

Bernard Williams and the Philosophical Defense of Liberal Politics

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Introduction

Liberalism has fallen on hard times. In the 21st century, its appeal has proven to be less than universal. All around the world, liberal conceptions of freedom and equality have been challenged both theoretically and practically for a variety of reasons. Terrorism and other forms of sectarian strife have left many questioning whether a liberal democracy based on equal representation, freedom of expression and the rule of law is really the best answer to questions of public safety. Alienation from civil society is a growing problem, in many societies. Stemming the resultant tide of violence is necessary and difficult, and I dare not hope for more. The fiction of a perfectly just society, where everyone believes nothing but the truth, and everyone's interests are perfectly aligned, can only distract and disappoint us. It is a frustrating and useless goal to aim for, since the attempt requires us to place impossible demands on others as well as ourselves, and the recalcitrant context we share. Liberalism is our best hope for lasting peace and stability, because it is committed to an equitable coexistence of a plurality of views. In today's globalized world, this is a much more realistic goal than even the local enforcement of cultural or ideological uniformity. Still, I am doubtful of the significance of the contribution that philosophers can make to its defense and promotion. After all, political decisions are not based solely on conceptual considerations. The main question I intend to answer is: *How can philosophy support liberal political practices?*

In search of answers, I will analyze Bernard Williams' works on the matter. I chose this author because of his focus on the practice rather than the ideal of liberalism. Rather than seeing liberalism as the political implication of a theory of morality that revolves around autonomy, he sees it as the solution to a practical and extremely general problem: Hobbesian fear. By holding it to a practical standard, Williams shows us why even those who do not share our conceptions of personhood and meta-ethics could benefit from liberalism. He recognizes that calling non-liberal ideas intrinsically unreasonable is not very productive: we can, and must, engage in discourse with the many anti-liberal movements that are gaining in popularity, and find common ground with them. By emphasizing the role power and conflict inevitably play in politics, Williams reminds us that we are all trying to solve a practical problem under non-ideal circumstances. A consistent theory is not necessarily applicable: not even a constitutional committee can ignore the limits of consensus and the need for bargaining. We will need to figure out how to share this world, in spite of continued disagreement. Despite these promising overtures, Williams' writings might very well be vague or unsatisfactory at times. My aim is to systematize, amend, and elaborate on Williams approach so it can be applied to the question I have posed.

Bernard Williams (1929-2003) is a relatively recent author, whose unique approach defied classification. He is one of those philosophers who criticize the very usefulness of their own field. His aversion to generalities, criteria, principles and definitions makes him difficult to systematize. It is also why his writings are more like essays than research papers: he is profoundly particular. It is therefore not surprising that little secondary literature exists about Bernard Williams, especially about his political works, which were all written in the last two decades. Bernard Williams appears to have been absorbed into the philosophical discourse without grand philosophical criticism or debate. Williams did not subscribe to any specific school of thought, nor did he found one: the term "Williamsian" does not roll off the tongue very well. Due to the dearth of sources, I have attempted to cobble together a cogent interpretation of Williams' political thought more or less independently. I am, however, indebted to Geoffrey Hawthorn for his introduction and edition of the collection "In the Beginning was the Deed"¹. Further insights have been gleaned in conversation with dr. Jos Philips and dr. Bert van den Brink.

¹ Williams, Bernard A.O.: In the Beginning was the Deed (2008)

Such an ambitious question as the one at hand should be divided into more manageable parts. The first section of this thesis will attempt to describe liberal political practice as Williams describes it, elaborating on and amending his characterization as needed for the purposes of our main question. For the purposes of this thesis, any political practice that reliably and intentionally mitigates, prevents or interferes with illegitimate coercion and abuse of power as such is to be considered liberal.

The next chapter will discuss the specific merits of liberal political practices: the reasons why they should be protected and promoted, and why threats to them should be avoided or resisted. Following Bernard Williams, I will favor pragmatic arguments over meta-ethical ones, since these are more likely to convince non-liberal dissenters.

The third and last full chapter will discuss the various ways in which liberal political practices can be defended. I will describe both peaceful, coercive and exceptional options, and the considerations that may lead liberals to legitimately opt for them. It will become apparent that none of the options mentioned are universally forbidden, nor are they morally mandatory. The decision to employ them is situational and implies a risk of misjudgment. But that burden of responsibility is unavoidable, and ultimately falls on every individual in a position to choose.

Lastly, I can evaluate the role of philosophy in this defense. Like Bernard Williams, I am more skeptical than most political philosophers about the importance of philosophy in promoting and preserving liberal democracy. In the last two chapters, it will become apparent that neither the definition of, the arguments for, nor the defense of liberal political practices, are produced or chosen by eminently philosophical means. After eliminating these traditional sources of philosophical hubris, we end up with a supporting role for philosophy. One that compliments the contributions of other fields of study and competence. Defending liberalism requires didactic and rhetorical ability, all kinds of specific knowledge both empirical and theoretical, and prudential common sense, not to mention luck and patience. These requirements are not particularly philosophical in nature. The fact that our contribution to liberal causes is little different in kind than that of other commentators should not dissuade us from engaging, however.

Bernard Williams offers us many insights of practical use in these troubling times. It is my hope as a writer and as a liberal that whoever reads this paper will be inspired to protect the institutions, attitudes and practices that make safe what precious freedoms we have. Even in the face of public opinion and a terrorist threat, we should think twice before abandoning them.

Tim de Visser
10th of January 2011
Utrecht

Chapter 1: What are Liberal Practices?

The purpose of this thesis is not to actually defend liberalism, but to outline the ways in which liberal practices of government can be defended. This schematic approach is partly necessitated by some of Williams' views on the nature of liberalism, but also by the limits of this thesis and its author. As I will show later on, the defense of liberal practices must necessarily be situational. Before we can answer questions about the defense of liberal practices, we must have some idea of what it is that we are talking about. Because I am taking Williams' practical approach to politics as a starting point, it is important to understand what he means when he uses the term "liberalism", and to specify the term to suit our present purpose. Williams distinguishes several different species of liberalism, but does not offer an explicit account of what makes them all liberal views. It will have to be explained why Williams does not provide us with one. I will distinguish certain features that characterize liberalism. I will argue that his lack of a definition is neither a mistake nor an oversight within the framework Williams lays out for liberalism. This framework describes the first question of politics as a practical one of reducing danger. The implications for the meaning of liberalism and the defense of its practices are not to be underestimated. I will then address some of the drawbacks of this use of the term. At the end of this chapter I will determine what liberal *practices* this thesis is about.

1.1. What Species of Liberalism does Williams Distinguish?

Within the posthumously published collection "In the beginning was the deed", Bernard Williams does not offer any straightforward definitions of liberalism. He devotes most attention to the concept in the lecture called "the Liberalism of Fear"². In it, he mostly defends a particular brand of liberalism that he attributes to Judith Shklar, Benjamin Constant, and Montesquieu:

"For [the liberalism of fear], the basic units of political life are not discursive or reflective persons, nor friends and enemies, nor patriotic soldier-citizens, nor energetic litigants, but the weak and the powerful. And the freedom it wishes to secure is freedom from the abuse of power and the intimidation of the defenseless that this difference invites."³

The liberalism of fear seeks to prevent abuses of power. It offers no single positive vision of what the best organization of society would be: only the negative demand that the weak are not threatened by the powerful. It only has one commitment: every form of power can be abused and should be checked. It is a very minimal account, but its demands are steep. Shielding the weak from all abuse is impossible: one can only strive to make it as difficult and risky as possible. Yet, it has the advantage that it does not rely on philosophical theory that much: almost everybody agrees that taking advantage of the defenseless is wrong. Its appeal is near-universal; Williams says, and I agree:

"It speaks to humanity. It has a right to do this, a unique right, I think, because its materials are the only certainly universal materials of politics: power, powerlessness, fear, cruelty, a universalism of negative capacities."⁴

2 LOF: pp. 52-61.

3 LOF: p. 54.

4 LOF: p. 59.

What remains for the proponents of this species of liberalism is to show how power can be held accountable by certain political practices, while it cannot be held accountable to God or a Natural Order (or any revelation of them), because such things either do not exist or are arbitrary, mysterious or irrelevant, knowing what we know. Williams follows Shklar in contrasting this species of liberalism with two others:

“The liberalism of fear is “entirely nonutopian,” and it differs from other forms of liberalism in that respect. Shklar separates it from two in particular. The first is the liberalism of natural rights. This was the reference to “energetic litigants”: “the liberalism of natural rights envisages a society composed of politically sturdy citizens, each willing to stand up for himself and others.” There is a contrast, equally, with the liberalism of personal development. “Morality and knowledge can develop only in a free and open society.””⁵

Both these species of liberalism, represented by John Locke and John Stuart Mill respectively, have played a major role in establishing political practices that protect our freedoms. But both share a certain Political Moralism⁶: they consider politics to be the application of morality on a national scale. This makes their foundation controversial and theoretical. They are not alone in this, however: almost every liberal philosopher is guilty of political moralism. They share some major flaws.

First, they rely on meta-ethical assumptions and institutional circumstances rooted, among other things, in the Enlightenment. The modern conceptions of reason, freedom of will and the value of autonomy are neither self-evident nor shared across all times and societies. Because of this, political theories based on these concepts have difficulty living up to their universalist claims⁷.

Second, there is the problem of their practical applicability:

“Such political philosophy deals in ideals, or natural rights, or virtue, and also addresses a listener who is supposedly empowered to enact just what such considerations enjoin. And no actual audience, no audience in the world, is in that situation, not even the Supreme Court.”⁸

Many species of liberalism refuse to acknowledge the fact that our ability to change the world is not determined by the strength or even truth of our convictions. The reality is that each of us have to deal with limited resources, the opposing interests and distrust of others, historically developed power-structures and other non-ideal factors that cannot be reasoned away whenever we advocate policy reform⁹. The application of meta-ethical theories to concrete situations will always be controversial. The liberalism of fear recognizes this by starting not with securing the consistency of idealized accounts, but rather with finding a solution to a practical problem.

The different species of liberalism might have many features in common, but Williams does not tell

5 LOF: p. 55.

6 See RMPT: p. 2. Williams makes a different distinction, that between a structural model and an enactment model, but the common factor for all of the liberal theories is the same: they take (moral) theory as their starting point.

7 See IBD: pp. 21-24. Williams disputes the universalist claims made on behalf of Kantian ideals of personhood. Elsewhere, in HRR: p. 67, Williams denies that liberalism applies to all conceivable situations: it only applies to those in which liberalism is supported by the historical context or connected in a practical way to such contexts. This topic ventures too far from the purpose of the current chapter. I will return to it in a later chapter.

8 LOF: p. 58.

9 See IBD: p. 25. Here, Williams rejects all foundationalism, including the notion that politics is or should be based on a “deeper”, meta-ethical theory.

us here which similarities are salient in categorizing them all as a species of liberalism. We could say that the salient element must be a commitment to freedom, but this is not, by itself, very informative, in my opinion. Non-liberal political movements often present themselves as liberators, as champions of freedom. Freedom is not an ideal that exclusively belongs to liberals. Also, there should be limits to freedom within even the most liberal state.

What makes a commitment to freedom liberal is not its cognitive foundation either: the species of liberalism described by Williams and Shklar offer very different reasons for the protection of freedom. Nor is it the exact scope of freedoms: liberals are not in agreement about the meaning and extent of civil liberties and interests.

In political discourse, liberalism is usually thought of as a particular position in the spectrum between “the right” and “the left”. Liberals are thought to have specific positions on socioeconomic issues like tax policy, social security and the proper tasks of government. Williams explicitly rejects this as a common feature of liberalism¹⁰: liberals disagree about these matters. Similarly, liberalism is not necessarily committed to a strictly negative definition of freedom: protecting the weak might involve empowering them in ways that curtail the freedom of the powerful, negatively understood. Government regulation might serve as an example. Sadly, none of the usual definitions of liberalism captures the intentions of Bernard Williams.

