automatically surrenders. If this third bomber drops his bomb in an area known  
 42 to be inhabited almost exclusively by supporters of the government and its war,  
 43 he will reduce the percentage of supporters below the threshold, thereby directly  
 44 bringing the war to an immediate and victorious conclusion. Suppose he would  
 45 kill the same number of civilians as the other bombers, so that the killing would

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2 by hypothesis be proportionate. Finally, assume that the fact that these people  
3 support their side's unjust war is compatible with their being innocent in the  
4 relevant sense (an assumption that holds in all discussions of the tactical bomber  
5 and terror bomber). This bomber is, strictly speaking, neither a tactical bomber  
6 nor a terror bomber. Call him an "eliminationist" bomber. His action can be  
7 represented as follows.

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9

Act → proportionate killing civilians → achievement of just cause

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Figure 3.

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It seems that if, on Scanlon's account, the tactical bomber's action can be an exception to the prohibition of the killing of the innocent, so can the action of the eliminationist bomber. If the killing of the innocent can be justified as an unavoidable concomitant of a neutral means of achieving the good end, then it should also be justifiable as the immediate means of achieving the good end. If there is an exception to the prohibition of killing the innocent in a case in which there is the killing, a neutral means, and the good end, that exception should apply as well when the neutral means is omitted and all that occurs are the killing and the good end. Nothing of moral significance seems to be lost along with the intervention of the neutral means. It seems, therefore, that Scanlon's account of how the tactical bomber's action can be permissible when the terror bomber's is not implies that the eliminationist bomber's action is permissible as well. Even though the eliminationist bomber's action may not count as terrorism, since it does not operate through the creation of terror, it nevertheless does involve the intentional killing of innocent people as a means of winning a war, and as such it would be found impermissible by most people.<sup>36</sup>

There is, it may be said on Scanlon's behalf, this difference: that for the tactical bomber the killing of civilians is a side effect of a neutral means to the good end whereas for the eliminationist bomber the killing itself is the immediate means to the good end. That is, the killing of the innocent is a side effect for the tactical bomber but a means for the eliminationist bomber. Could this difference in causation alone make the difference between permissibility and impermissibility?<sup>37</sup> If so, Scanlon would have the resources to condemn the act of the eliminationist bomber along with that of the terror bomber while still rejecting the relevance of intention to permissibility.

For most people, the moral significance of a bad effect's being a means is an implication of the relevance of intention to permissibility. That is, the significance of a harm's being a means is that the harm is *intended* as a means, so that the person harmed is being *used* as a means to someone else's end. Without the intention, the fact that a harm actually functions causally to bring about some good effect may seem insignificant. Suppose, for example, that a bomber intends to act as a tactical bomber: he intends for the dropping of his bomb on a military facility next to a children's hospital to function as a means to the achievement of his side's just cause by securing a military advantage. The



2 unavoidable killing of innocent people in the hospital is an effect he foresees  
3 but does not intend, though he is aware that it could operate causally to create  
4 terror. As it turns out, his bombing causally overdetermines his side's victory in  
5 the following sense. The killing of innocent people in the hospital creates terror  
6 that leads to an immediate surrender, but if it had not created so much terror the  
7 bombing would soon have crippled the enemy military, as the bomber intended,  
8 leading to victory via the achievement of military advantage. In this case the  
9 actual causal path to victory is through the creation of terror, which suggests  
10 that it would not constitute an exception to the prohibition of killing innocent  
11 people, on Scanlon's account. Here I agree with a remark of Thomson's: "It  
12 can hardly be thought that the fact that the causal route to . . . winning the war  
13 passed through . . . terror, rather than through . . . lack of munitions, shows that it  
14 was impermissible for the pilot to drop his bombs."<sup>38</sup>

15 Taking the argument in this direction raises questions about the relevance  
16 of belief, or reasonable belief, to permissibility, and about the relevance of moral  
17 luck to permissibility. I think, however, that we need not pursue these questions  
18 here. This is because the suggested way in which Scanlon might respond to the  
19 challenge posed by the eliminationist bomber presupposes that the permissibility  
20 of killing innocent people can depend entirely on whether the killings are the  
21 cause of a good effect or a causally barren effect of the cause of the good effect.  
22 It is hard to believe that this could be right. Even to describe this contrast as  
23 the difference between the killings' being a means and their being a side effect is  
24 misleading, and biases the discussion in favor of Scanlon's view. For the notion  
25 of a "means" is more than just the notion of a cause. A means is analytically  
26 connected to *use*, or potential use, by a purposive agent. If intention is irrelevant  
27 to permissibility, the word "means" should be replaced by "cause" in discussions  
28 of permissibility. And the idea that it matters morally whether the killing of  
29 innocent people is a cause of a good state of affairs or is an effect of the cause of  
30 a good state of affairs seems less plausible than the idea that it matters whether  
31 the killings are a means or a side effect.

