

*“Choosing to kill the innocent as a means to your ends is always murder... Killing the innocent, even if you know as a matter of statistical certainty that the things you do involve it, is not necessarily murder... On the other hand, unscrupulousness in considering the possibilities turns it into murder.”*

- G. E. M. Anscombe

### **The Temptation of Exceptions**

Black birds with wings of steel are circling in the skies over Arabia. No thunder and no warcries are heard before they strike, it only needs an electronic signal coming from a military headquarter many miles away. The so called pilot presses a button; the signal is transmitted; a few seconds later a rocket launches from the sky. There is no chance to fight back, no chance to escape. In a matter of seconds the target persons are dead while their surroundings go up in flames.

The moral issue of drone warfare as practiced by the United States of America in Afghanistan and other countries has been discussed before. Killing has never been so easy yet with such a high cost. Of course one could argue that a targeted missile attack is far more humane – if war can ever been humane – than a big scale bombardment or even an invasion with the regular army. But by hunting down their targets, the pilots are confronted with the fact that they might also injure and even kill innocent persons just being at the wrong place in the wrong time. One can no longer claim that this is the price of warfare for the innocent are killed without any chance to escape while the pilots have full knowledge of their presence. They are no longer collateral damage – even if the military still claims so.

With the methods of drone warfare an actual example for what used to be ethical thought game has emerged into reality. Seeing the arguments of philosophers who lived before the invention of drones, their thoughts almost seem like prophecies for what is happening today. In the 21<sup>st</sup> century matters as discussed by G. E. M. Anscombe in the given quotation have become painful reality not only in drone warfare but in the war against terrorism in general.

Anscombe imagines a situation in which a person in power is confronted with the choice of doing something – deciding something – that will possibly cause not only the intended effect but will also inflict damage to innocent persons. The matter is divided into two options, roughly: A) Killing innocent as means for one's end, B) killing innocent in the process of doing something else.

Not surprisingly Anscombe categorically rejects option A) and states that all persons acting in this way are to be considered murderers. The definition of the action typically applies to murder as countless philosophers in history have argued. Shooting the worker at the bank in order to steal the money, as a burglar would do, or killing the innocent families of your political enemies in order to make them despair, as a dictator would do: There are – sadly – too many examples to be named, but all of the dehumanize a human being for one's own ends. Trying to explain why killing innocent as a mean would mean to explain the very basics of human ethics, and (hopefully) most people will agree that it is clearly immoral. I will thus rather focus on the moral grey areas.

The basic difference between the mentioned options A) and B) is the target of the action and thus its intention. In the first case, the intention for the action that involves killing innocent is an egoistical one, as stated in the choice of words in 'your ends'.

Option B) consists of actions which do not aim at the killing of innocent but possibly involve it. For the sake of the argument I am going to concentrate on good, i.e. altruistic intentions. If an action with a bad cause involves the killing of innocent as side effect, it will most likely still be considered bad.

The author of the quote does not categorically reject option B), but one needs to remember why: It is not because one cannot be sure if innocent persons will be damaged. In the contrary the possibility of not killing them is completely erased from the author's train of thought, she writes 'statistical certainty' and implies the agent knows about this certainty. Option B) thus does indeed contain the same amount of killing as A) but for a different cause. Though I would like to argue that what is true for B) also applies to these variations of B) where through sheer luck no innocent people are inflicted. An action cannot be judged only by its consequences.

However this option is divided into two options again. Anscombe differentiates between acting with or without scruple. For her deciding with 'unscrupulousness' causes the action to be a murder while deciding with scruples is not 'necessarily' a murder even if it involves the active killing of innocent people as side effect. And doesn't it seem reasonable to save thousands of lives by sacrificing a few single lives?

In order to examine the given quote a definition of 'scruple' is needed. I would claim that it is, in the end, nothing more than a bad conscience. So what does that mean for the moral justification of killing? Is the pilot who launches a missile in order to kill a target person a murderer if he feels bad for the innocent people – the target's wife and his children and friends – killed in the process? Does it matter if you have a bad conscience: Shouldn't the question not rather be universal: Is it justified to sacrifice human lives for a good cause? There are numerous ethical problems with the given quote. Even G. E. M. Anscombe herself built herself a backdoor in her argumentation: It is not 'necessarily' murder, implying it is in most cases.