1.2. Which Historical Circumstances Encourage Liberalism?

In our effort to define liberal practices, it might help to understand some of the historical context that produced them. According to Bernard Williams, liberalism is intimately linked to the conditions of modernity:

“[...] The legitimations appropriate to a modern state are essentially connected with the nature of modernity as the social thought of the last century, particularly that of Weber, has helped us to understand it. This includes organizational features (pluralism, etc. and bureaucratic forms of control), individualism, and cognitive aspects of authority (Entzauberung).[...] To make my view even cruder than it is anyway, it could be expressed in the slogan [Legitimacy] + Modernity = Liberalism, where the ambiguities of the later term serve to indicate a range of options that make political sense in the modern world: they are all compatible with the Rechtsstaat, and they vary depending on how much emphasis is put on welfare rights and the like.”¹¹

In this formula, Williams describes liberalism as a range of legitimations for state power that make sense in a pluralist, centralized, individualist, disenchanted context. But what does liberalism have to do with these features of the modern world? Williams says no more on the matter and I am forced to interpret their meaning.

Pluralism, the co-existence of multiple worldviews within a single polity, makes ideologically idiosyncratic legitimations of coercive power problematic. The more ideologically diverse a polity becomes, the fewer individuals an ideological legitimation will be able to convince, and the more dangerous bias becomes to maintain. Pluralism will make procedural forms of legitimation more appealing.

The existence of bureaucratic forms of control is a prerequisite for a large nation-state to have an effective system of checks and balances. Elections and the rule of law rest on a state's ability to register and coordinate, its infrastructure of control.

10 RMPT: p. 9.

11 RMPT: p. 9.

Individualism, the struggle for greater personal independence, means modern individuals are less likely to accept restrictions of their freedoms, unless they would reasonably accept the need for such a restriction in general. Individualism advocates a wider scope of rights and consensual discussion. Disenchantment (“Entzauberung”), the rise of science as the dominant mode of explanation, shows how legitimations based on an idea of natural superiority or divine mandate are either incoherent, arbitrary, irrelevant or simply untrue:

“Rationalizations of disadvantage in terms of race and gender are invalid. This is partly a question of how things are now, but it also reflects the fact that only some rationalizations are even intelligible. Those associated with racism, and the like, are all false or by anyone’s standards irrelevant.”¹²

Once this has been shown, hierarchies based on race or gender no longer make sense. Taken together, these circumstances encourage a more egalitarian society, in which only a limited number of legitimations continue to make sense. Most of them would be called liberal. However, Williams does not compile a comprehensive list of “options that make political sense in the modern world”. Nor does he provide us with a list of sufficient conditions. It is not the case that a legitimation is automatically liberal in virtue of its making sense in a modern world, as the use of the indefinite article (*a* range of options...) suggests that some non-liberal legitimations might make sense in this modern context as well. We will deal with such exceptions later, in the third chapter. So although we know now what historical conditions of modernity have contributed to liberalism, they fail to yield an actual definition. Do we even need one for our present purpose?

1.3. Why does Williams not Provide us with a Complete Definition of Liberalism?

All species of liberalism have certain features in common: consensual discussion and equal freedom are seen as the default modes of conflict-resolution and decision-making. Each subject of state power is to be treated equally according to the rule of law. In principle, the same, relatively broad freedoms are afforded to each individual. The problem with structuring these shared features into a complete definition is that each of them is ambiguous in scope: liberals differ substantially in their assessment of their requirements. The same principles can be used to support different positions. The limits of freedom, equality and consent and conflicts between these ideals are never uncontroversially resolved.

Liberalism, as a result, has no monolithic or fixed structure. It is entirely possible to disagree reasonably over whether or not a particular social or economic policy is liberal, and criteria will not help settle the matter, in my opinion: they will only move the discussion onto whether or not the criteria are adequate, equally relevant, or applicable to the case at hand. This is a more general problem, recognized by Williams. Not only “liberalism”, but also “human rights violations” and “injustice” are not defined by Bernard Williams as much as they are described. Instead of a set of criteria that will always be deceptively difficult to apply in actual cases, Williams prefers to offer a paradigm which specific cases can resemble gradually in manifold ways¹³. He thereby acknowledges the fact that our definitions cannot map neatly onto a messy reality. Speaking about the identification of fundamental human rights violations, Williams discusses the fundamental problem with purportedly exact definitions:

12 RMPT: p. 7.

13 IBD: p.23. Instead of defining justice, Williams offers a paradigm of injustice.

“No one supposes that the drawing of boundaries is easy in such matters, and for reasons well known in semantics, it is no easier to draw an unambiguous boundary around just the unambiguous cases.”¹⁴”

Definitions cannot resolve the matter because their application is always situational and requires interpretation in each context. So when I sum up the features of liberalism, I do so fully aware that they are, both in my estimation and in that of Bernard Williams, only a rough description and not a complete definition. In his articles, he does not need any such definition. After all, the points he makes about liberalism are general and schematic. For the purpose of his arguments, a rough idea will suffice.

The specifics are different in each case, and must be dealt with in first-order discussions that are not necessarily philosophical: the balance between liberty and equality is maintained politically in each situation, and the actual decision-making process may draw on a myriad of disciplines¹⁵. For these reasons I would say that the lack of a definition of liberalism is neither an oversight nor a deficit considering Bernard Williams' systematic considerations, or the requirements of the current thesis. What follows is an analysis of some of the parameters of liberalism, by which we can recognize political arrangements as liberal.

1.4. What Makes a Regime More or Less Liberal?

Liberalism seems to be a comparative concept in some ways. Positions can be more or less liberal in contrast to the alternatives available. In the following passage, Bernard Williams compares liberalism with its alternatives, noting mostly gradual differences:

“Liberals will, first, raise the standards of what counts as being disadvantaged. This is because they raise their expectations of what a state can do. Moreover they adopt, perhaps because they are in a position to adopt, more demanding standards of what counts as a threat to people's vital interests [...]; they take more sophisticated steps to stop the solution becoming part of the problem.”¹⁶

Liberalism, in particular Williams' version of it, is progressive in nature, and therefore changes depending on the circumstances. Expanding this gradual account of liberal commitments with other interpretations of Williams' work, I've listed the necessary differences of degree between more and less liberal positions.

Any restriction of freedom, every unequal distribution of power that demands the obedience and cooperation of those subjected to it must be justified as such. This is the Basic Legitimation Demand¹⁷, and it is considered by Williams to apply to any and all political arrangements, properly so-called. What separates liberalism from its competitors are the demands it makes of the justifications of coercive power. Comparatively, liberalism makes more stringent demands of such justifications:

“Now and around here, the [Basic Legitimation Demand] together with the historical conditions permit only a liberal solution: other forms of answer are unacceptable. In part, this is for the

14 IBD: p. 19.

15 See RMPT: p.11. What makes sense as a legitimation of power is decided in first-order discussions using all our “political, moral, social, interpretive and other” concepts. It seems to me that the practical implications of those legitimations in terms of rights are similarly decided.

16 RMPT: p. 7.

17 RMPT: pp. 4-6.

Enlightenment reason that other supposed legitimations are now seen to be false and in particular ideological.¹⁸”

Liberalism rejects any legitimation based on revelation or prejudice (either sexual or racial), because the relevance, coherence or truth of these premises is rendered suspect by scientific discoveries and other modern circumstances.

The default attitude is that everyone should equally be free to do whatever they want. Any regime that wishes to restrict freedoms or distribute them unequally (which includes every nation-state) must either justify its use of coercive power or accept that others have no reason to accept its rule, and have good reason to resist and replace it. Power cannot legitimate itself simply by its own existence or de facto acceptance by the populace. This is implied by the universal nature of the Basic Legitimation Demand, which we will discuss in the next chapter. Some unequal restriction of freedom is obviously necessary: none of us should be free to kill others, and only some of us should be allowed to practice medicine, drive cars, or vote. We do not allow small children to do any of these things, and with good reason. Some inequality and some limits to freedom are obviously legitimate. But liberalism generally places very high demands on the legitimacy of restrictions of freedom. Not all of liberals have the same demands of legitimacy, though. At the limit liberalism only accepts consent, and the conditions for the continued consent as possible reasons to restrict freedom.

Like freedom and equality, consent and discussion are ideals that liberals are loathe to abandon¹⁹. Disputes and political decisions are ideally settled through reasonable debate aimed at consensus, and sometimes decided by majority vote²⁰. Liberals are less likely to give up on these methods of conflict-resolution and decision-making. Any deviation from the path of diplomacy must meet very stringent criteria of legitimacy, although the exact conditions under which democratic practices are no longer a viable option will always be a matter of controversy among liberals.

There is also no guarantee that each of these ideals is compatible. For instance, it is possible that freedom of speech or democratic practices give a platform to bigots advocating discrimination. Liberals would not necessarily agree over the right priority between the rights and freedoms involved. The case is further complicated in cases where segregation is seen as a good thing by all involved: some women consider their submission to men to be a good thing, and emancipation a threat to their integrity or safety. Does their consent legitimate their inequality in such cases? Williams argues that this is a political decision that cannot be made theoretically²¹.

Liberalism has a comparatively deep commitment to individual freedom, equality, consent and discussion. All of these features are ambiguous in their scope, and comparative in nature. There is considerable disagreement among liberals as to the limits and conditions of rights, freedoms, consent, and equality. Not to mention the differences concerning the relative priorities of these ideals whenever they conflict. And so there is reasonable disagreement possible as to whether or not

18 RMPT: p. 8.

19 ELP: p. 100. Here, Williams describes Rawls' model as liberal in a specific respect: its commitment to consensual discussion.

20 HRI: p. 150. It matters how the electorate will react to political decisions. Even humanitarian intervention is dependent on the political survival of its proponents. See also pp. 12-17, in which Williams acknowledges the limits of consensus. We need some way to make collective decisions if we continue to disagree (which is what majority vote is for).

21 See IBD: p. 27 and TPMQ: p. 137. What the correct, liberal response is to cases of willing inequality is not a question of theory. It is a matter of political good sense. We will deal with this problem in the following chapters.

a particular position is more liberal than another, or even liberal at all. Bernard Williams' own liberal doctrine may be open-ended, but its commitments are guided by a single standard.

1.5. What Problem is Liberalism Meant to Solve?

“Inasmuch as liberalism has foundations, it has foundations in its capacity to answer the “first question” in what is now seen [...] to be an acceptable way.”²²

In order to understand what liberalism represents to Bernard Williams, we must know what kind of issue it purports to address. This will allow us to see by what standards Williams would have us judge liberalism, which in turn is pivotal in its defense.

“I identify the “first” political question in Hobbesian terms as the securing of order, protection, safety, trust and the conditions of cooperation. It is “first” because solving it is a condition for solving, indeed posing, any others. It is not (unhappily) first in the sense that, once solved, it never has to be solved again.”²³

Bernard Williams strays from the beaten path by phrasing the first question of politics as a practical one. Unlike most other political philosophers, Bernard Williams does not think of politics as the application of a moral theory on a national scale. Every such theory of political moralism necessarily makes use of meta-ethical background assumptions that may or may not be shared. If a particular conception of the person or the nature of moral obligation is controversial, which they all are, they are impotent in the face of continued disagreement. Even if such conceptions were agreed upon, their implications for specific problems would remain controversial. Bernard Williams' solution is to base our political practices on their ability to solve what is, by his account and mine, a universal problem for all societies, and nearly all individuals: securing a reasonable level of safety. This is the question of the liberalism of fear described in the beginning of this chapter. Instead of designing a theory, Williams proposes we judge political divisions of power first by their ability to reliably protect us from sources of harm and arbitrary coercion.

