



Williams, Pragmatism, and the Law

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Abstract

This paper views Bernard Williams through the lens of the pragmatist tradition. The central insight of pragmatism is that philosophy must start with human practice, in contrast to high theory or metaphysics. Williams was one of the twentieth century's most able proponents of this insight, especially when considering the topics of ethics and the law. Williams never saw himself as a pragmatist, because he took Richard Rorty's radical relativism to be the exemplar of the position. But I shall suggest that had Williams seen himself as a more objective pragmatist, along the lines of C. S. Peirce, C. I. Lewis, or Frank Ramsey, he might have had the resources to settle vital issues on which he wavered, issues having to do with whether there is anything objective underpinning our deliberations.

Keywords Bernard Williams · Pragmatism · Regulative assumption · Human rights · C. S. Peirce · John Dewey · Frank Ramsey

Introduction

This paper sheds light on the position of Bernard Williams by viewing it through the lens of the pragmatist tradition, a tradition that ought to be congenial to him. The central insight of pragmatism is that philosophy must start with human practice, in contrast to high theory or metaphysics. Pragmatism refuses to detach philosophy from the complexity of human history, concepts, and needs. Williams was one of the twentieth century's most able proponents of this insight, especially when considering the topics of ethics and the law.

Williams never saw himself as a pragmatist, because he took Richard Rorty's radical relativism to be the exemplar of the position (Williams 2002, p. 59). Rorty asserted that there is no truth at which we might aim—only agreement within a community. He went as far as claiming that truth and objectivity are nothing more

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than what our peers will let us get away with saying (1979, p. 1776). Rorty wanted to jettison the concept of truth and replace it with solidarity or what works within a community of citizens. Williams rightly says that Rorty fails to tell us what ‘philosophy should do when robbed of its traditional conceptions of truth and objectivity’ (Williams 1983). Rorty happened to be a liberal democrat, and he wanted to resist these implications (Rorty 2010). Nonetheless, he admitted that on his view, one can in principle be a good pragmatist of his sort and also a good Nazi (1990, pp. 636–637; 1999, p. 15).

I shall suggest that had Williams not focused on such a narrow and radical version of pragmatism—had Williams seen himself as a more objective pragmatist—he might have had the resources to settle vital issues on which he wavered, issues having to do with whether there is anything objective underpinning our deliberations. In considering these better pragmatists, Williams might have accepted their insight about democracy’s place in our search for good answers to our questions and he might have seen that his own reticence to be specific about what makes something fundamentally right are endemic in the pragmatist’s attempt to walk a fine line between the absolutists and the relativists. That is, I will suggest that those of us who are both pragmatists and think of ourselves as successors to Williams can arrive at a more defensible position.

The pragmatists I have in mind include C. S. Peirce, C. I. Lewis, and, in Williams’s own milieu, the great Cambridge philosopher, mathematician, and economist Frank Ramsey. Peirce and Ramsey argued that philosophy must not seek an ideal system, but must start with human practice, and get objectivity and normativity from that. If we want to understand concepts such as truth, induction, probability, goodness, or the legitimacy of law, we should show how those concepts are bound up with human practices and flourishing, and we should provide low-profile or modest accounts of the objectivity that these practices incorporate.

Peirce and Ramsey argue that the fact that there are no certain or absolute foundations for knowledge does not mean that there is nothing to get right or wrong, no truth or falsity, no justice and injustice. In the late 1800s and early 1900s, Peirce put it thus: a true belief is one that would be ‘indefeasible’, and part of what it is for a belief really to be indefeasible is to not be put in place by a method that is ‘extraneous to the facts’.¹ In 1929, Ramsey argued that ‘We cannot really picture the world as disconnected selves; the selves we know are in the world. ... The pictures we make to ourselves are not pictures of facts’ (Ramsey 1929b [1991a], p. 51). If we want to understand the world, we must not neglect the ‘subjective side’. But we also must not neglect the objective side. We evaluate beliefs in terms of how well they work, but they will only work well if they are responsive to the facts, not too precisely construed (because as soon as we aim for precision here, we are taken away from the human and towards something like what the Vienna Circle was after).²

¹ Peirce (1931–58, p. 6.485); Peirce (1982–3, p. 253).

² One can find the argument in Ramsey (1929a [1990], p. 6, b [1990], p. 161). See Misak (2020) for an exposition.

