

## ELIZABETH ANSCOMBE ON MURDER

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THE TOPIC of murder was among Elizabeth Anscombe's central preoccupations. She garnered international attention in 1956 for protesting Oxford's decision to award an honorary degree to former US President Harry Truman, and the ground of her opposition was that in authorizing the use of atomic weapons at Hiroshima and Nagasaki, Truman had authorized the mass murder of Japanese civilians.<sup>1</sup> After receiving a chair of philosophy at Cambridge, she taught seminars and lectured on the topic of killing human beings for four years in the early 1970s.<sup>2</sup> Concern with the theme of murder is also evident in many of Anscombe's writings. Her indictment of Oxford moral philosophy in "Modern Moral Philosophy" is based on the preparedness of these philosophers to approve of murder and other intrinsically bad types of action. The prohibition on murder appears in her essays on the ethics of war, euthanasia, the principle of double effect, and political philosophy.<sup>3</sup> Finally, Anscombe's seminal work in action theory, *Intention*, investigates a topic that is integral to her account of murder and is based on lectures that may have been provoked by critics of her protest of Truman's degree.<sup>4</sup>

In addition to her published writings, scholars now have access to the archive of Anscombe's unpublished papers, which are held by the Collegium Institute at the University of Pennsylvania. Anscombe takes up the topic of murder in a number of these papers. Some appear to be lecture notes and essay drafts, and others consist in handwritten notes. My goal in this paper is to reconstruct Anscombe's theory of murder by integrating material from the archive with her published writings. Of course, we should be cautious about the canonical status of her unpublished drafts and notes. But a holistic analysis promises to add context, depth, and richness to her published work.

1 Anscombe, *Mr. Truman's Degree*, 64.

2 Gormally, "On Killing Human Beings," 133.

3 See Anscombe on the ethics of war (*Justice of the Present War Examined*, *Mr. Truman's Degree*, and "War and Murder"), on euthanasia ("Murder and the Morality of Euthanasia"), on the principle of double effect ("Action, Intention, and 'Double Effect'"), and on political philosophy ("On the Source of the Authority of the State.")

4 Geach, "Introduction," xiii–xiv.

The archival documents reveal that Anscombe was working toward a systematic theory of murder—as she puts it in one paper, “an enquiry into what constitutes murder, and what should be our attitude towards it.”<sup>5</sup> This quotation indicates the two major aims of her project. The first is the explanatory aim of providing an account of murder and the conditions under which an agent’s conduct constitutes murder. The second aim is ethical and involves providing an account of the normative basis of the prohibition on murder. My focus will be on the first of these aims, and I will only briefly address the second in the conclusion. In section 1, I discuss the context of Anscombe’s writings on murder. I also explain why Anscombe was concerned to deny the semantic thesis that “murder” means “unjustified or impermissible killing,” and I detail three challenges that an account of murder that rejects the semantic thesis must surmount. Sections 2 to 4 reconstruct Anscombe’s theory in a way that enables an answer to each of these challenges.

#### 1. CONTEXT AND CHALLENGES

John Berkman persuasively argues that Anscombe’s work in moral philosophy leading up to and including “Modern Moral Philosophy” was driven by her conviction that there is an absolute prohibition on murder.<sup>6</sup> Anscombe’s concern with the theme of murder is already present in a pamphlet she published in 1940 with Norman Daniel, *The Justice of the Present War Examined*. In it, Anscombe and Daniel criticize the British government for threatening to attack the civilian population of Germany from the air if the Germans did it first. They claim that deliberately attacking civilians constitutes murder and that a policy of doing so would render Britain’s war unjust.<sup>7</sup> Seventeen years later, in *Mr. Truman’s Degree*, Anscombe recounts the series of events that led the Allies to adopt the strategy of making indiscriminate attacks on civilian populations, a strategy that culminated in the atomic bombings.<sup>8</sup>

- 5 Box 8, file 291, 1, Collegium Institute Anscombe Archive at the University of Pennsylvania, Kislak Center for Special Collections, Rare Books and Manuscripts (CIAA). I cite archival documents by box number, file number, and page number where applicable. Unfortunately, none of the archival writings I refer to are dated. There is significant overlap in their content with the published essays “Murder and the Morality of Euthanasia” (1982), “Prolegomenon to a Pursuit of the Definition of Murder” (1979), “On the Source of the Authority of the State” (1978), and “Action, Intention, and ‘Double Effect’” (1982).
- 6 Berkman, “Justice and Murder.” Jennifer Frey also argues that the three theses of “Modern Moral Philosophy” are unified by the issue of absolute prohibitions, which include the prohibition on murder (“Revisiting Modern Moral Philosophy”).
- 7 Anscombe, *Justice of the Present War Examined*, 79.
- 8 Anscombe, *Mr. Truman’s Degree*, 62–64.

Anscombe saw Oxford's decision to award Truman an honorary degree as evidence that its members were unable to affirm the proposition that murder is always to be condemned. In the penultimate paragraph of *Mr. Truman's Degree*, she claims this failure is reflected in the two major systems of Oxford moral philosophy since the First World War (the systems of Ross and Hare), both of which "contain a repudiation of the idea that any class of actions, such as murder, may be absolutely excluded."<sup>9</sup>

Anscombe continues her attack on Oxford moral philosophy in "Modern Moral Philosophy" (originally published in 1958). There she proposes three theses, the third of which is that "the differences between the well-known English writers on moral philosophy from Sidgwick to the present day are of little importance."<sup>10</sup> The claim would likely have struck its intended targets as bizarre. Sidgwick and Moore were consequentialists, while Prichard and Ross were deontologists; and all these philosophers were metaethical realists, and hence disagreed with noncognitivists such as Ayer and Hare. However, in Anscombe's mind, the differences between these philosophers were eclipsed by their shared rejection of absolute prohibitions. In rejecting these, the well-known English moral philosophers contradict the "Hebrew-Christian ethic," which holds that there are some types of action that are morally impossible— forbidden whatever *consequences* threaten:

The prohibition of certain things simply in virtue of their description as such-and-such identifiable kinds of action, regardless of any further consequences, is certainly not the whole of the Hebrew-Christian ethic; but it is a noteworthy feature of it; and, if every academic philosopher since Sidgwick has written in such a way as to exclude this ethic, it would argue a certain provinciality of mind not to see this incompatibility as the most important fact about these philosophers, and the differences between them somewhat trifling by comparison.<sup>11</sup>