As with all practical problems, the solutions to this “first question of politics” are many, dependent on the means available, and imperfect. Reducing the probability of terror, assault and murder may be a universal and primary purpose of political structures, the means to actually do so vary from one situation to the next. There is no single solution to these problems that is equally effective and available everywhere at any given time. We must be content with the fact that our solutions are perhaps the best we can achieve under certain contingent circumstances, and may be less useful under others. There is no way to answer the question once and for all. Also, we must accept that even if any political structure deploys the means available to their greatest possible effect, there is no such thing as absolute safety. There is in this sense no perfect answer to the first question of politics.

This does not mean that politics is doomed to continuously and exclusively deal with crime and invasion. The particulars of law-enforcement and defense can to some extent be delegated to independent agencies like the police and the military long enough for political attention to focus on other matters. There is no fixed threshold of peace, law and order that must be reached: more can

22 RMPT: p. 8.

23 RMPT: p. 3.

always be done. It is unavoidably a matter of political judgment whether enough has been done at the political level to alleviate the threat of violence. But hopefully, sometimes, we can agree that it is time to address other, more subtle threats to our health and freedom.

1.6. What is Wrong with Williams' Characterization of Liberalism and its Purpose?

In this section I will reply to some possible objections against this conception of liberalism. It could be said that Bernard Williams, or my interpretation of him, stretches the concept of liberalism to the point of meaninglessness by not providing clear limits. Apart from Wittgenstein's point that an area with vague boundaries is still an area²⁴, it must be said that there are still notable illiberal views. Any political view that implies that some kinds of political power should not be checked is non-liberal. To the extent that conservatives and communitarians view tradition in itself as a reason to restrict freedom, they are non-liberal. All existent dictatorships, whether religious or secular in nature, are anti-liberal. Also, there is growing contemporary resistance toward certain liberal practices, everywhere around the world. Civil and human rights are embattled the world over, from the United States to Iran, from Israel to the Netherlands, and from France to Turkey. After 9/11, extra-judicial killing, incarceration and censorship seem to have become more commonplace, or at least more brazen. Some may claim this is necessary to protect the innocent, but they neglect methods to reliably distinguish criminals from innocents. This disregard for the possibility of collateral damage is also illiberal²⁵.

Another objection could be raised against Bernard Williams' conception of the first question of politics. The charge could be that its preoccupation with safety and the perils of government power must lead to a minimalist, isolationist government; one that would not be obligated towards other states, the poor or future generations, or is hesitant to employ state power on behalf of them. This is a misconception. Phrasing the first question of politics as the question of securing the safety of its subjects does not commit Bernard Williams to limiting the role of government to that of nightwatchman. As we already noted in the last section political structures can, under certain conditions, delegate the everyday work needed to prevent and punish offenses to independent agencies. This allows them to undertake other tasks:

"If indeed primary freedoms are secured, and basic fears are assuaged, the attentions of the liberalism of fear will move to more sophisticated conceptions of freedom, and other forms of fear, other ways in which the asymmetries of power and powerlessness work to the disadvantage of the latter."²⁶

The fact that the liberalism of fear is equally distrustful of unchecked power wherever it may be found, combined with its progressive nature, ensures that it will employ ever subtler means to check ever subtler forms of oppression. It is not isolationist, because doing so may require cooperation between nation-states²⁷: international political institutions governing trade, pollution, human rights, and diplomacy can certainly safeguard the weak from abuses of power, even if they do not do a very good job of it right now.

24 Wittgenstein (2005): *Philosophical Investigations*, p. 29. Contra Frege, Wittgenstein asserts that not every situation requires the same level of exactness.

25 There is a difference between advocating a policy and making a rare exception, which will be discussed in the third chapter.

26 LOF: p. 60.

27 LOF: p. 59.

The formulations of the liberalism of fear and the first question of politics do not imply a laissez-faire attitude towards sustainability either. It is not the case that the freedom of current generations to live how they want to live necessarily trumps the interests of future generations. Williams does not exclude other considerations, because the liberalism of fear should not be considered a “complete political doctrine for all circumstances”:

“[The liberalism of fear] does not have to think that freedom, in particular freedom defined narrowly by the political, is the only value that matters.”²⁸”

We have already dismissed the notion that liberals share common socioeconomic positions. It might be the case that the best way to protect the poor from exploitation includes social security, consumer rights, public schooling, housing and healthcare, and other such projects. So it is certainly not the case that Bernard Williams' phrasing of the first question of politics implies a minimalist government. The liberalism of fear could mistakenly be taken to be a conservative and pessimistic approach to politics, because its proponents so often point to the disappointing history of political idealism. On the contrary, the liberalism of fear understands that injustice and oppression can only be rolled back one step at a time.

“[The liberalism of fear] is very importantly the party of memory. But it can be, in good times, the politics of hope as well.”²⁹”

1.7. Which Political Practices are Liberal?

It appears that the question posed in this paragraph is a typically philosophical question. There is more to it than that. As we have seen, liberalism is a demand for a certain class of legitimations for political authority. In all its myriad forms, liberalism is an ongoing attempt to find a balance between everyone's freedom and power in a way that still makes sense in a modern context. This involves finding and implementing reliable ways to distinguish legitimate from illegitimate power. Power is made legitimate, according to liberalism, by its commitment to equal, individual rights, consent and discussion. They lend authority to power. As illustrated earlier in this chapter, there is considerable debate among liberals about what rights we should have, which ones have priority if they conflict, what it means to be equal before the law, and what consensual discussion can hope to achieve. Even so, these ideals are all quite uncontroversially liberal, and the real difference between liberals is about their conditions and limits.

However, defending liberalism as a particular doctrine of legitimation is in the end intended to affect or preserve particular practical states of affairs. Liberalism proposes certain political practices and institutions. This paper is dedicated to outlining their defense, and in particular the role philosophers can play in it. But which practices does liberalism attempt to sustain? Bernard Williams explicitly names the rule of law (which implies an independence of legislative, judiciary, and executive powers of government), democratic forms of decision-making (universal suffrage and representative elections), the rejection of discrimination in terms of race and gender, and freedom of speech (which facilitates accountability, consensual decision-making and discussion). But because the liberalism of fear is wary of coercive power everywhere, constantly looking for new and better ways to prevent more subtle kinds of domination, there is really no way to limit the list. I propose to keep the list open for any political practice that, under modern circumstances, reliably guards the

28 LOF: p. 61.

29 LOF: p. 61.

weak against arbitrary harm and coercion by the powerful. Many proposals could be said to address the asymmetries of power, although not all of them are equally popular, and rightly so. We have already referred to welfare rights and supranational authorities as possible if controversial features of liberal policy. The question of whether or not they can prevent abuse, and are liberal, is not primarily a philosophical question.

The nature of liberalism is presented by Williams in an open-ended way: different circumstances might demand different practices, or make possible new ways to prevent the powerful from oppressing the weak. For the purposes of our main question, this is not a problem. We are not interested in defending every policy that could conceivably be called liberal, but to outline methods to defend liberal practices in general. The exact defense is bound to be different for each practice, but the methods are unlikely to vary. Whether we are talking about voting rights, welfare or international law does not really make a difference within our schematic approach. It will turn out that the model that Williams' political thought suggests for the defense of liberal practices is very broadly applicable.

Chapter 2: Why are Liberal Political Practices Uniquely Legitimate?

“The categories of an ordered as opposed to a disordered social situation, disorder which is at the limit anarchy, apply everywhere; correspondingly, so do the ideas of a legitimate political order, where that means, not necessarily what we would count now as an acceptable political order, but what counted then as one.”³⁰

Now that we know what liberal practices are, we can turn our attention towards the reason why liberal political practices are worth defending. This will allow us to see how they can be defended while staying true to liberal principles. Whenever liberals are asked for a reason to support liberal political arrangements and pose liberal demands to the legitimation of government, a reason should be given. Why are Liberal Practices legitimate, and perhaps equally as important, why are divisions of power that neglect them illegitimate? Those are the questions that this chapter is intended to answer. We will begin by discussing Bernard Williams' criteria for legitimacy, and then see how and why liberal divisions of power uniquely fit those criteria. In the eyes of Bernard Williams, Hobbesian fear is universal, and governments are intended to be the solution. But their use of coercion must be justified if it is to separate itself from the problem. Here and now, liberal practices constitute the best defense against the abuse of power. Alternative political practices have derived their legitimacy from beliefs that have been proven wrong, irrelevant, arbitrary, inconsistent or too controversial to command the respect needed for a well ordered society under modern circumstances. Whenever these propositions are questioned, liberals are forced to present their case just as their opponents would: by disputing or defending the truth or consistency of the claims involved, ideally building arguments on assertions that are actually undisputed. Liberals can not rely on liberal theories of autonomy, action and personhood to convince everyone. For this reason, liberals should not base their argument for the unique legitimacy of liberal practices on a purely meta-ethical foundation; at least some of their arguments should concern the falsehoods that support alternative legitimations, the dangers of their arbitrariness, and the relative success of liberalism in curtailing the abuse of power. In this, I agree with Bernard Williams, and I will defend his claims against possible objections.

2.1. Why is The Basic Legitimation Demand Universal?

“[...] [The Basic Legitimation Demand] is implicit in the very idea of a legitimate state, and so is inherent in any politics”³¹

According to Bernard Williams, politics is first an attempt to alleviate the Hobbesian fear of assault, murder, coercion and the uncertainty of cooperation, such as theft and fraud. However, governments often use some form of coercion themselves. We pay our taxes and our respects to the police officer subduing a suspect, while we do not think these are owed to the enforcer of a local gang-leader. One commands authority while the other commands only violence and fear. The difference lies in their legitimacy, the justification of their actions. We are offered a good reason to obey the one, but not the other.

“If the power of one lot of people over another is to represent a solution to the first political question, and not itself be part of the problem, something has to be said to explain (to the less empowered, to concerned bystanders, to children being educated in this structure, etc.) what the difference is between the solution and the problem, and that cannot simply be an account of

30 HRR: p. 69.

31 RMPT: p. 8.

successful domination.”³²

Unjustified successful domination does not, in Williams' eyes, really constitute a political arrangement at all, since it indulges in the very behavior that politics is supposed to replace. It does not answer the first political question. In the absence of a justification, there are only warlords vying for dominance of a territory, each deserving of resistance and replacement. Anyone who would claim that might makes right is, as I see it, denying that there is such a thing as injustice: they are placing themselves outside a specifically moral discourse altogether.

It is, according to Bernard Williams, a universal requirement of any government properly so called that it provides a legitimation for the claims of obedience it makes on others. This Basic Legitimation Demand is universal in the sense that it applies to every government whatsoever, but also in that it is shared by almost everyone. It is irrational to respect and support the rule of another without a good reason. We might disagree about what counts as a good reason, but even the most despotic of governments do not deny that they must offer some justification for the power they wield. They might invoke natural superiority, the will of a god, the true interests of the populace, or the mandate of a rigged election: almost all holders of power seek to legitimize their rule. Those who do not provide any justification are usually seen for what they are: an arbitrary, threatening imposition, deserving of resistance. They are a problem rather than a solution for those they rule. In the following passage, Bernard Williams explains that any appeal for the willing acquiescence, support and cooperation of a population gives rise to a demand for reasons acceptable to that populace. Justification is what transforms power into authority.

*“[One] sufficient condition of there being a (genuine) demand for justification is this: A coerces B and claims that B would be wrong to fight back: resents it, forbids it, rallies others to oppose it as wrong, and so on. By doing this, A claims that his actions transcend the conditions of warfare, and this gives rise to a demand for justification of what A does. When A is the state, these claims constitute its claim of authority over B. So we have a sense in which the [Basic Legitimation Demand] itself requires a legitimation to be given to every subject.”*³³

Every person that is supposed to obey and support a political regime is owed a good legitimation. Not everyone will be satisfied by any one legitimation. There might even be those who do not accept any of its reasons. There is always a possibility that some denizens of the state do not want to be subject to its rules. There is no argument that can entirely eliminate secessionist or anarchist movements, or lawlessness. This does not make the state illegitimate. The legitimacy of the state does not imply that no one resists it, but only that everyone is given a good reason not to. Conversely, a lack of popular resistance does not imply that an authority is legitimate. The acceptance of a division of power or lack thereof does not make or break its legitimacy.

