

‘Thank God I Failed’
How Much Does a Failed Murder
Attempt Transform the Agent?

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ABSTRACT. Peter Winch writes: “One who fails in his attempt to commit a murder and who undergoes a change of heart might subsequently come to thank God that he failed. It is pertinent for us to ask what precisely he has to thank God for” (1971, 144). The first answer to this question is that the thwarted attempter is relieved not to have become a murderer. In exploring the nature of this becoming, I consider and reject a ‘subjectivist’ account, according to which the attempter has already ‘become’ a murderer in virtue of his or her sincerely murderous intentions and plans. And yet clearly the attempter has lost something of the innocence that would make murder morally unthinkable. He or she thereby inhabits a curious kind of metaphysical limbo between innocence and guilt, between transformation and self-discovery, between ignorance and knowledge.

KEYWORDS. Unthinkability, criminal attempts, remorse, murder, the self

I. INTRODUCTION

In his 1971 article “Trying”, Peter Winch writes:

One who fails in his attempt to commit a murder and who undergoes a change of heart might subsequently come to thank God that he failed. It is pertinent for us to ask what precisely he has to thank God for (1971, 144).

I want to explore Winch’s question in the context of some literary examples, but especially of Agatha Christie’s 1928 short story “Wasp’s Nest”. The story concerns John Harrison, who has recently learned two unfortunate facts: he has terminal cancer, and his girlfriend has left him for his

friend Claude Langton (who does not know that Harrison knows). Harrison plans a cunning and cruel revenge. Knowing that Langton is passing through the village, Harrison asks him, as a favour, to purchase some cyanide powder in order to kill a wasp's nest in his garden. At the time, cyanide could be legally purchased at a chemist, but the purchaser had to sign a register. Later, Harrison plans to kill himself by dissolving the cyanide in his tea and drinking it. The police would quickly discover the cause of death, arrest Langton as the purchaser, and sentence him to the death penalty (this is England in 1928). At the crucial moment in the story, Hercule Poirot foils the plot by replacing the cyanide crystals in Harrison's pocket with harmless baking soda, which Harrison proceeds to drink in his tea – and survives. Angry and desperate, Harrison curses Poirot and asks: “why did you come?” to which Poirot responds matter-of-factly:

“I have told you, but there is another reason. I liked you. Listen, *mon ami*, you are a dying man; you have lost the girl you loved, but there is one thing that you are not; you are not a murderer. Tell me now: are you glad or sorry that I came?”

There was a moment's pause and Harrison drew himself up. There was a new dignity in his face – the look of a man who has conquered his own baser self. He stretched out his hand across the table.

“Thank goodness you came,” he cried. “Oh, thank goodness you came.”

That is how the story ends. So to echo Winch's words, it is pertinent to ask why precisely Harrison is so grateful for Poirot's interference. The example is philosophically interesting for several interrelated reasons.

First, it is worth distinguishing possible objects of Harrison's gratitude. It might be suggested that Harrison was grateful for being saved from certain death by cyanide, or grateful for Poirot preventing his suicide. However, given Harrison's imminent (and probably much more painful) death by cancer, I suggest that is unlikely, and indeed he may well yet go on to attempt suicide again (without implicating Langton). Of

course he cannot be grateful for ‘avoiding’ arrest and trial and execution as a murderer, because if he had been successful, he would have been long dead. Instead, Harrison is simply grateful for being prevented from *becoming a murderer* – some sort of metaphysical transformation, which I will examine in what follows. But this is immediately paradoxical, since again, he would only become a murderer if and when Langton hangs, which, according to the plan, would have been long after his own death. So there is a problem of identity here. If it was just a matter of Poirot preventing Harrison from *stabbing* Langton, then Harrison could be grateful for not becoming the murderer that he was intentionally on course to become (i.e. in the immediate future, while still alive). However, when the prevented transformation was scheduled to happen after death, then Harrison’s gratitude refers to the moral integrity of his *posthumous* existence. There is a standing debate about whether posthumous harm makes sense.¹ When Achilles dragged the dead Hector’s body behind his chariot, was it Hector’s body, or his reputation, or his family who were harmed? Was it Hector himself, looking down on the incidents from the afterworld? These possibilities are perhaps coherent, but they cannot account for the idea of a dead body being secretly defiled in a mortuary; the natural response would be to speak of the dead being wronged, regardless of any beliefs about resurrection. For the purposes of this article, I shall be assuming that it is coherent to speak of posthumous harm to a person who once lived, although now dead; and that Harrison could coherently fear, and be grateful for avoiding, the harmful posthumous transformation into a murderer.

