

## COMPROMISE: WHAT MAKES IT BAD?

by Nigel Biggar

### ABSTRACT

This article considers what makes a compromise bad. First, it defines a compromise as a decision involving a loss of good (i.e., an evil), which should therefore be accompanied by ‘agent-regret’. Regret, however, is not moral guilt. *Pace* proponents of ‘dirty hands’, a morally right compromise cannot retain elements of moral wrongness (as distinct from non-moral evil). Second, the article proceeds to elaborate the features of bad compromise further in terms of common moral sense: the preference of less rather than more of a single good; the preference of an inferior to a superior good; and the violation of an absolute moral rule. Third, it extends its elaboration in terms of three historical cases: the abandonment of strategic promotion of a good; tactical suspension for insufficient reasons; complicity in indubitable and certain injustice to avoid tolerable costs; and the violation of a basic principle of justice as distinct from normal judicial process. Finally, it adds a methodological epilogue, in which it reflects on whether its treatment of the topic has been sufficiently theological.

**Keywords:** compromise, regret, absolute rules, Vereeniging, Yalta, Good Friday Agreement, theological ethical method

### The tragic constraint of moral agency

The human condition often lands us in situations where there is no morally pure option. We often find ourselves in situations that are more or less walled in by historical fate. As Joseph Chamberlain, British Colonial Secretary, commented on imperial policy in South Africa in 1900, “We have to lie on the bed which our predecessors made for us”.<sup>1</sup> In situations thus constrained every choice is fraught with risk, sometimes the stakes are very high, and ethical clarity about the right way forward does not lie easily to hand. Therefore, those who nevertheless have to wrestle their way to a decision deserve our sympathy. Indeed, insofar as they have deliberately chosen to make themselves liable to such wrestling—whether in government or the military—they deserve our admiration.

It was such admiration that caused me to move from the academic discipline of History to Theology forty years ago. During my undergraduate career as an historian I stumbled into a course on the life and times of St Augustine in the Late Roman Empire. Augustine, who was bishop of Hippo in what is now Tunisia, wrote a letter in the year 408, in which he touched upon the dilemmas of judicial interrogation, which in those days often involved what we would call ‘torture’. So he writes:

On the subject of punishing or refraining from punishment, what am I to say? It is our desire that when we decide whether or not to punish people, in either case it should contribute wholly to their security. These are indeed deep and obscure matters: what limit ought to be set to punishment with regard to both the nature and extent of guilt, and also the strength of spirit the wrongdoers possess? What ought each one to suffer?... What do we do

when, as often happens, punishing someone will lead to his destruction, but leaving him unpunished will lead to someone else being destroyed?... What trembling, what darkness!... [And then he quotes Psalm 55:] 'Trembling and fear have come upon me and darkness has covered me, and I said, Who will give me wings like a dove's? For then I will fly away and be at rest' ....".<sup>2</sup>

But Augustine did not flee. He did not run away. He stayed. He continued to shoulder the responsibilities of bishop, which, as the Roman Empire crumbled around him, were increasingly those of government. He kept up pastoral correspondence with military tribunes like Boniface and Marcellinus, whose Christian consciences were troubled by having to use the sword to keep the peace. With them he lamented the tragic dilemmas of government, but he did not flinch from facing them. And for that I have loved him ever since—and I admire those like him.

There needs, however, to be a limit to sympathy, unless we are to bless every compromise. Some compromises, surely, are bad ones. We may sympathise with those forced to make them, but still judge their decision to be wrong. So what is it that makes a compromise bad? When does it become morally wrong? What are the moral bottom-lines that should constrain our compromising? Those are the questions whose answers I shall pursue through this article.

### **Compromise, evil, and regret**

I take a compromise to be a decision that deliberately involves a loss of good—that is, an evil. It involves either conceding an opportunity to maintain or promote a good or becoming a part-cause of evil. Therefore compromise should always involve one who consents to it in feelings of regret—or, more specifically, what Stephen de Wijze calls 'agent-regret': the agent should regret that he himself has become party to a loss of good.<sup>3</sup> Straightaway we discover the first feature of bad compromise: a lack of regret on the part of the one who makes it.

Regret, however, is not the same as moral guilt. It is not always morally wrong to permit or even to cause evil. Sometimes, there is what certain Roman Catholic ethicists call 'non-moral evil'. When it is morally right, the causing of evil is non-moral, cannot be culpable, and should not attract feelings of guilt. Therefore, *pace* the proponents of the idea of 'dirty hands' (including de Wijze),<sup>4</sup> a compromise that it is morally right to make, all things considered, cannot retain elements of moral wrongness. A paradigmatic case of 'dirty hands' is the so-called 'ticking bomb' scenario, where a politician authorises the torture of a terrorist, who is known to have accurate information about the location of city-centre bombs intended to kill masses of civilians.<sup>5</sup> De Wijze's 'dirty hands' view is that torture is always and everywhere wrong, but that there might rare cases—such as the 'ticking bomb' scenario—where it is the right thing to do. It can be right to do wrong, to get one's hands morally dirty: that is the paradox.<sup>6</sup>

I tend to resist paradoxes. Temperamentally more Jesuit than Lutheran, I tend to think that paradoxes are merely the point at which a certain line of thinking has run into the sand, and that there must be an alternative line of thinking that will resolve them. That is what I think here. For example, if there are cases where it is morally right to torture, then these are cases when torturing is not morally wrong.<sup>7</sup> Consequently, we should be moved to reconsider the absolute rule, the kind of

action it intends to prohibit, and why the action in this case does not belong to that kind. In other words, such cases should provoke us to tighten the scope of the rule so as to exclude them. I myself have argued elsewhere that we should distinguish ‘torture’, which is wicked by definition, from ‘aggressive interrogation’, which intentionally inflicts pain on another human person, not out of sadism, but intending to preserve the innocent against grave injury, and as a necessary and proportionate last resort. Such ‘aggressive interrogation’ should remain illegal, to prevent institutional habituation and corruption, but it can still be moral, and courts should prepare themselves to recognise it, somehow, as such.<sup>8</sup>

