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Legitimacy and Domination[1]

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The aim of this chapter is to make progress regarding issues that arise for what may be termed 'internalist' accounts of political legitimacy. Such accounts maintain that the conditions by which a political grouping – often, but not necessarily, the state – can intelligibly be said to be legitimate must be built entirely from materials available within the process of politics that is itself under analysis. To put matters crudely, but for now helpfully: internalist accounts posit that legitimacy is, and can only be, a function of the beliefs of those subject to power, and insofar as subjects believe that the power exercised over them is legitimate, *it therefore is*. Such a view gives rise to (at least) two sorts of objections, one of which I seek to address, the other I largely set aside.

The complaint I set aside arises from adopting an *external* perspective on the practices of some other group. Namely, that even if the institutional power structures of that group were wholeheartedly endorsed by its subject population, if those structures involved violations of certain moral values, then no matter what its subject population believed, such an institutional formation *must* be illegitimate. To use another crude example: even if all the citizens of the Third Reich had wholeheartedly endorsed Nazi

[1] A very different version of this paper was presented to the 'Rethinking Responsibility' workshop organised by Hallvard Lillehammer and James Laidlaw at Birkbeck College, University of London. I am grateful to all those participants who helped me see just how much more work my argument needed. A more developed version was improved by exposure at David Estlund and Amanda Greene's 'Realism and Moralism' workshop held at University College London, and then at the University of Cambridge's political philosophy workshop – again I am grateful to all participants for their help in improving this paper. Individual thanks must also go to Bernardo Zacka, Ed Hall, Rob Jubb, Matt Sleat, Enzo Rossi, David Runciman, Tom Dogherty, Hallvard Lillehammer, and Nakul Krishna.

extermination policies, the Third Reich would nonetheless be an illegitimate state. This seems obviously right, at least from the point of view of e.g. the postwar West. The philosophical questions this external perspective raises are primarily those of relativism: the attitude we should take to the subjects of such a political organization (and reflexively our own in turn), whose beliefs about what moral bounds political agents may transgress, whilst remaining legitimate, differ so starkly from ours. Practically speaking, very difficult problems are raised about what we might *do* about such an entity, should we be unfortunate enough to encounter one. Those practical problems themselves have deep philosophical dimensions, but it is clear by this point in our history that they are not easily solved. These, however, are not the concerns of this paper.

What I focus upon instead is what we might say from only an *internal* perspective about the construction of beliefs in legitimacy, in particular, a perspective that does not operate by imposing external (even if eminently endorsable) moral constraints.[2] Varying the example accordingly, consider the following. If there were a group of happy slaves who believed that their master was legitimate *only because* the very same power of their master brought about this belief in them, we should rightly deny that the authority of the master was legitimate. This appears to straightforwardly defeat the crude internalist position sketched above, i.e. that legitimacy is simply whatever people happen to think it is. Nonetheless, it is possible to articulate less crude versions of internalism, which can handle the slavery counter-example, and yet continue to posit that legitimacy must be – indeed, can ultimately only be – a function of the psychological processes of the ruled. The question of how to satisfactorily account for legitimacy on an internalist account arises implicitly in the political thought of David Hume,[3] Adam Smith,[4] and Max Weber,[5]

[2] For examples of what I have in mind by externalist accounts, see Robert Paul Wolff 1970, *In Defence of Anarchism* (New York: Harper, 1970); A. John Simmons, "Justification and Legitimacy," in *Justification and Legitimacy: Essays on Rights and Obligations* (Cambridge: Cambridge University Press, 2001), 122-157.
[3] David Hume, *A Treatise of Human Nature*, ed. D.F. Norton and M.J. Norton (Oxford: Oxford University Press, 2007), 342-62.

but is not adequately addressed by them.[6] More recently, it has arisen explicitly in the later work of Bernard Williams, who resembles these earlier thinkers with regards to his basic approach to political philosophy.[7] Yet Williams's treatment of the subject is dense, brief, and at times obscure, and whilst highly suggestive, more needs to be said and clarified if an adequate internalist account is to be had. The aim of this paper is to say something more than Williams offered, as well as clarifying some of what he did have to say, thus hopefully making progress towards a more satisfactory account.