Second, the example is interesting because the intended victim is entirely oblivious to the attempt. It might be possible to understand the wrongness of an unsuccessful murder attempt as ultimately grounded in the distress or harm suffered by the intended victim during the attempt: perhaps the greater the distress or harm, the ‘closer’ the act would come to successful murder, and therefore the greater justification for a legal penalty proportionately closer to the penalty for murder. However, there

is clearly something wrong, and punishable, about Harrison's attempt, just as there is something appropriate in the remorse, bafflement and relief that Harrison comes to feel after Poirot's words, even when his intended victim is oblivious. The standard answer to this problem, which is usually called 'subjectivist', is to ground the wrongness not in the contingent harm caused, but in the voluntary murderous intention. I will discuss this in the next section.

Third, the example is interesting because of the particular way that Harrison changes his mind. Poirot, after all, does not offer any new information or evidence or arguments, where mind-changing might follow a paradigm of rational persuasion. Nor is the change brought about by a physical encounter with the intended victim (or with a family soon to be bereaved), where we might say that Harrison would see and feel the impact of the murder, or could be moved empathetically by the family's plight. Poirot merely informs Harrison that he is not a murderer. But surely part of Harrison's initial frustration was based on his knowledge that he very much *wanted* to murder, had planned it meticulously, relished the thought of Langton hanging etc. – he knew full well he was not a murderer, thanks to Poirot! But there is an important difference in grammar: Harrison has been planning the act, and imagining the fatal consequences *for Langton*. But Poirot speaks neither about the act nor the consequences for others; instead, he speaks of Harrison himself, about what he would become. This is what stuns Harrison, what he simply had not thought of. Of course Poirot is not teaching Harrison anything new, he is reminding Harrison of what he already knew but had ignored; but the reminder is spoken with Poirot's particular authority and wisdom.

II. SUBJECTIVISM ABOUT CRIMINAL ATTEMPTS

I suggested above that the wrongness of Harrison's attempt could be grounded in his voluntary murderous intention, as opposed to being grounded in the harm that may or may not result from that intention.

There is a great deal literature in the philosophy of action and in the philosophy of criminal law about what it means to attempt something, and about the locus of liability.² One problem with both literatures is that they try to gather all types of attempts and all types of acts into a single discussion, and I am not sure this can be done coherently. So for my purposes I will be concentrating only on murder and attempted murder. One crucial characteristic of successful murder, unlike theft or vandalism, for example, is that the harm is essentially irreversible. This is not only about the magnitude of the harm, the uniqueness of the victim, but also because the subject of the harm can no longer be compensated. Murder can therefore never be fully expiated; no amount of atonement or penance or contrition by the murderer can make up for the wrong. Because of this, it only takes one successful murder to transform the agent permanently into a murderer. Whereas, to my ear, one instance of theft or betrayal is not enough to transform the perpetrator into a thief or traitor, and one can cease to be a thief in a way that one cannot become an ex-murderer, despite serving one’s socially-allotted punishment.³

The concept of transformation that I am interested in is not a legal concept, of course: generally the law is only interested in the sin rather than the sinner, in what the defendant has done, and the defendant’s mental state while doing it (intentionally, recklessly). One is charged and sentenced for murder or theft, not for being a murderer or thief. However, for the rest of us, to learn that Smith has been found guilty of murder (i.e. once all the possible excuses and justifications have been considered and rejected by the court) is to immediately see Smith as a murderer, to see her in a different way from before. The crime is so serious that it prompts thoughts about a much greater intimacy between sin and sinner; it is much more difficult to see the murderous act as a one-off aberration. This intimacy between act and agent is interesting because it can be plausibly described as running in two opposing directions at once, from ‘out’ to ‘in’, or from ‘in’ to ‘out’, as it were. On the one hand, the murder can be described as ‘tainting’ and transforming a

hitherto innocent Smith. On the other hand, the fact that the murder was intentional suggests that it ‘came out’ of Smith; that, far from transforming her, it reveals that she ‘had it in her’ all along. Under the first conception, Smith’s friends are shocked by what has happened to Smith, that she has sunk so low. Under the second conception, Smith’s friends find themselves re-evaluating their relationships with her even prior to the murder: “Back then, Smith might already have been planning it!” And even though many murders are more a matter of hot spontaneous passion than of cold premeditation, it is tempting to see Smith’s hot passion as psychologically entailing a prior and sufficient murderous disposition, one that is part of who she is.

I’m getting ahead of myself. Let me say a bit more about the subjectivist account of attempts. Murderous attempts differ depending on their progression. Harrison makes what is called a ‘last-act’ attempt (also called a ‘complete attempt’); that is, he performs every act that he plans to take, that he believes (mistakenly, as it turns out) he needs to take, in order to succeed. Getting through to the last act takes Harrison along a path. Most complicated, non-spontaneous acts usually begin with an intention, followed by the making of plans, followed by preparations, followed by the launch of the attempt proper. The attempt then comprises a number of steps, leading up to the last one.

