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# Rawls and political realism: Realistic utopianism or judgement in bad faith?

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## Abstract

Political realism criticises the putative abstraction, foundationalism and neglect of the agonistic dimension of political practice in the work of John Rawls. This paper argues that had Rawls not fully specified the implementation of his theory of justice in one particular form of political economy then he would be vulnerable to a realist critique. But he did present such an implementation: a property-owning democracy. An appreciation of Rawls s specificationist method undercuts the realist critique of his conception of justice as fairness.

## Keywords

This paper evaluates the critique of John Rawls presented by two leading 'political realists', namely Bernard Williams and Raymond Geuss. They were the first to make the claim that Rawls's work exemplifies a 'political moralism' that takes political philosophy to be a form of 'applied moral philosophy' (Gledhill, 2012). This moralism is to be corrected by the realist's insight that there is a basic legitimation demand internal to the political that *does* appeal to a moral idea, but one that emerges with the conditions of the political itself.[1]

The debate between realists and putative 'moralists' (who ought, I will suggest, to reject this characterisation of their views by their opponents) has now acquired considerable momentum of its own. It is internally complex and has produced many sub-threads of discussion involving further claims and counter-claims. My limited aim here is not comprehensively to survey these positions, rather to question whether this whole debate set off on the wrong footing when the realists selected Rawls as their paradigmatic political moralist. I will argue that,

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whatever the merits of the realist position, Rawls cannot appropriately be interpreted as its target.

I will draw on an analogy to structure my discussion: between the realists' critique of Rawls and Hegel's critique of Kant. The orthodox conception of this critique is that Hegel objected to the emptiness, formality and abstraction of Kantian morality and sought to replace it with an ethics grounded on the concrete reality of ethical life. However, Ken Westphal has argued that this an incorrect interpretation of this critique: properly understood, Hegel's argument is that *were* it not possible fully to specify the content of Kant's ethical view in a fully concrete and determinate way, then it *would* be open to the objection that it was abstract, empty and formal (Westphal, 2005). But Hegel also argues that Kantian morality can be given a fully concrete and determinate specification; furthermore, he demonstrates how this can be done. So this putative 'critique' of Kant is, as it were, counterfactual: Kant's view is merely incomplete in the sense of 'underspecified'. It requires a completion that Hegel finds it natural to supply – by its complete specification. So both Kant's view and Hegel's view emerge from this exercise vindicated in the light of a specificationist account of practical reasoning[2] (Richardson, 1994).

I will develop the analogy as follows: the political realist is troubled by the putatively ahistoricist, decontextualised and abstract nature of Rawls's theory of justice. Understood in this way, the political realist is playing the role of Hegel, and Rawls the role of Kant, in the orthodox understanding of Hegel's critique of Kant. The realist's version of the charges of 'emptiness' and 'formalism' is this: Rawls's views are damagingly *indeterminate*. Both the scope of Rawls's principles and how they are to be applied are left completely open. Being indeterminate in this sense, they demand extension (not specification) by a process of political judgement.

But for reasons internal to the view, the realist continues, Rawls can offer no guidance to political judgement: only the 'prior application' of moral principles to politics. Gesturing in this way towards a mechanistic application of moral principles – an 'algorithm' – is to name a problem, but not to solve it. The realist deepens this objection by adding that Rawls ignores a distinctive feature of political judgement, notably, its sensitivity to its historical circumstances. The realist concludes that Rawls's views are indeterminate, and thereby call for political judgement, yet frustrate that very goal. By representing political statecraft as the algorithmic application of prior moral principle this kind of moralism invites the charge of bad faith: the evasion of political responsibility.

I will argue that this central realist claim is implausible because it equivocates over the term 'indeterminacy'. With the equivocation eliminated, I will then apply the alternative interpretation of Hegel's critique of Kant to the realist's critique of Rawls: Rawls's view would be defensible only if it were open to a fully determinate specification. But, were it capable of such a specification, it would be a defensible view and the realists' critique would lapse. I will argue that the realist critique of Rawls *does* lapse once the relevant sense of indeterminacy has been identified.

The problem is that the political realist assumes that abstraction always leads to indeterminacy in a problematic sense of 'open', or gappy – not covering all the

cases that need to be covered. I will argue that this assumption is incorrect in the case of Rawls's conception of justice as fairness. That conception is abstract and yet fully determinate: when specified, it can cover all the relevant cases. Furthermore, it is embedded in a complementary account of how it constitutes a form of 'realistic utopianism'. It does not neglect the need to supply an account of political judgement in modern conditions thereby showing that it is sensitive to historical circumstance.

## 1. What is political realism?

Each of the realist's three main criticisms of the political moralist is a deeper elaboration of the criticism that the moralist takes political philosophy to consist in the application of 'prior' moral principles to politics. The first criticism is that the political moralist reverses the classical priority of politics to ethics; the second criticism is that the political moralist fails to recognise the role of a specifically political form of judgement; the third criticism is that the moralist is committed to an unrealistic utopianism. The third criticism follows on from the second: it is the failure to acknowledge the need for a craft of political prudence that explains *why* the moralist is led into an unrealistic form of utopianism. I will expand on each of these criticisms in more detail.

According to the realist, while Aristotle emphasises that the most perfect practical science is politics and that it encompasses ethics, the political moralist claims that a 'prior' set of moral principles can be applied to any given political reality. It is true that in recent political philosophy there are philosophers associated with a broadly liberal approach to justice who do proceed in this way. Ronald Dworkin, for example, seems to prioritise the one true theory of an ideally coherent set of moral, political and legal values over the political process in his version of liberalism (Dworkin, 2002). G. A. Cohen's famous objection to Rawlsian special incentives invokes a supplementary ethos of justice to compensate for the morally permissible inequalities permitted by the difference principle, thereby taking a prior moral ethos as integral to a just society. But Dworkin is not Rawls, and Cohen is a *critic* of Rawls. Cohen objected to Rawls's institutional focus; one that putatively applied justice 'exclusively' to the basic structure of society. I think one might raise the concern here that the realist is indiscriminately aiming at a range of targets – a range that ought not to include Rawls.[3]