*“We cannot say that it is either a necessary or sufficient condition of there being a (genuine) demand for justification, that someone demands one. It is not sufficient, because anyone who feels he has a grievance can raise a demand, and there is always some room for grievance. It is also not a necessary condition, because people can be drilled by coercive power itself into accepting its exercise.”*³⁴

This is what Williams refers to as the “critical theory principle”. However, there is an enormous responsibility attached to its application. Claiming that anyone's support of, or resistance to, a regime is due to indoctrination, coercion or false consciousness is a serious charge: one that comes

32 RMPT: p. 5., and HRR: p. 63.

33 RMPT: p. 6.

34 RMPT: p.6.

with a heavy burden of proof.

“It is notoriously problematical to reach such conclusions, but to the extent that the belief system can be reasonably interpreted as (to put it in improbably simple terms) a device for sustaining the domination of the more powerful group, to that extent the whole enterprise might be seen as a violation of human rights.”³⁵

All of this suggests that the actual acceptance of or resistance to a regime does not necessarily imply anything about its legitimacy. After all, threats, lies and simple apathy can prevent subjects from resisting usurpers of power, just as they can incite resistance against legitimate governments. Legitimacy is not to be measured by whether subjects and others actually affirm it, but whether they ought to. Even so, the ability of a regime to solve the first political question depends on the support of those subject to it. In this sense, however, subjects are not the only ones a regime needs to convince of its legitimacy in order to be effective:

“Who has to be satisfied that the Basic Legitimation Demand has been met by a given formation at one time is a good question, and it depends on the circumstances. Moreover, it is a political question, which depends on the political circumstances. Obviously, the people to be satisfied should include a substantial number of the people; beyond that, they may include other powers, groups, elsewhere sympathetic to the minority, young people who need to understand what is happening, influential critics to be persuaded, and so forth.”³⁶

If enough people refuse the legitimation of power and resist the regime, its use of coercion cannot remain a viable solution to Hobbesian fear. Even if resistance towards a regime is due to manipulation or madness, too much of it will render the regime unable to remain an adequate answer to the first question of politics. Apart from the question of the legitimacy of authority, there is a pragmatic question of how to rally support for that authority. These questions are not clearly separated in Williams' account.

Whether or not a regime can be a viable solution to the first question of politics is partially dependent on whether others believe that it has the capability to protect its subjects. First a conscientious liberal has to establish a solid justification for his political proposals, and then amass the resources and support needed to implement and maintain them. This might require more than a good justification. Flattery, bargaining and other diplomatic skills may also be required. Most important to philosophers, however, are the criteria for a good legitimation. Whether or not a legitimation ought to be accepted depends, according to Williams, on its coherence with the remainder of actual beliefs of its relevant evaluators.

2.2. What Does it Mean to Make Sense?

“[Making Sense] is a category of historical understanding-which we can call, if we like, a hermeneutical category”³⁷

A good legitimation is one that makes sense as such to a given audience, given their beliefs. It is a matter of cohering hermeneutically with what is known to the audience. The belief that liberal practices are uniquely legitimate is necessarily dependent on other background beliefs that liberals hold true, such as the danger of unchecked power and the virtue of constitutional democracy. Likewise, opposition to the idea of a racial hierarchy is dependent on a lack of belief in the

35 HRR: p.71.

36 TPMQ: p. 136.

37 RMPT: p. 11.

relevance or truth of racial superiority as a legitimation for authority. These beliefs and lacks of belief are connected in turn with still other beliefs. Beliefs may be amended, dismantling a legitimation that once made sense. Bernard Williams illustrates this with an example:

*“Up to a point, it may be possible for the supporters of [theocratic patriarchy] to make a decent case [...] that the coercion is legitimate. Somewhere beyond that point there may come a time at which the cause is lost, the legitimation no longer makes sense, and only the truly fanatical can bring themselves to believe it.”*³⁸

Bernard Williams explicitly denies foundationalism³⁹, the idea that all our beliefs are ultimately based on a cognitive bedrock of sorts, upon which we could build the structure of our knowledge from the ground up. Williams is averse to labeling his own views, and I will not attempt to. Suffice to say that in his thought, a justification for authority is adequate if it is supported by the beliefs of those in a position to accept it. That is what it means to make sense, which is what it means to meet the Basic Legitimation Demand. Since beliefs can vary, this appears at first glance to have the troubling implication of relativism. Bernard Williams deals with this charge in a unique way.

2.3. Is Williams a Relativist?

*“[...] What we acknowledge as [legitimate], here and now, is what, here and now, [makes sense] as a legitimation of power as authority; and discussions about whether it does [make sense] will be engaged, first-order discussions using our political, moral, social, interpretive, and other concepts.”*⁴⁰

Williams maintains a relativism of distance.⁴¹ This means that whatever views we cannot affect, we need not judge, and should not judge by our own standards. We cannot negotiate with hypothetical others, or with the past. There is nothing we can do to correct their perceived injustices and errors of judgment. And so there is no harm in saying that what is legitimate for them is not legitimate for us. In fact, this allows us to see that some forms of legitimation used to make sense, but no longer do. We can understand that justifications might make sense under hypothetical circumstances, but not under current actual ones. That is the meaning of the relativism of distance Williams subscribes to.

The standard universalist conception of liberalism is problematic because it implies that all non-liberals have been and will be either unreasonable, dumb, or evil. Some liberals are not afraid to put it in those terms⁴², while others believe this implication reflects badly on liberalism.

*“[The queasy liberal] thinks that if a morality is correct, it must apply to everyone. So if liberalism is correct, it must apply to all those past people who were not liberals: they ought to have been liberals, and since they were not, they were bad, or stupid, or something along those lines. But -the queasy liberal feels, and to this extent he is right- these are foolish things to think about all those past people. So, he concludes, liberalism cannot be correct.”*⁴³

The problem, in Williams' estimation and mine, is not with liberalism. Every claim that a moral system can be applied to any time and place has great difficulty explaining why so many intelligent, well-meaning individuals all over the world and all throughout history got it wrong, and a few happen to have gotten it right. Universalism can only be made credible with a good theory of error,

38 IBD: p. 27.

39 IBD: p. 25. We will discuss Williams' reasons later.

40 RMPT: p. 11.

41 HRR: p. 68. See also ELP: pp.162-165.

42 In IBD: p. 22, Williams cites Nino (1991): *Ethics of Human Rights*, p. 104.

43 HRR: p. 67.

which morality lacks⁴⁴. Science, in contrast, has such a theory of error. It can credibly claim that the laws of nature held before they were discovered. not only because of the available evidence, but also because it has a good explanation as to why nobody came up with them before.

It is important to understand that Bernard Williams also rejects what he calls standard relativism.

“Standard relativism says simply that if in culture A, X is favoured, and in culture B, Y is favoured, than X is right for A and Y is right for B; in particular, if “we” think X right and “they” think X wrong, then each party is right “for itself”.”⁴⁵

Williams is right in saying this is nonsense, because the difference between A and B is a matter of political construction. Who “we” are is a matter of controversy, just as who “they” are. There are no natural or clear boundaries between “us” and “them”. Standard relativism ignores this, taking the difference as fundamental to the truth of statements. It denies that moral argument is possible, because each “culture” is supposedly a closed system. But once two or more “communities” come into contact with each other, they share a context in which they can affect each other and argue over whatever issues are most relevant to them.

“[...]Standard relativism, one may say, is always too early or too late. It is too early, when the parties have no contact with each other, and neither can think of itself as “we” and the other as “they.” It is too late, when they have encountered one another: the moment they have done so, there is a new “we” to be negotiated.”⁴⁶

In the face of international problems of any sort, standard (more specifically, cultural) relativism claims that it is futile for the involved parties to the debate the issue. Supposedly, each is necessarily arguing from their own context. Of course, there is no reason why this problem, if it actually existed, would not plague every other dispute. This, of course, is preposterous. Williams' point is that the very fact that two people are capable of affecting each other's lives implies they share a relevant context.

Whenever the actions of one person cause trouble for the other, relativism falls away. They will need to find some way to deal with each other, and the legitimacy of their actions becomes an issue for both parties. When an international issue necessitates cooperation or conflicting interests raise the stakes, it is obvious why people from different cultural backgrounds need to establish together what each of them can legitimately do. Denying that consensus is possible is premature, and dangerous. When the question is raised whether a particular legitimation makes sense, we must weigh its merits against those of the objections raised. There is no way to avoid substantive argument, and there is no reason why it has to be fruitless. Legitimations are supported by beliefs the truth and coherence of which is a matter of debate. I will now address the arguments that liberals might use in such a debate.

2.4. What are the Pragmatic Arguments for Liberalism?

“My own view is that the minimum requirements of participatory democracy as an essential part of modern [legitimacy] are derived at a fairly straightforward and virtually instrumental level in terms of the harms and indefensibility of doing without it.”⁴⁷

44 HRR: p. 66.

45 HRR: p. 68.

46 HRR: p. 69.

47 RMPT: p. 16.

Liberal demands of legitimacy make sense. They can be supported by a variety of arguments which I will not be able to list comprehensively, because most of them are about the inadequacy of its alternatives. The most positive argument Bernard Williams will give for liberalism is that its practices are designed to prevent the powerful from abusing their power, and have historically been proven effective in this regard. Freedom of speech ensures that we can find out, or at least discuss whether or not the government is abusing its power. Representative democracy and the separation of executive, legislative and judiciary branches of government ensure that every use of coercion is checked by an independent authority and so on. The chances that a government will harm innocents or arbitrarily deprive them of anything are reduced significantly by enforcing liberal practices. Whatever concerns there might have been about the competence of the common man, the efficiency of constitutional democracy and the sub-optimal results they might produce have been laid to rest or offset by these gains. The logistical problems associated with making the state accountable through elections and the separation of its powers have been reduced substantially by the centralization of power. Conversely, non-liberal political arrangements have historically proven prone to corruption and other evils.

Also, alternatives to liberal methods of legitimation have largely been discredited, as we have discussed in the previous chapter. Where a largely uneducated, homogenous society might be held together by a common belief in a certain interpretation of scripture or nature, the mere continued presence of competing interpretations, religions and ideals poses a challenge. Close examination will cast doubt on their coherence and truth. Scientific research will disprove many claims that used to support the truth of revelation. And even when that research is disputed, the legitimation will no longer command the unanimous assent of all subjects. The increasing financial and intellectual independence of the individual will further undermine the appeal of what is now exposed as an idiosyncratic legitimation of coercion. It will have difficulty avoiding the impression that its authority is an arbitrary imposition that can easily be exploited. This in turn will force the powers that be to look for less controversial justifications for its coercion than the interpretation of scripture or nature. It will have to abandon its oppression of dissidents and embrace more impartial, procedural methods of decision-making. If it does not, close scrutiny will reveal that its power is no longer legitimate. It is no insurmountable problem that some of liberalism's detractors are not familiar with the perspectives and insights of pluralism, individualism, and the cutting edge of science or with the tools of a bureaucratic infrastructure. Where they are not present, they can be made available.

This provides modern liberals with a treasure trove of arguments. Whenever a hierarchical division of power according to gender is defended by claiming a certain interpretation of a certain revelation liberals may argue that revelation can or should be interpreted differently, that revelation is false or uncertain, or irrelevant. Either concession will render it useless as a legitimation. When racial discrimination is justified by claiming the genetic inferiority of the victims, liberals may call into question the dubious pseudoscience that the claim is based on. When a regime claims to restrict the freedoms of its subjects in the name of its true interests, liberals may doubt their good faith or judgment, point out the potential or fact of abuse, or abhor the unintended consequences of such policies.