In England, criminal liability for a criminal attempt begins upon a ‘more than merely preparatory step’.⁴ At any time during the progress of the attempt, the attempter may decide to voluntarily abandon the attempt – perhaps as a prudential response to a change of risk-benefit calculations (e.g. he or she hears a police siren), perhaps as a sudden horrified realisation of the moral seriousness of what he or she is attempting; and such a voluntary abandonment may well serve as mitigation during sentencing. At any rate, it is important that Harrison does *not* abandon his attempt; he sees it through to the last act and is unexpectedly foiled by a relatively improbable external agency. From Harrison’s perspective, the unexpected failure of his last act attempt is a matter of ‘outcome luck’, to use Thomas

Nagel’s (1979) phrase.⁵ It was pure luck that Poirot was there, that he learned of the plot, and that he was able to foil it; otherwise Harrison’s plan looked very likely to succeed. (Note that from Harrison’s perspective, the failure was initially a matter a *bad* luck, but after his change of heart it became a matter of *good* luck.)

Here is the problem. Notoriously, the law responds very differently to success and failure, and yet that difference can be entirely down to luck. In the context of the Christie story, the successful murderer, once captured, tried and convicted, will be executed. The person captured, tried and convicted of a failed last-act attempt will get a limited custodial sentence.⁶ This differentiation would seem to go against a deep principle of law, according to which defendants are to be held criminally responsible only for what was under their control.

The subjectivist is struck by the unfairness of this. Feinberg (1995) and Alexander and Ferzan (2009) argue that last-act murder attempts manifest the same culpability as successful murder attempts, and therefore should be punished to the same degree. Culpability lies entirely in the murderous intention (as reliably revealed in the last act), and is logically separate from the contingent success or failure of that last act, and regardless of the harm that the victim might incur during the intent (i.e. the attempter is just as culpable if the intended victim remains oblivious). Whether the attempt succeeds is not within the agent’s control; all he or she can do is ‘launch’ the attempt, perhaps by pulling a trigger, and watch to see what happens. Feinberg proposes a single crime, to be called ‘wrongful homicidal behaviour’, with a single penalty. (Whether that single penalty should be a mandatory life sentence, or something short of that, is then a further question.)

This has implications for our discussion of the agent’s transformation. Although the failed murder attempt did not result in murder, there is an important sense in which the murder already existed in the attempter’s mind: it is not as if the act occurred randomly; she chose to be guided by a very precisely-specifiable future event. She may have considered

prudential reasons not to continue in the attempt, but she disregarded these; she may have considered moral reasons, but she disregarded these (she did not have a ‘crisis of conscience’). This means that she already “has it in her” to murder, indeed perhaps she is *already a murderer*, despite the intended victim surviving.⁷

There are three partly overlapping responses to the subjectivist argument. The first comes from Antony Duff (1996, 335ff.), who invokes Strawsonian reactive attitudes. In his classic 1965 article “Freedom and Resentment”, Peter Strawson attempted to defuse the interminable debate between free will and determinism by focusing on ‘reactive attitudes’, especially resentment, that we *cannot help* having in response to what we experience as other people’s malice. The important thing about resentment is that it already presupposes – conceptually presupposes – that the agent intended the act, understood that it was malicious, and above all was sufficiently free to refrain from performance. In contrast, I cannot resent a genuinely determined natural event, such as a landslide, even if it ultimately harms me to the same degree as the malicious human being.

Duff argued that in the same way that Strawson takes people’s reactive attitudes to free acts philosophically seriously, so too we should take people’s reactive attitudes to *attempts* seriously. And the fact is that we do respond very differently to successful and unsuccessful murders. The fact that murder was intended and attempted is still morally serious, but it comes nowhere near the terrible fact of murder actually being committed. Moore (2009, 29-31) calls this the ‘experiential argument’, and stresses the aspect of self-judgement: “We experience greater guilt when we have caused some harm that we either tried to cause, or unreasonably risked, than we experience when we have been equally culpable but we have not caused such a harm” (2009, 30).⁸ Winch (1971, 144) makes a similar point by asking us to compare two statements: (i) ‘to end another’s life is a shocking thing’ and (ii) ‘to try to end another’s life is a shocking thing.’ Clearly, Winch concludes, there will be different kinds and degrees of shockingness in the different statements. Indeed, the shockingness of the

successful murder can intelligibly drive the remorseful murderer to suicide; as a response to merely attempted murder suicide would be much less intelligible. Duff concludes (1996, 341) that these different moral responses to unsuccessful and successful murder partly *constitute* the moral wrongness of the respective act: our responses are not logically separate from or contingently consequent to the act itself. A morally healthy person cannot imagine a murder without immediately feeling the horror to it.⁹

The second response to the subjectivist rejects the latter’s attempt to logically separate the attempt from the outcome. In most normal contexts, to speak of ‘attempting’ already suggests failure (‘did you do it?’ – ‘well, I attempted it.’). If I confidently and reasonably plan to make the coffee, and I succeed, then I am normally described as having ‘made the coffee’, not as having successfully attempted to make the coffee. The success of my coffee-making then reflects back onto the preparatory stages, such that I was never *trying* to make the coffee, I was always *making* it. True, when I am unsure how to use this particular coffee-machine, or if I open the coffee tin to find mould in it, then I can ‘try’ to make it – and I may or may not succeed; I might have a tale to tell of obstacles and frustration, of trying and trying, and ultimately triumphing. But if I have performed this action many times before, then I simply go and perform it again, without expecting difficulties or failure. True, if I were questioned, I acknowledge that any number of things might impede or prevent the coffee-making; but it is important that such eventualities do not occur to me when I simply go to *make the coffee*.