If I am correct about this, then the politician who authorises torture-as-enhanced-interrogation does no wrong, and he does not dirty his hands objectively. Subjectively, however, he might well agonise over his decision, questioning its necessity and his own motives—as a commendably sensitive conscience should. He might also deeply lament that he had to do what he did do—and so should we all. And he might have great difficulty in distinguishing between regret, lament, and self-doubt on the one hand, and moral guilt on the other. To this extent de Wijze is roughly right in saying that the politician’s action, though morally justified, is “also ... somehow wrong”.<sup>9</sup> It did involve causing an evil; it involved *deliberately* causing it; it involved *intentionally* causing it. That is deeply regrettable and lamentable—yet it is not culpable and so does not merit guilt. Assuring the agent of this last point could well be all that stands between his tender conscience and self-destruction. Michael Stocker, whom de Wijze invokes, describes the situation more exactly, I think, when he writes that there “remains ... a disvalue even within that justified, perhaps obligatory whole—a disvalue which is still there to be noted and regretted”.<sup>10</sup> Noted and regretted, indeed; but not repented of.

### **Common moral sense and bad compromise**

While every compromise should elicit a measure of regret, since it involves the causing of the loss of some good, it need not provoke guilt. There are plenty of compromises that are ethically straightforward. Sometimes when we must choose between different human goods, sacrificing the realisation of one for the sake of realising another, our choice can appeal to clear, decisive, and unobjectionable reasons. Thus, in cases where the choice is simply between more or less of the same good, common sense instructs us to choose more. For example, if I must choose between saving one human life or saving ten, all other things being equal, it makes obvious good sense to save ten. Similarly, in cases where the choice is between a more important good and a less important one, it makes straightforward good sense to prefer the former to the latter. For example, if the success of an important scientific experiment, and the discovery of important scientific truths, depends upon my going hungry and losing sleep for twenty-four hours, then, all other things being equal, it would be reasonable for me to sacrifice a measure of subjective happiness, even objective physical health. Since we are creatures and not gods, we do not have the power to realise every dimension of human well-being always and everywhere and maximally. We often have to choose between realising this quantity or that quantity of the same good, or this good rather than that one. And such choice involves an unfortunate, perhaps a somewhat tragic, loss of good. Insofar as this is

undesirable, it incurs non-moral evil. Nevertheless, such compromises are often ethically unremarkable. Their rationality is obvious.

Compromises become ethically interesting when they become controversial, and they become controversial when they are thought to involve the breaking of an absolute moral rule of conduct. Thus, according to Max Weber, the “absolute ethic” of the Christian gospel, as expressed classically in the Sermon on the Mount and interpreted by “the radical pacifist sects”, prohibits all use of physical force.<sup>11</sup> The modern state, however, is defined by the use of force, of which it has a monopoly.<sup>12</sup> Therefore, whoever takes part in government, as politicians do, “lets himself in for the diabolic forces lurking in all violence”.<sup>13</sup> For Christian pacifists this is unacceptable and participation in government therefore involves morally wrong compromise. Refusing to compromise might permit all manner of unhappy consequence, but that is God’s responsibility, not Man’s. “The Christian does rightly and leaves the results with the Lord”.<sup>14</sup>

Most Christians, of course, have not been radical pacifists. Most have stood in the ‘just war’ tradition that stems from Augustine. According to this, there is no absolute prohibition of the use of force. Provided that it is not motivated by hatred or vengeance, that it intends to stop wrongdoing and establish a just peace, that it is a last resort and proportionate, the use of physical force is morally permissible. Insofar as it causes harm—perhaps lethal—to other persons, it involves loss to human good. That is a non-moral evil and is to be regretted, even lamented. But if the coercive act was, all things considered, morally justifiable, then it did not involve moral evil and does not merit guilt. In such a case, the decision to defend some lives by taking others was a morally justifiable compromise, even if a lamentably tragic one. Note that, while the proponent of ‘just war’ does not believe that the simple prohibition of physical force is absolute, applying always and everywhere, he does believe that the qualified prohibition of force is absolute: wherever the use of force fails to meet certain conditions, it is always and everywhere wrong.

Note, too, that Christian ‘just warriors’ also ‘leave the results with the Lord’, albeit further down the line than pacifists. Unlike utilitarians, they do not pretend to be able to discern what the long-term consequences of human actions might be, nor to so control the future as to be sure of determining what they shall be, nor to possess a metric for assigning common value to radically different kinds of good. Christian ‘just warriors’ recognise that it is far beyond human competence ‘to make history turn out right’, and that presumptuous attempts to do so can lead—as they have led—to lethal ruthlessness on a massive scale. Nevertheless, ‘just warriors’ also recognise that it belongs to the specific dignity of human beings to bear responsibility for shaping the world as best they can *within the terms set by absolute moral rules*. And if they cannot defend or promote goods within those terms, then, together with their pacifist brethren, they too must bend their knees and pray God to do what they would, but may not.

