On Moral Dilemmas: Winch, Kant and Billy Budd

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In memory of Irving Velody
1936–2000

I. Introduction

When it comes to questions of ethics we reach the limits of philosophy. Philosophy can do little to determine how we should conduct our lives. Guidelines, strategies or principles never seem to be sensitive to the specificity of our human predicament. Whereas philosophy seeks to establish objective truths, moral issues seem particular, subjective, context dependent and not open to generalizations. As Ludwig Wittgenstein observes: when it comes to moral issues 'I can only appear as a person speaking for myself'[1]. 'Philosophy can no more show a man what he should attach importance to than geometry can show a man where he should stand' (191).

Peter Winch advocates this view in his collected essays: *Ethics and Action* and thereby adheres to those anti-Kantian thinkers like Bernard Williams or Alistair McIntyre who draw a clear distinction between practice and philosophical reflection or living well and moral reasoning; the belief being that ethical concepts have a life and force prior to and, indeed, independent of moral theory. The belief is that moral theory often stands in the way of living a good life[2]. Impersonal demands such as the universalizability principle, or the imperative that we should only act for the sake of duty, can rule out our moral commitment to personal projects which is the condition for leading a good life with integrity. Abstract principles, it is said, are inconsistent with the actual way we live our lives; they

[1] *Philosophical Review*, Jan. 1965, cited by Peter Winch, *Ethics and Action* (London: Routledge 1972), 208. All citations refer to this text unless otherwise indicated.

[2] As Bernard Williams contends, reflection can often destroy the implicit knowledge we gain through our practices cf. Bernard Williams, *Ethics and the Limits of Philosophy* (Fontana, Harper Collins, 1983), 148.

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undermine the commitment we have to particular people which is a prerequisite for love and friendship[3].

In many ways such a position sounds far more humane than a Kantian ethics which rejects inclination, compassion and sympathy in the name of rational consistency. Yet I remain to be convinced that this is proof that an appeal to general rules or principles is unnecessary when addressing questions of moral worth. Moreover, I doubt whether moral theory impedes or rules out the possibility of leading a good life. I shall not try to discuss all these issues here. Rather, for the purpose of this paper, I shall limit myself to illustrate my reservations by taking as my point of departure two examples that Winch selects to 'prove' the redundancy of moral theory. First, Herman Melville's short story *Billy Budd* and second, the film *Violent Saturday*.

Winch believes that philosophical argumentation is irrelevant when it comes to questions of ethics. Since moral *theory* fails to express what truly matters to us, all we can do is 'look at particular examples and see what we do want to say about them: there are no general rules which can determine in advance what we *must* say about them' (182)[4]. Winch thus regards the use of examples as paramount for his writings on ethics. They express moral issues that have a force independent of moral theory[5]. Echoing Wittgenstein, he argues that they show what cannot be said (cf. 155). They express features of morality which a Kantian ethics would find either philosophically puzzling or rationally inconsistent. In Winch's eyes the example of *Billy Budd* shows that the universalizability principle is idle, and *Violent Saturday* shows that 'morality is *wrongly* conceived as a guide to conduct' (187). However, I believe that these two examples do not illustrate what Winch takes them to convey. As this paper sets out to show they neither question the adequacy of moral *theory* nor show that moral judgments are local, particular and relative to a situation and to a person's form of life. Quite the contrary,

[3] For example, drawing on Simone Weil, Winch holds that it is more important for a father to play with his child out of a sense of pure joy and duty than out of a sense of duty alone (cf. 181).

[4] It is important to note that Wittgenstein had little to say about the use of examples. In his 'Lectures on Ethics' he still advocated the Tractarian view, namely, that ethics lies outside the world and is not expressible in propositions.

[5] It seems questionable whether the choice of examples can ever be not theory led. After all, Winch *chooses* examples in order to *illustrate* his belief that ethical issues are not guided by moral theory. On the use of examples see Onora O'Neill, 'The Power of Example', *Philosophy*, 61, 1986, 5–29.

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they confirm my doubts about Winch's attack on moral theory Rather than showing that we can easily do without moral theory, they convey the anxiety we experience when we fail to live our lives in accordance with moral principles.