#### 32 33 34 **4 Conclusion**

35  
36 When Scanlon states the case against the relevance of intention to per-  
37 missibility, the only objection that he cites that I have not yet discussed is  
38 that "no one has come up with a satisfying theoretical explanation of why the  
39 fact of intention, in the sense that is involved here — the difference between  
40 consequences that are intended and those that are merely foreseen — should make  
41 a moral difference."<sup>39</sup> As I have tried to indicate, I think there is a theoretical  
42 rationale, though perhaps not of the kind for which Scanlon is looking — such  
43 as, for example, a contractualist justification. I think the theoretical case for the  
44 relevance of intention to permissibility is a matter of reflective equilibrium, a  
45 matter of the integrity and coherence of our core moral beliefs. As I noted at the

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2 outset, many of our firmly held moral beliefs — such as that there is a significant  
3 moral difference between just war and terrorism, that it is permissible to divert  
4 the trolley in the original case but not to push the man into its path in the  
5 means-variant, and so on — are explained in a simple and seemingly plausible  
6 way by the principle that one's intention can affect the permissibility of one's  
7 action. Scanlon and other critics of the relevance of intention to permissibility  
8 have sought to provide alternative foundations for these beliefs but, as I have  
9 tried to show, even the more impressive of these efforts seem less plausible than  
10 the explanation we already have, so to speak, on the shelf. If we follow Scanlon's  
11 approach, we must, as he does for a couple of prominent cases, examine each  
12 case in which we thought that intention makes a difference to permissibility and  
13 find an alternative explanation and defense of our intuitions in terms of what  
14 exceptions there are to certain broad prohibitions. But given that we already have  
15 to hand a simple and quite general explanation of our intuitions in these cases,  
16 why would we want to exchange it for a set of disparate, heterogeneous and,  
17 sometimes at least, seemingly ad hoc explanations whose only unity is that they  
18 are identified as exceptions to a prohibition? Admittedly, we might be forced  
19 to follow Scanlon's approach if there really were decisive objections to the idea  
20 that intention is relevant to permissibility. But the most influential arguments on  
21 offer turn out, on careful examination, to be insufficient to make it rationally  
22 required to abandon the relevance of intention to permissibility.

23 I concede that if I were designing morality from scratch, it might not occur to  
24 me to make intention relevant to permissibility. If I were a contractualist asking  
25 what principles people could not reasonably reject, the set of principles I would  
26 end up with might not include ones that make acts impermissible solely because  
27 of the intention with which they are done. But if we want to preserve many of  
28 our most firmly held moral beliefs, we may well be required to recognize that  
29 intention is relevant to permissibility. At a minimum, we ought not to abandon  
30 that view without making every effort to determine what can be said in its  
31 defense.

### 32 33 34 **Notes**

35  
36 This paper is a revised version of the last of six Hourani lectures I presented at the  
37 University of Buffalo in November 2006. For written comments, I am grateful  
38 to Frank Hindriks, Kasper Lippert-Rasmussen, Saul Smilansky, and, especially,  
39 Victor Tadros. I am also indebted to Ruth Chang, Shelly Kagan, Frances Kamm,  
40 and Larry Temkin for friendly and helpful discussion. Finally, I am extremely  
41 grateful to the American Council of Learned Societies for its generous support  
42 of my work on this paper.

- 43 1. See, for example, Jonathan Bennett, "Morality and Consequences," in S. Mc-  
44 Murrin, ed., *The Tanner Lectures on Human Values*, vol. II (Salt Lake City:  
45 University of Utah Press, 1981): 46–116; Jonathan Glover, *Causing Death and  
Saving Lives* (London: Penguin, 1977), pp.: 86–91; James Rachels, *The End of*