Take the problem of inductive inference. The evidence we have for inductive conclusions and open generalizations—‘arsenic is poisonous’; ‘all humans are mortal’—is always partial, as we cannot survey the entire population or sample. What is our justification for accepting an inductive conclusion? Mill appealed to the uniformity of nature; Keynes and Carnap appealed to logical relations between probability statements. Peirce and Ramsey took an entirely different approach, arguing that the right way to approach the logic of induction is via the agent’s perspective. Once we do that, we see that we have no choice but to rely upon this form of inference. That is, Peirce and Ramsey do not try to do the impossible and offer a *proof* for inductive inference. Rather, they provide a *vindication*. The important question is not whether induction is valid or guaranteed, but whether it can be evaluated as a good mode of human reasoning—whether it leads us, more often than not, to conclusions that work well for us, and whether we can improve our inductive and statistical methods so that they reach the most accurate conclusions.

When it comes to topics such as ethics and the law, the Peirce/Ramsey kind of pragmatist argues that these are obviously human endeavors, yet deeply normative. Williams put this pragmatist idea nicely: we must ‘make some sense of the ethical as opposed to throwing out the whole thing because you can’t have an idealized version’ (Williams 2004, p. 86). The project of justifying our beliefs in some pure fashion will not work, but that does not spell doom for normative endeavors. The problem was in aiming at the impossible in the first place.

British Pragmatism

The history of the British branch of pragmatism is fascinating.³ F. C. S. Schiller in Oxford was a disciple of William James, who infamously suggested that our beliefs about the existence of God are true if they make our lives better. If we think of pragmatist positions as being on a continuum, with the most objective at one end and the most subjective at the other, Schiller and James are on the subjectivist end. They (in some, but not all, moods) say that truth is what is satisfactory to an individual, and that will vary greatly from person to person. Bertrand Russell and G. E. Moore hammered away at this version of pragmatism from 1906 to 1914. It was only when Ramsey read Peirce in 1924, when he was a Cambridge undergraduate, that pragmatism hit the shores of Britain in a positive way. By 1929, when his friend Wittgenstein returned to Cambridge from self-imposed exile, Ramsey was calling himself a pragmatist. He peppered Wittgenstein’s attempt in the *Tractatus* to specify the exact relationship between language and human-independent reality with pragmatist arguments. He was successful, in that Wittgenstein became what we think of as the later Wittgenstein, with his focus on the meaning as use and the primacy of practice. Ramsey was not around to see that, as he died in 1930, at the age of 26. But he would have thought Wittgenstein’s pragmatism too Jamesian—too accepting of the authority of a plurality of forms of life.

³ For a more complete story, see and Misak (2016) and Misak and Price (2017).

Williams shared this worry about the later Wittgenstein, arguing that he seems to be an idealist who takes the limits of our language to determine the limits of the world and is in danger of thinking that different forms of life determine different worlds (Williams 1974 [1981], p. 150ff.). Williams, that is, was aligned with the Cambridge philosophy of Moore, Russell, and Ramsey, in thinking that highly subjectivist versions of pragmatism are not on the right track. Ramsey said that ‘To say a man believes in hell means, according to the pragmatists, that he avoids doing those things which would result in his being thrown into hell’. He thought that idea was right—what it is to have a belief that p is to act in alignment with p . That is the pragmatist account of belief content of which Ramsey approved. But Ramsey continued: ‘Such conduct will be useful to the man if it really saves him from hell, but if there is no such place it will be a mere waste of opportunities for enjoyment’ (Ramsey 1929a [1991], p. 92). He thought that James seemed not to care about the way things are and that we must care—otherwise our beliefs will not *really* work. To analyse the concept of truth, we need to ask what it is for a belief to be reliable, to be a good habit with which to meet the future.

Ramsey’s version of pragmatism had a tremendous effect in Cambridge, beginning with his friend Richard Braithwaite, and continuing through to the likes of Jonathan Bennett, Simon Blackburn, Edward Craig, Ian Hacking, Hugh Mellor, and Huw Price.⁴ This Cambridge pragmatism is concerned with central questions of philosophy—the justification of induction, the nature of causality, and the status of mathematical, moral, legal, causal, and scientific beliefs. It does not hold that starting with the human meant that you have to end up with ‘anything goes’.

Wittgenstein’s brand of pragmatism migrated to Oxford, where his disciples in the 1950s argued that, given the primacy and complexities of practice, nothing general can be said about the big questions of philosophy.⁵ Wittgenstein worried that Ramsey was too concerned with solving particular problems and with what works.⁶ Ramsey would have worried that Wittgenstein’s later approach had nothing but human sentiment and psychology to moor us—so shaky an anchor that we are left adrift. Wittgenstein’s brand of pragmatism migrated back to America, where it influenced Richard Rorty, who amplified its radical nature and argued that there is no rational basis for our beliefs—the proper stance towards them is a kind of ironic or detached approach to the beliefs we happen to live by.