II. Example One: Melville's Billy Budd

Let us first look at Winch's interpretation of Melville's *Billy Budd*. According to Winch, the story shows that not all moral claims are universalizable. The story tells of Captain 'Starry' Vere who, while at sea, has to weigh the demands of duty under military law to which he is morally committed against the considerations of natural justice. Budd had struck and accidentally killed Claggart because he was falsely accused by him of plotting mutiny. Vere was witness to the incident. He saw how Budd, in the heat of the situation, was afflicted with a speech-impediment, thus preventing him from answering the charge. Vere realizes that Budd—who he deems to be of angelic character—struck Claggart out of frustration. In Vere's eyes Budd is innocent. Vere faces a moral dilemma: He is placed in the awkward situation of having to charge Budd before a summary court martial with the capital offence of striking his superior officer. Vere knows that according to martial law Budd is guilty of murder. 'Navally regarded it is the most 'heinous of military crimes' (156). Yet according to the demands of natural justice, Vere regards Budd as innocent. After much deliberation, Vere realizes that he has no choice but to act according to naval law. Budd is hanged at dawn.

What intrigues Winch about this story is that Vere does not see a dilemma between morality and military law *per se*, rather, as a loyal sea commander, Vere regards himself also as morally committed to naval law. 'For him the conflict with which he is faced is an internal moral one' (156). According to Winch, the story thus depicts a true moral dilemma in which one is faced with 'two conflicting sets of equally moral demands' (160/1). If each demand is equally compelling and neither supersedes the other, then it seems that it is impossible to arrive at a correct moral judgment. Yet Winch believes that the example shows this not to be so. Vere does make a moral judgment. Furthermore, Winch believes it to be the correct one. From Vere's personal point of view, he *ought* to sentence Budd to death. However, Winch believes that this judgment is in no way universalizable. According to Winch, the example shows that the term 'ought' does not in all cases instantiate the universalizability principle; it does not commit us to the claim that anyone else (under

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similar circumstances) ought to do the same. Rather when we argue '"this is what I ought to do" there is nothing in the meaning or use of the word "ought" which logically commits […us] to accepting as a corollary: 'And anyone in a situation like this ought to do the same"' (161). In other words, although Vere presents a *morally* convincing argument as to why he ought to adhere to the military code, he does not in any way 'reject or dismiss the validity' of the claim that it might be equally correct for someone else who finds himself in an identical situation to act according to the demands of natural justice. The 'ought' answering here 'what ought I to do?' is not universalizable. 'There is a class of *first person* moral judgments … not subject to the universalizability principle'. To follow Winch: 'I am holding that A says "X is the right thing for me to do" and B, in a situation not relevantly different, says "X is the wrong thing for me to do", it can be that both are correct' (164).[6]

In support of this contention, Winch places himself imaginatively into Vere's position and argues that he could not have acted as Vere did, despite the fact that he believes Vere to have acted correctly. Winch emphasizes that this is *not* because he appeals to any 'consideration over and above those to which Vere himself appeals' (163), rather because Vere himself has illustrated that both decisions are equally valid and it is just the case that for Winch 'Billy Budd's peculiar innocence [is] too powerful to be overridden by the appeal to military duty' (163). For Winch the example thus proves that the universalizability principle is idle. Two diverging and incommensurable moral perspectives can be correct.

For philosophers who argue on Kantian lines, Winch's position is rationally inconsistent. It is impossible to endorse two contradictory judgments: namely Vere's, that Budd ought to be hanged and Winch's, that Budd ought not to be hanged. Both judgments cannot be correct. A judgment can only be correct if it is not only correct for me but correct for any rational agent. Winch's position would only be rationally consistent if he were to argue that moral judgments are culturally and historically specific[7]. Yet this is exactly the stance Winch does not seek to take. He wishes to argue that even if

[6] D. Z. Phillips reports that Winch apparently regretted the use of the term 'correct'. Nonetheless, it seems to me that Winch remains committed to the claim that Vere regards his decision as morally convincing. If so, it would be necessary that he would be able to justify his decision. See below.

[7] The claim then would be that from our socio-historical perspective Vere's decision no longer appears just. Were this Winch's position, he would be repeating a Hegelian critique, namely, replacing Kantian principles with the notion of *Sittlichkeit,* our concretely experienced form of life.