Among the prohibitions characteristic of the "Hebrew-Christian ethic" is the commandment "Thou shalt not kill." In an unpublished lecture titled "Killing and Murder," Anscombe claims that the commandment is better translated as "Thou shalt do no murder."<sup>12</sup> The commandment is meant to be action guiding: one is supposed to be able to use it to reason to someone (including oneself)

9 Anscombe, *Mr. Truman's Degree*, 71.

10 Anscombe, "Modern Moral Philosophy," 26.

11 Anscombe, "Modern Moral Philosophy," 34.

12 CIAA 13.511.2; cf. 8.298.W2. Anscombe is on firm interpretive ground here. See Markl, "The Decalogue," 18.

that she ought to abstain from some contemplated action on the ground that to do it would be to commit murder. In other words, the commandment is supposed to be apt for use in arguments of the following form:

1. *This* would be an action of such-and-such a kind.
2. An action of that kind is murder.
3. Therefore, to do *this* would be to commit murder.

Anscombe calls this “a powerful piece of practical reasoning.”<sup>13</sup> For the agent considering it may have a will not to be murderous, and if so, she will be moved by it to abstain from the contemplated action.<sup>14</sup>

There is one claim, however, whose truth would undermine this pattern of practical reasoning. That is the claim that murder just means “killing that is wrong or unjustified.” Anscombe raises this possibility in “Killing and Murder”:

Nowadays if this question [i.e., the question “Is murder ever permissible?”] is asked, someone will say that the word “murder” simply means impermissible killing. If that should be true, “Thou shalt do no murder” only means “Thou shalt not kill human beings in cases where thou shalt not.” Then the commandment, however venerable, will be *no* sort of contribution to an argument that something is damnable because it is murder. For it will always *first* have to be determined that the killing of someone is wrong before it can be determined whether it is murder, and so it cannot effectively be argued that it should not be done because it is murder. It will also cease to be a substantial question whether it can be justifiable to murder.<sup>15</sup>

Let us call the claim that “murder” means “unjustified or impermissible killing” the *semantic thesis*. If the semantic thesis is correct, it will not be possible to argue that one ought not to do a certain action on the ground that it would

13 CIAA 13.511.5; 8.298.W9.

14 The argument form is in turn a specification of a more general pattern of practical reasoning:

1. *This* would be an action of such-and-such a kind.
2. An action of that kind is *X*.
3. Therefore, to do *this* would be to do *X*.

Other possible values of *X* include: an act of dishonesty, cruelty, cowardice, treachery, adultery, or theft (CIAA 13.511.5; 8.298.W8).

15 CIAA 13.511.2; 8.298.W2; italicized words underlined in the ms.; cf. Anscombe, “Prolegomenon,” 257. David Albert Jones also calls attention to this passage (“Anscombe on Euthanasia as Murder,” 273).

be murder.<sup>16</sup> Furthermore, the truth of the semantic thesis would undermine the debate between Anscombe and the Oxford moral philosophers. There is supposed to be a substantive disagreement between them on the question of whether murder is always forbidden. But if the semantic thesis is true, there will be universal agreement that murder is always forbidden, but only for the uninteresting reason that it is wrong by definition. Anyone who thinks, for instance, that the bombings of Hiroshima and Nagasaki were justified on consequentialist grounds would have good reason simply to deny that the civilians killed were murdered.

Against the semantic thesis, Anscombe believes that G. E. Moore was right in *Principia Ethica* to ask the question, "Is murder ever right?"<sup>17</sup> In raising this question, Moore showed he understood that the question whether murder is always unjustified is a substantive one, not one that can be settled by conceptual analysis. But if the question whether murder is always unjustified is substantive, then it is imperative to provide a philosophical account of murder. Moreover, such an account must overcome three challenges, each of which involves explaining how to accommodate certain features of murder that seem to suggest that wrongness or unjustifiability is built into the concept of it. They are as follows:

1. The concept of culpability is built into the concept of murder.

In "The Two Kinds of Error in Action," Anscombe makes this point when she claims that *formality* is essential to murder.<sup>18</sup> In this respect, murder may be contrasted with adultery. Suppose a man has sexual relations with a woman he has every reason to believe he has married, but in fact she is married to someone else, and so by the laws of his society, not to him. He has satisfied the definition of adultery, which is sexual intercourse between a married person and someone who is not his or her spouse. Yet it would be unduly harsh to find him guilty of committing adultery. According to Anscombe, the way to resolve any perplexity here is to say that while the man performed actions that were materially acts of adultery, he did not formally commit adultery.<sup>19</sup> Although he did have sexual relations with a woman who is not his wife, his blameless ignorance means he is not culpable for doing so, and this is what is signaled by saying he did not formally commit adultery. By contrast, if a man pours a

16 CIAA 13,511.4; 8.298.W6.

17 CIAA 13,511.10; 8.298.W14. Anscombe likely has in mind sec. 95 of *Principia Ethica*, where Moore attempts to provide a consequentialist proof that murder is generally to be avoided.

18 Anscombe, "Two Kinds of Error in Action," 5.

19 Anscombe, "Two Kinds of Error in Action," 4–5.

drink for his wife that he reasonably believes is gin but is in fact petrol, and she dies, he has not committed an act of “material murder.” The proof that the man could not have reasonably known the liquid was petrol is a proof that we are not dealing with an act of murder at all, but a tragic accident.

What this sort of case shows is that culpability is built into the concept of murder. But if culpability is built in, does that not show that wrongness or unjustifiability is as well? Anscombe identifies this challenge in an archival document, where she observes that it seems that any justification for doing something that causes a person’s death will remove culpability and, in doing so, show that the deed is not to be called “murder.”<sup>20</sup>

2. The verdict about whether to call particular killings murderous sometimes requires determining whether they are justified by other considerations such as proportionality and necessity.

Consider collateral damage to noncombatants that occurs when military targets are attacked in war. Many people believe that collateral killings are not always murder. But that does not mean that such killings are always ethically in the clear. If the war is manifestly unjust, or the number of noncombatant deaths is grossly disproportionate to the value of the target, or the attack is wholly unnecessary for achieving the aims of the war, then the noncombatants have been murdered. In these cases, we *do* first decide whether killings are justified, and if they are not, we judge them to be murder.

3. In many familiar debates, whether one is for or against the permissibility of a certain general *type* of killing determines whether one believes that type of killing is murderous.