A good compromise complies with absolute moral rules; a bad one violates them.<sup>15</sup> Where the line between good and bad compromises is drawn, then, depends on which moral rules are viewed as absolute—and that, of course, is controversial. Conservative Roman Catholic moralists typically espouse the rule against all intentional killing of the innocent. Thus, unlike Michael Walzer, they judge that the intentional British bombing of German city-centres and residential areas in

1940-1, in order to terrorise the civilian population, was immoral.<sup>16</sup> Unlike Walzer, therefore, they view the British decision to pursue the good end of defeating the great evil of Nazi tyranny by immoral means as a bad compromise.<sup>17</sup> I agree with them, insofar as the British killing of civilians was in fact a case of intentional terrorism. The problem with Walzer's position is that in a case of 'supreme emergency', where disastrous evil threatens, he is willing to set aside all moral constraints and permit whatever means are necessary to avert it.<sup>18</sup>

Nevertheless, I cannot join conservative Catholic moralists in claiming that the rule against the intentional killing of the innocent is absolute, applying always and everywhere. Take this battlefield case.<sup>19</sup> In 1944 the British were engaged in the desperate defence of Termoli, a town on the Adriatic coast of Italy, against German counter-attack. At one point German artillery shells a lorry-load of British soldiers, scoring a direct hit and dismembering everyone in it. A surviving British officer, who was not in the truck, picks himself up off the ground and finds himself facing a young boy screaming in the middle of the street, his parents killed and his intestines spilling out in front of him. The officer takes out his pistol, catches the poor boy, and, in a deliberate act of mercy-killing, shoots him dead. This was a clear case of the intentional killing of the innocent. Conservative Catholic moralists would regard it as a bad compromise: the pursuit of a good end—the relief of the boy's dreadful and terminal suffering—by the immoral means of violating an absolute moral rule. They might soften their judgement by adding that the officer's action is venial or forgivable, but, in their view, the action itself remains morally wrong and should not have been performed. I find myself unable to agree with them. Instead, the tragic case instructs me to revise the rule by restricting its scope, and to say that it does not apply in cases that fall outside of civil society, where the intentional killing of the innocent is in the innocent's interests, and where the innocent's consent may be presumed.<sup>20</sup>

So far, by reflecting on common moral sense—or at least moral sense common to everyone other than act-utilitarians—I have identified three further marks of a bad compromise: first, all other things being equal, it prefers less rather than more of a single good; second, it prefers an inferior to a superior good; and third, it violates an absolute moral rule. Now I will press my pursuit of moral bottom-lines further by analysing three cases. As hinted at the end of the previous section, friction with the contingent particularities of actual cases is often fruitful in testing, refining, and developing ethical concepts. The cases that I have selected are historical, rather than the abstract inventions of philosophical imagination, since I want their lessons to be realistic. Since they are also political, we should bear in mind that what we glean from them might not apply in non-political contexts.

### **Historical case I: The Peace of Vereeniging, 1902**

The first case is the Peace of Vereeniging in 1902. This was the final settlement of the Second Anglo-Boer War of 1899-1902, fought in South Africa between the British and the two Afrikaner or Boer republics of the Transvaal and the Orange Free State. The war had been launched by the Boers with an invasion of Natal and Cape Colony. Yet their invasion was pre-emptive, because they perceived, with some good reason, that the British were angling for a show-down. What were the primary motives and intentions of the British? These varied among the leading agents, but, with due

respect to Marxist historians, seizure of the diamond and gold mines in the Rand was not, I think, among them. British policy was led by Sir Alfred Milner who was an Apostle of the superior virtues of fair, efficient, and modernising British administration. Milner wanted to give South Africa the benefit of such virtuous government, and to secure regional peace between Afrikaner and British, White and Black, by creating an imperial confederation of states, as had recently been achieved in Canada. Initially, Milner had hoped to woo the Boers to his scheme, but eventually he came to the conclusion that it would either have to be forced upon them or abandoned altogether. One of the reasons that the Boer republics resisted absorption into the British Empire, even with confederal autonomy, was that they deeply resented British criticism of their mistreatment of black Africans and correlative interference by the imperial authorities to secure African rights. Cape Colony had granted black Africans the vote, under certain conditions, as early as 1853 (seventeen years before the U.S.A.). And in the 1881 Convention of Pretoria, which ended the First Anglo-Boer War, the British had insisted on the suzerainty of the Empire, partly to secure the right of imperial authorities to intervene in defence of black Africans.<sup>21</sup>

However, at the Peace of Vereeniging in 1902, which ended the Second Boer War, the British agreed to let the question of African rights be decided by the Boer republics, *after* they had been removed from post-war imperial supervision and granted confederal autonomy. That is, it was agreed that the republics should decide the matter for themselves. Some judge this to have been a lamentably bad compromise, because it involved the simple surrender of a humanitarian cause and demonstrated that the British had never really cared about African rights in the first place. It exposed their humanitarian claims as mere rhetoric. Such is the view of the Anglo-Irish historian Thomas Pakenham, whose fine book on the Boer War would be even better, were it not for the unmistakeable sound of an anti-British axe grinding.<sup>22</sup>

I agree with Pakenham that the treaty would have been a bad compromise, if it really had expressed a simple or casual abandonment of the good of justice for Africans. However, there is a plausible, alternative reading. The Second Boer War had taken the British far longer, and cost them far more, to win than they had expected. In its latter stages it had moved into a guerrilla phase and was accordingly very bitter indeed. The Boer republics attracted a lot of international sympathy, and the British a correlative amount of opprobrium. At its end, both Milner and Herbert Kitchener, the senior British military commander, were extremely keen to make a sustainable peace and to bind up the deep wounds inflicted upon the relationship between Afrikaner and Briton. They perceived that to insist on African rights would be to pour salt in those wounds, and could result in the resumption of war. They also perceived that for the imperial authorities to try and enforce such rights in the republics would require a level of military and financial commitment that could not sustain domestic political support. So they compromised. But they did not compromise for trivial reasons: they wanted to avoid the resumption of bitter war and the futile imposition of military occupation. Nor did they simply surrender the cause of African well-being. Rather, they compromised in the hope that, long-term, once the Boer republics had settled down in the British Empire and discovered the benefits of its administration, and once immigration had increased the British

proportion of their populations, the issue of the rights of black Africans could be successfully addressed by political means.<sup>23</sup>