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we find ourselves in an *identical* situation without appealing to considerations over and above those to which Vere himself appeals, it is possible to arrive at an opposite judgment. Namely, I can hold that both decisions are correct in one 'lifeworld' all things considered. Rational inconsistency may well be a problem for philosophy, however, 'ethical life does not wait for philosophy'.

Winch's misunderstandings

I believe that there is something disingenuous about Winch's account. It seems to me that he is not so much describing a moral dilemma, but describing the manner in which moral problems are solved. After all, Vere and Winch respectively are able to arrive at opposing *decisions* and regard their decision to be the correct one or at least morally convincing. The example is thus no longer addressing a moral issue that is open to debate. However, once we concede that the moral problem has been solved, we can no longer uphold the claim that another decision, different from our own, is equally valid, rather we have allowed one to override the other. If Vere had truly believed that the other perspective was morally equally convincing and moreover correct, then surely he would have begun to doubt the adequacy of his own judgment and the dilemma would have persisted. Yet according to Winch, the whole point of the story is that Vere believes that he has acted correctly. At no instant does Vere doubt the adequacy of his decision. If this is so, then Vere's certainty precludes the possibility that he could regard an opposed perspective as equally valid.

If I understand Winch correctly he would in many ways agree with me. It is impossible to endorse both judgments at the same time. I take it that Winch asks: 'why should I claim that because a judgment is correct for *me*, it will be equally correct for others?' Winch argues two things at the same time: On the one hand, he believes that it is possible to solve the moral dilemma. I can arrive at a correct moral judgment. On the other, he believes that as soon as I transcend my own unique personal perspective, the dilemma is reinstantiated because I have to acknowledge that from another person's point of view my moral judgment is not necessarily the correct one. We cannot predict how the problem might 'strike another person' (cf. 169).

However, Winch fails to see that it is one thing to argue that when it comes to moral issues I can only appear as a person speaking for myself and another, to argue that another person's judgment, which

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differs from my own is equally correct and morally convincing. To acknowledge the validity of another person's judgment, I need to be able to transcend my own personal point of view. Yet, as soon as I recognize the validity or correctness of another person's judgment, inevitably I begin questioning the adequacy of my own. If I were to recognize another person's judgment as correct and morally convincing, yet, nonetheless, keep to my own, then my choice would have no moral worth whatsoever. It would suggest a moral indifference: I would have to hold that it is equally right to hang or not to hang Budd; a position that Winch surely wishes to avoid.

I take Winch's position to be intelligible on the level of understanding but not on the level of moral judgment. Yet curiously Winch seems to ignore this distinction and conflates the two levels of description. He fails to see that it is one thing to understand why Vere arrives at his decision and quite another, to make the moral judgment that his decision is morally convincing and, indeed, the correct one. Winch argues that 'moral judgments are analogous to statements of intention or statements about pain. The grammar of my attributions of intentions or of pains to other people is quite different from that of my own expressions of intention or pain-complaints; but I have to understand the grammar of the first-person expressions of intention or pain-complaints, if I am to be able to make and understand such third-person attributions' (154). Yet, surely to understand the grammar of the first person expressions of intention or pain-complaints is not the same as to justify them. With respect to Vere, I can come to explain his judgment; it is indeed, understandable why he acted in the way he did, his decision is neither grotesque, irrational nor blameworthy. Yet, that I can explain Vere's decision does not commit me to saying 'and other people too, if they are to judge rightly, must make the same judgments as Vere made concerning this situation'. This is not because Vere's viewpoint is unique and thus not universalizable but because it is one thing to understand another person's judgment and another to make the moral judgment that his decision is correct and morally convincing. As soon as I make a moral judgment I instantiate the universalizability principle. Namely, I commit myself to saying that anyone who decides not to convict Budd, that is, anyone who decides differently, is deciding wrongly. Winch fails to realize that it is possible to understand two logically incompatible justifications of actions, yet that it is not possible to argue that there are two logically incompatible correct justifications of actions.

In my view, the conflation of these issues is reflected in Winch's critique of the universalizability principle. Winch suggests that the

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principle is about understanding another person's perspective. The principle is concerned with the question of whether it is possible to know how others would act were they confronted with the same situation. Winch argues that since it is presumptuous to suppose that we can know everything about another person's concrete situation '(including how it strikes her, which may make all the difference)', 'the universalizability principle is *idle*' (169). Yet is not Winch's conviction that he knows how he would act if he were confronted with an identical situation equally presumptuous? Not only is it impossible to judge how others would act but it seems to me equally impossible to know in advance how we would act. We are never transparent to ourselves. Only too often do we fail to act in the way we ideally wished we had[8].