For instance, pacifists and just war theorists disagree about whether killing enemy combatants is ever justified. Pacifists hold that it is not and so say that all killing in war is murder, whereas just war theorists hold that killing enemy combatants is sometimes justified and so deny it always constitutes murder. Debates about capital punishment, abortion, and euthanasia have a similar shape. This may seem to suggest, in turn, that a decision whether to call a killing murderous awaits upon a prior judgment of whether it is justified. Anscombe flags this problem in relation to capital punishment and assassination, writing:

Now if capital punishment, or if the assassination of a tyrant, are kinds of action which are possibly justifiable as such, then they are not *as such* murder. This is the fact that most helps to make it look as if the notion

20 CIAA 8.292.

of wrongfulness *is* built into the notion of murder: a thing there is hardly any temptation to say in the case of adultery.<sup>21</sup>

In the following three sections I reconstruct Anscombe's theory of murder with a view to showing how it provides a response to each of these challenges.

## 2. MURDER AND RESPONSIBILITY

Let us begin with the idea that formality is essential to murder. Anscombe says that a modern way of putting this is to say that *responsibility* is built into the concept.<sup>22</sup> Responsibility is at the heart of Anscombe's account of murder, for "murder is killing which involves a special degree and kind of responsibility for death."<sup>23</sup> It is this notion of responsibility that explains why murder is more than simply killing or causing the death of a human being but also requires a mental element.

### 2.1. *The Three Levels of Responsibility*

The statement that murder involves a special degree and kind of responsibility for death implies there are different sorts of responsibility. In "Murder and the Morality of Euthanasia" and her archival papers, Anscombe distinguishes between three levels of responsibility. In the unpublished essay "Intention and Responsibility," she calls them (1) causality, (2) accountability, and (3) creditability.<sup>24</sup>

At the first level, to say that *S* is responsible for event *E* is to say that *S* is a cause (or condition) of *E*, and to say that *S* is not responsible is to say that he is not a cause of *E*. Even inanimate objects can be responsible at this level: the wind may be responsible for breaking a vase, and a stroke of lightning may be responsible for a wildfire.

The second level of responsibility is accountability or callability to account. To call someone to account for some action or omission is to request or demand an explanation for it, one that is couched in terms of her reasons for acting, or not acting, as she did. Since only a rational agent can give an account, a necessary condition for accountability for some action at time *t* is that the one being called to account is a rational agent able to exercise her rational capacities at *t*.

21 CIAA 13,511.6-7; 8.298.W10; italicized words underlined in the ms.; cf. Anscombe, "Prolegomenon," 255.

22 CIAA 13,511.7; 8.298.W11.

23 Anscombe, "Murder and the Morality of Euthanasia," 261.

24 CIAA W5.474.4.

A rational agent is not accountable for just anything she does but only for her voluntary actions and omissions and their effects.<sup>25</sup>

The sphere of the voluntary is wider than that of the intentional. Expected side effects are not intentional: if I foresee that I will get a stomachache from taking my medication, it is no part of my aim or purpose to induce a stomachache, but I do bring it about voluntarily. If I am called to account for giving myself a stomachache, my explanation will not refer to the desirability of having one but to the fact that it was a necessary accompaniment of the medical benefit I was trying to achieve. Indeed, on Anscombe's view, the sphere of the voluntary extends to some things the agent is not aware of doing or bringing about. A person's doing such-and-such is voluntary although she is ignorant that she is doing such-and-such when the ignorance is itself voluntary. Ignorance that *p* is voluntary not only when the agent chooses not to do something she knows would result in her learning that *p* (say, because she would prefer not to know whether *p*), but also when she could and should have found out that *p* but failed to do so because she was negligent or careless.<sup>26</sup>

The third level of responsibility—credibility—comes into play when the agent is responsible at the second level for some effect that is good or evil. In the case of an evil, the agent will bear this sort of responsibility for the evil when (1) she is accountable for it and (2) she lacks an exonerating account for bringing it about. In that case, the agent is *guilty* of bringing about the evil and is appropriately blamed for it.<sup>27</sup>

## 2.2. Murder as Guilt for Causing Death

When Anscombe says that murder is killing that involves a special kind of responsibility for death, she means level three responsibility.<sup>28</sup> A murderer causes the death of another human being, he is accountable for that death, and he lacks an exonerating account. If you murder someone, then the evil of his death “lies at your door” and “his blood is on your head.”<sup>29</sup> Moreover, since murder is a grave injustice, you have seriously wronged the victim, and the

25 CIAA W5.474.4.

26 Anscombe, “Two Kinds of Error in Action,” 8–9. The latter is a special case of bringing about something by omission—namely, an omission to find out that *p*. I discuss omissions in section 2.2.

27 CIAA W5.474.4; Anscombe, “Murder and the Morality of Euthanasia,” 262.

28 When Anscombe says that murder involves a special *degree* of responsibility, she likely has in mind degree of guilt. Manslaughter, or killing with culpable negligence, involves a lower degree of culpability than murder (CIAA 8.290.10). See also Anscombe, “Murder and the Morality of Euthanasia,” 264.

29 CIAA 8.292.



evil of this injustice is also imputable to you.<sup>30</sup> To say that someone is guilty of murder is therefore pleonastic, whereas it is not pleonastic to say that someone is guilty of adultery.<sup>31</sup>

It follows that a philosophical account of murder will involve delineating the factors that can exonerate an agent from bearing guilt for causing another's death. Anscombe notes that there are a variety of exonerating answers:

One who is callable to account may not be guilty, even though he did cause death, because there is an exonerating answer. The range of such answers is very wide: "He was sleep-walking"; "He stumbled"; "He did not know he was administering poison"; "He did not intend death but something else which was quite legitimate"; "He was acting with legitimate authority"; "He had no duty to prevent death."<sup>32</sup>

We can classify these exonerating responses into five types:

1. The agent's responsibility for death is only level one responsibility.

Answers such as "I was sleep-walking" or "I stumbled" are of this type. Strictly speaking, this is not an exonerating answer, for the need for exoneration presupposes an instance of voluntary agency for which the agent is accountable. But if the agent's responsibility is only level one, then there is no voluntary action for him to account *for*.

2. The agent was ignorant that he was doing something that would cause or risk causing death, where the ignorance is not due to negligence.