Williams was exposed to both versions of pragmatism. As an Oxford undergraduate, and then fellow of New College, he spent time amongst the Wittgensteinians. In 1967, he moved to Cambridge to be Knightbridge Professor and fellow (eventually Provost) of King’s College, where there were plenty of echoes of Ramsey’s pragmatism in the work of Richard Braithwaite. Simon Blackburn explicitly links himself, Jonathan Bennett, and Bernard Williams to Ramsey, via Braithwaite.⁷ Perhaps it was

⁴ See Misak (2016) and the papers collected in Misak and Price (2017).

⁵ Wittgenstein would not call himself a pragmatist, for he was allergic to any ‘ism’ and thought that one’s philosophy should start from scratch and not link itself to predecessors.

⁶ See Misak (2020) for the archival sources and further explanation.

⁷ See Blackburn (2015, p. xv), Misak (2016), Misak and Price (2017).

the immersion in Cambridge philosophy that allowed Williams, in his later writings, to make more explicit the pragmatism that had been evolving in the background of his work. He started to argue that if we want to understand our concepts, we need to look to their genealogy and to their place in human practice. Philosophy should not aim at providing a foundation for knowledge, where we start with the certainties of experience and deductive logic, and build up our edifice of knowledge from there. Nor should philosophy, especially a philosophy of ethics, try to cram all reasoning into one systematic formula—utilitarianism or Kantian rational principles, for instance. The full-on complexity and messiness of our moral lives are what we are given and what we have to work with. When we are alert to that complexity, we will see that there is no standard of absolute correctness and that we must accept our historically contingent outlook as our outlook. Then the project is to try to make our outlook the best we can (Williams 2007, p. 193).

We shall see that Williams was not able to stay on one or another side of pragmatism's primary fault line.⁸ He wanted to reject the idea that whatever works best for a community of citizens is true. Yet he struggled to find a touchstone of objectivity. Peirce and Ramsey found theirs by appealing to not what a particular community of citizens would believe, but what the overarching community of inquirers would come to, taking account of all experience and facts. That still allows for diverse and opposing truths, relative to a community or even a person. For it might be a truth of moral and political inquiry that, sometimes, or even often, different answers are best for different communities or persons. Dewey found his touchstone in the conditions for inquiry, which include a commitment to democracy. My suggestion will be that, had Williams availed himself of these ideas, he might have had the resources to settle vital issues on which he wavered, issues having to do with whether there is anything underpinning our deliberations.

Classical Pragmatism and the Authority of the Law

The classical pragmatists, most notably Oliver Wendell Holmes and John Dewey, developed a concept of law and its normativity or authority. They argued that we must start with the practice of law and see normativity as arising from that. The practice of law, they argued, is an inquiry into what is just or right in various domains of human interaction. That inquiry can take place in a trial or it can take place at more general societal level, when laws are debated by legislators and the public. In all these inquiries, we have to start from the ground up, with experience and our current body of belief and practices. There are no certain or infallible foundations given to us by a Great God or a Great Theory, and those who seek such an absolute grounding are on a fruitless and dangerous mission. Absolutist approaches to law, in Dewey's words, hang on 'scraps of paper' and 'voices in the air' (Dewey 1941, pp. 73–85). As Peirce put it, inquiry

⁸ I have argued that this is the case with most of the pragmatists on the subjective end of the pragmatist continuum, although it is beyond the scope of this paper. See Misak (2016).

is not standing upon the bedrock of fact. It is walking upon a bog, and can only say, this ground seems to hold for the present. Here I will stay till it begins to give way. (Peirce 1931–58, 5. 589)

We start from where we find ourselves and move forward from there. In law, this means that we begin our inquiries with statutes, precedents, and frameworks that were put in place by previous generations, and we are shifted to new ground only by the compelling force of experience and argument. Holmes argues that we start with common law of cases and precedent: ‘Only after a series of determinations on the same subject matter’ does law come, ‘by... induction to state the principle’ (Holmes 1995 [1870], p. 213). Experience will build up principles which will take the form of judicial decisions and statutes. And legislators, in making law, will be considering the experience of the electorate, as well as their own principles.

The upshot of all this inquiry is not a set of immutable truths. Statutes too are subject to revision in light of experience. Law is not abstract, doctrinal, and formal—something set out definitively by the sovereign or by legislators in statute. It is a growing, evolving, ongoing enterprise—an enterprise of inquiry, that starts from precedent, or our settled body of background belief and cases, our democratic decision-making, and then is driven by experience, conflict, and unanticipated problems.

Dewey concurred with Holmes. Law’s formal conceptions and definitions of, for instance, crime, torts, and contracts arise out of ‘ordinary transactions’. They are not imposed ‘from on high or from any external or a priori source’. ‘But when they are formed, they are also formative; they regulate the proper conduct of the activities out of which they develop’ (Dewey 1938, p. 106).