This only goes to show that we are not omnipotent. It does not in any way question the validity of the universalizability principle. In my eyes, Winch fails to see that when the question of universal validity is addressed, the aim is not to understand another person in her entirety. We do not seek to explain or predict how others or we ourselves will act. Rather the principle is concerned with the question of justification. It is self-reflective. It asks whether it is possible to justify an action to myself and therefore to others. In that instant I am not explaining or predicting how others will act but I am asking whether I am justified in regarding my action as binding. Winch fails to see that I instantiate the universalizability principle only when I make a moral judgment, yet when I try to understand or explain another person's perspective, I make no such demands. Winch thereby appears oblivious to the fact that what explains, does not necessarily justify an action.

[8] In a discussion, D. Z. Phillips defended Winch's position by arguing that Winch himself was actually a naval officer. Yet, I doubt very much whether this autobiographical detail in any way allows him to *know* in advance how he will act when confronted with an identical situation. Indeed, I would go so far as to contend that even if he had been faced with an identical situation in the past and had arrived at a decision that he deemed to be morally convincing, he still would not have been able to predict or guarantee that he would act in the same way in the future. As Atwell rightly observes, the honest and thoughtful answer to the question 'What would I have done in Vere's place' is 'I have no idea'. Cf. Atwell: 'A Note on Decisions, Judgments, and Universalisability' in *Ethics*, 1966/7, Vol. 77 (pp. 130–4), p. 134. Yet, all this is of no concern to moral theory, which is not interested in prediction but in the question of the 'ought', namely, how should I act, disrespective of whether I will ever be able to act or have ever acted in this manner!

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Billy Budd Reconsidered

It is time to return to Melville's *Billy Budd*. Contrary to Winch, I believe that the story does not tell of a moral dilemma but of moral difficulty[9], nor does it address the problem of moral virtue but that of rights. Vere would only be facing a dilemma if he were unable to find a solution, i.e., if he felt there is a moral requirement to adopt two incommensurable alternatives. Yet as we have shown above, Vere does arrive at a decision, moreover, he believes it to be the correct one. He is not simply saying this is the right thing for *me* to do but this is the right thing for *anyone* occupying my position to do, namely, to proceed under the imperial code. From his point of view there is no dilemma: The decision is universalizable. The situation demands of Vere, or anyone else occupying his position, to show allegiance to authority—the King.

Not only is there no moral dilemma but the story brings a problem to light which is only indirectly an ethical[10] one. According to Immanuel Kant, the universalizability principle is concerned with the question of whether it is possible to justify rationally moral ends independent of any cosmology or religion. Moral worth is attributed to actions, if and only if they are motivated by duty, and not by inclination or self-interest. At first sight we may well argue that this is reflected in the story *Billy Budd*; Vere suppresses his sympathy for Budd in order to fulfil his duties.

However, we would thereby conflate the laws with which moral theory is concerned with the laws of the state. When Kant addresses the question of moral worth he is concerned with self-imposed moral laws which reason regards as binding. The question therefore arises: is it possible to overcome subjective or self-imposed limitations and obstacles[11] to which a potentially good will is exposed. A rational agent should adopt only those ends which are dictated by reason[12]. The ends and principles in question are not given, or external to us but chosen by reason itself. Ethical duties are enjoined by an 'inner legislation' and the only kind of constraint involved is self-

[9] I should like to thank Joseph Mohan for drawing my attention to this.

[10] Immanuel Kant: *The Metaphysics of Morals*. Translated by Mary Gregor, (Cambridge: Cambridge University Press, 1991), p. 221. MS hereafter.

[11] Cf. MS 206. The point here is not that we create these limitations but that we are the source of them and in this way we allow them to become authoritative.

[12] We should only act on such maxims that we can will to be universal law.

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constraint[13]. Yet the issue addressed in this story is a different one. Vere faces an external, an objective obstacle. Moreover, the law in question is not the law of Vere's own will, it is the will of another[14] —an external authority—the King.