Williams: the BLD and the CTP

It will be helpful to remind ourselves of the basic features of Williams's political thought, and why he came explicitly to consider the need for an internalist explanation of legitimacy. The following is schematic, as detailed substantiations are available in the secondary literature.[8]

For Williams we begin with the 'first political question', which relates to the securing of 'order, protection, safety, trust'. This question is 'first' because 'solving it is the condition of solving, indeed posing, any others'.[9] Although Williams identified this first question in 'Hobbesian' terms, he distinguished his own view from that of Hobbes, for whom pretty much *any* organised coercive imposition of order was *ipso facto* an improvement on the absence of order. For Williams (as for most others) this is not

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[4] Adam Smith, *Lectures on Jurisprudence,* ed. R.L. Meek, D.D. Raphael. and P.G. Stein (Oxford: Oxford University Press, 1978), 312-30, 401-37.
[5] Max Weber, 'Politics as a Vocation' in *From Max Weber: Essays in Sociology*, ed, H.H. Gerth and C. Wright Mills (Abingdon: Routledge, 1948 [1991]).
[6] David Beetham, *The Legitimation of Power* (Basingstoke: Macmillan, 1991); Paul Sagar, "The State without Sovereignty: Authority and Obligation in Hume's Political Philosophy," *History of Political Thought* (forthcoming).
[7] Edward Hall, "Bernard Williams and the Basic Legitimation Demand: A Defence," *Political Studies* 63, no. 2 (2015): 475; Geoffrey Hawthorn, 'Introduction' in Bernard Williams, *In The Beginning Was the Deed: Realism and Moralism in Political Argument*, ed. G. Hawthorn (Princeton: Princeton University Press, 2005), xii.
[8] Hall, "A Defence"; Edward Hall, "Contingency, Confidence, and Liberalism in the Political Thought of Bernard Williams," *Social Theory and Practice* 40, no. 4 (2014): 545-69; Paul Sagar, "From Scepticism to Liberalism: Bernard Williams, The Foundations of Liberalism, and Political Realism," *Political Studies* (forthcoming).
[9] Bernard Williams, *In the Beginning was the Deed: Realism and Moralism in Political Argument*, ed. G. Hawthorn (Princeton: Princeton University Press, 2005), 3.

necessarily true, as some answers to the first question are worse than the problems they aim to solve: a reign of organised terror effectively becomes the problem that politics is meant to be a solution to, and thus is not acceptable *as* a solution.

For Williams, although it is a necessary condition of a state being considered legitimate that it solve the first political question, it is not sufficient. Identifying conditions of sufficiency meant introducing the idea of the Basic Legitimation Demand (BLD). The BLD is best understood, in the first instance, as a way of delineating when politics, as opposed to mere warfare, is actually happening. In the case of warfare, one group (or groups) merely asserts power over another (or others), without giving reasons to those others, in terms which *they* are expected to accept, as to why they *ought* to consider that power as rightful. (This can be internally as well as externally realised, as when the Spartans claimed domination over the Helots, but not in terms the latter were supposed to accept as making claims on them, meaning they were not in a genuinely political relationship with each other). By contrast, when one group gives reasons which are offered in the expectation that the subordinated group *ought* to accept the power of the other as rightful, then politics has begun: the dominated group makes the BLD, and the dominators offer some kind of answer to it. Thus:

> 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 successful domination.[10]

It is an axiom of politics for Williams that might does not make right. In order to get to right, the BLD has to be made, and a response attempted. Once this occurs, politics is happening. Yet in order for the given form of politics to be deemed *legitimate*, the answer to the BLD will have to be found *acceptable* by those to whom it is offered.

[10] Williams, *In the Beginning*, 5.