Framework Versus Content

The classical pragmatists also gave us a justification of democracy, which these days is called an epistemic justification.⁹ As Dewey put it, democracy is the use of the experimental method to solve practical problems; it is an application of ‘cooperative intelligence’ or inquiry; it is the space in which we can ‘convince and be convinced by reason’ (Dewey 1916, p. 404; 1939, p. 187). He argued that a broadly democratic method is a precondition of every domain of inquiry, from physics to ethics. For inquiry requires unimpeded flow of information and taking the perspectives and experiences of others seriously. Dewey argued that those democratic pre-conditions include equality of income, opportunity, and education—a robust democracy indeed. That is what is required if we are to aim at the right, or warranted, or true

⁹ In the 1980s, Hilary Putnam continued in that classical spirit, urging us to reconsider Dewey’s philosophy and coining the phrase ‘epistemological justification of democracy’. Inquiry, of any kind, must operate on democratic principles: it must provide opportunity and incentive to challenge accepted hypotheses, to criticize evidence and accepted norms, and to offer rival hypotheses. It must respect autonomy and reciprocity (1994, p. 172f). Democratic norms, that is, lie at the heart of inquiry and knowledge. ‘To reject democracy is to reject the idea of being experimental’ (1994, p. 64). Rorty thought that he was wrong—that there is no justification of democracy to be had.

decision. We might find the truth accidentally or with less robust democratic methods. But democracy and the search for truth go hand in hand.

This kind of indispensability argument is a constant in classical pragmatism. Some (a very few) things are, as Peirce called them, regulative assumptions of inquiry. He argued that one such assumption is that experience is to be taken seriously, or as veridical, unless shown to be otherwise. Another is the principle of bivalence. Formally, it states that for any sentence p , p is either true or false. Less formally, it states that, for any matter into which we are inquiring, there is an answer. Peirce argued that this was not an immutable law of logic, as the logicians suppose, but rather, something that we must assume if we are to continue with an inquiry. We have to assume we will find an answer to the question that is pressing in on us: 'the only assumption upon which [we] can act rationally is the hope of success' (Peirce 1982–2, p. 272).

But even with respect to indispensable assumptions, the pragmatist is a fallibilist. Peirce was clear that not only should the fact that an assumption is indispensable to our practice of inquiry not convince us of its *necessary* truth, it should not even convince us of its truth. He says: 'It may be indispensable that I should have \$500 in the bank—because I have given checks to that amount. But I have never found that the indispensability directly affected my balance, in the least' (Peirce 1931–58, p. 2.113). We must make these assumptions 'for the same reason that a general who has to capture a position or see his country ruined, must go on the hypothesis that there is some way in which he can and shall capture it' (Peirce 1931–58, p. 7.219). He distinguishes his approach from that of the transcendentalist:

when we discuss a vexed question, we hope that there is some ascertainable truth about it, and that the discussion is not to go on forever and to no purpose. A transcendentalist would claim that it is an indispensable 'presupposition' that there is an ascertainable true answer to every intelligible question. I used to talk like that, myself; for when I was a babe in philosophy my bottle was filled from the udders of Kant. But by this time I have come to want something more substantial. (Peirce 1931–58, p. 2.113)

The pragmatist upholds the conditions of inquiry, such as bivalence and democracy, without trying to prove them as absolutely true. We are *committed* to such principles, in virtue of inquiring, but we might find our commitments challenged by argument and the facts. For instance, if it turned out that quantum mechanics really did mean that there was no fact of the matter about many of our assertions about objects, our assumption of bivalence would be proven to not hold for a vast swath of our beliefs. The question of whether something is a regulative assumption, that is, can also be debated.

It might be suggested that some principles, such as the right to due process, or to be considered innocent until proven guilty, are regulative assumptions of our legal inquiries. But these seem too particular to be assumptions without which a legal inquiry cannot be conducted. The question is: what fundamental conditions have to be in place, without which we cannot have the dialogue that can answer the question 'What is just?' or 'What should we do about this dispute?' I suggest that the lesson from the classical pragmatists is that there are two assumptions which underpin

law. First, a legitimate and authoritative legal structure is one which is deliberative and democratic, or engaged in a culture of justification.¹⁰ Law is built up from the experience of citizens when they bring cases to court, agitate for new laws, vote for political parties who then appoint judges, and hold those politicians accountable. Second, law seeks a right answer—it is a domain of inquiry that aims at the truth or at getting things right. The two assumptions are intertwined: if we aim at the right answers to questions about what is just in human interactions—the answers that would *really* be indefeasible—then we must have the freedom to offer and to criticize hypotheses, and we must take into account as much experience and argument as we can. Herein lies the pragmatist idea of legitimacy and authority. In employing this kind of democratic and experience-driven method of decision-making, we are bound by the results. We aim at getting things right, and this is the method most likely to get things right. If we do not agree with a particular law, we must challenge it in ongoing inquiry—in the courts, by lobbying for change, even by civil disobedience, knowing what the consequences of that might be.