I cannot quite see why Winch is so sure that Vere regards 'the conflict with which he is faced [...as] an internal moral one' (156). It seems to me without question that Vere sees a conflict between morality and military law *per se*. Surely the question Vere faces is not whether he should *will* the naval code as his own end, but whether he should be obedient and show allegiance to the external law. Indeed, nowhere does Vere try to internalize or rationally justify the imperial code—after all, he believes that in this particular case Budd is innocent before God. The question he is asking is whether—regardless of how strong his own personal moral convictions may be—he has a right to ignore the naval code[15]. The story is concerned with what Kant calls the duty of right and not the duties of virtue[16].

The story describes the painful conflict between internal (personal) laws and the (external) laws of the State. What Winch seems to overlook is that Vere's solution to the problem is very Kantian. Kant, just like Vere, realizes that we do not live in an ultimately just world—the Kingdom of Ends—which moral theory advocates. Kant is aware that we practical human beings are never able to obtain the moral ideal. The existing legal order is thus never entirely compatible with our notion of virtue. As human beings are inclined to evil, it is necessary to promulgate positive laws ensuring that we can coexist in accordance to a universal law of freedom[17].

Since it is beyond the power of an individual to accomplish a just world outside of his or her community, Kant believes that in the

[13] Cf. MS 45–47.

[14] Cf. MS 193.

[15] The external law would only be a moral law if Vere regarded it as a principle of his own will.

[16] What essentially distinguishes a duty of virtue from a duty of right is that external constraint to the latter kind of duty is morally possible, whereas the duty of virtue is based solely on free self-restraint.

[17] Such positive laws, unlike the duties of virtue do not provide an incentive or motive for an action. What 'motivates' us to act are constraints and obligations enacted by an external law-giving. 'Right and authorization to use coercion therefore mean one and the same thing' (MS 232). External laws do not necessarily derive their force from reason and can be fulfilled independently of the subject's moral disposition (Cf. MS 232) by prescribing or forbidding actions.

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case of a conflict between duties of right and duties of virtue the former has to override the latter. After all, civil society is possible only if its members respect the laws of the State (namely, if we do not regard ourselves as the lawmakers but see ourselves as constrained by the civil code). The universalizability principle is possible only within a civil condition, namely, in conditions where I, like everyone else, am bound by the same rights and regulations. It is for this reason that we should obey external authority. To concede a right would be to destroy the basis on which any political order rests. The only opposition Kant sees as justified against the power of the State is of an intellectual nature. As Ernst Cassirer observes: 'right to opposition dissolves for Kant into a mere freedom of the pen'[18]. Although ethics ought to be critical, its realization must remain restricted. No means is allowed to interfere with the long term end of civil society. In view of this, Kant argues that we may not act virtuously without acting legally although we may well act in accordance with a principle of right, yet act unvirtuously[19].

In my eyes the story *Billy Budd* exactly reflects such a position. Vere, like Kant realizes when there is a conflict between 'rights' the martial law (which Kant calls private use of reason) and virtue, i.e., moral duties (which Kant calls public use of reason), it is necessary to adhere to the former[20]. The urgency of the situation demands Vere to dismiss natural justice. He knows that if he disrespects the law of the sea, he encourages others to do the same, paving the way for mutiny and lawlessness. Budd must be hanged in order to maintain the social order. Herein lies the tragedy of the situation. With respect to the King's Regulations, Vere argues that 'however pitilessly that law may operate, we nevertheless adhere to it and administer it' (158). In practical situations it is more important to

[18] Ernst Cassirer: *Kant's Life and Thought*, trans. James Haden, (New Haven: Yale University Press, 1981), 375.

[19] Mary Gregor: *Laws of Freedom* (Oxford: Blackwell, 1963), 69.

[20] 'The reason a people has a duty to put up with even what is held to be an unbearable abuse of supreme authority is that this resistance to the highest legislation can never be regarded as other than contrary to law, and indeed as abolishing the entire legal constitution' (MS 131, cf. 320). Echoing Frederick II, Kant states: 'Argue as much as you will, about what you will, only obey!' (Immanuel Kant 'An answer to the question: What is enlightenment' trans. Mary J. Gregor. In Paul Guyer and Alan Wood (eds), *Immanuel Kant; Practical Philosophy; The Cambridge Edition of the Works of Immanuel Kant* (Cambridge: Cambridge University Press, 1996), 8:41). We should not confuse this with a form of quietism. Kant believed that political change should come about by way of rational debate (*reform*) and not through violence or the guillotine (*revolution*) (cf. MS, 322).