How does this story further our understanding of what makes for a bad compromise? It draws our attention to the moral distinction between, on the one hand, a case where the pursuit of a human good is abandoned entirely or suspended for insufficiently weighty reasons and, on the other hand, one where the pursuit of such a good is prudently and tactically suspended in the face of current political realities, but not abandoned strategically. The former involves a bad compromise; the latter, a good one.<sup>24</sup> Here a good compromise is revealed to be an instance of *Realpolitik* in its original sense—that is, not at all the cynical, ruthless pursuit of power, but rather the canny pursuit of liberal, humane goals by politically realistic, patient, gradual means.<sup>25</sup>

### **Historical case II: The Yalta Agreement, 1945**

My second historical case is the agreement between Roosevelt, Churchill, and Stalin at Yalta in February 1945, which resulted in the forced repatriation of Soviet soldiers and citizens to the USSR, where many of them were executed, and also in repressive Soviet rule over Central and Eastern Europe. This is the subject of extended analysis by the Israeli philosopher, Avishai Margalit, author of a rare book-length treatment of the ethics of compromise.<sup>26</sup>

Margalit's basic criterion of a bad compromise is that it is one that agrees, actively or passively, to "establish or maintain a [permanent] regime of [systematic] cruelty and humiliation—in short, an inhuman regime".<sup>27</sup> "A compromise to establish or maintain racist regimes is", he writes, "the epitome of rottenness".<sup>28</sup> That is rather low-hanging fruit, but it does at least give us a clear extreme against which to measure less black-and-white, more ambiguous phenomena. Nevertheless, it needs some qualification, because it would probably—and to my mind, wrongly—judge the Peace of Vereeniging to have been a rotten compromise.

Margalit goes on to develop his criterion, when he distinguishes memorably between compromise that is "a cockroach in the soup" from that which is "a fly in the ointment".<sup>29</sup> The war-guilt clause in the Versailles Treaty he reckons a fly, because it was a flaw, but not one that morally disqualified the treaty as a whole. Yalta's agreement to the "systematically cruel and humiliating rule" of Stalin over Eastern Europe, however, he considers a cockroach.<sup>30</sup>

Margalit acknowledges that the text of the Yalta agreement itself only agreed to 'repatriation', not 'forced repatriation', and it did agree that "the liberated peoples could freely choose their own form of government".<sup>31</sup> He also acknowledges that the agreement was concluded in part to sustain the justified Allied war against Nazi Germany.<sup>32</sup> Nevertheless, Margalit argues that it was generally understood that the repatriation would take place with or without the consent of the displaced Soviet citizens; that the Americans and British knew what lay in store for the returnees; and that "[t]here is not a shred of evidence" that Western insistence on voluntary repatriation would have jeopardised the war-time alliance with Stalin or that it would have jeopardised the return of British and American prisoners of war from East Prussia and Poland.<sup>33</sup> Moreover, he shows evidence that Anthony Eden was keen to avoid permanent responsibility for Soviet citizens who did not wish to return.<sup>34</sup> In the end, therefore, he judges that the West's acquiescence in Stalin's

demand for forced repatriation was a matter, not of necessity, but of expediency.<sup>35</sup> It was a bad compromise.

Margalit might be right. Nevertheless, I think that his reading needs further complication, at least. First, insofar as the returnees were Soviet citizens, the responsibility of the Western allies for them was limited and secondary. Second, since the Soviet returnees had fought for the Nazis, they were traitors and so, arguably, deserved *some* punishment. Certainly, the British themselves saw fit to execute a number of their own citizens who had been found guilty of working for the enemy during the Second World War. Nevertheless, if we suppose that the mass execution of Soviet returnees was disproportionately harsh, the blame for that lies first and foremost with Stalin. *Pace* utilitarians, we are not primarily responsible for the effects of other agents' choices. Third, does not Margalit go too far in claiming that the Anglo-Saxon Allies *knew* what would befall the returnees? They might have suspected, even strongly suspected, but surely they could not have *known*. So, if there was doubt, were they wrong, under the fraught circumstances, to give Stalin benefit of it? In sum, it is true that Roosevelt and Churchill did not have to compel repatriation. However, given their limited responsibility, given uncertainty about how the Soviets would treat the returnees, given the arguable propriety of capital punishment for treason in wartime, and given the priority of maintaining the anti-Nazi alliance, it is not clear to me that their complicity in forced repatriation was rotten.