So in which cases is it murder and in which not? The answer very much depends on our subjective moral standards. In the beginning we have to ask if the target person was really 'guilty' and if the military had the right to kill him. But even if we assume he is completely guilty and the military is morally authorized to kill him, we cannot define if the pilot is a murderer or not. Maybe the pilot felt guilt killing the whole family. So does that make him one of the few exceptions Anscombe mentions? At least without further explanation, her concept is not applicable to most situations. First of all, even if it worked theoretically, it cannot be translated into reality, for scruples cannot be measured: They are feelings after all.

One of the basic aspects of feeling is that you cannot control them. Feelings are rather involuntary. So, following this train of thoughts: Anscombe is suggesting to punish people according to the nature of their brain and character. But one cannot be made responsible for these aspects of life, just as one cannot be made responsible for his hair color and the shape of his face. Humans only have control over their acting – what they do in this world – and thus they can be made responsible for this and only this. It does not matter if the pilot pressing the button in the military headquarter is an emotional feeler who later cries

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over the idea of killing these people or if the pilot is a hardhearted man without much empathy. Only the thoughts matter, for they are controlled. We thus have to replace scruple with thinking about one's action; with self reflexion.

The quote implies that the agent needs to have scruples before he is acting in order to not be a murderer. Anscombe writes 'unscrupulousness in considering the possibilities', she thus aims at the intention of the action. This is an important point, since most philosophers and also today's judges agree that the intentions of an action matter far more than the actual consequences.

The difference between the two options of B), scruple or not, lies in the process of forming the intention. However both agents in the end performed the action with the same intention. Since the results of the actions do not matter – as stated before – it seems only logical to say the one with the changed process of intention is not guilty while the other is. But this ignores an important aspect of the administration of justice.

In fact, instead of two stages of action – intention and the action itself, three stages are needed – the process of forming the intention, the intention itself and the action with results. Criminals are not punished for the forming of their intention but for the intention itself. The sole idea at the beginning of the criminal act can never be punished, for it is nothing more than a thought. When in anger one sometimes wishes to hit persons or maybe kill them, but these are thoughts in affect, and (in most cases) one does not actually do that – or try to do that – later. The thought thus does not really matter for a crime, because they are not an explicit action itself yet. To have an intention is a process, only if one concludes the process and comes to the result that one wants to commit a crime it is punishable.

But in reversion this also means that the process of intention does not matter for the drone pilot. He may have scruples and doubt but he came to the conclusion he wants to act the way he did anyway. He willingly ignores these scruples and gives the command to fire the drone.

Both pilots in our example are murderers, for they had the very same intention and performed the same action. In fact the author contradicts herself saying that the person having scruples is less guilty: By having these scruples and then ignoring them, this person proves himself to be unscrupulous. There is thus no difference between the two options of B) as Anscombe claims. There can only be a difference between having scruples and overcoming them – thus being per definition unscrupulous – or never having scruples due to a lack of self reflexion. One could thus argue that the pilot having moral scruples about launching the missile and overcoming them is actually guiltier than the one without any scruples at all. The latter one simply lacks the self reflexion; he doesn't have the capacity to consider morals: In fact, he is closer to a wild beast of prey than to a human. (I personally do not think anyone would act in such a situation without any thoughts about what one is doing; it is thus rather a theoretical idea.) But the person who has scruples – he is human, all too human, with all good and bad aspects. With the capacity to understand moral objections comes the responsibility to obey moral.

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G. E. M. Anscombe's thoughts expressed in the given quotation seem very much like an excuse for 'good causes' to act badly. The author offers acting persons an escape from moral restrictions. But no cause can be good if it ignores moral standards. In fact the cause for which the action is committed would cease to be good the very moment innocent people are willingly sacrificed.

Her concept thus opens a gate in the rules of moral and creates a path to innocence for all kind of criminals. It seems like Anscombe herself realizes the mistakes of her concept, desperately claiming it would still be murder in most cases.

But most cases are not enough: In the fields of moral there can be no exceptions from universal rules based on consensual moral standards. It is essential to follow Immanuel Kant's categorical imperative: 'The killing of the innocent as side effect is justified.' cannot possibly be a maxim we want humanity to follow. Even – or, especially – the morally superior, as Anscombe imagines them, must not ignore this maxim but follow it, for they might be the only one capable of using the categorical imperative.

Maybe that does not necessarily mean that the western states should stop using drones and other means to fight terrorist organizations. Maybe the drones are needed from a utilitarian point of view. But we need to confess to ourselves that what we are doing is indeed murder in every case if it involves the death of innocent. We need to be brave enough to admit to ourselves that *murder* is committed in our name, for moral is universal.