In fact, this first point needs to be handled carefully: as we shall see, one form that the political realist's objection to Rawls takes is that his later 'politicisation of justice' was not political *enough*. It merely restricts the scope of a moral idea that is, as it were, taken for granted as the appropriate starting point. If that is the ground for the realist's concern then it invites a response from those, like Charles Larmore, who are sympathetic to political liberalism. Larmore argues that it is hard to see how the political realist can avoid the *same* problem of presupposing a starting point within the ethical, broadly conceived. Larmore quotes Williams's answer to this very question of whether his 'Basic Legitimation Demand' (henceforth, 'BLD') is a moral principle: '*if it is*, it does not represent a morality which is prior to

politics. It is a claim inherent in there being such a thing as politics' (Williams, 2005: 5, emphasis added). To which Larmore quite reasonably responds that:

> [T]he justification of state power .... has to embody an idea of what constitutes a just political order .... that is not only a moral conception but one whose validity must be understood as antecedent to the state's own authority by virtue of serving to ground it. (Larmore, 2012: 16)

That is why I think it is prudent, in describing the political realist's position, to use the phrase 'co-originary': the realist can continue to maintain some distance from the moralist if Williams's BLD has a *co-originary* grounding in the moral and the political.[4]

That puts Williams's concessive phrase – 'if it is' – to positive use in marking out a distinct position. I think political realism *has* to take this 'concessive' form if it is not to fall immediately to Larmore's objection.[5] This immediately marks one of the most contentious choice points in the current debate: I will not, here, directly consider the arguments of the non-concessive realists who hold a stronger version of realism than Williams's own.[6] I am simply going to assume that the phrase I have italicised in Williams's argument represents his concession that the BLD is both a ground of political authority and a ground for a distinctively ethical justification. Using the phrase 'ethical justification' leaves it open whether this justification is principled or whether it involves a specific candidate principle (Larmore's principle is equal respect for persons). I think those questions ought to be left open; my point is that Williams has to be interpreted as what I have called a 'concessive realist'.

The realist's second objection is that the political moralist simply ignores the centrality to political practice of a specifically political form of judgement. The realist argues that, like all judgement, it has accord with its special subject matter. Political judgement is akin to a craft skill that allows a political actor to navigate through contingent circumstances to determine what is, and what is not, genuinely politically possible. It is this tacit, practice dependent, form of judgement that allows political proposals to pass the test of being realistically utopian.

This is the basis of the political realists' error theory for the defects of moralism: this fact about judgement explains why the political moralist is committed to an unrealistic utopianism. A systematic insensitivity to the historical situatedness of political action explains why the moralist is prone to the vice of wishful thinking. The lesson of the Frankfurt School, however, is that a critical social theory *is* reflexively sensitive to the conditions of its own application. In Geuss's case this seems to take the form of a global pessimism that any form of ethical life is so much as possible in circumstances such as our own (at least, in his special sense of 'the ethical').[7] This is to follow Adorno's historical precedent: to adopt the view that our human potentiality for ethical life remains in place but is currently suffocated by our political and institutional conditions[8] (Adorno and Gehlen, 1983: 246–7; Freyenhagen, 2013).

So the second and third components of the realists' critique of moralism easily cohere: the claim is that Rawls's view is unrealistically utopian *because* of its ahistorical, abstract and foundationalist character. Its rationalist origins explain why we are not dealing here with any piece of 'pure' moral philosophy that is then 'applied' to political reality. This is, instead, a specific conception of how moral philosophy ought to proceed in a way such that it can remain indifferent to issues of context and history. The issue, then, is not simply characterised by the idea of 'prior application' taken as a stand-alone idea. It matters *what* is applied and *how* it is applied: it is because moralism deals in timeless and universal truths that a rationalist moral theory can remain indifferent both to its context of discovery and its context of application. It is that specific aspect of Rawls's putative political moralism that explains its neglect of a historical sense either of its own possibility, its own historical emergence at a particular point in time or of the conditions of its application. (Where one might reasonably take those two ideas – conditions of emergence and of application – to be connected.) That is why the moralist is assumed to be in the business of producing a particular bête noire of Williams's, namely a 'Whiggish history' of its own inevitable triumph via the winning of arguments.

## 2. Is Rawls a political moralist?

David Estlund has remarked that Rawls's *A Theory of Justice* and *Political Liberalism* really have different subject matters: the former, justice and its stability, the latter, legitimacy (Estlund, 1996: 68). The political realist moves freely from the putatively rationalist and foundationalist claims in *A Theory of Justice* to the question of legitimacy addressed separately by *Political Liberalism*.[9] It is the fact that Rawls offers an abstract, ahistorical and rationalistic account of justice that is the basis of the realist charge that he simply imposes upon any political circumstancest he content of his 'prior' moral theory.

This is to ignore both Rawls's explicit commitment to reflective equilibrium and his detailed discussion of the nature of political legitimacy in a modern society developed in *Political Liberalism*.[10] Specifically, it ignores its explanation of why Rawls believed that no political conception of justice could be based on any single comprehensive conception of the good. Any such conception would fail to acknowledge the particular, practical task of 'reconciliation' that political philosophy faces in our historically determined situation of reasonable pluralism (Rawls, 2001: 29, 41)

This aspect of the realist critique seems to me the least convincing because it ignores the division of labour between different parts of Rawls's view. The subject of legitimacy has a wider, more encompassing scope than the relatively narrow scope of the theory of justice. Addressing the reflexive precondition of its own possibility is the task of political liberalism which, whatever its ultimate plausibility, can hardly be accused of being a theory which ignores its historical situatedness. Realists may find Rawls's historical narrative thin and unconvincing, but that is a different criticism from the claim that he does not provide one.

The embedded core of political liberalism is Rawls's specific conception of justice as fairness that is, I will argue, in one sense abstract and yet in another sense fully determinate. The aim of those narrower reflections on justice is to devise a model that gives us insight into that which we already believe and then to derive further, surprising, consequences from it. The acceptability of that model itself depends on the process of wide reflective equilibrium. To use Onora O'Neill's important distinction, this model is an abstract one, but not an idealised one, and it offers a justification that each of us can accept (O'Neill, 1989). The model says nothing about its historical and social context only because *that part* of the view was not intended to do so. It is the surrounding context of political liberalism that politicises justice in the light of a reasonable moral pluralism that has emerged in recognisably modern conditions.