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- 1
- 2 *Life* (Oxford: Oxford University Press, 1986), pp.: 92–96; Shelly Kagan, *The*  
3 *Limits of Morality* (Oxford: Oxford University Press, 1989), pp.: 128–82.
- 4 2. T.M. Scanlon, *Moral Dimensions: Permissibility, Meaning, and Blame* (Cam-  
5 bridge: Harvard University Press, 2008), chapter 2.
- 6 3. I will not examine here the important work of Frances Kamm, except in passing.  
7 It is too extensive and complex to be to be adequately considered here. This  
8 omission is one of various ways in which the arguments of this paper are  
9 incomplete. For a brief but powerful critique of Kamm’s strategy of appealing  
10 to causal relations among the effects of action to explain intuitions that have  
11 traditionally been explained by reference to the Doctrine of Double Effect, see  
12 Victor Tadros, “Wrongdoing and Motivation” (unpublished paper on file with  
13 the author).
- 14 4. Douglas Husak, “The Costs to Criminal Law Theory of Supposing that  
15 Intentions are Irrelevant to Permissibility,” *Criminal Law and Philosophy* 3  
16 (2009): 51–70.
- 17 5. Judith Jarvis Thomson, “Self-Defense,” *Philosophy and Public Affairs* 20 (1991):  
18 283–310, p. 293.
- 19 6. Warren Quinn, “Actions, Intentions, and Consequences: the Doctrine of Double  
20 Effect,” *Philosophy and Public Affairs* 18 (1989): 334–51. Quinn’s ingenious way  
21 of responding to the problem of determining when what is intended is a *harm*  
22 rather than just an effect on a person that is closely related to a harm forces him  
23 to make this point rather differently from the way I have in the text.
- 24 7. F.M. Kamm, “Terrorism and Intending Evil,” *Philosophy and Public Affairs* 36  
25 (2008): 157–86, pp. 168–69.
- 26 8. See Jeff McMahan, “Killing, Letting Die, and Withdrawing Aid,” *Ethics* 103  
27 (1993): 250–79, p. 279.
- 28 9. Thomson herself writes that “I strongly suspect that giving an account of what  
29 makes it wrong to *use* a person... would... require appeal to the concept of  
30 a right.” See “The Trolley Problem,” *Yale Law Journal* 94 (1985): 1395–1415,  
31 p. 1404.
- 32 10. Thus Warren Quinn also defends the moral significance of the distinction  
33 between doing and allowing in an essay paired with, and sharing the same main  
34 title as, his essay in defense of the relevance of intention to permissibility. See  
35 “Actions, Intentions, and Consequences: The Doctrine of Doing and Allowing,”  
36 *Philosophical Review* (1989): 287–312. Note also that Kagan, in attacking  
37 deontological constraints in *The Limits of Morality*, treats both distinctions  
38 as targets of equal importance. See esp. p. 83.
- 39 11. “Self-Defense,” p. 293.
- 40 12. *Ibid.*, p. 294.
- 41 13. See Derek Parfit, *On What Matters* (Oxford: Oxford University Press, forthcom-  
42 ing), chapter 7.
- 43 14. *Moral Dimensions*, p. 57.
- 44 15. *Ibid.*
- 45 16. *Ibid.*, pp. 58 and 60.
17. The claims in this paragraph are challenged by Tadros in “Wrongdoing and  
Motivation,” though he remains noncommittal in the end on what kinds of  
intention can make an act impermissible.
18. *Ibid.*, pp. 61–2.

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2 19. *Ibid.*, p. 59.

3 20. *Ibid.*, p. 60.

4 21. Judith Jarvis Thomson, "Physician-Assisted Suicide: Two Moral Arguments,"  
5 *Ethics* 109 (1999): 497–518, p. 516.

6 22. Thomson explicitly accepts this claim in her presentation of the case. See "The  
7 Trolley Problem," p. 1403. The claim has been ingeniously disputed by Frances  
8 Kamm in various places but her arguments have been answered, in my view  
9 decisively, in Michael Otsuka, "Double Effect, Triple Effect and the Trolley  
10 Problem: Squaring the Circle in Looping Cases," *Utilitas* 20 (2008): 92–110.

11 23. "The Trolley Problem," p. 1403.

12 24. *Moral Dimensions*, p. 18.

13 25. Jonathan Bennett, *The Act Itself* (Oxford: Oxford University Press, 1995), p. 218.

14 26. For an example of this approach, see David Rodin, "Terrorism without Inten-  
15 tion," *Ethics* 114 (2004): 752–71.

16 27. "Self-Defense," p. 296.

17 28. *Ibid.*, p. 297.

18 29. *Ibid.*, p. 298.

19 30. *Ibid.*, p. 297.

20 31. *Ibid.*

21 32. "The Trolley Problem," pp. 1409–10.

22 33. Judith Jarvis Thomson, "Turning the Trolley," *Philosophy and Public Affairs* 36  
23 (2008): 359–74.

24 34. My book, *Killing in War* (Oxford: Clarendon Press, 2009), is in effect an extended  
25 defense of the view that the morality of war is continuous with the morality of  
26 ordinary life.

27 35. *Moral Dimensions*, p. 28.

28 36. As Kasper Lippert-Rasmussen forcefully points out in a forthcoming paper  
29 ("Scanlon on the Doctrine of Double Effect"), Scanlon's account of permissible  
30 killing in war implies that one unusual kind of terrorism is permissible. Because  
31 the account requires only that an act that kills innocent people should operate  
32 via military advantage, it implies that it can be permissible for a bomber to kill  
33 innocent people intentionally as a means of terrorizing or demoralizing enemy  
34 *soldiers*, whose consequent desertion in significant numbers then yields a military  
35 advantage.

36 37. My response to this question has some relevance to the assessment of Frances  
37 Kamm's view, which seeks to substitute facts about causal relations for the  
38 traditional focus on intention in explaining intuitions such as those concerning  
39 the tactical bomber and the terror bomber, and those concerning different  
40 versions of the trolley case. For a better argument than the one I give, see Tadros,  
41 "Wrongdoing and Motivation." Tadros argues that if causal and noncausal  
42 relations among good and bad effects have moral significance independently  
43 of agents' intentions, it ought to be better if a falling asteroid diverts the trolley  
44 away from the five and toward the one than if a falling asteroid pitches a large  
45 man into the path of the trolley, thereby stopping it before it hits the five. Yet  
46 the difference in causal relations in these cases seems evaluatively insignificant.

47 38. "Self-Defense," p. 297.

48 39. *Moral Dimensions*, p. 18.

**Query**

**Q1** Author: Callouts and captions are missing for all 3 figures.