As Winch puts it (1971, 146), what comes out of the murderer’s heart is murder; what comes out of the attempted murderer’s heart is attempted murder – *even if* the two experiences might be phenomenologically indistinguishable to the respective agents. And if for any reason I am to be blamed, then I am blamed for making the coffee or murdering the victim, not for attempting to do so: the locus of blame is a single unit, comprising intention, preparation, attempt and successful act.

Finally, the third response to the subjectivist draws attention to the *victim*. With a successful murder, there is a victim, and that victim probably has a family. There is a real sense not only that the murderer has done something bad, she has also done something bad to a particular person, and if she has any imagination left at all, she will be haunted not by some abstract sense of wrongdoing but *by the victim*. The wrong done to the family, meanwhile, means more than the fact that the family will be entitled to hate the murderer, and to seek revenge; it also means that the family may hold the murderer responsible in a robust moral sense, not just a causal and legal sense; that is, the murderer has assumed a crippling debt to that family, whether she acknowledges it or not. In contrast, if and when Langton – alive – learns of Harrison’s last-act attempt, he (and his family) will probably be upset and angry and afraid; but at least he will be glad to be alive in order to be upset and angry and afraid. Harrison may still owe something to Langton and his family by way of apology, but this falls far short of what he would have owed if successful in his attempt. Again, to put the point in terms of Strawson’s reactive attitudes: Duff had been speaking of *our* reactive attitudes (‘our’ meaning we observers and discussers) when distinguishing the moral severity of the murder from the attempt; we can add that the intended victim and his or her family also have reactive attitudes, ones that may be even more relevant than those of ‘us’.

III. THE TRANSFORMATION INTO A MURDERER

Let me now return to the central issue of this article, and that is the nature of the murderer’s transformation – if indeed there is any transformation. For I have acknowledged the grain of truth in the subjectivist’s account of attempts: in knowingly and freely allowing oneself to be guided by murder during the detailed planning, the agent already has murder ‘within’ her, and therefore the realisation of the potential does not transform the agent, but only reveals her for what she is. And yet I also want

to say that Harrison is plausibly and coherently grateful for *avoiding* the posthumous transformation into a murderer because of Poirot’s intervention. Or, more precisely, while Harrison was hell-bent on the preparations, he may have had murder in his heart, but once Poirot managed to draw his attention to the full reality of what he was planning to do, he was suddenly revolted by both the idea of murder and the idea that *he* was on course to perform it. So the actual nature of the transformation is complicated. We could say: although Harrison has lost a certain amount of *innocence* in seriously contemplating, planning and carrying out the attempt in the first place, he retains enough innocence to feel ashamed of the earlier temptation, and to be grateful to avoid the transformation he can now contemplate from without.

So I do want to say that Harrison has avoided the full transformation. In order to see what Harrison came to understand, it would be worth looking at two contrasting fictional examples of the transformation into a murderer. The first is Raskolnikov from Dostoyevsky’s *Crime and Punishment*. Raskolnikov is not a typical murderer because he is not motivated by hatred or revenge or greed, or by the thought of removing an obstacle or a threat to his interests: instead, he stumbles into the murder (of a money-lender and her sister) as a sort of intellectual exercise, and completely underestimates the effect it will have on him. Throughout the book he tries in vain to resume his normal life, before finally confessing to the police when he no longer knows what else to do about his crushing guilt. Raskolnikov tries to see the apparent transformation as a merely conventional and psychological matter of internalised blame, something that can in principle be ignored or suppressed by a superior being such as he hoped to be. Paradoxically, the one moment when Raskolnikov most clearly understands the true nature of what he has done, and *therefore* of what has happened to him (i.e. the two are conceptually linked), the one moment where the clouds of painful but obscure guilt finally shift, is when he confesses to Sonia (Book 5 Ch. 4), and is stunned by her response. Sonia is a girl of deep but simple goodness and courage, and

really his only friend. Instead of running screaming from the room, instead of condemning him in the strongest terms, instead of lamenting his victims, she says simply: “you are the unhappiest man in the world” and embraces him. When he asks her what to do now, she is unequivocal in her sense of communal and divine justice: if he is ever to live again, he must go to the main crossroads and shout “I am a murderer,” kiss the earth which he has defiled, and then submit to just but harsh punishment. Although not entirely convinced of this, he agrees out of love and despair, and it is only in the Epilogue, half-way through his seven-year sentence in Siberia, and with Sonia waiting for him outside, that he is finally able to start repenting in earnest.