That is, however, only my first objection to the realists' misrepresentation of the relation between Rawls's conception of legitimacy and his conception of justice: the second objection is that not even the narrowly conceived model of justice works in an abstract, rationalist and 'fact insensitive' way. If the theory of justice is putatively a case of the mere 'application' of a prior moral idea, then it is surely significant that Rawls is using one of the methods of application traditionally used in political philosophy. That method of application is institutional design.[11] To bring out Rawls's radicalism on this score, it is helpful to compare his view, once again, to Cohen's.

Cohen complained that Rawls confused justice with mere expediency and that Rawls applies his principles to 'the political' in a way that excludes 'the personal'. Cohen introduced his own supplementary ethos in a way that spans both the political and the personal, but this seems to me simply to highlight the extent to which Cohen and Rawls are at cross-purposes over the scope of justice (Thomas, 2011). But one of the weakest aspects of Cohen's critique of Rawls was that it misunderstood Rawls's institutional focus.

In the background here are Cohen's meta-ethical commitments; this reflects the fact that if any philosopher held a view in recent political philosophy tailor made for the realist's critique, it was Cohen. While our ordinary political reasoning may be concerned with practicality or feasibility, for him these limited, context-specific aims deal only with *what seem to be* reasons. These apparent reasons very often take the form of that which Cohen called 'rules of regulation', namely devices for achieving our goals in the face of the facts and conflicting principles (Cohen, 2008: chapters 6 and 7). But as well as the apparent reasons there are the real, or ultimate, reasons. When we isolate this pure part of normative theorising we find Platonic principles that are *fact insensitive*. So with this distinction drawn, Cohen can then perform reconstructive surgery on Rawls's view, isolating the pure part that genuinely reflect the demands of justice while rejecting other parts of the view (notably the difference principle) as trading in merely expedient rules of regulation. Such expedient rules are involved in failed compromises with the recalcitrant facts, notably, facts about current human motivational profiles. The only point I want to highlight here in this fundamental clash of outlooks is that institutions, too, are for Cohen 'downstream' of any pure concern for justice.

I highlight the point to bring out how implausible it is for the realist to claim that Rawls's algorithmically applies a set of moral principles to a recalcitrant political reality (while also noting this is a perfectly reasonable interpretation of how Cohen proceeds).[12] If Rawls views institutional implementation as a constitutive expression of his own 'pre-distributive' version of egalitarianism, then how can he also be indifferent to history and context? It would be remarkably myopic to believe that the basic institutions of a society are not the contingent products of its history. This is true even of the relatively schematic regime types that Rawls discusses, namely property-owning democracy and liberal market socialism (Rawls, 2001).

So when the realist treats Rawls as merely applying principles of justice the target can only be Cohen, not Rawls. Cohen relegates Rawls's institutionalism to the mere 'application' phase whereby one applies pre-given ultimate principles to actual cases. But that is to misunderstand Rawls's insistence that justice is the primary virtue of social institutions; for Rawls the connection between principles and institutional implementation is constitutive, not instrumental. In explaining this difference between Cohen's ultimate 'fact insensitive' norms of justice and Rawls's institutionalism, the analogy with Hegel's critique of Kant can again do some real work in addressing the realists' critique.

The pertinent issue is not method – a specificationist model of practical reasoning – but the nature of the principles thus specified. Cohen's Platonic conception of political principles contrasts with Rawls's conception of such principles as necessarily formulated for the kind of object that they seek to regulate. Arthur Ripstein has insightfully observed that Rawls's highest order (and *only* 'fact insensitive') ultimate principle is this: 'an object is to be assessed in light of the standard that is internally appropriate to its nature'[13] (Ripstein, 2010: 678). This principle is then applied to various sub-categorical domains. Ripstein also notes that the closest antecedent to Rawls's use of this principle is Hegel's appeal to the a priori category of 'life' that is then further specified under more specific governing concepts. To derive the true generic sentences about the flourishing of the various different life forms, there is ineluctable appeal to facts about those species and their form of life. Ripstein sees Rawls as following the same strategy:[14]

> (A) 'fact free' norm directs you to find a thing's regulative principle in its nature, and so determines which facts will be relevant .... But the fact-free norms are insufficient to provide suitable regulative principles, even at a very high level of abstraction; they tell you only what it is to have an adequate solution to a practical problem. Facts further specify the problem and its solution .... the general facts to which (Rawls) appeals are always introduced in relation to the idea of social cooperation, not in relation to the prospects for achieving an already completed idea of justice. (Ripstein, 2010: 684)

When Rawls appeals to specific facts with a bearing on the nature of social cooperation, once again it would be very implausible to claim that this is not shaped by the contingent historical features of the nature of production.[15] The Humean 'circumstances of justice' may indeed be abstract enough to be reasonably

historically invariant, but the specific economic facts to which Rawls appeals are clearly only applicable to certain societies at certain times. As Ripstein further notes, the problem situation for political liberalism becomes even more narrowly specified again when reasonable pluralism and its converse, the 'fact of oppression', enter into the determination of the 'problem situation'.

So there is no plausible interpretation of Rawls such that he can be seen, in his theory of justice, as merely 'applying' the content of a theory already given to the facts of our existing institutions. His only principle that is 'fact insensitive' is a *methodological* one. In the background here, motivating this misguided criticism is a deep assumption that Rawls's realist critics make about an inherent connection between one view of abstraction and one conception of indeterminacy. It is that issue I would now like to consider in more detail.

## 3. 'Abstraction' and in/determinacy

The realist claims that Rawls's views are abstract, and hence indeterminate, in a damaging way. It is true that, to discharge its task, the initial model of our inchoate intuitions about liberty, equality and justice is an abstract one. We then confirm the model in wide reflective equilibrium. We then further proceed to derive further, surprising, consequences from the model.[16] We discover that the only way in which our society can be just is if it implements one, determinate, form of political economy: either a property-owning democracy or liberal market socialism. This is, of course, a relatively abstract form of political economy. But it combines relative abstraction with determinacy: perhaps the best word is that it is 'schematic', like a circuit diagram.