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maintain social order than to act in accordance with ideals that are out of step with our everyday practices[21].

The aim of this paper is not to defend Kant's political theory, it merely wishes to show that the example Winch chooses in no way questions a Kantian position but rather reinforces it. The story powerfully shows that Vere faces a moral difficulty precisely because he wishes to act in accordance with a moral principle, yet the practicality of the situation prevents him from so doing. Were it not for his concern about abstract moral issues, he would feel comfortable with his decision. In my view the example thus vindicates the priority of moral theory. It shows that Vere's moral difficulty is intelligible only because he values the ideals expressed by moral theory. Were we to follow Winch in arguing that there are two equally compelling and incommensurable moral 'oughts' (cf. 162), and that Vere believes he has acted correctly by opting for the one rather than for the other, then the situation would not be tragic—However, the situation remains tragic. The whole point of the story is that Vere feels pained by his decision, so much so that he 'murmurs Billy's name on his death-bed' (168). The situation is tragic not because Vere *thinks* he has acted wrongly, he feels no remorse, but because his decision remains at odds with his moral ideals. After all, remember, Vere knows that Billy Budd is innocent before God. In an ideal world he would follow Winch's judgments. The tragedy is that Vere's world is at odds with the ideal world—Winch, but not Vere, can afford to forget this.

Example II: Violent Saturday

Although I do not think that Winch has shown the universalizability principle to be idle, I do believe that we often face situations in which we have to make do with decisions that we cannot justify. This is well illustrated in the second example I wish to draw upon; the film *Violent Saturday*. In many ways the film seems a better example since it is concerned with the conflict between self-imposed duties or principles adopted by the moral agent rather than the conflict between duties of virtue and duties of right as in the case of Vere. The film depicts a gangster about to shoot a young girl in a

[21] Herman Melville: *Billy Budd, Sailor and other Stories*, (London: Penguin Classics, 1970), 387. What Kant feared most (like Vere) was lawlessness and tyranny which comes about as soon as we regard ourselves as law makers; a danger which Kant saw reflected in the French Revolution which turned out to be a revolution of the guillotine and not of reason.

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community in which the 'most fundamental guiding principle[..] is non-violence' (185). We see how the community's elder 'with horror and doubt on his face […] seizes a pitchfork and hurls it into the gangster's back' (185). According to Winch, on neo-Kantian grounds 'the elder has had to make a "*decision of principles*", which consists in either qualifying, or perhaps even abandoning, the principles of non-violence according to which he has hitherto tried to live' (185, my emphasis). The assumption is that there can only be one right way of acting.

Yet Winch holds that the situation is not that clear cut. 'In the first place, it is quite clear that the elder thinks he has done something wrong in killing the gangster. It is not that he has abandoned or qualified his commitment to the principles of non-violence [….] in the second place, it is equally clear that the elder would think that in some sense he 'had no choice' in the situation. This is how he had to act and if he had acted differently he would not have been able to forgive himself' (186). In Winch's view the example illustrates that 'morality is wrongly conceived as a guide to conduct' (187). Moral theory forces us to make either/or decisions. To remain committed to both, the principle of non-violence and that of protecting the defenceless would be rationally inconsistent.

Yet Winch believes the example shows this not to be so. According to him, the very fact that the elder 'had no choice' in the situation does in no way imply that the elder abandoned or qualified his commitment to the principle of non-violence. The elder knew he had done something wrong. Nonetheless, he would not have been able to forgive himself had he not killed the gangster. According to Winch, the elder was thus not acting for the sake of a principle but on a moral modality which could not be subsumed under a principle. Yet 'in acting against that principle he neither abandoned that ideal nor succumbed to a non-moral temptation' (187). His decision to kill the gangster is in no way arbitrary or immoral. For Winch this shows that there are 'moral modalities' or 'perspectives of actions' (186) which can coexist *without* cancelling one another out. According to Winch, the example shows that we need to make room for moral pluralism which should not be confused with a relativism. The elder does not take the decision lightly[22].