"I didn't know I was administering poison" is of this type if I had every reason to believe I was pouring a glass of gin. In this case, there is a voluntary action for which I can be called to account (pouring the drink), but my blameless ignorance that the liquid was poisonous means that I was not voluntarily *poisoning* or *killing* the victim—though I am level one responsible for her death.

3. The agent did not intentionally kill the victim, but the death was a foreseen side effect of some course of action.

30 CIAA 8.289. Anscombe thinks this fact explains why suicide is not a form of murder (self-murder), for it is, strictly speaking, impossible to wrong oneself (CIAA 8.290.10–12). This reflects an Aristotelian and Thomistic conception of justice as the virtue whose sphere is one's relations with others (see Aristotle, *Nicomachean Ethics* bk. 5, ch. 1; Aquinas, *Summa Theologiae* II-II 58.2).

31 CIAA 8.296.8.

32 Anscombe, "Murder and the Morality of Euthanasia," 262.

As we shall see in section 3, on Anscombe's view, this sort of response can *sometimes* exonerate the agent from guilt for causing death.

4. The agent intentionally killed the victim, but the agent was exercising legitimate authority in killing her.

This sort of response involves a title to kill, which I discuss in section 4.

5. The victim's death could have been prevented if the agent had  $\phi$ -ed, but the agent had no duty to  $\phi$ .

The ability of this type of answer to exonerate depends on the way we attribute omissions and their effects. An omission cannot be identified with an absence of motion. Even an omission can be omitted. I might be expected, for example, to omit every third name on a list, and when I come to the eighteenth name I write it down and thereby omit to omit it.<sup>33</sup> A person omits to  $\phi$  not merely when she does not  $\phi$ , but when she does not  $\phi$  in circumstances in which she *could* have done so and it was in some sense *expected* that she would. For instance, a cook spoils the potatoes by omitting to add salt because it is the cook's business to add the salt. It is not the business of the restaurant guests to add salt, so even if it was physically possible for them to add salt they do not *omit* to do so, and their not adding salt is not the cause of the potatoes' being spoiled.<sup>34</sup> Following Aquinas, Anscombe summarizes this by stating that an agent causes an effect by omission when it was both "possible" and "necessary" that he should  $\phi$  and he does not.<sup>35</sup> When it comes to preventing death, the relevant sense of "necessity" is moral necessity. Thus, an agent will only be level three responsible for causing someone's death by omission when he could have prevented her death by adopting some means and he had a duty to adopt those means. Moreover, there is no duty to adopt means that involve wronging some people in order to prevent harm from befalling others. "I should have to commit a great wrong" is a plea of moral *impossibility*.<sup>36</sup>

It is crucial to note one possible justification for causing death that does *not* appear on the list of exonerating responses—namely, a justification that refers to the advantages to be gained or disadvantages to be avoided by killing an innocent person.<sup>37</sup> Modern moral philosophers frequently devise scenarios

33 CIAA 12.539.1.

34 Anscombe, "Two Kinds of Error in Action," 9.

35 Anscombe, "Murder and the Morality of Euthanasia," 273. See Aquinas, *Summa Theologiae* I-II 6.3.

36 CIAA 12.539.11.

37 Anscombe, "Murder and the Morality of Euthanasia," 262.

in which an agent can kill one or more innocent people as a means to saving a greater number. If this is admitted as a justification, then, Anscombe insists, it is not a justification that exonerates the agent from the guilt of having committed murder. Rather, it is a justification *for murder*.

Why this should be the case is an important question, and I return to it in section 3. At this juncture, I want to show how this claim enables Anscombe to reply to the first challenge from section 1. Recall that she denies that unjustifiability or impermissibility are part of the concept of murder. However, she also asserts that culpability is built into the concept—which is now understood as level three responsibility or guilt. The problem was that if guilt is built into the concept of murder, then it appears that unjustifiability must be as well; for it seems that any justification will remove guilt and so prove the action is not a case of murder.

Anscombe's response is to deny the premise that any (alleged) justification for doing something that causes someone's death will remove the guilt of committing murder. If Alfred kills innocent Betty in order to save five others from being killed, then Alfred has murdered Betty. If a philosopher thinks that Alfred's killing Betty is justified, then what he thinks is justified is Alfred's incurring the guilt of murder.

I noted above that murder is an injustice that wrongs its victim. I think that Anscombe would also reject the claim that this implies that murder is unjustified as a matter of definition. She would no doubt argue that it is also a substantive question whether a person could ever be justified in wronging others. That seems right. Jeff McMahan claims that an agent can sometimes act with "objective moral justification" and yet inflict harm that wrongs its victim. McMahan thinks this can occur, for instance, when an innocent person's rights are overridden by sufficiently strong consequentialist considerations.<sup>38</sup> McMahan's claim does not seem to be conceptually incoherent. The disagreement between him and someone who thinks it is always wrong to commit an injustice is a substantive one.

### 3. THE SIGNIFICANCE OF INTENTION

We saw in section 2.2 that according to Anscombe, the distinction between intentional killing and incidental killing, i.e., killing in which death is a foreseen side effect of the agent's conduct, is significant in the following way: the fact that an agent caused someone's death incidentally can sometimes exonerate from the guilt of murder, whereas intentionally killing an innocent person as

38 McMahan, *Killing in War*, 173–74.

a means to bringing about good outcomes or avoiding evil ones cannot. Anscombe makes this point in *Mr. Truman's Degree* and adds that killing the innocent as an end in itself also always constitutes murder:

Choosing to kill the innocent as a means to your ends is always murder. Naturally, killing the innocent as an end in itself is murder too. . . . I intend my formulation to be taken strictly; each term in it is necessary. For killing the innocent, even if you know as a matter of statistical certainty that the things you do involve it, is not necessarily murder. I mean that if you attack a lot of military targets, such as munitions factories and naval dockyards, as carefully as you can, you will be certain to kill a number of innocent people; but that is not murder. On the other hand, unscrupulousness in considering the possibilities turns it into murder.<sup>39</sup>

The claim that the distinction between intentional and incidental harm has ethical significance is characteristic of the principle of double effect (PDE). The PDE has traditionally been formulated as stating necessary and sufficient conditions for engaging in conduct that has both good and bad effects.<sup>40</sup> In two published essays ("Action, Intention, and 'Double Effect'" and "Murder and the Morality of Euthanasia"), Anscombe proposes a more modest version of the principle, which she calls the "principle of side effects":

*Principle of Side Effects (PSE):* The prohibition on murder does not cover all bringing about of deaths which are not intended.<sup>41</sup>

The PSE presupposes the prohibition on murder and the claim that intentionally killing innocent people is always murder. But while you must not aim at the death of an innocent person, "causing it does not necessarily incur guilt."<sup>42</sup> The principle is modest in two respects. First, it does not cover the bringing about of bad effects in general. It is specifically about death and the question of when causing death constitutes murder. Second, it does not attempt to state necessary and sufficient conditions for the permissibility of causing incidental death. It simply says that incidental killings are not always murder.