When we form more abstract representations from more concrete ones we select and thereby lose data (Dennett, 1991). Some data are picked out as 'the real pattern' while other data are relegated to mere 'noise'. But this process can produce two quite different results: some abstract representations produced by loss of data are fuzzy, producing vagueness and gaps. Data loss here is combined with a lack of full determinacy. But other abstract representations – schematic representations – can remain fully determinate. An analogy might be with stripping away data from a complex representation, like a picture: the result might be fuzzy and indeterminate, or it might be a line drawing that preserves the determinate form of that which is depicted.[17]

This general point is connected to Rawls's specificationist model of reasoning: any such view takes a principle that is relatively abstract, and determinate, and more precisely specifies a derived principles in the light of relevant facts (derived ultimately, as we have seen, from the 'nature' of the object theorised) (Richardson, 1994; Ripstein, 2010). The differences between principles at varied levels of specificity are ones of degree, not of kind, just like the relation between the information expressed by the painting and the line drawing is a difference of degree, not kind. The salient piece of information – the real pattern – is preserved by isomorphism. So the 'abstraction' of Rawls's principles is compatible with their full determinacy and he does have a theory of judgement (or 'application'), namely

specificationism.[18] Rawls's own working out of the consequences of his views vindicates my analogy with Hegel's specification of Kant's list of moral duties: this is not an 'empty formalism'. Abstraction, here, does not imply emptiness: a schematic view is abstract, but not for that reason unclear in the institutional forms it has to take, nor 'gappy', nor in any other way incomplete until it is interpreted. The method of specification is neither an 'algorithmic' account of political judgement nor an evasion of the responsibility to be sensitive to context. Specification *is* sensitivity to context.

We can now re-cast the realists' objection this way: had Rawls's conception of justice remained abstract and thereby indeterminate in the sense of gappy, then it would have been objectionable and given us no sense of how to implement it. But there is an assumption underlying that criticism that, when analysed, cannot be justified: the assumption that abstraction leads to an empty indeterminacy. So this aspect of the realists' critique simply lapses: we have fully determinate advice as to how to implement justice as fairness.

The combination of justice as fairness and political liberalism offers two things: first, a fully determinate specification of the nature of a just society; second, the need for political judgement in probing the limits of the practically possible judged from our own position – where else? Once again, I think an analogy with Hegel's views can explain the strategy that Rawls intended to follow in establishing that his views were realistically utopian. However, as a necessary preface to that discussion, I need to set out the realist's very different understanding of how justice ought to be 'politicised'.

## 4. Realism and the politicisation of justice

As I have described, Rawls conceives of political liberalism as the 'politicisation' of the ideas needed to express a conception of justice as fairness. That view is affirmed, in a strictly political conception, by a range of different reasonable conceptions of the good. The realist implies that this strategy fails by its own lights as it strategy of 'politicisation' is not radical enough. The realist concedes that perhaps the strategy itself reflects a belated recognition by Rawls that he needs to address the problem of political judgement, but this aim is not matched by what he actually says. Both criticisms are clearly expressed by Williams who reviewed *Political Liberalism* on its first appearance (Williams, 1993). But examining that review also makes it clear that Williams made two very uncharitable assumptions about Rawls's actual views that shaped his critique.[19]

The first flawed assumption is that Rawls's appeal, in his later work, to the idea of an overlapping consensus is an appeal to a de facto set of agreements. The second flawed assumption is Williams's counter-assertion that an accurate history of our political situation would show we are not entitled even to *that* much. Williams implied that the most we can actually find, in modern political conditions, is the minimal content of that which Judith Shklar called the 'liberalism of fear' (Shklar, 1992). The historical experiences appealed to in Rawls's (admittedly sketchy) account of the pre-history of our current political circumstances only entitle us

to a thin conception of a way of living together that, as Williams memorably put it, is an alternative to dying together.

From Williams's perspective, Rawls's project is flawed because it lacks any historical sense that it is a product of modernity and, furthermore, a product of social and historical circumstances that *cannot* be reflexively represented at the level of theory. Because the view is abstract, decontextualised and a-historical it incorporates a false historical self-understanding by default. It tells itself a Whiggish history of its own inevitable historical triumph and engages in the self-vindicatory fantasy of believing it could, in the guise of Kant, have given advice on statecraft at King Arthur's Court. It would be in a position to do so because it is timelessly true. That is why it does not take itself to need a theory of its own historical preconditions or to thematise the conditions of its own application; the question is evaded.

I would like to split Williams's critique and evaluate its two aspects separately. I will begin with his claim that all we can justify is the liberalism of fear before going on to his more fundamental objection that Rawls treats an overlapping consensus as a de facto set of agreements.

The putative contrast between Williams's view and Rawls's 'political moralism' is undermined by the equivocations that run throughout the whole discussion; it is hard to avoid the conclusion that both parties are talking past each other. First, one can set aside the claims that Williams makes about Rawls's methodology that are incorrect: Rawls's project is much more similar to the later method of genealogy that Williams himself applied to the virtues surrounding propositional truth (Williams, 2002). Rawls always worked within a set of ideas that are relatively internal to our own traditions of reflection. Qua epistemological contextualist, Rawls appeals to our shared knowledge and standards of relevance that together constitute our problem-solving situation. In that situation we reason from a context of background belief where some beliefs are challenged while others 'stand fast' for us (Thomas, 2006).

Noting this point allows an irony to emerge from the realist's putative critique: from the perspective of his own contextualism Rawls felt entitled to rely on some contingent historical truths that play the role of those 'hinge propositions' that work as unearned entitlements in our reasoning. (These are analogous to the 'hinge propositions' of Wittgenstein's (1975) *On Certainty*.) Williams, in his putatively competing account of the modern context of our inherited ideas also believes that some ideas 'stand fast' for us and he explicitly invokes Wittgenstein. The irony is that the *very same* ideas stand fast for Williams as stand fast for Rawls, namely the truth of liberalism. Williams is just as drawn to the conception of the truth of liberalism for us as constituted by a set of default entitlements.[20]

Perhaps, in noting this parallelism, I have not appreciated Williams's point that while 'now and around here the B(asic) L(egitimation) D(emand) together with the historical conditions permit only a liberal solution: other forms of answer are unacceptable' he immediately adds a rider: '[I]t is not, though it is often thought to be, because some liberal conception of the person, which delivers the morality of liberalism, is or ought to be seen to be correct' (Williams, 2005: 8).