It is important to see that the argument about the fundamental or regulative assumptions is, if you like, a philosopher's argument. When we are actually conducting debates or justifying coercive power over others (as opposed to deliberating about how our inquiries must be structured if they have any chance of getting the right answer), reasons about rights, utility, autonomy, equality, and so on, will be what we appeal to. They will be the reasons on the ground. As I put it in *Truth, Politics, Morality*, when we inquire, we give what we think are good reasons for our judgments. Those reasons will be drawn from a great store of ideas that come into play in our moral deliberations. In this store are insights from various schools of thought about morality—utilitarian calculations about maximizing well-being; Kantian principles about treating people as ends in themselves; Aristotelian thoughts about virtue; and ideas about what should be taken as fundamental human rights (Misak 2000, pp. 123–124). In the face of evil, the pragmatist will not absurdly launch into a treatise about truth and inquiry. The pragmatist's point about having to take seriously the experience of others if we aim at truth is not supposed to be the starting point of all our deliberations, but rather, the starting point of *our theory* of ethics and the law. To the neo-Nazi who is about to commit some real atrocity, we shall observe the evil of the proposed actions, marshal our reasons, and do what we can to intervene. If we are in a position to talk to him about it, we will offer what we think just might get him to see things right—concerns about equality, impartiality, cruelty, autonomy, suffering, and so on. It is only if those reasons fail to get a grip on him that we move to the thought (and given our failure to persuade him, we will be invoking it mostly to and for ourselves) that he has adopted a method of deliberation which betrays the commitment he incurs by claiming to hold a belief which is oriented at the truth. Our philosophical theory of pragmatism does not normally enter the fray of deliberation, because first-order reasons are what are appropriate there.

¹⁰ See Murenik (1994) and Dyzenhaus (1998) for this kind of argument.

Williams's Pragmatism About Politics and Law

Let us leave classical pragmatism's conception of law and legitimacy and turn to Williams's conceptions of them. Like all pragmatists, he takes practice to be fundamental in political theory, and is opposed to the idea that there is some kind of rational foundation to our laws and use of coercive power. The title of one of his collections of posthumously published essays is *In the Beginning Was the Deed*. There could be no more fitting slogan for a pragmatist. We start with human deeds or practices, and build from there. We need to determine how best to go on, here and now. In another posthumously collected sets of essays, Williams put the point thus:

Precisely because we are not unencumbered intelligences selecting in principle among all possible outlooks, we can accept that this outlook is ours just because of the history that has made it ours; or, more precisely, has both made us, and made the outlook as something that is ours. We are no less contingently formed than the outlook is, and the formation is significantly the same. We and our outlook are not simply in the same place at the same time. If we really understand this, deeply understand it, we can be free of what is indeed another scientific illusion, that it is our job as rational agents to search for, or at least move as best we can towards, a system of political and ethical ideas which would be the best from an absolute point of view, a point of view that was free of contingent historical perspective. (Williams 2007, p. 193)

One of the papers in that volume, 'Human Rights and Relativism', argued that the question 'What should we do?' is always enmeshed with our ends. It is always 'a political question' and hence 'there is not much that can be said in general at an ethical or philosophical level' (Williams 2007, p. 73). We must start with the deed and see where it takes us. That is not to say that we cannot make sense of improving our ethical, political, and legal structures. Indeed, improvement is *encouraged* by our recognizing them as historical artifacts. In a paper titled 'Pluralism, Community and Left Wittgensteinianism', Williams said:

once we regard the ethical life we now have as a genuinely historical and local structure, one that is peculiarly self-conscious about its own origins and potentialities, we shall have less temptation to assume that it is a satisfactorily functioning whole. (Williams 2005, pp. 36–37)

It is the search for perfection that stands in the way of progress.