39 Anscombe, *Mr. Truman's Degree*, 66.

40 See, e.g., Gury, *Compendium Theologiae Moralis*; Mangan, "An Historical Analysis of the Principle of Double Effect"; and Cavanaugh, *Double-Effect Reasoning*.

41 Anscombe, "Action, Intention, and 'Double Effect,'" 220; cf. "Murder and the Morality of Euthanasia," 274.

42 Anscombe, "Action, Intention, and 'Double Effect,'" 220, and "Murder and the Morality of Euthanasia," 274.

Why accept the claim that the intentional killing of the innocent is always murder? Anscombe's answer is that this is central to our common understanding of what murder is:

The central concept [of murder] . . . is that of intentional killing of the innocent. This gives us our sharpest and most full-blown picture of the murderer par excellence. He is willing to kill those who have done him no wrong. His hand is ready to shed innocent blood. Everywhere where such actions on the part of murderous rulers, soldiers, terrorists or other armed men are reported, these phrases occur: "killing innocent people," "compassing the death of innocent bystanders," "slaughtering a crowd of innocent and helpless victims," and so on.<sup>43</sup>

First: murder is for example deliberately killing innocent people. This is the most widely agreed conception. Powerful men who are known to have done this or had it done, whether *ad terrorem* or exulting in their ability [*sic*] to prove that others were at their mercy, or delighting in cruelty towards any who might conceivably have less than total subservience in their hearts—such men are unhesitatingly regarded as murderers. . . . *The* thing that fuses the matter is: They have innocent people killed.<sup>44</sup> "Their feet are swift to shed innocent blood."<sup>45</sup> This is our first picture of the murderous among mankind.<sup>46</sup>

The intentional killing of the innocent thus constitutes the "hard core" of murder.<sup>47</sup> Hard core cases involve the central meaning of "malice" as it occurs in the understanding of murder as killing with "malice aforethought." Here "malice" does not connote spiteful feeling but rather the badness of the agent's intent.<sup>48</sup>

The hard core of murder forms a relatively well-defined area. The main place there is apt to be controversy is the question of who counts as "innocent" in war. On Anscombe's view, someone is innocent in war when he is not *nocentes* (not harming or not offending), and people are *nocentes* when they are engaged in an objectively unjust proceeding, such as an unjust attack.<sup>49</sup>

43 CIAA 8.291.12–13.

44 The word I have written as "fuses" is difficult to discern in Anscombe's handwriting.

45 This appears to be a reference to Isaiah 59:7.

46 CIAA 9.313.R7–R8; italicized words underlined in the ms.

47 Anscombe, "Murder and the Morality of Euthanasia," 262, and "Action, Intention, and 'Double Effect,'" 219.

48 CIAA 8.290.23.

49 Anscombe, "War and Murder," 53; cf. *Mr. Truman's Degree, 67; Justice of the Present War Examined, 77–78.*

The PSE states that the prohibition on murder does not cover all bringing about of deaths that are not intended. The rationale for this is that there are both (a) cases in which killing is not intended and yet clearly *are* cases of murder and (b) cases in which killing is not intended and clearly are *not* cases of murder. Examples of the first sort of case include a situation where a man burns down a house not with the intention of killing anyone inside (perhaps he just wants to collect the insurance) but without caring whether anyone is there, and someone is killed; and the case of Euthyphro's father, who neglected to feed and shelter a field laborer tied up in his custody, and who watched with indifference as the man died of exposure.<sup>50</sup> Cases of incidental killing such as these form a "penumbra" that surrounds the hard core of murder.<sup>51</sup> In them, the agent displays a callous disregard for human life that is equally or even more heinous than some cases of intentional killing. Since murder is distinguished from lesser forms of culpable homicide on the basis of its heinousness, it would be unreasonable not to regard these as cases of murder.<sup>52</sup>

On the other hand, there are also cases in which the agent brings about death as a side effect, which are not cases of murder. A scenario that appears in many of Anscombe's unpublished writings is a variation of the *Smith* case.<sup>53</sup> Smith was a petty thief who had stolen property in his car. When he was stopped for questioning, he sped off, and a police officer jumped on the car. Smith drove a zigzag course, and the officer fell into oncoming traffic and died. However, we can change the details of the case so that Smith is a hero who is driving out of town with a bomb that is about to go off. There is no time to explain what is happening, so he speeds away from a traffic stop, and as before, a police officer jumps onto his car. Since the officer is obscuring Smith's view, he drives a zigzag course to shake him off, foreseeing that there is a risk the officer will be killed by oncoming traffic, and the risk is realized. When the facts of the case become known, no one would bring a charge of murder against Hero Smith. He is accountable for bringing about the death of the police officer, but he has a legitimate exonerating response.<sup>54</sup>

50 CIAA W5.512.3–4. For the case of Euthyphro's father see Plato, *Euthyphro*, 4c–d.

51 CIAA W5.512.3–4; Anscombe, "Murder and the Morality of Euthanasia," 274, and "Action, Intention, and 'Double Effect'" 220.

52 Anscombe, "Murder and the Morality of Euthanasia," 263, and CIAA 9.313.R9. We might say that penumbral cases also involve a sort of malice in the will of the murderous agent, which consists in indifference or disregard for human life.

53 E.g., CIAA 8.291; 8.292; W3.303; W5.512. See DPP v. Smith [1961] AC 290.

54 Less dramatic examples are cases of surgeons who perform dangerous surgeries as carefully as they can but lose the patient and some cases of closing doors to contain flooding or fire

In between these clear cases there is a gray zone that consists of borderline cases: the penumbra is fuzzy and its edges are blurred.<sup>55</sup> These cases will often be disputable, and their classification will depend on things such as assessments of risk and the balancing of the goods and evil involved.<sup>56</sup> The resolution of such cases belongs to casuistry, and while casuistry “may allow you to stretch a point on the circumference, it will not permit you to destroy the center.”<sup>57</sup> In the case of murder, the “center” is the hard core, which consists of the intentional killing of the innocent.