That objection might well take a wide range of perfectionist liberalisms from Mill to Raz as its appropriate target; Williams's specific target in this passage is the work of Carlos Santiago Nino. But Rawls was not a perfectionist liberal and consistently denied that his work, early or late, ever committed him to a 'theory of the person' (Rawls, 1993: 27). Williams seems to take as his target one foundationalist liberal project that gives the autonomy of the persona central place but that was never Rawls's view.

His abstract description of our two fundamental powers of rationality and reasonableness does not constitute any 'theory of the person': they are an identification of our highest order interests. Rawls's task is to describe a realistically utopian set of social conditions in which they will be expressed and not frustrated. It is hard to see how the concessive realist could disagree with that task specification for a 'reconciliationist' political philosophy.[21]

Williams may not believe that liberalism is the expression, in our local context of some set of timeless abstract truths, but he certainly believes that liberalism is true for us – and 'inescapably' so. Now the putative point of dispute between his view and political liberalism is the extent to which the historical conditions that form an essential pre-condition of the inescapability of liberalism for us can be reflexively acknowledged within the view itself. To that end, Williams presents a broader and wider historical narrative to explain this inescapability than Rawls supplies:

> [I]t is a luxury to be able to discuss the precise value of truthfulness in politics and its relation to other political values. Political, particularly governmental, truthfulness is valuable against tyranny, but you will get it only as associated with other values and expressed in a set of institutions and practices that stand as a whole against tyranny. *For us now, this takes the form of liberalism.* Liberal societies are more successful in the modern world than others in helping people (at least in their own territories – their influence elsewhere has been less benign) to avoid what is universally feared: torture, violence, arbitrary power, and humiliation. This is the basis of the outlook that the late Judith Shklar . . . . called . . . . the 'liberalism of fear'. . . . the value of the whole enterprise, political truthfulness included, is to be measured against the evils that it resists. (Williams, 2002: 208–209, emphasis added)

This is certainly a broader and deeper narrative than any Rawls explicitly developed:[22] were it acceptable then it would indeed combine the desiderata of being the 'least ambitious' and so 'most convincing' explanation of why the truth of liberalism stands fast for us.[23]

But there are two problems with Williams's strategy here: the first is the danger that his weak and widely shared view is political in what Rawls called 'the wrong way' – an ironic inversion of Williams's claim that an overlapping consensus is the dead hand of a de facto consensus. The second is that the extent of normative disagreement with Rawls is now becoming very tenuous. The political liberal is simply assuming something that Williams wants to prove, namely that there is a historical narrative that not simply describes the emergence of liberalism for us, but justifies it in a way that captures its 'inescapability'. What can 'inescapable' here

mean than the Wittgensteinian point that, for example, the principle of equal respect is a default entitlement that we reason *from*? That contextualist point is, as we have seen, shared both by Rawls and by Williams as their default starting point. But ironically it is Williams the realist who has a more demanding standard of justification than Rawls the alleged moralist.

Williams treats the truth of liberalism as a truth that 'stands fast' for us, even if it is in the guise of the weakest and most widely shared form of the 'liberalism of fear' that is constituted by a core set of human rights protections. Similarly, the political liberal speaks from the pragmatist tradition that takes our current commitments as a going concern, demands that alternatives to our ways of going on to be fully specified (i.e. 'realistic'), or abandoned, and has a realistic faith in the (limited) power of reason.[24] What is curious about this putative conflict is that it is the political *realist* whose putative goal is to dig deeper than the relatively shallow 'foundations' of the pragmatist-cum-contextualist defender of Rawls.[25] I concede that the result of Williams's excavations is a weaker liberal commitment, but that simply makes very pressing Rawls's concern that in trying to dig deeper the political realist gets a weaker, more widely shared, but *indefensible* commitment.

For Williams the content of the moral claims that are strictly 'co-originary' with the demands of the political itself are a very basic set of rights claims to be distinguished from a larger set of liberal rights. Williams, unlike Rawls, *always* connects that more expansive set of rights with a liberal conception of autonomy that Williams thought was flawed, precisely the kind of 'foundation' for liberalism that Rawls also rejected. For the former minimal set, but not for the latter expansive set, we are guaranteed near universality of application to any situation where power is exercised within a social group such that it can meet the Basic Legitimation Demand.

Exactly like Rawls in the formulation of his 'law of peoples', Williams then draws a distinction between illegitimate political orders, the legitimate and the liberal, and the legitimate and the decent (but illiberal). The class of the legitimate respects a very narrow range of rights that can be grounded on universally recognised wrongs, but it is a delicate question how Williams can draw a distinction between this narrow class and the wider set of liberal rights. If he fails to do so, then his view is political 'in the wrong way' and any dialectical advantage that his view derives from its weaker and wider 'foundations' than Rawls's is purchased at an unacceptable cost.

Alex Bavister-Gould has pressed this question: the test case for Williams is the difference between a slave society containing happy slaves and a theocratic society that coercively imposes restrictive gender roles on people in a way that is, in that society, universally endorsed (Bavister-Gould, 2011: 9–10). Williams treats the former case as not actually involving the political, but merely seeming to do so as the basic condition for the political is not met. He has to treat the latter case differently: as an example of a legitimate, but illiberal and decent society. This judgement would have to be grounded on the fact that this violation of liberal rights connects to a wider sense of what is valued by those within it.

To the Rawlsian, who draws this distinction between liberal and decent societies differently, this simply illustrates the dangers of seeking universal and widely shared norms that are co-originary with the political. The result is 'political in the wrong way' and that is shown by Williams's failure to follow through on his own critical theory test in the case of the theocentric and hierarchical society.[26] Williams's hedging as to whether or not such a hierarchical society meets the basic condition of legitimacy illustrates the hazards of his weak and widely shared conception. Shklar's 'liberalism of fear' (and the associated conception of a merely *modus vivendi* liberalism) are both exemplary of merely bargaining conceptions of liberalism. That which you and I have to agree to in order to avoid the alternative of potentially lethal conflict will, indeed, involve each of us reasoning from how much we are prepared to give up to go on sharing this political space. But that is not enough to sustain the idea of a fair society to which we can be reconciled as hospitable to the realisation of our moral powers, nor even that of a decent society in Rawls's sense.