With the Raskolnikov example in mind, let me suggest another way of understanding the double-aspect of the transformation. Under one aspect, the murder transforms the agent into a murderer, so that he or she begins a new life, as it were: the caterpillar is transformed into a butterfly, even if that transformation is fully governed (and in principle predictable) by the caterpillar’s DNA. Under another aspect, the murder is actualised potential, and reveals what the agent had been all along: being a butterfly is the *natural* state of the organism, and it passes through the caterpillar *stage* on the way to full maturity. In order for the agent’s moral restraint to have broken down so completely at the moment of murder, in order for the agent to even think of murder as a practical solution to a problem, so much already has to be in place in his or her ‘psychological DNA’.

But we could say that the murder of the money-lender and her sister transforms not *Raskolnikov*, from non-murderer into murderer, but Raskolnikov’s *life*, his entire life, from start to finish. It is as if we are contemplating the ‘sum’ of Raskolnikov, from the perspective of a biographer, or even from the perspective of Raskolnikov himself as he reviews his life on his deathbed. (This would invalidate the butterfly analogy, since butterflies do not make choices or live lives of narrative structure.)

This has two implications, both of them controversial. The first is that if a very old person commits murder, she does not ‘ruin’ only her

remaining weeks and months, she ruins her whole life, in the same way that a bad ending can ruin the whole story, no matter how pleasurable the story was to listen to during the telling. The second controversial implication is that we can pull out a picture of Raskolnikov as a 10-year-old boy and say: this was him, this was the murderer. And yet surely if any human being is innocent, it is a young child. (And we have no evidence in the novel to suggest that Raskolnikov was a wicked child, or that he was driven to childish wickedness by unlucky circumstances. If anything, he came from a loving family who were comfortably enough off.) Nevertheless, I do want to say that, once we know that Raskolnikov is a murderer now, then we are forced into a judgemental perspective on all the stages of his life, including his 10-year-old self. We can no longer ‘step out’ of that knowledge and contemplate the child with the ‘uninfected’ eyes of those contemplating him when he was ten. Murder is so serious that it transforms not only the depths of a person’s soul, but also the deep past of that person’s life.¹⁰

The second example is from Woody Allen’s 1989 film *Crimes and Misdemeanours*. Judah Rosenthal (played by Martin Landau) is a rich and successful New York doctor and philanthropist, with a happy and loving family. He also has a lover, who is becoming increasingly needy and neurotic, to the point of blackmailing him unless he leaves his wife to marry her – as he regularly promises to do. Rosenthal has an estranged brother with whom he has very little in common. Most importantly, Rosenthal’s brother has connections with the underworld, and offers to have the lover discretely killed by a professional colleague. Rosenthal agrees, the lover is killed, and Rosenthal is devastated. Despite a few weeks of sleepless, abject guilt, Rosenthal holds his nerve and evades the police. In the final scene of the film, as a guest at a wedding, Rosenthal finds himself next to Clifford (played by Woody Allen), a man he barely knows. Hearing that Clifford makes films and is looking for a screenplay, Rosenthal offers the following confession in the guise of a great idea for a screenplay. It is an exchange worth quoting at length.

Rosenthal: And after the awful deed is done, he finds that he's plagued by deep-rooted guilt. Little sparks of his religious background, which he'd rejected, are suddenly stirred up. He hears his father's voice. He imagines that God is watching his every move. Suddenly, it's not an empty universe at all, but a just and moral one, and he's violated it. Now, he's panic-stricken. He's on the verge of a mental collapse, an inch away from confessing the whole thing to the police. And then one morning, he awakens. The sun is shining, his family is around him and mysteriously, the crisis has lifted. He takes his family on a vacation to Europe and as the months pass, he finds he's not punished. In fact, he prospers. The killing gets attributed to another person – a drifter who has a number of other murders to his credit, so I mean, what the hell? One more doesn't even matter. Now he's scot-free. His life is completely back to normal. Back to his protected world of wealth and privilege.

Clifford: Yes, but can he ever really go back?

Rosenthal: Well, people carry sins around with them. I mean, maybe once in a while he has a bad moment, but it passes, and with time it all fades.

Clifford: But then his worst beliefs are realised.

Rosenthal: I said it was a chilling story, didn't I?

Clifford: I don't know, I think it would be tough to live with that. Very few guys could actually live with something like that on their conscience.

Rosenthal: What do you mean? People carry awful deeds around with them. What do you expect them to do? Turn themselves in? I mean, this is reality. In reality, we rationalise, we deny, or we couldn't go on living.¹¹

Clifford's question of 'can he ever go back' invokes this question of transformation that I am investigating. Rosenthal has gone through the same tunnel that Raskolnikov went through, but – by good luck or bad luck, depending on how one sees it – he has emerged into daylight at the other end, and it *seems*, to himself and to everyone else, that he has indeed succeeded 'in going back'.