Read in this way, Winch plays down the radical nature of the dilemma faced by the elder. If the example were to express a moral

[22] I remain puzzled as to how Winch believes he is able to arrive at a notion of *moral seriousness*. He keeps close to his chest how we are meant to know whether a person takes her decision lightly or not. Surely, he is avoiding the question so crucial to Kantian philosophy: namely, when does an action possess genuine moral worth?

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pluralism, the elder would not be troubled by the fact that he is committed to two contradictory principles. Yet the very fact the elder believes that he has had no choice but to kill the gangster already suggests that he had made a choice. The sentence implies that he believed he could not do otherwise, i.e., this was his choice he *had* to act. Yet the tragedy of the situation is that he had to act without being able to justify his action to himself or to others. He fails to arrive at an adequate *moral* judgment. Inevitably this must lead him to question the adequacy of his principles—otherwise he simply would not care. The fact that he had no choice is not merely a dilemma of practices but of principles.

Exactly this is reflected in Winch's depiction of the film. In no way is the elder at peace with himself. Quite the contrary, the story tells of inner turmoil. The elder's turmoil differs from that of Vere. Vere was not committed to two incommensurable principles yet there was a con*flict* between duties of virtue and duties of right. Unlike the elder, he can thereby solve the moral difficulty by justifying to himself and to others that the practicality of the situation requires him to adhere to martial law. Nonetheless he suffers from the decision he has taken because in an ideal world he would have acted differently. The elder's dilemma is far more traumatic. He faces two competing *internal* commitments or principles: Unlike Vere, he is unable to justify why in this particular instance the principle of non-violence has to give way to his moral commitment to protect the innocent. Both commitments remain incommensurable, precisely because they are self-imposed. The elder is morally deeply wounded. He suffers because he cannot justify his action without beginning to question the adequacy of the principle of non-violence. There is not *one* right way of acting. The tragedy is that there is no solution to the problem, nonetheless the urgency of the situation requires him to act. He thus has to act without being able to arrive at an adequate *moral* judgment.

In my eyes the film does not refute the adequacy of moral theory, rather it expresses the fragility of our human predicament. It shows powerfully that there are occasions when moral theory cannot provide answers to moral problems. Yet it shows equally powerfully the extent to which we suffer if moral theory fails to be a guide to conduct. It reveals the radical nature of dilemmas. As John Atwell observes: 'in really difficult moral dilemmas an agent cannot decide what he really ought to do because he cannot decide what anyone ought to do, and yet he must act; this is the tragedy'[23]. The radical

[23] Cf. John E. Atwell: 'A Note on Decisions, Judgments, and Universalizability' in *Ethics*, 1966/7, Vol. 77, 133.

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nature of the dilemma lies in the elder's incapacity to *justify* his acts rationally without coming to question his moral principles. It does not prove that we ought not to look for a *single* solution to the problem. The very fact that the elder's moral decision does not coincide with a moral judgment in no way proves that our actions should not be guided by moral theory. Quite the contrary it seems to me: it is one thing to argue that we fail to justify our actions in accordance to moral principles and another to argue that such a justification is redundant. The elder is morally deeply wounded because the universalizability principle remains a 'regulative idea'. It is precisely because we seek to be true to ourselves, and thus rationally consistent, that the situation is experienced as a dilemma in the first place. The anguish the elder experiences 'reflects a conception of principles as still having a central part in moral life'[24].

I believe that Winch plays down the serious and radical nature of moral dilemmas. Winch's contempt for moral theory indeed, seems to be not so much in the name of ethics but for the sake of a life without friction. It may well be easier to live our lives if we do not take morality as a guide to conduct yet, as Winch well knows, this does not make his position any more convincing (cf. 172). The fact is that there are many situations in life which remain unsatisfactory yet in no way are they therefore less urgent or real. Surely the task is not to shy away from moral difficulties or dilemmas but to face them squarely[25].

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[24] Onora O'Neill: op. cit., 10. O'Neill argues this with respect to Sartre's famous example of the young man who is torn between caring for his mother or joining the resistance.

[25] I have dedicated this article to Irving Velody who invited me to give a paper at a conference on 'Peter Winch and the Idea of the Social Science' which he organized in Bristol in September 2000. Sadly, Irving died prior to the conference. Earlier versions of this paper were also read at the Universities of North London, Galway, Cork, Ulster and Warwick.

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