As Bavister-Gould also notes one of the reasons that Williams wants to distinguish the core ethical content that is co-originary with the BLD from a wider set of liberal values is because of the role played by his theory of that which makes a society modern (Bavister-Gould, 2011: section VI). Williams sees the rise of the regulatory state as demanding that more and more decisions that bear on the private be made in a publicly justifiable way. This produces a pressure to transparent principles. But that pressure, which Williams accepts, also seems to him to lead to such principles being formulated in an increasingly 'thin' vocabulary and to push the theory of justice into purely procedural formulations.

But it is hard to see how this places Williams and Rawls on opposite sides of this issue: Rawls would simply have replied that the concept of justice is neither thick nor thin, so it falls outside the scope of this historical narrative of increasing rationalisation whereby thick vocabulary is displaced, under the impact of reflection, by the thin.[27] Furthermore, on any realistic understanding of this process it draws a distinction of degree and not of kind when it comes to the extent of the 'loss' of our moral knowledge (Thomas, 2006: chapters 7 and 8; Williams, 1985: 143–148). Williams wanted us to put a preservation order on the thick ethical concepts we still have and to resist the pressure of a 'rationalistic conception of rationality' (Williams, 1985: 18). But the prospect he discusses of an 'indirect vindication' of our moral knowledge makes no sense if we have lost all our thick ethical concepts and are left *only* with the thin.[28] If, on a realistic conception of our situation, we can have confidence in many concepts placed along the range between the thick and the thin then it is open to Rawls to surmise that justice is located in that range.

We also know that Rawls is not a pure proceduralist about justice; given the bearing of facts about market society on the content of the terms of fair social cooperation Rawls is committed to 'adjusted procedural justice' (Thomas, 2011). That adjustment is made to the background institutions of the basic structure; again, it would be remarkable to interpret Rawls as insensitive to the historical conditions that determine what those institutions are in our historical situation.

Perhaps the most constructive rapprochement between the two views is this: both the moralist and the realist are committed to truthfulness, in the sense of accuracy. An accurate history of how liberal principles have come to stand fast us need not always represent them as having done so by winning arguments. Williams's emphasis on practice implies that sometimes societies become both sociologically and politically modern as a result of social and cultural changes that are not driven by explicit theory. There are dramatic cases where founding legitimation myths are revealed to be myths, but also a range of cases where putative justifications do not need to be refuted, as social change simply puts them out of business. I agree with all of that, but it is puzzling to me why the Rawlsian cannot agree also; or, at least, why any part of their view forces them to deny it. Williams is particularly allergic to 'Whiggish' histories of liberalism, but that is surely an inessential part of any view like political liberalism. Rawls's admittedly limited historical examples point to the experience of divisive religious war as one of the bases for political liberalism, but this is to point to a collective historical experience, *not* to the winning of any arguments.

The element of contingency in Rawls's view involves which social practices there are, described at different levels of abstraction, and the further question of whether bringing practices into line with the aims to which we have interpreted them as committed are realistic given 'favourable conditions'. All of the foregoing implies that the realists' claim that Rawls failed to address the historical conditions for the application of his own views is difficult to reconcile with his extended consideration of realistic utopianism.[29] As Gledhill argues:

> What Rawls argues is realistic, then, about the substantive conception of justice represented through the utopian standpoint of the original position is that it is consistent with the historical circumstances of our social world. And understanding the presuppositions of its own possibility is integral to the process of political liberalism finding a place within the public political culture of a modern constitutional democratic society. An overlapping consensus on the principles of justice as fairness will be shown to be the 'deepest and most reasonable basis of social unity available to us in a modern democracy', one that can reconcile us to our social world. (Gledhill, 2012, citing Rawls, 1996: 98–99, 391)

Rawls does not think of an overlapping consensus as a set of pre-given answers, but rather as a way of framing our problems. It follows that he does not pre-empt the need for political judgement in order to solve those problems.[30]

## 5. Conclusion

On one way of understanding Hegel's critique of Kant it is Rawls who is slotted into the role of the abstract, empty, formalist whose work calls for a concrete specification, via a specifically political form of judgement, that Rawls is debarred from supplying himself. This paper suggests that we can read that original critique differently; Kant's views would be empty were they not capable of determinate and concrete specification, but Hegel completes that project and vindicates both projects. On this understanding of the analogy the appropriate comparison is between Rawls

and Hegel: both take it that: '[T]he very possibility of persons conceiving of themselves as free and equal, and having the appropriate concepts so to regard themselves is *a historical achievement*' (Ripstein, 2010: 683, emphasis added).

They share a methodology that applies 'fact insensitive principles' to determinate historical circumstances to yield abstract and yet fully determinate principles that are open to further specification. When Rawls stated he sought a view that 'reconciled' us to a social world that permitted the full expression of our two moral powers the invocation of Hegel in this remark is more than a suggestive hint. Developing the analogy between Rawls and Hegel allows one to locate Rawls in the contextualist and pragmatic traditions. Were his principles not open to concrete specification in one, determinate, form of political economy they would be a proper object of realist critique. But they can be so specified, so the undoubted insights of the political realists' critique are those that the Rawlsian can accept and endorse with equanimity.[31]

## Notes

1. This exegetical claim is already controversial: it divides those realists who believe that the political and the moral are mutually exclusive categories, such as Enzo Rossi, from those – such as myself, Edward Hall (2013), and Matt Sleat (2010, 2011, 2015) – who believe that they intersect and precisely do so in the Basic Legitimation Demand. See Rossi (2010, 2012, 2013) for defences of the view I call 'non-concessive realism'. My limited focus in this paper is on concessive realism solely on grounds of scope; non-concessive realism, more indebted to Geuss than to Williams, deserves separate consideration.
2. See also Scanlon (1998, 2000: 309) for a clear exposition of how, on a specificationist view, to apply a principle is to make it more complex, but in so doing also rules out any possible conflict with alternative principles.
3. My concern in this paper is solely to exonerate Rawls from the realists' critique (Rawls, 1971, 1999); I would not deny that there are several examples tailor made to fit the description of a 'political moralist' – Nozick (1974) is an obvious example.
4. Taken in context, I do not think this issue is illuminated by Williams's distinction between 'the moral' and 'the ethical' as drawn in Williams (1985) chapter 10: the word 'moral' does not have to be freighted with the special assumptions of the Morality System.
5. In his helpful discussion of E. H. Carr's critique of utopianism, Rawls notes that:

> Carr .... presented reasonable political opinions as a *compromise* between both realism (power) and utopianism (moral judgement and values). In contradistinction to Carr, my idea of a realistic utopia doesn't settle for a compromise between power and political rights and justice, but sets limits to the reasonable exercise of power. Otherwise, power itself determines what the compromise should be, as Carr recognized'. (Rawls, 1999: 6, fn. 8)

It seems to me reasonable to interpret this passage as expressing a commitment to concessive realism: as concerned with the *moral* 'limits to the reasonable exercise of power'.