An important part of this success is his ability to view the occasional 'bad moments' as interference from outside the self, like an annoying fly

– rather than as an important insight commanding his attention. What is fascinating about the character is the imperfect self-deception that he must weave his life into. He is too clever a man to be entirely taken in by the rationalisations and denials, and he senses deep down that the reality is indeed ‘chilling’. It is as if he is biding his time, treading water, waiting to see what his childhood God has in store for him after so direct and defiant a challenge. His third-personal description of the hero of his screenplay also betrays his alienation from his own life. We the audience certainly do not think he got away scot-free, however much he has so far evaded natural and temporal justice. Perhaps the reality of his transformation will hit him later, once infirmity and dependence and the shadow of his own death creep up on him: perhaps he will realise that he has forfeited that fundamental ‘right to be alive’ that most of us carry, that innocent expectation of respect and protection. Perhaps, once the momentum of his family and professional career starts to plateau, he will come to appreciate the price of his celebrated achievements, and grow weary of cultivating the reputation of a good man.

It is true that these might be idle hopes on my part: I dare say that many a gangster has gone to his grave happy. What I can say with more confidence is that, even if he does not realise it, Rosenthal’s future relationships will be necessarily corrupted in two ways. First, although he may conceal the facts with thorough and persistent skill, and he may be lucky, he also knows that every one of his relationships, and especially those with the people he loves most dearly, would be profoundly compromised if the facts became public. Effectively, he can never achieve deep intimacy again. In the same way that Rosenthal’s life has been transformed by the murder, so too are the relationships that partly constitute that life. Second, Rosenthal’s awareness that he has removed an obstacle by murder – and survived, and prospered – will necessarily bring him to see most of his friends, colleagues and acquaintances as essentially *removable*. Perhaps he will never kill again in his life; perhaps he will enjoy the company of all these people. But if so, that is merely the accidental product of risk and

benefit calculations. The enjoyment of other people will be undermined by his awareness that, if he is ever again in a tight spot, he will have extra options when seeking a way out, and will not be limited by thoughts of sacredness or inviolability. He has literally become a man for whom ‘anything is possible’, in the worst sense of the term.¹²

Even if Rosenthal did come to feel genuine remorse, and to confess, he would find, like Raskolnikov, that his closest friends were simply unable to understand him, however hard they might want to try. Rosenthal can offer no explanation, no excuse or justification that would make murder intelligible to the rest of us non-murderers. Innocence involves a particular limit to one’s imagination and empathy, no matter how enjoyable and compelling works of fiction such as *Crime and Punishment* or *Crimes and Misdemeanors* undoubtedly are. At the root of moral understanding is the thought ‘there but for the Grace of God, go I’ – but this act of imaginative reconstruction is not possible in my relations with the murderer; I can understand despair and jealousy, but I cannot take seriously the thought that I, too, would murder, even though I can allow the *abstract* thought that we can all be pushed too far by desperate circumstances. But Rosenthal and Raskolnikov were not in such circumstances, and therefore their murders remain profoundly unintelligible, and therefore isolating. As Raimond Gaita puts it (2004): while grief and illness can admit of fellowship to assuage suffering, remorse is radically isolating and individuating. The remorseful cannot seek solace, they can only seek penance, and even that offers no prospect of a full cure.

To watch the scene performed brings an extra dimension: when Clifford expresses his scepticism about whether the ‘screenplay’ is realistic, Rosenthal snorts derisively, as if to say: “I broke the rules of morality and of psychology, and here I am today!” But in the derision is a kind of ironic, detached bafflement about his place in a world without moorings. To watch Rosenthal’s confidence here is to challenge our own understanding of morality. Insofar as he *is* able to carry on, to live with himself, then he is the classic amoralist, asking us to give him a reason to be

moral. However, this does not mean that in morality we are answerable to him, that we can only achieve a similar confidence if we can demonstrate conclusively why anyone should act morally. In this respect many moral philosophers have been misled by a red herring. We are troubled by Rosenthal, but we are not therefore tempted to conclude, even for a moment, that ‘everything is permitted.’

IV. HARRISON’S CONVERSION

For the purposes of this section, let me introduce some new terminology to draw an important distinction. I want to say that the lives of Raskolnikov and Rosenthal were *transformed* into the lives of murderers. In contrast, Harrison’s life was not transformed (*pace* the subjectivist) because in the end his sincere last-act attempt was foiled. Harrison’s immediate response was one of frustration, and anger against Poirot as the cause. But as Poirot’s reminder sunk in, Harrison caught a glimpse of what he had avoided, of the life into which his life would have been transformed. This glimpse of the counter-factual present shocks him, and he is converted to a position of profound gratitude and relief.