Williams insists, however, that 'We cannot say that it is either a necessary or sufficient condition of there being a (genuine) demand for justification, that someone demands one'.[11] It is not *sufficient*, because anyone can raise a demand based on a grievance, no matter how spurious, and the mere fact that some people don't accept an answer to the BLD is not sufficient to show that the answer is therefore inadequate, because those unsatisfied may be 'anarchists, or utterly unreasonable, or bandits, or merely enemies'.[12] As a consequence of this, whether or not the BLD is satisfied will not in practice be an all-or-nothing verdict (except perhaps in the most egregious cases of failure) but will instead by scalar, with judgement required as to whether or not the state in question can reasonably be said to be legitimate overall. As Matt Sleat has recently emphasised, even states considered legitimate overall will typically engage in the domination of some subordinated groups, who (rightfully) experience their domination as precisely that, in turn rejecting the legitimacy of the organised coercive power in question.[13] Similarly, Robert Jubb has argued that the severely disadvantaged in modern liberal states are entitled to reject these states for failing to meet the BLD, and others should see the legitimacy of these states as impugned accordingly.[14] An important upshot of Williams's analysis, however, is that because legitimacy is scalar and its ascription dependent upon judgement, from his internalist perspective it is quite coherent to say that the same state can be both legitimate *and* illegitimate to different groups of people *at the same time*. Indeed this is one important way in which internalist views will tend to differ from externalist accounts, which typically posit that insofar as some key value or criteria is violated, then the state is rendered illegitimate *simpliciter*.[15]

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[11] Williams, *In the Beginning*, 6.
[12] Williams, *In the Beginning*, 136.
[13] Matt Sleat, *Liberal Realism: A Realist Theory of Liberal Politics*: (Manchester: Manchester University Press, 2013), 45-52.
[14] Robert Jubb, "The Real Value of Equality," *Journal of Politics* 77, no. 3 (2015): 679-91.
[15] Hall, 'A Defence', 473.

But for Williams it is also not a *necessary* condition of there being a demand for justification that someone actually makes one, due to the possibility that people do not do so precisely because they have been 'drilled by coercive power itself into accepting its exercise'.[16] This brings us to the concerns of this chapter regarding the generation of beliefs in legitimacy. Williams wished to impose as a condition of acceptable satisfaction of the BLD that it meet 'the critical theory principle, that the acceptance of a justification does not count if the acceptance itself is produced by the coercive power which is supposedly being justified'.[17] Such a principle is necessary to defeat the crude slavery objection encountered above, and thus save Williams's internalist theory from an apparently obvious and immediate inadequacy (although we shall consider how far this is really so in the next section). But Williams further suggested that the 'obvious truth' of the Critical Theory Principle (CTP) 'can be extended to the critique of less blatant cases'. However, 'the difficulty' with the CTP relates to 'making good on claims of false consciousness and the like…in deciding what counts as having been "produced by" coercive power in the relevant sense'.[18]

Williams's fullest discussion of the CTP occurs in his final monograph *Truth and Truthfulness*. He there offers a more detailed articulation of the CTP, by imagining a society where there is an unequal distribution of power:

> Suppose that of two parties in the society, one is advantaged over the other, in particular with respect to power; and suppose that there is a story which is taken to legitimate this distribution, a story which is at least professed by the advantaged party and is generally accepted by the disadvantaged; and suppose the basic cause of the fact that the disadvantaged accept the story, and hence the system, is the power of the advantaged

[16] Williams, *In the Beginning*, 6.
[17] Williams, *In the Beginning*, 6.
[18] Williams, *In the Beginning*, 6.

> party; then the fact that they accept the system does not actually legitimate it, and *pro tanto* the distribution is unjust.[19]

Williams goes on to state that in 'any interesting case these parties (it is of course a simplification that there are only two of them) will be classes, social orders, or some such formation; very notably, they may be the two genders [sic]'.[20] But in any case, his focus is on cases where the legitimation story is "'generally accepted" by the disadvantaged party', covering the 'standard case, in which most of them mostly accept it', perhaps grumbling about the inequalities of power, but nonetheless accepting its general legitimation, bringing up their children to accept it, and so on.[21] In such cases, when can we say that the CTP is relevant (or not), and that belief in legitimacy is to be accepted (or impugned) from an internalist perspective?