6. The paradigmatic non-concessive realist is Geuss himself; while he and Williams share a common line of objection to moralism they diverge over what ought to take its place. The distance between them comes across clearly in Geuss (2005, 2008, 2014a).

7. See, for example

> Ethics is usually dead politics: the hand of a victor in some past conflict reaching out to try to extend its grip to the present and the future . . . recognition of this necessity gives us no reason to romanticize it. (Geuss, 'Moralism and Realpolitik', 2010: 42)

8. So an aim common to Geuss and Rawls – a political world to which we can be 'reconciled' – frames a radical disagreement over whether this aim can be realised under current conditions. See footnote 21 below.

9. I say 'putatively rationalist and foundationalist' for two reasons: first, Rawls's constructivism is restricted to constructivism about justice and he was always clear that a construction process depended on some material that remains unconstructed. This is not, then, a pure rationalism of epistemically self-standing privileged procedures. Furthermore, I have argued, in a previous publication, that Rawls's commitment to reflective equilibrium is compatible with contextualism about justifications of belief change. So while reflective equilibrium is compatible with either coherentism or contextualism it is incompatible with foundationalism. See Thomas (2006) chapter eight where I contrast my position with that of DePaul (1986) and Ebertz (1993). (Resolving the question of whether inferential contextualism is a version of 'modest foundationalism' goes beyond the scope of this paper.)

10. Rawls insists on the distinctness of issues of legitimacy and justice in Rawls (1996: 427–428). Matt Sleat (2015) argues that all legitimate states 'use their power in accordance with a just constitution' (Sleat draws in turn on the arguments of Simmons (1999), 759–760, fn. 48). But 'in accordance with' is a very lax constraint; legitimate legislation cannot be *inconsistent* with the constraints of a just constitution in so far as the constitution and the legislation bear on each other. But pointing to an area of overlap is not to assert an identity.

11. Furthermore, institutional implementation of principles seriatim, assuming each lexically prior principle is fully implemented to structure the context for the application of the lexically subordinated principle, and implementation in *current* and *actual* institutions whose nature is well understood, Rawls (2001: 43, fn. 5).

12. Katrina Forrester (2012) cites this passage from a Rawlsian lecture of 1983:

> Williams is right that there can be no ethical theory as he describes it, that is, a philosophical structure which together with some degree of empirical fact, yields a *decision procedure* for moral reasoning. Indeed, very often what Williams says seems correct, the problem is that his claims are somewhat exaggerated. Thus, *who* claims that ethical theory can provide a *decision procedure?* What *is* such a procedure? Perhaps, though, while it cannot provide a decision procedure, it can provide something else. (Rawls, 1983) cited by Forrester (2012: 264)

13. As Ripstein also points out, this is one of the keys to understanding Rawls's normative pluralism: the principles governing the basic structure of society do not directly regulate the internal lives of particular associations. But then they are a different kind of entity ordered by different constitutive principles. (Ripstein, 2010: 682).

14. Ripstein's concern is to defend Rawls from Cohen's critique in its methodological dimension; he expresses the worry that he may not be successful given that Rawls seems committed to a problematic form of 'essentialism' (Ripstein, 2010: 683). At this point I think it would be fair to introduce Charles Larmore's observation that Cohen's commitment to a hybrid ethical theory at least proves this much: that Cohen must be committed to Samuel Scheffler's basic rationale for any such theory, which is that it must be adjusted to the kind of object for which it *is* a theory, namely persons with a personal point of view that is ethically significant. For further discussion of the consistency of Cohen's combination of Platonism, hybrid theory and a critique of Rawlsian special incentives, see Thomas (2011).

15. This is to interpret Rawls as committed to the thesis that Andrea Sangiovanni labels as the 'Practice-dependence Thesis', namely that 'The content, scope, and justification of a conception of justice depends on the structure and form of the practices that the conception is intended to govern' (Sangiovanni, 2008: 2).

16. 'Such an idea can be fully justified (if at all) only by the conception of political justice *to which it eventually leads when worked out*, and by how well that conception coheres with our considered convictions of political justice at all levels in what we may call wide (and general) reflective equilibrium' (Rawls, 2001: 26, emphasis added).

17. One of the most famous maps, Harry Beck's classic map of the London underground system, closely resembles a 'schematic' electrical circuit diagram. (Beck was an electrical draughtsman by trade.) Beck's map is, indeed, 'schematic' in the sense to which I have appealed: it picks out only the salient information about the relationship between London tube stations,

> the intended content identifies properties that are of interest . . . the spatial relations of special concern include being connected by the same railway line and being adjacent along the same railway line, but not being collinear in physical space nor any metrical relations along the points depicted. (Kitcher, 2001: 57).

Nevertheless, in his insightful discussion of Beck's map, Philip Kitcher makes the key point that its schematic nature is compatible with its complete accuracy: 'the map is not *approximately* accurate. It is exact' (Kitcher, 2001: 58).

18. Except for one, principled, indeterminacy in Rawls's view, namely, that the fully determinate specification of justice for the basic structure fails to determine the content of 'local justice' that applies within those institutions and associations that are independent of the basic structure. See Rawls (2001: 11–12).

19. There is nothing in Williams comparable to Raymond Geuss's repeated claim that Rawls was a 'trickle down' apologist for capitalism. (For the latest statement of this claim, see Geuss (2014b)). That depends, as Philippe van Parijs memorably puts it, on a 'casual interpretation' of the difference principle; van Parijs helpfully rebuts any such interpretation in his (2002) page 204.