Regarding Stalin's "systematically cruel and humiliating rule" over Eastern Europe, I note that this is the main reason that Margalit judges Yalta to be more cockroach than fly. And yet he recognises that the treaty itself agreed to the political self-determination of the liberated peoples, and that "[t]he Western Allies could do very little in Yalta to loosen the grip of Stalin on Eastern Europe".<sup>36</sup>

So what lessons should we learn from Yalta about the character of bad compromises? To collude in an unjust project is to become, deliberately and intentionally, a contributing cause of its realization. Willing, intentional collusion in establishing or maintaining a permanent regime of systematic cruelty and humiliation is not a compromise; it is the culpable perpetration of an injustice. Active complicity in what *someone else's* agency *might or even probably will* cause to be cruel is not culpable, provided that the complicity serves sufficiently important goods, is appropriately reluctant and so minimal, and that the costs of refusing it would be too high. Passive acquiescence in what *someone else's* agency might cause to be cruel is not a bad compromise, if one is powerless to stop it.<sup>37</sup>

### **Historical case III: The Good Friday Agreement, 1998**

My third and final case is the 1998 Good Friday Agreement, which formally ended the so-called 'Troubles'—the nearly thirty years of political violence in Northern Ireland, which caused over 3,500 deaths. The violence was between, on the one hand, Irish republicans who sought the unification of Northern Ireland with the Republic of Ireland by violent force, and on the other hand, British security forces and unionist paramilitary bodies. Peace negotiations began, partly because of unprecedented co-operation between London and Dublin, partly because the leadership of the Irish Republican Army had reached the conclusion that they could



not defeat the British militarily, and partly because the I.R.A. was in fact riddled with informers.

Among the terms of the 1998 Agreement was the controversial provision for the early release of paramilitary prisoners, most of them republican, which was greeted by many unionists as a grubby, expedient trading of justice for peace—that is, as a rotten compromise. I first began to think about the ethics of compromise in reaction against that view, because it seemed to me wrong to claim that justice was simply being abandoned. I was (and am) myself a unionist, who considers the use of violence during the ‘Troubles’ to effect the unification of Ireland to have been unjustified. Therefore I observed with some moral satisfaction that the forces of violent republicanism had not been allowed to prevail. That basic part of justice (as I saw it) had been maintained. What is more, the release of the paramilitaries was neither an amnesty nor a pardon. They had been tried in court, found guilty, and convicted—and their convictions continued to stand. Further, they had been sentenced to punishment by incarceration, and they had all suffered that punishment. Further still, the prisoners were released on licence, and if the terms of that licence were broken, they would be returned to prison (as in fact has happened on a number of occasions). Given all this, it seems to me untrue to claim that the Good Friday Agreement had simply jettisoned justice.

Nevertheless, the regular tariff of penalties had been suspended, in that the standard length of incarceration had been abbreviated. Beyond doubt, therefore, normal judicial procedure had been compromised. But this compromise was, I think, justifiable: it was made in the interest of achieving the vital public good of ending violence (and the prevention of further injury is itself one of the proper ends of criminal punishment); it was necessary to win political support from republicans, while being sufficiently limited to keep the political support of most unionists; and to set aside the usual norms of judicial process is not the same as abandoning the basic principles of justice.

The early release of paramilitary prisoners on licence was a political compromise whose morality can be quite well defended. Not so easy to defend—if, indeed, it is true—was the secret issuing letters to ‘on-the-runs’ (paramilitaries in exile), assuring them of immunity of prosecution upon their return home. Whether or not these letters did indeed grant immunity, and so amount to a dubious blanket amnesty, is not at all certain. One recipient’s letter ran as follows: “There are no warrants in existence, nor are you wanted in Northern Ireland for arrest, questioning or charging by police. The Police Service of Northern Ireland are not aware of any interest in you by any other police force”.<sup>38</sup> Read literally, of course, that does not actually guarantee immunity from future investigation and prosecution. However, unless there was a tacit understanding of such immunity, such a statement would have had limited efficacy in encouraging a paramilitary exile to come in out of the cold.

For the sake of argument, let us suppose there was such a tacit understanding, and that the secret letters did amount to an undertaking on the part of the British Government not to prosecute returned paramilitaries. Why would such an element of compromise be morally doubtful? First of all, a blanket amnesty does not merely compromise normal rules of sentencing; it sweeps aside all considerations of justice. Moreover, in the case of the secret letters the granting of

immunity was inequitable, in that they were issued only to republican paramilitaries; no equivalent promise was made to members of the security forces.

So what does the Good Friday Agreement tell us about how to distinguish a bad from a good compromise? A good compromise relaxes normal judicial procedure (e.g., the sentencing tariff), insofar as that is politically necessary to achieve one of the ends of criminal punishment (e.g., the prevention of future injury), but without abandoning any basic principle of justice. A bad compromise simply abandons justice (e.g., both by granting immunity to the perpetrators of grave crimes and by doing so inequitably).

### **Conclusion**

I launched this essay in search of bottom-lines, so as to give some moral backbone to my natural sympathy for politicians and public servants, who have to wrestle with moral conflicts on our behalf—the “the burden-bearers of the world”, as Reinhold Niebuhr nicely put it.<sup>39</sup> I set off in search of the marks of a bad, morally wrong compromise, and I have found eight of them. First, a bad compromise is marked by a lack of regret. Second, it prefers less rather than more of a single good. Third, it prefers an inferior to a superior good. Fourth, it violates an absolute moral rule. Fifth, it simply abandons the strategic defence or promotion of a good. Sixth, it tactically suspends defence or promotion for insufficiently weighty reasons. Seventh, it is complicit in an unjust project, where the injustice is indubitable and its future perpetration certain, to achieve a relatively trivial good and to avoid paying tolerable costs. And eighth, it violates a basic principle of justice as distinct from normal judicial process.