I use the word ‘conversion’ deliberately, since I think that Harrison undergoes something akin to a religious conversion. A religious conversion, by definition, involves a radical change in the way of seeing the world (and one’s place in the world), a change that cannot be reduced to the adoption of compelling reasons for belief. Notoriously, the traditional arguments for God’s existence (the ontological, cosmological, the argument from design etc.) are unlikely, on their own, to persuade any agnostic or atheist. Most religious believers, if they have not already been brought up in the religion, start believing after some sort of striking event that they can only make sense of as a demonstration of God, or God’s love, or God’s will.

As we know, in saying that “you are not a murderer,” Poirot is not offering any new information aimed at educating or enlightening, nor is

he offering any arguments aimed at persuading. His attempt at a reminder or conversion might well have failed. Harrison had been too consumed by jealous hatred and despair to appreciate what he was doing. As elsewhere, there is room for moral luck here. Just as it was ultimately good luck for Harrison that Poirot was around at all, and able to foil the plot, so too there are contingent features about the situation and about Harrison himself that meant that his imaginative awareness of the narrowly-avoided transformation could override the jealousy and despair that generated the initial murder plans. A man with greater imagination would not have advanced so far in the plans (if he began them at all); while a man with greater jealousy or lesser imagination would have remained frustrated by Poirot's intervention, would not have understood Poirot's statement that 'you are not a murderer', and perhaps would have launched a new plot – after all, given the terminal diagnosis, Harrison might well think that he has nothing to lose from a simpler plan of simply stabbing Langton in broad daylight and yielding to immediate apprehension.

The capacity to imagine is related to the concept of the *morally unthinkable*.¹³ By using the word 'morally', I wish to exclude the trivial sense that internal combustion engines were unthinkable for Socrates. Instead I am referring to the contemplation of evil. But this is interestingly ambiguous. Consider a number of different Harrisons, all in the same situation and all equally subject to jealousy and despair. For the first Harrison, thoughts of vengeful murder might literally never enter his head. For the second Harrison, murderous thoughts would enter his head, but only as an exciting fantasy, perhaps accompanied by the words 'if only I could just...' – but the deed itself would remain unthinkable as a practical option. The third Harrison might start to plan the murder, only to voluntarily abandon it when he realises with horror what exactly he is planning to do. Here the murder is thinkable in the abstract, but it turns out to be unthinkable in the particular sense of (i) *me* (Harrison) performing the murder, or of (ii) *this* person, Langton, being murdered. The fourth Harrison is Christie's, for whom this particular murder of this particular

man is very much thinkable, but only under a sustained ignorance dominated by the jealous hatred and despair. Once the act is foiled, Poirot’s words reveal to Harrison the true significance of the planned act, the counter-factual transformation that would have occurred, and Harrison’s own self-ignorance. Paradoxically, the murder has become both thinkable *and* unthinkable. At one and the same moment, he is able to think accurately (for the first time) about what he was on track to do, and yet it becomes unthinkable as something that he would ever seriously contemplate again.

Perhaps that conclusion is too strong. In some situations, the full meaning of an otherwise sincere shame has to be tested by subsequent temptation. Consider the adulterous husband, driven by lust and opportunity and taking advantage of his wife’s trust. Upon exposure, his wife is devastated, and he is deeply and sincerely ashamed – and we may call this a conversion. The wife remains with him, but is now watchful. It may be that his shame has converted him to a reliable faithfulness, but she also knows that he ‘has it in him’ not only to commit the adultery and to deceive, but also to allow his shame to be temporarily sidelined when inconvenient. If he manages to avoid further adultery over the subsequent years, then perhaps only on his deathbed can he then declare to her conclusively that his shame *in fact* was sufficient to keep him out of trouble – that his wife’s devastation was able to make him realise what exactly he was doing, and the result was that he never again felt any real temptation (or at least that he was skilled and experienced enough to avoid situations likely to present real temptations). So with respect to Harrison, he expresses his deep gratitude and relief to Poirot at the end of the short story, but we do not yet know whether such gratitude and relief will reliably preserve him from future murderous plans – until he dies.

For completeness, I should mention a fifth Harrison, foiled by Poirot, who then launches a new attempt as soon as Poirot is out of earshot. That Harrison, however, might eventually succeed in killing Langton (so in that sense the deed was thinkable enough) but *then* be horrified by what

he did – that is, Poirot’s words were not sufficient to trigger the conversion, it had to be the sight of the murdered Langton (or rather: Langton murdered ‘*by me*’). And then of course there would be a sixth Harrison, someone perhaps already hardened by some prolonged brutalising experience in war or prison, who would ignore Poirot’s words, murder Langton in a new plan, and feel great satisfaction without any regret at all. For this final Harrison, nothing is unthinkable, and the only restraint on his actions will be prudential.