20. This does not commit me to denying Williams's counterfactual claim that, *were* one to ground a liberal view on a conception of personal autonomy, then this view would be in bad faith. This would be so on the grounds that the very same 'forces' that make liberalism an inescapable answer to the BLD ground that *same* notion of the person (Williams, 2005: 8). But political liberalism does not permit any strictly political conception of justice from being grounded on a controversial conception of autonomy – as

it is in perfectionist or 'ethical' forms of liberalism. So Williams's specific critique of Nino (1991) does not extend to political liberalism.

21. In characterising the task of political philosophers, Rawls repeatedly uses the Hegelian word 'Versöhnung', 'reconciliation'. As Michael Hardimon has pointed out, the German usage of this word is more committal than its comparatively neutral English counterpart; it carries the strong overtone of a transformative overcoming of an initial conflict (Hardimon, 1994: 85).

22. Freyenhagen, for example, takes Rawls's project of reconciliation to be more optimistic than the prospects for a liberalism of fear (Freyenhagen, 2011: 329). Yet it seems to me that the latter's aim to derive a liberalism from very basic facts about the nature of the political is far more ambitious than Rawls's calculatedly superficial argument. This is crucial to Freyenhagen's critique of political liberalism: he claims that Rawls's arguments for the possibility of an overlapping consensus are merely explanatory (so not normative at all – neither moral nor political) (p. 326, 333). Yet he also claims that Rawls offers a moral case, cast in terms of reasonableness (not rationality) for avoiding the oppressive imposition of comprehensive views, (p. 327), and responds that the liberalism of fear does *just as well* in dealing with this fact with fewer controversial assumptions. So everything hinges on whether the liberalism of fear is political 'in the wrong way'. Freyenhagen equivocates over whether Rawls's appeal to reasonableness is merely explanatory or a moral basis for avoiding the fact of oppression. (My view is that it is the latter.) He then draws a distinction between a 'fully moral justification' and a weak realism in which 'the influence of moral reasons and ideals on politics is not always futile or illegitimate' and opts for the latter (p. 334). I have argued here that this latter concessive realism (equally describable as a concessive moralism) is a position that both political liberals and (some) realists can converge on. So if the liberalism of fear is political 'in the wrong way' then Freyenhagen is going to find himself (reluctantly) in the same camp as Rawls.

23. Specifically, the 'fourth general fact', namely

> that the political culture of a democratic society has worked reasonably well over a considerable period of time normally contains, at least implicitly, certain fundamental ideas from which it is possible to work up to a political conception of justice suitable for a constitutional regime. (Rawls, 2001: 34–35)

See also the remark that

> 'we start from the conviction that a constitutional democratic regime is just and workable, and worth defending' (Rawls, 2001: 37). For the necessary conjunction of favourable conditions plus 'political will' (citing Weimar Germany as possessing the former but not the latter), see Rawls (2001: 101).

24. Williams admonishes the liberal that he or she ought to begin from 'starting from what is at hand', then introduces the quote that 'In the beginning was the deed' and moves on from the role that that idea plays in Wittgenstein's *On Certainty*, a paradigmatic expression of the inferential contextualism that also underpins political liberalism (Thomas, 2006: chapter 11). I do not deny there is a substantive disagreement between me and Williams here over how best to read *On Certainty*: for an extended defence of Williams's style of reading see McGinn (1989); for my reasons for dissenting see Thomas (2006: 173–174, fn. 13).

25.  Williams is quite clear that for his narrow set of basic human rights he will be satisfied with nothing less than 'self-evidence' as to their truth (Williams, 2005: 18–19). This sits uneasily with the emphasis – in the very same paper – on Williams's foundationalism being grounded on practice, not belief (Williams, 2005: 24–25). As Jonathan Dancy once remarked to me, this way of avoiding dogmatism in epistemology by appealing to the presuppositions of a grounded practice replaces one dogmatism with another, namely the dogmatic claim that practice and *its* presuppositions must be prior to theory and its presuppositions.

26.  The crux of the normative issue is whether Rawls's rationale for the basic liberties gives us more traction on the problem of the envisaged discriminatory society (involving 'patriarchal ideas of the rights of women' (Williams, 2005: 26) than Williams's restricted set of rights? Rawls's rationale is the 'rights and liberties specified by the liberty and integrity (physical and psychological) of the person' (Rawls, 2001: 44). That is vague, and open to interpretation; Williams's superficially competing position at least endorses Thomas Nagel's claim that it is paradigmatically a denial of a basic right to deny 'civil rights to women' (Williams, 2005: 18), referring to Nagel (2000: 33–49 at p. 34). It seems to me that the devil is in the details here, but that Williams's schematic contrast fails to supply the necessary details.

27.  The point that the fate of such concepts as justice and autonomy in Williams's narrative was unclear was first made by Samuel Scheffler (1987).

28.  The possibility of such an 'indirect vindication' for moral knowledge in Williams is developed by Adrian Moore (2006) and Miranda Fricker (2000); for a critical discussion see Thomas (2006: 154–160). I try, in that book, to show how a contextualist as opposed to a foundational model for moral knowledge undermines Williams's more radical claims about the impact of reflection on the loss of our moral knowledge (paradigmatically in Williams (1985) chapter seven).

29.  Rawls discusses realistic utopianism and the favourable conditions for political liberalism and justice as fairness in his (1999: 11–12) and (2001: 4, 13, 25, 32, 34–35, 37–38, 47, 87, 100–101).

30.  The mapping of the three-way dialectic between Shklar, Rawls and Williams in Forrester (2012) also concludes that 'Shklar .... attempts to accommodate an appreciation of Rawls within the realist framework', p. 248. Rob Jubb, similarly, argues that there are significant areas of overlap between Williams's realism and Rawls's putative 'moralism' in his (2014). However, Jubb's helpful triangulation between their view and a third party involves not a common origin (Shklar) but a common opponent – Cohen.

31.  I have had a lot of help with this paper and I am very grateful to Kathryn Brown, Jonathan Floyd, Katrina Forrester, Ed Hall, Rob Jubb, Charles Larmore, Helen Longino, David Owen, Enzo Rossi and Matt Sleat for their comments and criticisms.

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