Anscombe’s way of arguing for the PSE differs from the way that some other philosophers argue for the principle of double effect. Consider the way that Philippa Foot motivates the PDE in her essay “The Problem of Abortion and the Doctrine of the Double Effect.” Foot proceeds by constructing hypothetical cases and consulting her intuitions about whether the agent’s conduct is *morally right* or *morally wrong*, or whether the agent *should* or *should not* act as he does. For instance, she thinks it would be outrageous for a judge to order the execution of an innocent man in order to prevent rioters from killing five hostages, but we would say that a driver of an out-of-control trolley should steer it away from five trapped workmen onto a sidetrack where it will kill one.<sup>58</sup> Double effect is then brought in as a way of explaining these intuitions about right and wrong.

Such a method provides, at best, little support for the PDE. First, it is possible that other principles explain our intuitions about the target cases equally well.<sup>59</sup> Second, there are cases in which many people’s intuitions about moral permissibility conflict with the PDE. Anscombe raises the following pair of cases, which serve as an illustration:

*Explode:* A potholer is stuck in the entrance of a cave with people behind him. The water level is rising, and the people will soon be drowned. They can escape by blowing up the stuck potholer with a stick of dynamite.

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(Anscombe, “Murder and the Morality of Euthanasia,” 275, and “Action, Intention, and ‘Double Effect,’” 220).

55 Anscombe, “Murder and the Morality of Euthanasia,” 274, and “Action, Intention, and ‘Double Effect,’” 219.

56 Anscombe, “Murder and the Morality of Euthanasia,” 277.

57 Anscombe, “Modern Moral Philosophy,” 36.

58 Foot, “The Problem of Abortion and the Doctrine of the Double Effect,” 23.

59 In “The Problem of Abortion and the Doctrine of the Double Effect,” Foot ultimately rejects the PDE in favor of a principle that distinguishes between the strictness of negative duties and positive duties (27–29).

*Rock*: Similar to *Explode*, but the people can escape by opening up another exit. This will require them to move a large rock, which will roll along a path and crush the head of the potholer.<sup>60</sup>

In *Explode* the stuck potholer will be killed intentionally as a means to clearing the cave entrance, whereas in *Rock* his death will be a foreseen side effect of moving the rock. Anscombe predicts that many moral philosophers will “pour scorn” on double effect here, finding the intentional/incidental distinction intuitively “morally non-significant” in these cases.<sup>61</sup>

Anscombe’s argument for the PSE is not the same as Foot’s method, however. Indeed, Anscombe is critical of this method, which she says leaves us “helplessly swivelling our attention back and forth between a *situation* and the concept ‘right.’”<sup>62</sup> What is missing from Foot’s method is the presence of “middle terms” whose function is to intervene between a situation and our application of terms like “right” and “wrong.” These middle terms are thick ethical concepts such as “courage,” “hypocrisy,” “temperance,” and “truthfulness.”<sup>63</sup> Anscombe’s argument for the PSE revolves around just such a middle term—namely, murder. While her argument does utilize intuitions about cases, the intuitions are about the applicability of the concept “murder” to a situation. The argument, again, is that the intentional killing of the innocent constitutes the paradigm of murder. Additionally, there are some incidental killings that we would readily agree are cases of murder and others (such as the case of Hero Smith) which no one would classify as murder.

Anscombe’s argument for the PSE makes available a number of responses to the *Explode/Rock* pair. First, the PSE does not imply that the cases are morally different. All it implies is that blowing up the potholer in *Explode* is forbidden, as it is a hard-core case of murder. Second, given that the penumbra is fuzzy, it is inevitable that there will be borderline cases where it is disputable whether they constitute murder. *Rock* is plausibly just such a case. Third, once our focus is on murder, there are some grounds for distinguishing *Rock* and *Explode*. In particular, people who are willing to move the rock but who would not choose the potholer’s death as a means of escaping “shew themselves as people who will absolutely reject any policy of making the death of innocent people a means or end.”<sup>64</sup> That stance is far from meaningless, for it shows they are unwilling to

60 Anscombe, “Murder and the Morality of Euthanasia,” 275–76, “Action, Intention, and ‘Double Effect,’” 221–24, and CIAA 8.291.25–27.

61 CIAA 8.291.30.

62 CIAA 13,511.10 and 8.298.W14; italicized word underlined in the ms.

63 CIAA 13,511.10 and 8.298.W14; cf. Anscombe, “Modern Moral Philosophy,” 33.

64 Anscombe, “Murder and the Morality of Euthanasia,” 276.



engage in activity that is most paradigmatic of murder. Finally, upon reflection, we may conclude that Rock is nonetheless a case of murder. If we do, then it is incumbent on us to find an additional principle that explains why it is.<sup>65</sup>

Let me summarize the results of this section. On Anscombe's account, the hard core of murder consists in the intentional killing of the innocent. This core is surrounded by a penumbra, which includes some but not all cases in which death is not intended. The penumbra is fuzzy, which means that there are borderline cases. When killing is incidental, the question of whether it belongs in the penumbra will be a matter of whether the agent possesses an exonerating response.<sup>66</sup> And a common type of exonerating response will refer to the necessity of the agent's conduct for securing some great good or avoiding some great misfortune, as in the scenario of Hero Smith. However, this sort of exoneration is not available when the killing is in the hard core. These killings always count as murder.

We also have a response to the second challenge from section 1. That challenge observed that there are cases in which we first need to decide whether killings are justified by factors such as proportionality and necessity before determining whether they constitute murder; and it took this as evidence that murder should be defined as unjustified killing. While the premise is true for cases in which killing is not intentional, it does not follow that the business of calling something murder *always* waits upon the question of whether it is justified. In particular, it does not do so when what is in question is intentionally killing innocent human beings.

#### 4. TITLES TO KILL

A person commits murder when she bears level three responsibility for the death of another, and she will bear this responsibility when she is callable to account for that death and lacks an exonerating response. Anscombe's view is that intentionally killing the innocent always constitutes murder. However, there exist other cases in which killing is intentional but plausibly are not cases

65 Anscombe proposes the following principle: the "intrinsic certainty of the death of the victim, or its great likelihood from the nature of the case" would make it murderous to move the rock ("Murder and the Morality of Euthanasia," 276; "Action, Intention, and 'Double Effect,'" 225). However, this principle also seems to classify as murder actions that the PDE has traditionally been used to support. Is it not very likely "from the nature of the case" that when military targets are bombed, nearby civilians will be killed by the explosions? I am more amendable to the conclusion that moving the rock would not be murderous.