Without these bases for legitimacy (there are many others that have been similarly discredited), there are few options other than a liberal democracy. Consensual discussion and majority vote are two of the few ways left to legitimate authority that still make sense today. Denying persons participation in these forums can only be justified if they are somehow shown to be psychologically incompetent, or if not doing so would endanger the conditions in which consensual discussions and

majority vote are possible (both of which require a good deal of proof). In times of war, martial law is declared and the regular procedures of liberal democracy are suspended temporarily. Such modern non-liberal justifications are exceptions, arguably warranted by extreme circumstances. They make sense in a modern context only when the integrity of default liberal political practices cannot be maintained. Liberal practices should be implemented as much as possible, as their abrogation invites abuse.

At least some of these arguments concerning legitimacy rely on empirical matters of fact. Deciding whether or not a particular legitimation makes sense given the facts as we know them is a matter of first-order discussion. That is, we will have to dispute the equal merits of proofs and allegations. In these discussions, conceptual analysis and critique will likely play only a supporting role, and other fields of knowledge, such as biology, physics and history will be more prominent.

2.5. Why are Meta-ethical Arguments for Liberalism Inadequate?

“It seems to me sensible, both philosophically and politically, to make our views of human rights, or at least the most basic human rights, depend as little as possible on disputable theses of liberalism or any other political ideology.”⁴⁸

Philosophers have traditionally defended liberalism with a specific type of argument, unique to them. These arguments for liberal practices are based on a theory of autonomy, utility, personhood, or obligation that they consider to be transcendental or otherwise universal in its application. They believe that liberalism should mainly be argued for on philosophical grounds. Convinced that no reasonable person could avoid their conclusions, they build their case on a meta-ethical foundation. Williams does not believe this strategy can succeed in convincing non-liberals, and neither do I.⁴⁹

“[...]Foundationalism, even constructivist foundationalism, can never achieve what it wants. Any such theory will seem to make sense, and will to some degree reorganize political thought and action, only by virtue of the historical situation in which it is presented, and its relation to that historical situation cannot fully be theorized or captured on reflection.”⁵⁰

The conceptions of personhood that underlie their theories are a response to the same modern circumstances mentioned above: pluralism, individualism, bureaucratic forms of control and disenchantment. Because they both make sense for the same reasons, the liberal conception of a person cannot be the foundation of liberal demands of legitimacy. In this, I agree with Bernard Williams.

“[...]One can invoke a liberal conception of the person in justifying features of the liberal state (they fit together), but one cannot go all the way down and start from the bottom.”⁵¹

It could be objected that the Liberalism of fear I have been defending does rest on a silent, meta-ethical premise: that freedom and equality are the default conditions of human society, and that it is exceptions to them that must be justified, instead of the other way around. This premise does not need to be understood meta-ethically, however. It simply needs to be a broadly shared, robust notion on which to build consensus, understood as a basis for safety. If anyone were to disagree with this

48 HRR: p. 74.

49 IBD: pp. 21-24. Some of the assumptions Williams rightly questions: the equality of human beings as a species, the rationality of human beings, and the implications of rationality for our commitment to universal moral rules.

50 IBD: p. 25

51 RMPT: pp. 8-9.

premise, I believe such a person would be unlikely to be convinced by theoretical justifications for ethical behavior. People are not, as a matter of principle, maligned for being fair and permissive to others, while arbitrary interference is frowned upon by most people, regardless of political or cultural background. This, I believe, is because the former, in contrast to the latter, does not directly threaten human beings anywhere, and so most people, regardless of birth, are raised to value fairness and freedom, while they fear oppression and abuse. Of course, what fairness and freedom mean and require can be controversial, and a subject for ongoing first-order disputes. Also, a misplaced or exaggerated sense of self-preservation or injustice can cause some to become abusive or unfair. This is why it is so easy for the solution to become part of the problem.

On the whole, liberal accounts of personhood are more controversial than liberal practices themselves. In fact, many non-liberals object primarily to these meta-ethical arguments for liberal arrangements. When there is a dispute about anything, it cannot be solved by referring to a more controversial thesis. On the contrary, anyone interested in convincing others would do well to build their case on beliefs that the intended audience actually believes in, and understands. As we explored earlier, there are more compelling cases to be made in this regard. It may be objected that those arguments are not as ironclad as the inescapable logic of meta-ethical theories. But to those non-liberals who reject the basic premises of those theories, their logic *is* escapable. Mere coherence does not compel assent. Even if it is inherently unreasonable to make exceptions to moral principles, or to act contrary to utility, arguments are unlikely to compel reason: human beings are emotional and impulsive, and I am not entirely sure that is an unequivocal weakness. Yes, the negative arguments I have outlined for liberal demands of legitimacy are debatable, but that is the condition we find ourselves in: *debate*. Once the question of whether a legitimation uniquely makes sense has been raised it is clear that it is, compared to other legitimations, a sectarian doctrine like any other. It might be one supported by the facts as we know them, uniquely fit to distinguish authority from the universal problem it is meant to solve. But it is not exempt from first-order discussion.

“[...] At a level of substantial disagreement [...] liberalism simply cannot avoid presenting “another sectarian doctrine”.”⁵²

2.6. Why Does Liberalism Make Sense?

We have established that authority implies a basic legitimation demand. Meeting that demand means providing a justification to every subject for the coercion it employs, distinguishing itself from the dangers it is supposed to protect them from. The demands of this justification, here and now, are liberal. Other legitimations only make sense under extreme circumstances. This is not necessarily always the case: given the evidence available to the average medieval peasant, it might have made sense to him that the king was ordained by God. In such cases, there is no harm in saying that the rule of such a king was legitimate. We cannot affect this, and it allows us to see why it was so widely accepted. However, the situation changes whenever we are in a position to actually talk to or otherwise affect those involved. In this case, we share a context and may be forced to take a stand. We have to find out what makes sense for us all in this new shared space. This is why we need arguments that can convince non-liberals. The parties involved will have to make their case, debating the truth and coherence of all beliefs that may affect the demands of legitimacy: liberals will have to substantively argue that liberal practices really are the only way that we know of to

52 TPMQ: p. 137.

reliably distinguish between abuse and legitimate power. Negatively, they can argue that clerical decree is an arbitrary, unreliable or ambiguous source of information, one that can easily be interpreted in bad faith, rendering its authority prone to abuse. These are not all philosophical arguments, and they should not be. Philosophical arguments for liberalism usually rely on controversial theories of personhood whose premises are not shared by liberalism's detractors, and therefore fail to be convincing to them. The role of philosophy in the argumentation for liberal politics should be limited to a conceptual critique of its reasoning. Liberals would do well to base their argument on the common ground provided by the universal threat of the abuse of power. In the next chapter, we will describe various ways to deal with the fact that not everyone will instantly be convinced by these arguments, and how liberals should choose between them.

Chapter 3: How should Liberal Political Practices be defended?

“[...]The political does not simply exclude principle; it includes it, but many other things as well. Because the question “What should we do?” can only be a political question, there is not much that can be said in general about it, at an ethical or philosophical level.”⁵³

In the previous chapter, we discussed the reasons why liberal practices make sense, and why their alternatives do not make sense, as an answer to the first question of politics. Solving the universal, practical problems of unmitigated coercion, violence, and the uncertainty of co-operation necessitates a political division of power that can distinguish itself from these problems with a legitimation that makes sense as such, given the beliefs of those in a position to dispute the matter. Here and now, liberalism (the doctrine that power over individuals everywhere must be checked by independent institutions guarding their equal freedom) demands a justification for power that uniquely coheres with the evidence available to us. Whether a division of power is justified is established, not by referring to any philosophical theory, but by assessing the legitimations of competing divisions of power. Most are, under modern circumstances, unable to distinguish themselves consistently from sources of Hobbesian fear. Showing this involves not merely philosophical insight: every field of knowledge can become relevant in these disputes concerning legitimacy.

Provided that these arguments are competently deployed, it will take time for them to convince non-liberals. And even in the long run there is no guarantee that every anti-liberal dissenter will eventually be convinced. So the question becomes how liberals should respond to this continued disagreement for as long as it lasts (which could be indefinitely). I will mostly be concerned with disagreement that is expressed in practice: the main problem is the proper liberal response to those who resist or seek to abolish liberal practices. The question of resistance to liberal practices is a particular application of the first question of politics: it is a practical problem to solve. Although Bernard Williams has written extensively on several pertinent issues such as tolerance and intervention, his reflections could stand to benefit from my own interpretation, as well as the ideas of Danielle S. Allen, who emphasizes the role of trust in maintaining the integrity of a liberal democratic polity. In this chapter, both peaceful and coercive means to defend liberal practices will be discussed: I will provide a general idea of the conditions that might affect their permissibility. I will argue that none of these responses is mandatory or forbidden in all cases: the decision between toleration, non-violent resistance and coercive methods is situational, and can not be based on a universal commitment to autonomy or rescue. Each response is appropriate under certain circumstances. This, again, limits the usefulness of philosophical theory.

I will also make a distinction between liberal governments and liberal citizens. Each has its own means and limits to consider, and it would be foolish to say that every liberal should respond to every disagreement in the same way. In general, liberals will prefer non-coercive responses (because these are less likely to be part of the problem), although they may disagree about the point at which these must be abandoned in favor of more invasive means. This disagreement between liberals will also have to be dealt with. The right course of action to defend liberal practices is partially dependent on facts, not all of which can be known in advance. Even so, it is not always possible to postpone action until universal agreement is reached. Political actors are always required to make up their own minds about their own actions. No amount of deliberation can eliminate the fact that a judgment call must be made. Whether or not that judgment is a good one, only time can tell. We can truthfully say in advance that a particular call is made in good faith, that it was justified

53 HRR: p.73.

given the information available, and every effort was made to minimize the risks involved. But there may be equally justifiable alternatives that might have turned out better. There is always a factor of luck involved in the quality of our decisions. There are always unintended consequences. Because of that, part of good judgment is having the confidence to take risks. Because liberal practices are intended as a solution to a practical problem, it depends on the circumstances when and how they should be defended. Liberals will need much more than philosophy if they want to know which defense is best: they will need to learn how to estimate the consequences of courses of action whether they are intentional or not, and work up the confidence to make their own decisions given the risks and uncertainty involved. Although these considerations are heavily inspired by the approach of Bernard Williams, I will attempt to apply them to our main conundrum: the defense of liberal politics.

3.1. Why should Liberal Governments Employ Toleration?

As we can see from the last two chapters, liberals prefer making collective decisions and establishing legitimate authority by consensus, reached by open and free debate. Providing arguments is the most reliable way to justify the use of coercive force, to distinguish it from the unmitigated forms of coercion that constitute the problem. For this reason, it is also the preferred means to defend liberal practices. Arguments about legitimacy can convince, rather than compel, non-liberals to accept liberalism as a sensible doctrine, and show that liberal practices are needed to hold governments as well as persons accountable, so that they are less prone to corruption. However, they do not do so immediately: it takes time to provide and appreciate the kinds of argument described in the previous chapter. There is furthermore no guarantee that everyone will, ultimately, convert to liberalism.

Individual non-liberals might continue to believe that constitutional fail-safes hinder their protection rather than secure it. They might disapprove of political debate altogether, and rather trust in the perceived integrity of a strong leader, or the guidance of a supposedly unambiguous tradition. They might doubt the good faith, evidence or judgment of scientists, historians and other sources that contradict their interpretation of nature or revelation. Sometimes, they may be right to be mistrustful: even a broken clock tells the correct time twice a day. Non-liberals may also fear the very circumstances in which liberalism makes sense: pluralism, individualism, disenchantment and bureaucratic forms of control have their own drawbacks, which we will not have time to discuss. Philosophical opposition to liberalism also focuses on the theoretical arguments for it, which we discussed in the previous chapter.

It goes without saying that there are those holders of power who oppose liberal practices simply because they represent a limit to that power. Hypocritically, some of these rulers would pay lip service to liberal ideals, claiming to defend some freedom or other by abolishing checks and balances. But for all the reasons mentioned, there are also those who (at least for the moment) genuinely believe that liberalism is somehow misguided. The pragmatic arguments mentioned in the previous chapter might change that. But when arguments fail to convince, liberals would do well to assess the many different ways in which they could legitimately respond to dissent.