### **Epilogue: in methodological retrospect**

I imagine that some colleagues, who take the biblical substance and theological dimension of Christian ethics very seriously, will doubt that this essay is sufficiently Christian. They will observe that it does not undertake the methodical exegesis of relevant biblical passages or excerpts from classic post-biblical texts. Instead, it appeals to ‘common moral sense’ and reflection upon historical cases. Surely, then, it is too ‘liberal’, in the sense of too little instructed by the fundamental authority of Scripture or the secondary authority of Christian tradition. On the one hand, I applaud the motives of such scepticism; but on the other, I think the scepticism itself misplaced. In the hope of commending greater contextual versatility and tactfulness among Christian ethicists, let me explain why.

This essay first drew breath in the form of a presentation at a colloquium that involved theologians, philosophers, historians, and civil servants. Some of those present were Christian; others were probably not. The reason for the gathering was to address the question, “How Can *Realpolitik* be Ethical?” My brief contribution consisted almost entirely of reflection upon the three historical cases, with a view to distinguishing bad from good compromises. Apart from a remark about being more Jesuitical than Lutheran, I made no reference at all to a biblical text or to theological tradition. Had I therefore failed to behave as a *Christian* ethicist?

No. The issue under common consideration was that of the relationship between ethics and political realism; it was not that of the Christian theological character of a politically realistic ethic. In my contribution I sought to address the

relevant *ethical* question as efficiently as I could. I did not make explicit the biblical or traditional sources of my thinking, or the theological concepts that govern it, because that would not have been appropriate to answering the question. Nonetheless, I did not thereby cease to think as a Christian moral theologian. What I said, I fully intended to have Christian theological integrity, even if I did not announce it or explain it as such.

The essay's second outing was as a contribution to an interdisciplinary, mainly philosophical, academic conference on the ethics of compromise. I was given the task of speaking from the point of view of 'religion'. To this end, I deliberately added the autobiographical reference to Augustine, the discussion of Christian pacifism in Max Weber's classic lecture, the just warrior's dependence on the providence of God, my dissent from conservative Roman Catholic moral theologians over the absolute rule against the intentional killing of the innocent, and a remark about the limited power of creatures to do good. Still, I did not restructure the essay around a discussion of biblical or other classic theological texts, partly because I wanted to focus directly on the question of what makes for a bad compromise, partly because that is what my academic interlocutors wanted and expected, and partly because I took it for-granted that whenever I think about an ethical issue I think as a Christian, and therefore as a theologian.

I am sure that, at least to some extent, I was right to make that assumption, for if asked, I could give an account of the Christian character of my ethic of compromise. It would run as follows. My belief in objective goods is caused in part by my belief in God—that is, my belief that the cosmos is structured by the benevolent intentions of a divine intelligence. I recognise the limits of human power to control and perceive the consequences of human action partly because, thinking of human beings as creatures, I remember that they are not gods. I admire those who have the care and the courage to expose themselves to the tragic constraints and moral risks of human life—and especially its political dimension—partly because I admire Jesus, considering him as the incarnation of God, who, driven by love for the world, did not stand aloof and safely upon his rank, but stepped down and took on human flesh. And I am patient with compromise partly because I trust in God and hope that He will yet realise the goods that we human creatures cannot or may not.

I am confident that my ethic of compromise was Christian in substance, even when it did not declare or explain itself as such. Nevertheless, it remains true, of course, that it might not be as Christian as it should be. Perhaps sustained reflection on Jesus' parable of the wheat and the tares (Matthew 13.24-30), on St Paul's injunction to restrain the exercise of Christian freedom for the sake of the 'weak' (I Corinthians 8), or on some classic text of moral theology would correct or supplement my understanding of compromise in important ways. For that reason, in preparing this third version of my essay, I considered the two New Testament passages and read two moral theological discussions of compromise, one by Kenneth Kirk and the other by Helmut Thielicke. In these I found nothing, as far as I could tell, that required a change in my view, and I found some things that confirmed it. (Accordingly, Kirk and Thielicke appear in the endnotes, not in the text.) Of course, there may well be other authoritative texts out there from which my understanding of the nature of good and bad compromise could learn much. If so, I invite colleagues to identify them and to explain what they would add or subtract.

Notwithstanding that, the main burden of what I want to say is this. The intra-ecclesial testing of what purports to be a Christian ethic in the light of Scripture and tradition, in order to see if it has as much Christian theological integrity as it ought to have, is a very important exercise. But it is a secondary and auxiliary one. First and foremost is the primary task, motivated by worship of the God who loves the world in Jesus Christ, of stepping out of the church and into the world, in order to give voice to a Christian view of what is good and right. Depending upon the context, it might or might not be appropriate to name what one says as Christian or to explain how it is so. Sometimes, naming and explaining would be beside the point, gauche, and lacking in respect for the common rationale for discussion. What goes without name and explanation, however, does not cease to be what it is.

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#### NOTES

<sup>1</sup> G. H. Le May, *British Supremacy in South Africa, 1899-1907* (Oxford: Clarendon Press, 1965), p. 57.

<sup>2</sup> Augustine, "Letter 95", in E.M. Atkins and R.J. Dodaro, eds, *Augustine: Political Writings*, Cambridge Texts in the History of Political Thought (Cambridge: Cambridge University Press, 2001), pp. 23-4.

<sup>3</sup> Stephen de Wijze, "Dirty Hands: Doing Wrong to do Right", in Igor Primoratz, ed., *Politics and Morality* (Basingstoke: Palgrave Macmillan, 2007), p. 13. Two years later de Wijze judged that 'regret' is too weak a word in the context of compromises involving very great moral losses, and he opted instead for 'tragic remorse' (Stephen de Wijze and Tom L. Goodwin, "Bellamy on Dirty Hands and Lesser Evils: A Response", *British Journal of Politics and International Relations*, 11 [2009], p. 537, where the authors reference de Wijze's earlier article, "Tragic remorse—the anguish of dirty hands", *Ethical Theory and Moral Practice*, 7:5 [2005]). However, as de Wijze himself admitted, 'remorse' is not appropriate in respect of an action that is, overall, morally justified. For that reason, I think it better to speak in such cases of 'regret' and, in cases of great moral loss—either to add adjectives such as 'deep' or 'anguished', or, if something altogether less measured is needed, to speak of 'lament'.