The first question of legal and political theory, for Williams, is the Hobbesian question of how we secure 'order, protection, safety, trust, and the conditions of cooperation' (Williams 2005, p. 62). This question simply *is* our inquiry in politics and law. It is never answered once and for all, but has to be answered again and again in all societies, starting from where those societies are and moving forward into the future. It hardly makes sense to call a political or ethical situation in the distant past better than the current one, for that is not a live question for us. Live questions for us are those we can 'affect in action' (Williams 2005, p. 67). Again, Williams could not be more pragmatist. Peirce put the point as follows: 'paper' or 'tin'

doubts cannot motive inquiry (Peirce 1931–58, p. 5.416). There is no going back to first principles and starting from scratch. We start from our settled beliefs (Peirce) or unproblematic situations (Dewey), and then are shifted off our ground when real doubt impinges upon us. That doubt will come from experience, and it will force us to re-ask the question and re-solve the matter. In legal inquiry, this means that the legitimate use of violence or power by the state is the subject of an ongoing contestation by experience and principles. It evolves, and we hope it evolves for the better.

Williams on Frame Versus Content

Williams could say, given the historical moment in which he wrote, that most of the settled states were liberal democracies. But he was clear that there are no guarantees that liberal political orders will prove best or will survive: ‘it is only on the basis of a world-historical bet of Hegelian dimensions that we believe, if we do believe, that it will continue to be true in the future’ (Williams 2005, p. 63). We might now think that we have lost that bet, with strongman dictators these days aiding and abetting the rise of populism, if not downright fascism. Of course, challenges to those populist orders are being made in our ongoing inquiry. But, as any pragmatist should see, we are not destined to march along a path of progress.

Peirce and Dewey, notice, have something quite interesting to say here. The bet that democracy will best stand up to all experience is a pretty safe one, because democracy has ‘standing up to all experience’ built into it. Fake news and social media silos are not aimed at truth. For while people within them think that their shared beliefs are true, they decline to be confronted in this assumption by those who see things differently. That is, they fail to be *genuine* truth-seekers. That does not mean such practices will not continue and that liberal democracies will not fail to survive or become debased. We may well be witnessing that now, as liberal democracies are marked by a gap between the rich and the poor such that they are failing dramatically to take the experience of all into account and failing dramatically in putting the equality of opportunity and education in place. But Peirce and Dewey provide us with a *justification* for putting in place mechanisms to protect accurate, freely available information and to ensure equality of income and opportunity. And they can say that in contexts where experience really does drive decision-making, the strings of authoritarianism are likely to be loosened. That is not to say that a country, or indeed, the world, will not end badly. For the experience of all might fail to be considered. There is no guarantee whatsoever that we will get to the right or just answers.

Williams, on the other hand, does not think there is anything special about democracy. It is just a bet, perhaps a crazy one. He does not avail himself of the idea that anti-democratic methods fail to aim at the truth—that authoritarian and populist thugs denigrate the experience of those outside of their base of supporters. In ‘Human Rights and Relativism’, he even suggests that the exclusion of democratic experience might be for the good, depending on the context. Unlike the classical pragmatists, who think they can say something general about the merits of democracy, Williams thinks that there is nothing to say that everyone would or should

recognize as valid. Different histories have led to different ethical systems, and different forms of law and government. It appears that here he stands on the side of the fault line with Wittgenstein and Rorty.

But right after the passage about not taking Hegelian bets, Williams tries to put to rest the fear of having nothing to say against a deeply anti-democratic regime. There is something general, after all, that can be said amidst the diversity of human experience: ‘The situation of one lot of people terrorizing another lot of people is not a political situation; it is, rather, the situation which the existence of the political is in the first place supposed to alleviate (replace)’. Notice that this is a more substantial claim than that made by Dewey and Peirce. They argue that every political problem is in the mix of inquiry, except the question of whether or not inquiry is to be democratic.¹¹ Democracy is part of the epistemic set-up which is required if we are aiming at getting things right. For Williams, a specific problem is taken out of the mix of inquiry. ‘Terrorizing is bad’ is a part of the framework, not something up for grabs. Political inquiry, by definition, is about how we use power to protect against the terrorizers. And in coming to our solution to this problem, our conception of ‘the most basic human rights’ will be in play.

That is, Williams’s move, analogous, but not identical, to the classical pragmatist’s, is to assert that ‘The charge that a practice violates fundamental human rights is ultimate’ (Williams 2005, p. 72). What is wrong with violating a fundamental human right is that it is ‘unmediated coercion’ or ‘might rather than right’ (Williams 2005, p. 72). *That* is what is baked into Williams’s framework. For Williams, the fundamental commitment of human community is a commitment to basic human rights. The regulative assumption he helps himself to is that, in order to understand the political, we have to side with right over might, and with legitimate authority over unmediated coercion, and see that denials of ultimate human rights are not up for discussion.