Toleration is one of the hallmarks of liberalism. Expressions are protected in liberal states, due to liberalism's respect for free consensual discussion as an important condition to hold power accountable, its realization that most reasons to curtail it are arbitrary or nonsensical, and the knowledge that most means to limit expression are counterproductive. There is therefore a very high threshold against censoring anti-liberal dissent. In order to outlaw such expressions, a

government would have to make a case that they constitute some sort of significant threat to a person, group or to public order as a whole. Some states are more liberal, while others are more sensitive in this regard. Bernard Williams notes that “[...]above all in the United States, liberals have a problem in determining the point at which the proper restraint of racist and bigoted expressions becomes a restraint on free speech, and itself offensive to toleration”⁵⁴. Consistently following Williams' analysis however, it is both unsurprising and legitimate that not all liberals are equally tolerant of bigotry. This is a judgment call, based on their relative assessments of the dangers posed by racially, ideologically or religiously inflammatory rhetoric. Often, it is unclear where expression of one's opinion or political view becomes a threat to liberal institutions, or an incitement to violence. For this reason, toleration of speech is limited, but controversially so.

A liberal democratic state faced with social practices that are, by liberal standards, illegitimate uses of power, does not automatically need to use the force of the law to end them. It may be unwise and even illegitimate to do so. If the use of coercion is estimated to be ineffective, costly or dangerous in some way, and the injustice that it is aimed at is small enough (such as a lie told between private citizens) or perhaps unrecognized by the supposed victims (such as patriarchal forms of control), a case could be made that the liberal state should not employ coercion. This might be a good time to remind ourselves that illiberal regimes are not even necessarily unjust. Bernard Williams offers this example:

“Suppose then, that the theocratic regime, or the subordinate roles of women, are still widely accepted in a certain society, more or less without protest. Then there is a further question, to what extent this fact, granted it does not rest on a genuinely credible legitimation, nevertheless means that [...] it can be decently supposed that there is a legitimation. [...]Without [an interpretation of their beliefs as a device for sustaining the domination of the more powerful group], we may see the members of this society as jointly caught up in a set of beliefs which regulate their lives and are indeed unsound, but which are shared in ways that move the society further away from the paradigm of unjust society.”⁵⁵

In situations like this one, but also in some cases of uncontroversial injustices, enforcement could exacerbate Hobbesian fear rather than dispel it. Even if their beliefs could, in fact, be uncontroversially interpreted as a device for sustaining the domination of the more powerful group (i.e., the victims are brainwashed), coercion might not be the best answer.

The above reasons for toleration could be labeled “pragmatic”, as opposed to “principled”. Some would defend toleration as an ethical principle rather than a useful policy. Their arguments are not convincing, least of all to non-liberals. If tolerance means, as it is taken by T.M. Scanlon and many others to mean, that we “accept people and permit their practices even when we strongly disapprove of them⁵⁶,” then the question becomes what it means to accept practices we strongly disapprove of. Tolerance as a personal attitude seems to imply a lasting cognitive dissonance between our beliefs about others.

“The idea of a strong, moral disapproval that can be expressed only in (something like) a rational argument, and is otherwise required by the demands of toleration to remain private, seems too thin and feeble to satisfy what has been agreed to be the requirement of a tolerant attitude, namely that the agent does in fact strongly disapprove of the practices about which he is being tolerant.”⁵⁷

Even when we are allowed to engage in critical discussion of the practice, the value of autonomy does not clearly delineate the limits of proper argument, in my opinion. The Kantian tradition has

54 TPMQ: p. 129.

55 HRR: p. 71.

56 Scanlon: “The Difficulty of Tolerance”, in *Toleration: An Elusive Virtue*: p. 226.

57 TPMQ: p.132.

identified autonomy with the rational, principled will, and heteronomy with social, psychological or causal influences⁵⁸. If respect for autonomy means that we must limit ourselves to arguments and motivations devoid of pathos, and forsake all other means of persuasion, respect for autonomy will also be an obstacle in reducing prejudice. Bigotry is not vulnerable to reasons as such, I believe. Prejudice is capable of distorting evidence and logic: magnanimity can be consistently, obstinately seen as disingenuous, rare lapses can be seen as proof that generalizations apply after all, and often the self-fulfilling nature of such prevailing expectations can be denied. The abundance of good arguments against racism has done little to stem the tide of new, subtler forms of prejudice, because mere argumentation cannot remove irrational phobias.

So, is it untoward to poke fun at the reasoning of bigots, or even dismiss it? Is it really a breach of autonomy to make use of the emotions or interests of people to make them see the evils of racial or religious prejudice? It is not always clear what it means to respect the freedom of a rational will. There are many different interpretations of this injunction⁵⁹, and this is one of the reasons why the concept of autonomy is not uncontroversial enough to ground moral consensus under most circumstances.

“First, it is very difficult both to claim that the value of autonomy is the foundation of the liberal belief in toleration, and at the same time to hold, as Nagel and Rawls and other liberals hold, that liberalism is not just a sectarian doctrine. A belief in autonomy is quite certainly a distinctive moral belief, and one that carries elaborate philosophical considerations along with it.”⁶⁰

It appears that far from being inherent in all reasonable self-understanding, or coherent speech, autonomy is a very modern concept whose implications remain the subject of much debate. There are many concepts that are more likely to function as a common ground, such as social peace, stability and mutually beneficial cooperation. For these reasons, “toleration” should not be taken as a personal, morally required attitude, but an indispensable political policy. This allows us to reconcile our personal rejection of a belief or practice with our principled, political protection of it. Like liberalism as a whole, its tolerance is informed by a desire to secure a lasting, and therefore equitable peace. Bernard Williams sums up the manifold non-theoretical, pragmatic considerations that support toleration in the following passage.

“The attitudes which are needed [to support a political doctrine of toleration] include such social virtues as the desire to co-operate and to get on peaceably with one’s fellow citizens and a capacity for seeing how things look to them. They also include understandings that belong to a more specifically political good sense, of the costs and limitations of coercive power. Behind these, again, will certainly be needed some of the skepticism, the lack of fanatical conviction on religious issues, in particular, which [...] made an important contribution to the practice of toleration, even though they are inconsistent with toleration strictly understood as a moral attitude.”⁶¹

3.2. How Can Individuals Promote Liberal Practices Peacefully?

58 Kant (2002): *Groundwork for the Metaphysics of Morals*, p. 241: “if the will[...] is always heteronomy”.

In Wood (2005): *Kant*, Wood does not use the word “heteronomy”, but affirms the difference on p. 141.

59 For instance Beyleveld&Brownsword (2001): pp. 26-29 in *Human Dignity in Bioethics and Biolaw*, illustrates the differences between Human Dignity construed as empowerment and Human Dignity construed as a constraint. Both sides of the argument can claim to prioritize autonomy, but interpret it differently.

60 TPMQ: p. 131.

61 TPMQ: p. 138. Skepticism is incompatible with the criteria for Scanlon's moral toleration, because it precludes strong disapproval.

Individual liberals ruled over by a government that does not act in accordance with liberal standards of legitimacy do not have the choice of enforcing the law, and thus cannot really employ a political doctrine of toleration in this sense. They do, however, have other peaceful options besides argument: acquiescence and civil disobedience. Even though illegitimate governments deserve resistance, the best means, targets and timing for that resistance is a matter of circumstances. Conspicuous and strategic acts of civil disobedience can show the difference between the legitimate demands of dissenters and the illegitimate regime that denies them. This can put pressure on the regime to change. This only works if the resistance can effectively be shown as legitimate (that is, as resisting injustice rather than being obstinate, self-interested posturing). It is also important that the enforcers or supporters of the regime are moved to care for their victims or their reputation, or alternatively that third parties are thereby persuaded to intervene. If these conditions are not met, because there is no fair media coverage of or public interest in the injustice of the regime, civil disobedience will be ineffective as a method of reform, will possibly endanger lives rather than save them, and thus fail to be a very adequate solution in that particular situation. Luckily, the situation can change for various reasons. Obedience to an illegitimate regime could very well turn out to be a much more sensible option for preventing injustice, depending on its context. Liberals would do well to pick their battles wisely: they should learn when and how to protest, advocate, and educate within the laws of the illegitimate regime, and when and how to break them. A concerted effort should be made to emphasize that the reason for breaking a certain law is to nullify an injustice inherent in it. This involves picking the right time and place to disobey, and framing it to show that the law is part of the problem, not the solution. Doing so will go a long way towards mustering public sympathy for the liberal cause.

Brokering understanding between people who disagree can require more than lucid argument. As we discussed, prejudice can interpret evidence and argument so as to effectively ignore its force. Although Williams acknowledges this, he does not offer many concrete alternatives. I will turn to Danielle S. Allen to remedy this flaw. She notes that bigotry feeds on mistrust, and in turn reinforces it. This vicious cycle undermines our ability to make the sacrifices required to live together in an equitable fashion. Living together involves negotiating a common life, in which universal neutrality cannot realistically command the public sphere: there are unavoidable choices to be made that hurt some more than others. Zoning policy, obscenity norms, tax laws, health and safety regulations, and budgetary concerns are not and cannot be neutral or equal in their effects. In elections, there is always loss. It is a fiction that a decision of this kind is truly collective: the “community” that supposedly decides is a virtual one. At least temporarily, some will have to give up more of their freedoms or interests than others, and there is no simple scheme by which one sacrifice can be equated and offset with another. A completely fair equilibrium is impossible: those who wish to maintain the polity are committed to a continuous balancing act requiring forbearance and magnanimity, empathy and trust. This observation is the main thesis of Allen's outstanding work “Talking to Strangers”. As she expresses it,

“No political order can meet the requirement that every collaborative decision be a perfect bargain for all parties [...]. Politics thus constantly opens exchanges that remain open for difficult amounts of time, or even forever, and nothing but ethical reciprocity can make such delay bearable. Friendship makes such ethical forms of exchange possible by ensuring that social contexts are shaped by equitable, not rivalrous, self-interest.”⁶²

Here, Allen emphasizes the temporal dimension of equity: sacrifices can not always be reciprocated immediately (or at all), but the continued existence of the polity requires that its inhabitants are both willing to repay this debt (in whatever way it can be repaid), and willing to accept the delay and

62 TTS: p. 133 .

imperfection inherent in reciprocation. With friendship, Allen refers here to the Aristotelian concept of political friendship⁶³, which is based on an abstract kind of common interest, rather than immediate returns or emotional attachment: a belief that the others will not take advantage of the vulnerability that sacrifice implies, and be willing to reciprocate with sacrifices of their own. This willingness is due to a sense that, through sharing public space and resources that facilitate all our lives, we share a certain common self-interest. This sense of equitable self-interest is fostered by imagining each other as an important part of society: if we imagine our society as a white one, or a christian one, it will make ethnic and religious minorities into threatening outsiders. If such mistrust is deeply entrenched, a conspicuous sacrifice can be the only effective way to show good will⁶⁴. Such a token of trust invites reciprocation. Hopefully, this will improve the political relations between strangers.

If racial and ideological diversity becomes part of the way we imagine society, we will be more willing to accept the sacrifices that democracy implies. Our symbolic representations of society, how we talk to and about our fellow citizens, affect the trust that is needed to accept loss and the delay of reciprocation. Aside from actually making sacrifices and maintaining integrity in our daily lives, rhetoric is needed to foster these bonds of trust, since trustworthiness is always an estimation about the future, and therefore not provable even by the most admirable actions in the present. It is important that our arguments are phrased to convince all the world, that we argue over principles and facts separately, focus on solving problems rather than blaming others, and remain open to criticism. In short, we must let others know we take them seriously⁶⁵. By abiding by the rules of good rhetoric, and reminding each other of the sacrifices all of us make on a daily basis, we maintain the trust that allows a group of strangers to share a liberal society. It facilitates arguments by setting a peaceful, constructive framework for them, thereby making the argument less existentially intractable and lowering the stakes so that both sides can accept a continued lack of consensus. If argument and peaceful protest do not cause non-liberals to convert, trust might at least reduce the probability of violent confrontation.