66 Or an excuse mitigating the degree of blame, which means the case is better classified as manslaughter (see note 28 above).

of murder. Many people accept that it is not always murderous, for example, for law enforcement officers to fight lawbreakers who resist arrest, even to the point of death. Just war theory holds that combatants fighting in a just war do not necessarily murder enemy combatants when they kill them. More controversially, some people believe that capital punishment is sometimes legitimate. It seems, then, that in these areas there are cases in which the agent has an exonerating response to the charge of murder. In order to explain the validity of such responses, Anscombe introduces the notion of a title to kill.

#### 4.1. *The Concept of a Title to Kill*

A title to kill is an entitlement or authority to kill some person or persons intentionally. An example of a title to kill that Anscombe discusses in multiple archival documents is tyrannicide.<sup>67</sup> Assuming there is such a title, for a killing to be done in the exercise of it, the killing must be intentional under the description “killing a tyrant.” It is not a tyrannicide if someone who happens to be a tyrant is killed not *because* he is a tyrant but for some other reason, such as to avenge a jealous passion.<sup>68</sup> This may seem to suggest that the distinguishing mark of a title to kill is that it is done with a public purpose—that is, a purpose that has to do with promoting the common good of a political community.

There is no reason in principle, however, why there could not be titles to do “private” killing. For example, the ancient Romans claimed that as part of the *patria potestas*, a father had a title to kill any of his children. This is not an actual title to kill, but it cannot be ruled out on conceptual grounds.<sup>69</sup>

The core of a title to kill is instead that the essential identification of the act of killing it involves is independent of the advantages that can be expected from it. Rather, the act of killing is identified in terms of the nature of the victim and the relation he stands in to the one holding the title.<sup>70</sup> For instance, in tyrannicide, the key term is “killing a tyrant,” and this does not include as part of its meaning a reference to expected goods to be produced or evils avoided. However, even though the type does not include an essential reference to good or bad consequences, it may nonetheless be that a necessary condition for any token of the type to be justified is that it is not expected to lead to certain bad outcomes. A concrete instance of tyrannicide may be wrong, for instance, if it is foreseeable that killing *this* tyrant *here and now* will precipitate a civil war or lead to an even more oppressive regime. Nonetheless, if tyrannicide is a true title to

67 CIAA 8.292; 8.293; 8.296; 9.301; W5.515.

68 CIAA 8.293.

69 CIAA 8.293.

70 CIAA 8.293.

kill, then when someone exercises this title the *principal point* of an exonerating response to a charge of murder will be that the person he killed was a tyrant.<sup>71</sup>

Cases that involve titles to kill can be contrasted with one in which it is being debated whether it would be justified for a person to kill her aged uncle, where his death sooner rather than later would avert financial woes. In this case, we are not debating the question, “Can avuncicide be justified?” For the man’s being the agent’s uncle is not the principal thing that would supposedly justify the proposed killing. That is rather that killing the man will contribute to averting financial misfortune.<sup>72</sup>

#### 4.2. *Titles to Kill and Civil Authority*

The example of the *patria potestas* shows that not every alleged title to kill is an actual title. For any purported title to kill, there must be some rationale that establishes its validity. Anscombe notes that most of the commonly assumed titles to kill are titles that derive from public authority, or as she calls it, civil authority.<sup>73</sup> The killing done by soldiers, the killing of domestic lawbreakers who resist arrest, and the execution of criminals are all killings done by a commission from civil authority. An investigation into the nature of murder must, therefore, include an inquiry into whether these are true titles.

Anscombe defends the proposition that civil authority is a source of titles to kill non-innocent persons in “On the Source of the Authority of the State” and several archival documents. What distinguishes civil authority from large-scale voluntary cooperative associations is that civil authority demands obedience, and its demand is backed by threats of coercive force. What grounds the entitlement of civil authority to use violence is that doing so is necessary for it to perform its task, where this task is, in turn, necessary for human good—namely, the promotion of a peaceful normality where people can live together “in multitudes.”<sup>74</sup>

Anscombe distinguishes two functions of government in securing the condition of civic peace. The first is to protect people from unjust attacks on their lives and persons. The second is to prohibit violent private revenge on the part of people who have been wronged by their fellow citizens. The latter promotes peace by forestalling the killing of the innocent that would inevitably occur if each person were allowed to be judge in his own case and use violence to right perceived wrongs against him. These two functions mean that government

71 CIAA 8.296.15.

72 CIAA 8.293.

73 CIAA 8.292.

74 Anscombe, “On the Source of the Authority of the State,” 135–37, and CIAA 8.291.32–33.

prohibits all private right to use force except in immediate self-defense.<sup>75</sup> The task of protecting innocent people from unjust attack, both from internal disturbers of the peace and from external enemies, is what gives rise to institutions such as police, courts, and the military. And it is the use of violence in the administration of justice that distinguishes civil authority from rule by a highly organized and smoothly functioning Mafia.<sup>76</sup>

The form that civil authority ordinarily assumes is the institution of government. Anscombe argues that this cannot be the sole form that it takes, however. The problem, which she highlights in an unpublished paper on assassination, is that if it were, then an invading power could extinguish all right to resistance simply by destroying a nation's government, for that would turn into murder any killing done by resistance fighters.<sup>77</sup> In extraordinary cases where there is a lack of legitimate *de facto* civil authority, due either to usurpation by foreign enemies or to internal ones who overthrow the government, there must be such a thing as the *self-assumption* of civil authority. What this means is that people fighting for a just cause in a rebellion can kill a tyrant or usurper and those fighting on his or her behalf by constituting themselves as soldiers on behalf of such civil authority as there *ought* to be.<sup>78</sup> The title of such soldiers to kill thus rests on authority that is normative and forward-looking.