<sup>4</sup> E.g., Max Weber, "Politics as Vocation", in H.H. Gerth and C. Wright Mills, trans. and eds, *From Max Weber: Essays in Sociology* (New York: Oxford University Press, 1946); Michael Walzer, "Political Action: The Problem of Dirty Hands" (1973), in Michael Walzer, *Thinking Politically: Essays in Political Theory*, ed. David Miller (New Haven: Yale, 2007); Michael Walzer, "Emergency Ethics" (1988) in Michael Walzer, *Arguing About War* (New Haven: Yale University Press, 2004); de Wijze, "Dirty Hands", in Primoratz, *Politics and Morality*; Chiara Lepora and Robert E. Goodin, *On Complicity and Compromise* (Oxford: Oxford University Press, 2013), pp. 113, 129, 171; and Matthew Kramer, *Torture and Moral Integrity: A Philosophical Enquiry* (Oxford: Oxford University Press, 2014). While Kramer never explicitly refers to 'dirty hands', his argument that it can sometimes be morally right to do what is (and remains) morally wrong—e.g., torture—is an implicit endorsement of the concept.

<sup>5</sup> De Wijze, "Dirty Hands", p. 4.

<sup>6</sup> Helmut Thielicke offers a Lutheran species of the 'dirty hands' view. On the one hand, he tells us that Christian ethics "does not acknowledge tragic compromise" or, more flexibly, that it eschews "any simple affirmation of compromise", since the commands of the Sermon on the Mount are "quite unconditional" (*Theological Ethics*, vol. 1: "Foundations", ed. William H. Lazareth [Grand Rapids: Eerdmans, 1979], p. 486). On the other hand, he concedes that "[e]ven though this command is in force ... the Christian too acts always in the form of compromises" (*ibid.*, p. 487). In putting things in this paradoxical way, Thielicke is concerned to prevent any appeal to tragic necessity from grounding any unqualified justification of compromise: the Christian "must ... know ... that he is not allowed to make a virtue of this necessity and assume that God will be satisfied with a watered down imperative.... God's radical demand ... nonetheless still stands so that, even though this material is incapable of the obedience of uncompromising action, he—the Christian—is still required to act" (*ibid.*, p. 488). What Thielicke wants to ward off is any "false security" (*ibid.*, p. 492), that is, the self-righteousness of a perfectly satisfied conscience: "there is no ontically righteous form conduct....

Compromise does not mean that we have an excuse.... Conscience, then, can never be put at ease through compromise. It cannot but remain disquieted, even though the divine patience sanctions, as it were, the defective and very questionable orders in which we must act.... [T]here must always remain at least some slight realization of the fact that this world is not in order. This realization must be the salt in all our intense activity.... [T]here always burns within us the petition, 'Thy kingdom come!' (Matt. 6.10)" (ibid., pp. 499-500, 508).

I agree with Thielicke that a good compromise is one that involves moral loss and so involves agent-regret. It cannot involve simple, settled satisfaction. From this it follows, as I shall argue later, that one mark of a good compromise is that it does not abandon the strategic aspiration to realise the tactically surrendered good. Suffering frustration, it yearns for a final fulfilment yet to be achieved.

If I were to quibble with Thielicke, I would say that the very recognition of a compromise as *tragically* necessary is the recognition that it falls unsatisfactorily short of perfection. In other words, tragic necessity—if recognised as *tragic*—cannot ground an unqualified justification of compromise.

<sup>7</sup> Kenneth Kirk agrees on the principle: "the right course in *any* given set of circumstances cannot be sinful" (*Conscience and its Problems* [London: Longmans, Green and Co., 1927], p. 327n.2).

<sup>8</sup> Nigel Biggar, "Individual Rights versus Common Security? Christian Moral Reasoning about Torture", *Studies in Christian Ethics*, 27/1 (February 2014); "Imprudent Jurisprudence? Human Rights and Moral Contingency", *Journal of Law and Religion*, 30/3 (December 2015).

<sup>9</sup> De Wijze, "Dirty Hands", p. 9.

<sup>10</sup> Michael Stocker, *Plural and Conflicting Values* (Oxford: Clarendon Press, 1990), p. 13; cited by de Wijze, "Dirty Hands", p. 7.

<sup>11</sup> Weber, "Politics as Vocation", pp. 40, 44.

<sup>12</sup> Weber, "Politics as Vocation", pp. 3-4.

<sup>13</sup> Weber, "Politics as Vocation", p. 45.

<sup>14</sup> Weber, "Politics as Vocation", p. 41.

<sup>15</sup> Of course, not everyone believes that there are absolute moral rules—act-utilitarians, for example. I do believe in such rules, but this is not the occasion to explain how or why.

<sup>16</sup> Walzer admits that the British bombing of German cities in 1940-1 intentionally targeted civilians in order to demoralise them, and that this intention was "wrongful". Nevertheless, he argues that "if there was no other way of preventing a Nazi triumph, then the immorality ... was also simultaneously, morally defensible" ("Emergency Ethics", pp. 34-5, 46).