3.3. How Can Violent Intervention Be Justified?

As important as non-violent means are to defending liberal practices, they have their limits. Arguments will not immediately end all violent opposition to liberal political practices and neither will toleration, civil disobedience or political friendship. A government that forgoes all coercive methods of law-enforcement and defense will be helpless to provide the protection that constitutes its primary task. In fact, if no such coercion was ever required, territorial, centralized government as such would not seem to make sense, I think. In cases of straightforward law-enforcement and national defense of a liberal polity, coercion (in the form of sanctions, fines, imprisonment and the violence that may accompany them) is always an option. As we discussed, it is not the only, and not usually the preferred option, but at some point a liberal state must draw the line, or else it does not really function as a bulwark against Hobbesian fear. Liberals, properly so-called, will insist that these forms of coercion should be fairly and publicly justified by the danger that suspects and enemies actually represent, or the crimes they have actually committed. Proving this is very difficult, and errors will be made. But this difficulty is not philosophical: it is a simple result of human fallibility. There are, however, more controversial examples of coercion that are uniquely

63 TTS: pp. 126-136.

64 TTS: pp. 9-24. Allen uses the example of Elizabeth Eckford, who was refused entry to her newly integrated school by a segregationist mob, and stayed calm as the crowd insulted and threatened her. The publicity of this event changed American popular perceptions of race relations.

65 TTS: pp. 157/158. This is a summary of the rhetorical rules Allen mentions.

troubling for liberals: Foreign Intervention, Revolution, and Dirty Hands. The point I will try to make is that they are neither made morally unacceptable by considerations of autonomy, nor morally compulsory by a duty to rescue.

Sovereignty is a political form of autonomy, and is in my opinion not enough to ground a policy of non-intervention for similar reasons: its assumptions are not self-evident, and its application is controversial. How the branches of a liberal government can represent an entire nation requires a great deal of explanation, as does its claim to a monopoly on violence within its territories. Sovereignty is a complex concept: what it implies and to whom it applies is contestable. Which governments can claim sovereignty over which subjects and which territories is a point of constant contention; one that cannot be solved by a simple application of a doctrine of “sovereignty”. The membership of nations, the borders of nation-states, and the meaning of constitutions are neither uncontroversial nor inalienable. They are contingent conventions, subject to reinterpretation. Again, the problem is similar to the problem of autonomy, only amplified by the difficulties of representation. So although there are many reasons not to invade other countries, the sovereignty of nations is not one of them. If a foreign government does indeed abuse its power, this point is rendered moot anyway. Such a regime lacks legitimacy. Its claim to represent an entire nation, and the accompanying claim of authority over its territory, is void *ex hypothesi*.

Neither should Foreign Interventions ever be seen as morally required cases of rescue. Bernard Williams describes the “principle of rescue in everyday life” that might prompt some to think that foreign intervention of some sort is mandatory whenever a regime inflicts a particularly heinous injustice on its subjects:

- “(1) *If X is in peril and*
- (2) Y is saliently related to X's peril and*
- (3) Y can hope to offer effective aid to X*
- (4) at a cost to Y, which is not unreasonably high, Y ought to help X.”⁶⁶*

Let us assume for the moment that it is uncontested that foreign citizens are in peril (1). The costs and benefits of the proposed intervention are impossible to predict. Unlike saving a drowning child, intervention is likely to be disruptive and violent in ways that will harm and kill innocents. It is therefore difficult to decide whether criteria (3) and (4) are met. Deciding whether the success of the intervention is worth the risk is a big responsibility: the commander making the decision is usually not the one paying the price. The demand of salience (2) is unclear in the context of foreign intervention. In the case of a drowning child, bystanders and lifeguards are faced with an acute incident that they are physically near, requiring minimal time and coordination to intervene directly. Their proximity, or profession, confers a particularly salient capacity and related responsibility to save the child. They are agents with the capacity to decide for themselves. In contrast, neighboring countries, world powers, and the UN are political organizations. Before they can intervene, their members will have to negotiate a course of action. The proponents of intervention are engaged in debates in which the loss of civilian life cannot be the only relevant consideration⁶⁷. More importantly, these Despotism is not a single disaster that can be averted, but a structure that will have to be replaced. Regime-change and nation-building are long, arduous processes whose outcome will affect the lives of millions in controversial ways. It is not clear who, if anyone, should take that responsibility.

Even if it is clear that a particular world power is in a unique position to end the atrocities of an

66 HRI: pp. 146-47.

67 HRI: p. 48.

illegitimate government, to say that overthrowing illegitimate foreign governments is a moral duty is problematic: since any modern nation in a position to end one dictatorship is usually in a position to end many others, such a principle would set this power up to be a global police force, constantly embattled and having to defend its chosen priorities. And if it takes up this mantle for supposed moral reasons, it will be committed to operate like a responsible rescue service would and enforce preventive measures (i.e. political and economic threats, sanctions, preemptive strikes, nation building and occupation), effectively asserting a form of enlightened imperialism, at best. This scenario is not far from our minds: superpowers have always used their influence to end and prevent perceived injustices. This is a heavy mantle to wear, and as Williams recognizes, it is much more than a case of rescue:

“[...] If there is a power in a position to give imperial assistance, that power must have a responsibility for imperial control. This must mean that such a state should use its power to stabilize the political order in the world or in its own region of the world, as the United States and the Soviet Union did before the end of the Cold War. This may be right, but it demands a series of political decisions that reach immeasurably further than what is immediately suggested by the morality of rescue.”⁶⁸

Bernard Williams can not coherently claim that powerful entities have a responsibility to behave like an enlightened empire. Imperialism involves a consolidation of power that cannot be checked, inviting abuse. Liberals would do well to warn against the prospect of a political organization that cannot be held accountable by independent standards, as Williams seems to recognize⁶⁹. The implications of a foreign intervention, let alone a policy of foreign intervention are far greater than those of saving a drowning child. Regime change of this kind implies a period of either anarchy, occupation, or an interim government that is dependent on the support of the intervening power and likely to function as a proxy. Most likely, the result is a combination of all three, as we can see in Afghanistan and Iraq today. And if all this is a price that supposedly must be paid to save the local downtrodden, the intervening power has a responsibility to leave the country in better shape than it used to be, which can be a tall order. Personally, I doubt whether any improvement brought by interventionist war can ever make up for the human costs it exacts on civilians as well as combatants. The choices made in this case are always politically controversial. It is not a simple matter of rescue, but an imperial attempt to change the world. For better, or for worse.

The use of violence by private, liberal citizens on behalf of liberal practices is also, again for similar reasons, problematic. It is not explicitly discussed by Williams, but most liberal democracies arose from the ashes of an illegitimate regime that was violently deposed by militant liberals. This violence, even if it resulted ultimately in a legitimate government, was once a major threat to public safety. In the short term, such a revolution will almost certainly add to the fears and dangers that threaten any given populace: it will disrupt law and order, undoubtedly resulting in some collateral damage. Those private citizens who take up arms on behalf of liberal institutions are hopeful that this will eventually remedy the abuse of an illegitimate government, but depending on how it is handled, both success and the backlash of failure could endanger people rather than save them. If revolutionaries are able to disrupt the ability of the ruling regime to police its citizens, but unable to fill this power-vacuum, a prolonged civil war could erupt, which might very well be more of a problem in terms of the first question of politics than a centralized dictatorship. This is no reason to stop resisting a tyrant: it merely informs decisions about how and when armed resistance is to be employed, and how to ensure a politically healthy future after the revolution. Revolutionaries will have to assess the risk and cost of failure, but also the risk that opportunists might take advantage of a successful overthrow of the regime. And it is certainly possible to reasonably disagree whether or

68 HRI: p. 149-50.

69 HRI: p. 152/153. Here, Williams states that intervention is inescapably a political decision precisely because we demand accountability, and rightly so.

not the risk is worth taking, and even (with hindsight), whether the results are worth paying the price.

3.4. Can Liberals Accept Dirty Hands?

We will now deal with the possibility that liberal political practices could themselves prevent a government from stopping some catastrophe, usually a crime. This can be a very problematic fact for liberal governments, for obvious reasons. Making exceptions to liberal practices of legitimation erodes their authority and invites abuse, even as it might save lives. The dilemma we are facing is that of dirty hands⁷⁰: sometimes a government cannot protect its citizens without breaking its own rules. Lying, spying, extra-judicial incarceration and killing, maybe even torturing are means that might be able to prevent horrible tragedies.

“Any state may use such [ruthless, cruel and unusual] methods in extremis, and it is inescapably true that it is a matter of political judgment, by political actors and by commentators, whether given acts are part of the solution or the problem.”⁷¹

Bernard Williams does not, in this article, discuss the nuances of such a dilemma. I will try to outline a liberal approach, based on Williams' political philosophy. Although such occasions could be rare, or even non-existent, we can at least imagine scenarios in which the only reliable way to save innocent lives is to make exceptions to standard liberal practices. Intuitively, many of us would readily endorse spying on, lying to, arresting and maybe killing prospective mass-murderers without judicial oversight. At least, in the unlikely (but not theoretically impossible) case that we could be sure of their intentions, yet unable to stop them legally. Torture is more controversial, for several reasons. The act of intentionally inflicting intolerable suffering on another human being is considered by many, including myself, to be significantly more barbaric, revolting, and morally wrong than most other crimes, a sentiment aggravated by the intrinsically premeditated and asymmetrical nature of torture, which removes it from most paradigms of defense⁷². Procuring a confession under such duress is a textbook example of abuse of power. It results in lasting psychosocial trauma for all involved, and justifiable outrage. Its effectiveness as an interrogation method is also in question⁷³. For these reasons, proponents of torture (or anything like it) will have to prove not merely that the situation is dire, but also that torture can be a solution, rather than a problem in and of itself.

Unfortunately, even legitimate governments keep secrets in the interest of their subjects. Law enforcement and national defense require some form of confidentiality to effectively protect the populace. Complete openness of witness protection programs, undercover or military operations, pending investigations and the workings of intelligence services could endanger national security. This is one of the reasons governments cannot always legitimate every action immediately, by publicly offering a justification. This is usually accepted, to a degree. For Dirty Hands, such secrecy is often both necessary and problematic. Because of the danger of abuse, Dirty Hands should only be made in exceptional cases. Their clandestine nature, however, makes it extremely hard to ensure that they remain exceptions. Insisting that particular information must be withheld from the public

70 The problem is named for an eponymous play by Sartre, in which a Communist leader rhetorically raises the question: Can one govern innocently? (Sartre, 1989: p. 218.)

71 HRR: p. 70.

72 Sussman, in “What's Wrong With Torture?” (2005) makes a compelling case that torture turns the victim's body and mind against him- or herself. Victims often blame aspects of themselves for their suffering, resulting in lasting psychological harm. Torture is the most extreme form of harm and coercion there is.

73 See Matthews (2008): pp. 217-220.

in the interest of national security maintains a domain of impunity. This makes it all too easy to harm and defraud others in self-interested, arbitrary or simply misguided ways.

There are no easy, institutional ways to manage the responsibility for such a problem. Liberals in a position to judge an instance of Dirty Hands will have to decide for themselves whether there is sufficient reason to believe that:

1. A particular catastrophe is going to take place.
2. The due course of law would not stop that catastrophe from taking place.
3. Some particular exception to the due course of law will prevent catastrophe.
4. The catastrophe in question is so atrocious that its prevention outweighs the loss of making the exception.