There is certain obscurity in this account of conversion. I am describing Harrison as coming to see the full nature of the act he had been planning. The implication is that he was somehow ignorant or blind before Poirot allowed him to gain the right kind of knowledge; or before Poirot allowed Harrison to override the distorting influence of despair and jealous hatred. Clearly Harrison’s ignorance would not be enough to exculpate in a court of law: Harrison would not deny that he was planning to end the life of another human being. And he would not claim that he was ignorant of a relevant matter of fact or that he was killing reluctantly as a justified last resort (as in self-defence, for example).

But the thought that Harrison was ignorant of something prior to conversion comes close to the Socratic thesis that no one does wrong willingly. After Poirot’s words, I suggest that Harrison’s conversion involves not only horror and relief and gratitude, but – perhaps after some time has passed – a genuine failure to understand his previous self. He might use a phrase such as ‘what got into me?’ or ‘what was I thinking?’ Of course he knows what he was thinking, he remembers thinking it very clearly, but he does not know how *he* – the remembering self, here and now – could think *that*, back then. ‘What got into me?’ is more than just horror or disavowal, it is a deep alienation with one’s past, and this alienation supports my use of the concept of ‘conversion’, instead of a more familiar epistemic concept such as discovery or persuasion. When I discover something, there is no necessary implication that I am changed by the discovery.

So my conclusion is that Harrison inhabits a curious limbo, not only between transformation and self-discovery, between innocence and guilt, but also between ignorance and knowledge. Part of what it means to be a successful murderer, I have claimed, is the radical isolation from human community and fellowship. Harrison has put one foot in that bleak hinterland, but he can still thank God he failed.¹⁴

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NOTES

1. See section 3 of Stephen Luper’s entry ‘Death’ in the Stanford Encyclopedia: (<http://plato.stanford.edu/entries/death/> [accessed September, 2015]).

2. The classic book-length treatment in the legal context is Duff (1996), and I will be drawing on this in a moment. But also see Yaffe (2012). Later I will also be drawing from the discus-

sion of attempts in Feinberg (1995), Moore (2009) chapter 2, and Alexander and Ferzan (2009) chapters 5 and 6.

3. Strictly speaking, there is something irreversible about theft as well. Even if the thief returns the stolen goods intact, this does not entirely restore the *status quo ante* for he or she has still brought the wrong act into the world, even if the consequences turn out to be negligible or repairable.

4. Section 1(1) of the *Criminal Attempts Act* 1981. In contrast, the American Model Penal Code speaks of a “substantial step in a course of conduct planned to culminate in [the defendant]’s commission of the crime” (section 5.01(1)(c)). Such a ‘substantial step’ may take place during the phase that the English Act would consider merely preparatory.

5. Thomas Nagel’s hugely influential paper had four categories of ‘moral luck’, but I will not be discussing the other three.

6. I have been unable to ascertain the tariff for a last-act murder attempt in 1920s England. In modern England, there is a mandatory life sentence for successful murder, but a variety of sentences for an unsuccessful attempt, depending on certain conditions. See the Crown Prosecution Service webpage on the Relevant Sentencing Guidelines for attempted murder: http://www.cps.gov.uk/legal/s_to_u/sentencing_manual/attempted_murder/ [accessed September 1, 2015].

7. I have to be careful here. In the debate among criminal law theorists, it is unlikely that any self-described ‘subjectivist’ would accept that being guilty of attempted murder is enough to make one a murderer; they are more interested in the claim that failed attempters are just as culpable as murderers. Instead, it is I who am considering the possibility of the attempter being ‘already a murderer’.

8. See Gardner (2012) for sympathetic criticism of the experiential argument from a non-subjectivist.

9. We can also invoke reactive attitudes to make sense of the first-personal relief at waking from a lucid dream of intentional murder. However distressing the dream may be as revealing my subconscious wishes, the relief is intelligible as an awareness of how much deeper trouble one could have been in.

10. To be clear, I am not saying that the 10-year-old Raskolnikov was *fated* to become a murderer, as if he had no free will. The university-student-age Raskolnikov could easily have avoided becoming a murderer.

11. The clip is available on YouTube at: <https://www.youtube.com/watch?v=R5UP44x-8nxw> [accessed September 1, 2015].

12. An anonymous reviewer has pointed out that re-offending rates for homicide tend to be relatively low. This could be interpreted as some murderers being surprised and horrified by what they have done, and all the more likely not to kill again, as with Raskolnikov; or, more likely, it suggests that the threat of apprehension and incarceration is enough to deter most convicts from risking a new offence, as with the future Rosenthal that I am imagining. Despite not re-offending, however, the important point is that Rosenthal’s *engagement* with other people and with the world is seriously corrupted.

13. I am drawing on Bernard Williams’s discussion in “Moral Incapacity” (1995).

14. I would like to thank Marina Barabas for suggesting this example, and for her discussion and feedback. I would also like to thank two very detailed and helpful anonymous reviews from *Ethical Perspectives*.