The focus of this section has been titles to kill deriving from civil authority. But there is also a question of whether there are any private titles to kill—that is, titles that do not derive from authorization or commission from civil authority. It is widely assumed that there is at least one such title—namely, the title of a private person to kill intentionally an unjust attacker in defense of himself or others. However, in both her published writings and archival papers, Anscombe rejects the notion that private individuals possess a title to kill in self- or other-defense. Following Aquinas's treatment of self-defense, she claims that the right to private defense is not a title *to kill* but only a title to use such violence as is necessary to stop an immediate attack.<sup>79</sup> Many jurisdictions do allow self-defense as a justifying defense to murder when the attacker is killed intentionally (assuming that conditions of imminence, proportionality, and necessity are met), but Anscombe claims that in conscience, one's justification

75 CIAA W5.515.3.

76 Anscombe, "On the Source of the Authority of the State," 136.

77 CIAA W5.515.5.

78 CIAA W5.515.7; 8.292.

79 Anscombe, "War and Murder," 53, *Mr. Truman's Degree*, 68, and CIAA 8.292. For Aquinas's account of the ethics of self-defense, see Aquinas, *Summa Theologiae* II-II 64.7.

for killing an attacker should be that his death was not intended but was a side effect of adopting the means to stopping his attack.<sup>80</sup>

Even more contentious, however, is the question of whether there exist other private titles to kill. Debates about the morality of abortion and euthanasia, for example, are in part debates about such titles. There is no space for analysis of these debates here. It is a virtue of Anscombe's account of murder that it allows us to pinpoint why these practices are controversial: they involve the intentional killing of innocent human beings, and this appears to put them within the hard core of murder. Because of this, proponents of these practices often proceed by arguing that they have features that distinguish them ethically from other cases of intentional killing. For example, familiar arguments contend that a fetus is not a person and so does not possess the same moral protections as more mature human beings. And a characteristic part of arguments for euthanasia is the claim that in cases of interminable suffering, death is not an evil. Without entering these debates, I note that Anscombe rejects these arguments.<sup>81</sup>

The upshot is that Anscombe holds that all actual titles to kill derive from civil authority, and these are titles to kill only persons who are not innocent.<sup>82</sup> In functioning as exonerating responses, these titles help set the boundaries of what constitutes murder. If an agent intentionally kills a non-innocent person without possessing a title to kill, he will not have an exonerating response to a charge of murder. Cases of this sort do not fall within the hard core of murder, which is the intentional killing of the innocent, but neither do they fall within the penumbra, which is composed of cases where the killing is not intentional. They form a distinct area, which we might conceive as an outlying region that surrounds the core.

The notion of a title to kill is the key to resolving the third challenge from section 1. That challenge observed that in debates about the morality of killing in war, capital punishment, and other areas, the judgment whether certain types of killing are justified precedes the question whether they are murder.

80 Anscombe, "War and Murder," 54. Anscombe also asserts that a person existing in a state of nature is not a private individual; rather, the public/private distinction is not applicable in this context ("War and Murder," 54). In one place she allows that in a state of nature, individuals may intentionally kill unjust attackers in self-defense (CIAA W5,515.3).

81 For Anscombe's rejection of the claim that a fetus is not a person, see "Murder and the Morality of Euthanasia," 267–68; for her objection to euthanasia, see "Murder and the Morality of Euthanasia," 269. For an analysis and evaluation of Anscombe's argument that euthanasia constitutes a form of murder, see Jones, "Anscombe on Euthanasia as Murder."

82 With the possible exception of killing unjust attackers in a state of nature, which would not involve an exercise of civil authority. See note 80 above.

Anscombe contends that what is up for debate in these cases is whether a certain type of killing is the basis of a title to kill. If we think a title to kill exists, then we will think it can form the principal part of an exonerating response to a charge of murder. Therefore, when it comes to titles to kill, the question of justification does precede the judgment of whether the corresponding type of killing is (always) murder. Nonetheless, since the types of killing that figure in titles to kill are not defined in terms of their expected consequences, it remains the case that the possible justification “killing a person as a means to producing a good outcome or avoiding a bad one” does not constitute a title to kill. Hence, Anscombe maintains that if someone attempts to justify killing someone simply on the ground that doing so is a means to producing good consequences, then what she is attempting to justify is murder.

#### 5. CONCLUSION

Anscombe’s interest in the topic of murder was motivated by her belief that murder is absolutely prohibited and, hence, always to be condemned. But logically prior to the question of whether murder is always forbidden is the question of what constitutes murder. In this paper, I have integrated archival materials with Anscombe’s published writings to reconstruct her answer to this question. Anscombe was keen to deny the semantic thesis that “murder” means “unjustified or impermissible killing,” which, if true, would trivialize the debate between her and the mid-twentieth-century Oxford moral philosophers. Indeed, she goes so far as to call the semantic thesis a “thought-stopping device.”<sup>83</sup> The sense in which this is so becomes apparent when we examine her complex account of murder, which involves *inter alia* discussions of responsibility and voluntary agency, the distinctions between actions and omissions and intention and foresight, and the concept of a title to kill and the basis of civil authority.

Anscombe contended that the “Hebrew-Christian ethic,” which upholds an absolute prohibition on murder, acknowledges the inherent worth or dignity of human beings in a way that the systems of Oxford moral philosophy do not.<sup>84</sup> In one unpublished paper, she identifies two ways in which this is so.<sup>85</sup> First, the ethic holds that having done nothing to deserve it, a human being is never to be unjustly done away with for the sake of others. Except for justice’s sake,

83 CIAA 13.511.6; 8.298.W12.

84 Anscombe, “Murder and the Morality of Euthanasia,” 267–68. For analysis of Anscombe’s remarks about the nature and basis of human dignity see Müller, “The Spiritual Nature of Man”; and Lott, “The Knowledge of Human Dignity.”

85 CIAA 8.289.

no one is to be deliberately killed. Second, it also testifies to the worth of the human being *qua* acting subject: “Others cannot be defiled by his abstaining from evil doing; they may suffer or die because of it, but they cannot be defiled, because each man can be defiled inwardly only by what he does himself.”<sup>86</sup> The argument is brief, but I think the central idea can be elaborated as follows. Moral systems that reject an absolute prohibition on murder will sometimes approve, and perhaps even require, doing things that count as murder, such as killing innocent people as a means to avoiding sufficiently bad outcomes. These theories will therefore approve, and even require, people to incur the guilt of murder. But if a person incurs this guilt, then he degrades or defiles himself: he has made himself into a murderer, and his life is tainted by having incurred that guilt. By contrast, the Hebrew-Christian ethic refuses to approve of a person’s defiling himself in this way. By including an absolute prohibition on murder, it therefore acknowledges the value of human beings both insofar as they are patients whose dignity is always to be respected and insofar as they are agents who are thereby protected from having to defile themselves.<sup>87</sup>

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86 CIAA 8.289.

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