Can we ever be sufficiently certain that these criteria are met? Is a particular decision to forgo public justification or otherwise break the law made in good faith, well-informed, and effective? Is it an actual or potential abuse of power, or a tragic but well-considered choice for the lesser of two evils? What information can be responsibly disclosed at what time without adding to Hobbesian fear? Are these choices an answer to the first question of politics, or part of the problem? These are real questions, with unavoidably controversial answers. Nevertheless, we can imagine what these discussions are like, because they have taken place in our lifetime. Do we need secret prisons and extra-ordinary renditions? Should we employ torture? Can we afford to request warrants before every search, every wiretap, every arrest? How much evidence do we need to keep a suspect incarcerated? What secrets can our government keep from us, and should those who expose them be prosecuted for espionage? After September Eleventh 2001, these decisions are increasingly informed by an abject fear, leading to a lowered standard of justification. The fear of terrorism is so pressing to some, that they are willing to completely abandon presumptions of innocence, judicial review and other crucial features of the rule of law. This opens the door for the government to become part of the problem it is intended to solve. It lessens the difference between those protecting innocents and those threatening them.

This discussion appears to be paradoxical: on the one hand, we must uphold a high standard of justification for coercion, lest we abandon the moral high ground. On the other hand, upholding the letter of the law and implementing standard procedures of justification could, under extreme and rare circumstances, predictably lead to the suffering and death of many, and it may be a good idea to make an exception. Deciding when dirty hands could justifiably be made is a risky task, one that should not be taken lightly. However, I agree with Williams that philosophers have no special knowledge that could solve the dilemma: *“These cases [of dirty hands], I think, are not conceptually very complicated. They indeed involve complexity and danger in deciding what is needed when, and these are matters of historical and sometimes personal luck.”*⁷⁴

Theory cannot decide for us. Information of a more practical sort, and the character to judge conscientiously and in good faith, are more important. And so is luck, the significance of which we will discuss in the next paragraph. The paradox is resolved by reminding ourselves that making exceptions is not the same as abandoning a principle, although the latter is often disguised as the former. The tension between the checks and balances of the rule of law, and the requirements of dirty hands is a productive one, because it makes those in power think twice before crossing the line. It deters governments from employing such problematic tactics if alternatives are feasible. The threshold against deception, and extrajudicial action must be kept as high as possible by courts, whistle-blowers and journalists. This will increase the likelihood that they are only used when they

74 HRR: p. 70.

are likely to succeed where all other, more traditional options will fail to protect the weak from the powerful.

3.5. How Should Liberal Politics be Defended?

The fact that sacrifices are necessary, but unequally distributed among individuals, and in time, deserves more emphasis than Bernard Williams gives it. It is a fact that although we can negotiate, and compensate, for the distribution of risk and burden, that negotiation cannot be fully rational or fair, and the compensation never complete: all agents involved are forced to deal with human fallibility and frailty, and the realities of power. It is not a matter of calculation what counts as a reasonable trade-off between risks and benefits. Balancing the short- and long-term interests of everyone involved requires us to make predictions that might be false, and promises we may not be able to keep. We are forced to rely on the predictions and promises of others, which are similarly fallible. We will have to make sacrifices and take risks. This is why it falls on all political actors to judge what it means to invest resources in the future in a sustainable way, without neglecting the present. To do this requires confidence⁷⁵ in one's own judgment and values. The situation is inherently imperfect, and all liberals can do is try, as responsibly as possible, to prevent and end abuse of power as much as they can.

I have tried to recount some of the factors that go into deciding how liberal practices can consistently be defended. Many of these decisions hinge on empirical facts, and estimations of the future. Liberals can and do disagree on these matters. And like other disagreements, there is no one-size-fits-all response to this problem. Just as the proper response to non-liberal dissent can be a matter of controversy, so can the proper response to dissent among liberals. At the end of the day, continued disagreement does not mean we can postpone our decisions. We are continually faced with a choice about what to do, and in each case we make fallible judgments that will others will probably disagree with. We can try to reach consensus, and given a modicum of time and goodwill, this is the preferred option of liberals. Still, all of us must judge for ourselves when consensual discussion must be abandoned (because the circumstances require immediate action, or consensual discussion is unlikely to yield agreement), and what the best alternative is.

These judgments might be, through no fault of our own, better or worse. Perhaps continued discussion will yield more insight or agreement, but perhaps the time taken for discussion is a time of inaction, aggravating the problem that it is intended to solve. Sometimes we overestimate the risks of a course of action, and sometimes we underestimate them. The quality of the choices we make cannot be separated from their consequences (both intentional and unintentional), as much as we would like to. When war is declared, some injustice takes place, or some other problem arises, we have to make up our minds about the right response to it, and part of making that decision is estimating the effects of various options, or we will not have made a very informed choice. The legitimacy of civil disobedience, revolution, and coercive intervention by the state can not be properly assessed without considering the tactics, costs, and outcomes of those actions, which can not all be known in advance. A responsible choice requires us to consider the fact that the quality of our ethical judgments is not entirely independent of luck.

Liberals have to be realistic about the prospects and costs of success if they want to defend their preferred political practices. There are many strategies that could be employed, and it cannot be

⁷⁵ ELP: pp. 167-171: judgment does not require “ethical knowledge” which is too strong a word, or “faith” which places ethics outside our deliberations. Confidence is neither a choice nor an insight, but a quality of character. Neither argument nor willful ignorance can cultivate it.

known in advance which one is ultimately best, although one can make more or less informed judgments. If they are serious about their political beliefs, liberals make an informed choice for the most effective strategy that is justifiable as an answer to the first question of politics. Liberals will take greater pains than most to ensure that power is held accountable to the consent of those subject to it, and shy away from unmitigated coercion as a means. Even so, liberals will wholeheartedly disagree about the appropriate responses to the manifold threats that beset liberal political practices. And there is no deciding these discussions in advance either. Each case must be viewed in the light of its circumstances: is a particular strategy a solution, or a problem? In the end, everyone will have to make up their own mind about the matter, and accept the risks that their fallible judgment implies. Philosophical theory does not provide us with an alternative.

Conclusion: How can philosophy support liberal political practices?

This thesis was intended to examine the role that philosophy might play in the defense of liberal political practices. In order to make this enormous question more tractable, I chose the views of Bernard Williams as a starting point. I hope that the preceding chapters have made it clear how his reflections would affect a systematic understanding of political decision-making and the role philosophy can play in it. I believe that his contribution would be positive. To reiterate, the strength of Williams' style of defense lies in its attention to the considerations that motivate actual political disagreement and its resolution. All parties engaged in politics share certain basic fears, necessitating the identification of a solution to that universal problem. This problem is uniquely poignant and tractable in very context, unlike philosophical problems. A liberal should ask the question: how can we share power in such a way that harm and arbitrary coercion are systematically opposed? The answer hinges on how we justify the division of power. Williams reminds us that we do not need to justify the need for justification: it is implied by the claim of authority. There is nothing terribly convincing to *say* to those who do not acknowledge this demand for legitimation. I agree with Bernard Williams that whenever individuals are in a position to argue over legitimacy, they share a context that can be negotiated. Given the facts as the interlocutors know them, some divisions of power and political practices of legitimating them make sense as a solution (rather than part of the problem), while others do not. That Liberal Practices such as freedom of speech, representative democracy and the division of powers are part of such a solution is a matter of what we now know about the unique potential of these checks and balances to curb abuses of power. Arguments for liberal demands on legitimation are thus about more than philosophical theory: any knowledge that bears on the propensity of political practices to prevent the powerful from oppressing the weak can be relevant. Thus social sciences can lend credence to the claim that unbridled power corrupts, while biology might undermine certain claims made to justify practices of racial or sexual discrimination. Of course, these claims are subject to debate, but that is unavoidable: even the supposedly ironclad logic of philosophical theory is not universal. Foundationalist theories of personhood and autonomy are likely to be more controversial than the conclusions that they support: they underestimate the common ground that we share, and overestimate their own potential to secure it. Philosophical practices of conceptual analysis and critique can make a contribution to the debate, but arguments based purely on philosophical theory are not likely to make much of a difference. Philosophy is not necessarily the most important source of relevant arguments in this schema.

Convincing others takes time, even if our arguments are sound. And so defending liberal practices requires us to deal with disagreement for as long as it persists, which is likely to be a very long time indeed. Liberal Governments can tolerate this disagreement, foster the loyalty and goodwill of non-liberal dissenters, and in some cases resort to violent intervention, secrecy and dirty hands to enforce liberal standards of legitimacy. Individual liberals faced with a government that does not heed their demands for legitimacy have complementary options of acquiescence, civil disobedience, building trust, and revolution.

What the exact limits and applications are of each of these tools of defense is inevitably a question of how liable they are to contribute to the problem of radical Hobbesian fear, or to its solution. This depends on the circumstances, and like the argument for liberal demands of legitimacy, it is a matter of first-order discussion what the correct response is to continued disagreement: we will have to give concrete arguments to support our proposals (especially if it requires a coordinated effort, but

not necessarily), but that does not mean we are impotent in the absence of consensus. Anyone can, and usually does, take action without universal approval. There is no reason why a minority opinion could not turn out to be the right one. Whether or not toleration of a specific non-liberal practice will do more to reduce Hobbesian fear than its suppression is a question that cannot be answered definitively in advance. We make political decisions based on (hopefully informed) expectations that could, as luck would have it, either turn out correct or incorrect. Political decision-making involves judgment calls that history may or may not vindicate. Philosophy is unlikely to make more of a concrete contribution to these decisions than any other field of study.

Philosophers have great skills of interpretation and conceptual critique, which can be helpful in making sense of any debate, whether it is about which practices to call liberal, which practices of legitimation solve the problem of Hobbesian Fear, or how to protect these practices. However, the decisions that have to be made by the participants cannot be compelled by philosophical theory: they are based on individual judgments of the evidence and arguments available under the circumstances. While philosophers can make a contribution to such debates, the content of philosophical theory itself is unlikely to be decisive. After all, the current debate concerning liberal politics is rarely about philosophy more than anything else, and the participants have to make a judgment call, the merits of which are dependent on the facts available in a situation, and luck, more than on any philosophical procedure.

Abstract

This thesis is intended to analyze the role philosophy can play in the defense of liberal practices, by systematically interpreting the essays of Bernard Williams on the matter. Liberalism and its proposed political practices are inherently progressive and situational. They are committed to ending abuse of power in its myriad forms, wherever they can. Under modern circumstances, the most reliable means to do so have proven to be laws and institutions that sustain public accountability: universal suffrage, freedom of speech, independent branches of government. There are ever more subtle means to curb the abuse of power, however, that should also be classified as liberal.

Authority must justify its use of coercion to its subjects in ways that are acceptable to them, given the facts as they know them. Pluralism, Individualism, Centralized Bureaucratic Power, and Science have made ideological justifications controversial and obsolete, while liberalism's more procedural practices can still reliably distinguish authority from abuse. Because of this, liberal practices can always be substantively argued for in actual discussions with non-liberal dissenters. These pragmatic arguments are preferable to meta-ethical defenses of liberalism, which are based on assumptions about personhood rooted in the Enlightenment, and may not be shared.

Deciding how to deal with continued resistance against liberal political practices is not a theoretical problem, but a practical, particular, and possibly personal judgment based on the evidence available. Argumentation, Rhetoric, Toleration, Civil Disobedience, Violent Intervention and Dirty Hands are neither morally compulsory nor forbidden: they are always options. The risks and benefits for everyone involved, over the short and long term, cannot be known with certainty. We are forced to make judgment calls that, in spite of our best efforts, may exacerbate the abuse of power rather than alleviate it. Practical Knowledge, Luck, Good Judgment and the Confidence to decide are much more important in the defense of Liberal Political Practices than insight into Philosophical Theory.

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Abbreviated Citations:

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From Williams, Bernard A.O. : *In the Beginning was the Deed*, ed. G. Hawthorn. Princeton UP (Oxfordshire, 2008). First published 2005:

HRI: “Humanitarianism and the Right to Intervene” (pp. 145-153)

HRR: “Human Rights and Relativism” (pp. 62-74)

IBD: “In the Beginning was the Deed” (pp. 18-28), originally published in *Deliberative Democracy and Human Rights*, ed. H.H. Koh & R.C. Slye. Yale UP (New Haven, 1999).

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