Williams was alert to the requirement to make the framework as uncontentious as possible. In one of his last non-posthumous publications, *Truth and Truthfulness*, he started his genealogy of truth from a state of nature that assumed only that humans need information about the environment (Williams 2002, p. 58). The normative notions of cooperation, accuracy, and sincerity are built up from that. The classical pragmatist would be happy with this move, for the classical pragmatist argues that the only commitment that can form the framework is one without which we could not get a grip on the very idea of normative inquiry. Humans requiring information about their environment seems a non-arbitrary, non-question-begging assumption that we cannot do without if we are to inquire into a matter. The admonition against the use of terrorizing power and the denial of human rights, on the other hand, seems to be an ordinary candidate answer to the question of how we arrange our politics, not an assumption built into the very structure of asking questions that aim at getting the right answer. It seems part of the political, not something that stands apart from the political. Our society currently judges human rights as fundamental.

¹¹ The reader may notice a similarity here with Rawls’s *A Theory of Justice* (1971). I would argue that one can find a also latent pragmatism in Rawls. See Stout (2018) and Botti (2019).

We could be getting that wrong. Indeed, we deliberate over which rights should be included in the list. That should tell us that the question of human rights is grist to the mill, not the mill itself. Williams himself asks which rights are fundamental, but sees this as a sub-question, a complexity to be worked out in the messy business of deliberation. We have to work out, for instance, whether the right to work is a basic human right (he says ‘no’).

The classical pragmatist thinks it would be better to say that the terrorizing dictator very obviously disregards the experiences of many—his is a political system that betrays its claim to aim at getting the best political system for all. Of course, Mussolini and even Hitler built their regimes on what they claimed to be the experiences of the majority. The pragmatist will say that it is not an accident that these regimes did not last long, for they did not really take into account the experiences of all, even of those who may have voted for them. Voters can have their beliefs reshaped by seeing the consequences of their action for themselves and for others. But that is not the whole of the response. Some less than democratic regimes, such as those of apartheid South Africa, Franco’s Spain, modern Singapore, and modern Israel last a long time. The more significant part of the response is that mere survival is not what the pragmatist is talking about. A warranted belief is one that survives, and survives *because it really does account for all experience*.

Human rights will of course come into this picture, for they are part of our evolving conceptual landscape, and the trampling of those rights will be part of the experience that will set people against a terrorizing dictator. Williams is suggesting that perhaps human rights are so much part of our political landscape that we cannot imagine them ever falling to experience. As the pragmatists C. I. Lewis and W. V. O. Quine might put it, they are so central to our web of belief that we would have to revise too big a number of other beliefs if we overturned them.¹² This would make them something akin to regulative assumptions. But then the question is the one that Williams so effectively presses against other values. Not every system prizes human rights. The idea of human rights arose in particular inquiries about how best to live with others, and does not thrive everywhere.

Williams in effect sees this at the end of ‘Human Rights and Relativism’. In working out whether the denial of freedom of expression and speech is a denial of a basic human right, he makes Dewey’s point (without noticing that it is Dewey’s). Such freedoms:

are indeed basic, but not because their denial is coercive relative to a distinctively liberal conception of the individual’s interests. Rather, freedom of speech is involved in making effective any criticism of what a regime is doing, in relation to any reasonable conception of the individual’s interests. Neither the citizens themselves can answer the question ‘What is actually going on?’ without true information and the possibility of criticism. (Williams 2005, p. 74)

¹² Lewis (1923), Quine (1980[1951]).

The classical pragmatist will agree with this account of what constitutes the framework. Freedom of expression and speech are vital (in the strongest sense of that word) to inquiry. If we aim at getting things right, we have to uphold them. That is the closest the pragmatist should get to absolutism, or transcendentalism, or whatever we want to call the impulse to have something *guaranteed*. The other human rights are not part of the very framework of inquiry, or at least not obviously so.

Elsewhere, Williams seems to see that making human rights part of the framework is too substantial. In 'From Freedom to Liberty', he says that choosing right over might is not so much an assumption, as a practical need. But he sees that need as deriving from the original problem of how to solve the first political question—how to secure order, protection, safety, trust, and the conditions of cooperation. Any answer to this core question is going to involve the institution of public authority, and if public authority is not to replace private coercion with public coercion (in which case it remains a mere example of 'successful banditry' that reproduces the problem of coercion at a higher level), there needs to be a distinction between might and right. So we are still at a loss as to whether we can take Williams to be offering us a thin, and hence, more viable, conception of the framework of political inquiry.