<sup>17</sup> E.g., G.E.M. Anscombe, "The Justice of the Present War Examined" (1939) and "Mr Truman's Degree" (1956) in Richard B. Miller, ed., *War in the Twentieth Century: Sources in Theological Ethics* (Louisville, KY: Westminster/John Knox Press, 1992); "War and Murder" (1961) in *Collected Philosophical Papers*, vol. III: "Ethics, Religion and Politics" (Oxford: Basil Blackwell, 1981).

<sup>18</sup> Walzer, "Emergency Ethics", p. 40.

<sup>19</sup> The story is told by Ben Macintyre in his history of the early years of the Special Air Services regiment, *S.A.S.: Rogue Heroes. The Authorised Wartime History* (London: Penguin, 2016), pp. 203-4.

<sup>20</sup> My thinking here follows Kenneth Kirk's: "intuitions or quasi-intuitions of the 'inherent sinfulness' of types of conduct are not necessarily infallible. In actual fact they have constantly been revised and restated.... Furthermore, when any such principle of alleged immutability is involved in a serious problem of perplexity ... this very fact alone suggests strongly that it has been too rigidly formulated in the first instance" (*Conscience and its Problems*, p. 330).

<sup>21</sup> My understanding of the Anglo-Boer conflict rests on my reading of C. Brad Faught, *Kitchener: Hero and Anti-Hero* (London: I.B. Tauris, 2016); Denis Judd and Keith Surridge, *The Boer War* (London: John Murray, 2002); G.H.L. Le May, *British Supremacy in South Africa, 1899-1907* (Oxford: Clarendon Press, 1965); G. H. L. Le May, *The Afrikaners: An Historical Interpretation* (Oxford: Blackwell, 1995); Walter Nimocks, *Milner's Young Men: the "kindergarten" in Edwardian imperial affairs* (Durham, NC: Duke UP, 1968); Thomas Pakenham, *The Boer War* (London: BCA, 1979); and A. N. Porter, *The Origins of the South African War: Joseph Chamberlain and the Diplomacy of Imperialism, 1895-99* (Manchester: Manchester, U.P., 1980).

<sup>22</sup> Pakenham, *Boer War*, pp. 563-5, 577.

<sup>23</sup> See G.B. Pyrah, *Imperial Policy in South Africa, 1902-10* (Oxford: Clarendon Press, 1955), Chapter IV: "The Non-European Majority", esp. pp. 92-6; John Marlowe, *Milner, Apostle of Empire* (London: Hamish Hamilton, 1976), pp. 121-22, 132, 140; Terence H. O'Brien, *Milner: Viscount Milner of St*

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*James's and Cape Town, 1854-1925* (London: Constable, 1979), p. 220; G.H.L. Le May, *British Supremacy in South Africa, 1899-1907* (Oxford: Clarendon Press, 1965), p. 203.

<sup>24</sup> My perception that a morally right compromise does not simply abandon the pursuit of the compromised good, but suspends it, is somewhat echoed by Kenneth Kirk: “the purpose of a compromise, as distinct from a solution or conciliation, is merely to stave off the evil day in the hope that some *deus ex machina* will emerge to avert its threatened catastrophe.... The purpose of compromise is to avoid if possible, and at all events to lessen, the tension of the ultimate choice.... So long as the choice is genuinely postponed but no more, some tribute is paid to both claims” (*Conscience*, pp. 364, 366, 367).

<sup>25</sup> Nowadays *Realpolitik* denotes nothing but the ruthless pursuit of power—as represented classically by Macchiavelli. Originally, however, it meant something quite different. It was coined in 1853 by Ludwig August von Rochau, a liberal who had been disillusioned by the crushing of the various attempts in Europe to establish liberal constitutions in 1848, which had invariably failed. (Europe’s 1848 was rather like the Arab Spring, except that it expired within twelve months.) Von Rochau invented the word ‘Realpolitik’ to describe and recommend the pursuit of liberal constitutional goals by politically realistic—gradual and patient—means. Originally, it meant the pursuit of liberal ends by politically canny, rather than politically stupid, means. Only later under Bismarck did its meaning degenerate into the ruthless pursuit of power in a social Darwinist struggle for survival. See John Bew, “The Real Origins of Realpolitik”, *The National Interest*, 130 (March/April 2014) and *Realpolitik: A History* (New York: Oxford University Press, 2016).

<sup>26</sup> Avishai Margalit, *On Compromise and Rotten Compromises* (Princeton: Princeton University Press, 2010).

<sup>27</sup> Margalit, *On Compromise*, pp. 2, 54.

<sup>28</sup> Margalit, *On Compromise*, p. 4.

<sup>29</sup> Margalit, *On Compromise*, p. 61.

<sup>30</sup> Margalit, *On Compromise*, pp. 97-8

<sup>31</sup> Margalit, *On Compromise*, p. 95.

<sup>32</sup> Margalit, *On Compromise*, p. 98.

<sup>33</sup> Margalit, *On Compromise*, pp. 99, 100, 105-6.

<sup>34</sup> Margalit, *On Compromise*, p. 106.

<sup>35</sup> Margalit, *On Compromise*, p. 108.

<sup>36</sup> Margalit, *On Compromise*, p. 111.

<sup>37</sup> The distinction between collusion and complicity that I make here I first learned from Chiara Lepora and Robert E. Goodin in their book, *On Complicity and Compromise*.

<sup>38</sup> Greg McKeivitt, “On-the-runs—Key Questions and Inquiry Findings”, BBC News Northern Ireland, 24 March 2015: <http://www.bbc.co.uk/news/uk-northern-ireland-26359906>

<sup>39</sup> Reinhold Niebuhr, *An Interpretation of Christian Ethics* (New York: Seabury, 1979), p. 15.