Fact and Value

I suspect that the reason Williams at times felt the need to nail down legitimacy with inalienable human rights is that he understands the fine line that he (along with, I have argued, all the pragmatists) is trying to walk, between the position that there is something absolute that grounds our moral, political, and legal judgments and the position that rightness is just a matter of what some community of citizens thinks. Williams, like Rorty and James, is in danger of being tipped into relativism. He gets himself in this precarious position early on—in his 1985 *Ethics and the Limits of Philosophy*. That book emphasizes (as H. L. A. Hart said in an important review) the irreducible complexity and variety of our ethical thought, as well as the conflict and uncertainty that marks it (Hart 1986). All this is what I would call commendable, good pragmatist stuff. But in this book, Williams also draws a bright line between ethics and science. In science, we have a history of *discovery*, in which each generation can see, from a shared basis of agreement, that improvements were made. In ethics, politics, and the law, we have mere 'reflective deliberation' to discover how to make our judgments better, and even then, in a way that not all would recognize as an improvement.¹³ While the classical pragmatists saw that ethics and science are not identical, they would have objected to barring ethics from the sphere of proper inquiry.

I also suspect that this embrace of the fact-value dichotomy is the reason behind Williams's unwillingness to appeal to the objectivist camp of pragmatism of Peirce, Dewey, and Ramsey. It will be clear that I think this is a mistake on Williams's part and that that I offer classical pragmatism, with its blurring of the distinction

¹³ Williams (1985, pp. 67–69; 2007, p. 189), and see Queloz (2017) for an excellent discussion.

between fact and value, as a better approach. We are committed to the objectivity of our ethical thought, just as we are committed to the objectivity of our scientific thought. Science and ethics are both human endeavors, constrained by our perceptual and conceptual capacities, and shaped by our histories, our aims and (say the more objectivist pragmatists such as Peirce, Lewis, and Ramsey) by how things are. It is only on a conception of truth that has true belief mirroring human-independent facts in the world that our ethical beliefs seem not to be truth-apt. On a conception of truth on which truth is the belief that best stands up to experience, ethical beliefs are aspirants to truth. The classical pragmatist argues for what Arthur Fine has called our natural ontological attitude—our best theory tells it like it is. And our best theory might be about rights and wrongs just as it might be about atoms and black holes. Our evolving attitude about human rights, for instance, can be evaluated as to how well it stands up to experience and argument. Just as with our theories in science, the ethical and political theories that would really stand up to the experience of all give us the truth. That is not to say that we might think that some ethical questions are mostly, or even entirely, subjective—more like matters of taste than matters of science. That might be the case with ethical claims about, for instance, where best to make my charitable contributions. But ethical claims at the very least, are candidates for truth, and some claims, such as ‘it is wrong to gratuitously torture children’ seem very much aimed at the truth, and true.

As one might expect from a pragmatist trying to get right the subtle nature of human normativity, Williams tries to close the gap between fact and value in the very book in which he opens it up. He does this not by focusing on how communities of citizens must also see themselves as part of the larger community of inquirers engaged in experience-based evaluation, but on thick ethical concepts which seem to engage the world of facts—concepts like cruelty and gratitude, as opposed to thin ethical concepts such as ‘ought’ and ‘good’. He argues that only judgments articulated in terms of thick concepts can straightforwardly be true. They are strongly ‘world-guided’ concepts, and, although liable to be unseated by reflection, thereby help stabilize the practice they are involved in). While Williams’s thick concepts fit nicely into the objectivist pragmatist’s framework, as explanations of why some ethical claims are more apt than others to fall under our cognitive scope, one wants to ask how they are consistent with his own hard line between fact and value. I submit that a pragmatist account of truth that does not beg the question against ethical judgments would be a better approach. (It is the approach taken by Williams’s colleague David Wiggins, which will be the topic of a further paper.)

Conclusion

Williams has sometimes been charged with not putting forward a *theory*—a theory of the individual’s true interests or a theory of the fundamental good. Many find his idea that we cannot find rational foundations for our ethical, political, and legal beliefs unsettling. The fact that he flirts with the label ‘relativist’ only amplifies this unease. All this is unsurprising. The pragmatist has always been a disturbing presence on the philosophical playbill. For the pragmatist thinks that there is nothing

above or beyond our contingent human experience, practice, and belief. If we cannot figure out, as philosophers, how we might get genuine normativity out of that, then the abyss of relativism looms large. Some pragmatists fall into it—James and Rorty, in certain moods. Other pragmatists (Peirce, Lewis, and Ramsey) try to show how we can get a genuine ought from an is. Williams, like all pragmatists, struggles to carve out a stable patch of ground on one or the other side of that divide. Rather than take this struggle as an indicator of the failure of Williams's project, or of pragmatism more generally, we should take it as an indicator of the human condition. Williams and his fellow pragmatists are reaching for nothing less than what it is to be human, with all its messiness. Our search for knowledge is fraught with contingencies and uncertainties, and with having to understand how different viewpoints might together make for the best system with which to meet the future. That is true in all domains of inquiry, but it holds especially in the moral, political, and legal realm.

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