According to Williams, the CTP must address two concerns if it is to be an adequate tool of understanding: 'what is the content of the causal claim, and what is its critical force?'[22] The first issue relates to being able to make a respectable claim regarding *how* the power of one causes belief in another. Although this is easy in simplistic fantasy cases such as those that could be drawn from novels like *Brave New World* or *1984*, in real cases some plausible causal explanation in respectable social scientific terms must be supplied, or else the CTP will simply register an unproved, and potentially false, hypothesis about the illegitimacy of social orders because of beliefs accepted under certain social pressures. The second issue concerns a 'genetic fallacy objection', such that just because some belief was caused in some way, it does not automatically become illegitimate or discredited as such: some additional reason(s) must be given for thinking that evaluative reappraisal is required in the light of genetic factors. Williams is

[19] Bernard Williams, *Truth and Truthfulness: An Essay in Genealogy* (Princeton: Princeton University Press, 2002), 221.
[20] Williams, *Truth and Truthfulness*, 222.
[21] Williams, *Truth and Truthfulness*, 222.
[22] Williams, *Truth and Truthfulness*, 224.

particularly sensitive to this point because his CTP is centrally concerned with power, specifically how it brings about beliefs, but he recognizes that power will *always* be present in the creation of beliefs for socially embedded subjects. The CTP must be able to discriminate between normatively unproblematic cases such as those of education – where the power of the teacher is used directly and indirectly to educate the pupils – and the problematic cases it is designed to impugn. Sensitive to this, Williams suggests a truth-focused method of internal critical evaluation targeted at the proper formation of beliefs.

Williams attempts to make good on the CTP via the formulation of a 'critical theory test'. This begins by asking, of a belief held by a group, 'If they were to understand properly how they came to hold this belief, would they give it up?' Williams then moves through a process – an 'artificial rationalization, but something like it does actually happen on a social scale' – by which members of the group could come to assess whether they 'understand properly' why they hold their beliefs. Williams aims to show that if a disadvantaged group comes to identify some more advantaged group, 'the instructors', as the cause of their beliefs, but without any independent reason for those beliefs to be taken as true, then the legitimacy of the authority of the instructors is *ipso facto* called into question. In turn, if 'the process of instruction' becomes deprived in this way of any claim to authority, it will soon 'appear as an exercise of power and not much else'.[23] Indeed the 'more the instructors…resist the objections to the status quo, as they no doubt will, the more obvious it becomes that the system is unjust in the most basic terms, an exercise of unmediated power. To the extent that it is defended by overt coercion, this is what it will have become. But there is good reason to say also that this is what it always was'.[24]

[23] Williams, *Truth and Truthfulness*, 227-9.
[24] Williams, *Truth and Truthfulness*, 230.

Williams's discussion of the CTP is explicitly indebted to the tradition of critical theory, and in particular to the idea of false consciousness and its overcoming. Indeed his formulations appear particularly dependent upon the explication of Frankfurt School approaches provided by Raymond Geuss in his 1981 *The Idea of a Critical Theory*, although Williams purposefully distances himself from the idealist, Kantian strand (exemplified by Habermas), which identifies agents' coming to reject illegitimately-formed beliefs with the identification of true beliefs as they would be formed in an ideal speech situation entirely free of coercion and governed only by norms of free discussion. Nonetheless, and despite diverging from Geuss's reconstruction of the core aspects of Frankfurt critical theory in several ways (some of which we shall consider below), Williams shares with this approach an emphasis on 1) *unacceptable power* (or *Herrschaft*) as being what is objectionable in the formation of problematic beliefs, 2) the *interest* that some subjugated group has in being enlightened about its true condition, and 3) that coming to recognise or know of the presence of illegitimate power and the suppression of interests is *emancipatory* in its motivational tendency, insofar as knowing 1) and 2) gives one reasons to want change to occur (even if one is not to be able to actually bring it about, or expect that others will either).

Having recapitulated Williams's position, we can next move beyond his discussion and get clearer on what the CTP needs to do on an adequate internalist approach. In the next section I consider cases when it is *not* required, and in the succeeding section examine cases where its invocation will be appropriate, but asking what exactly it is that we need the principle to do.

Imaginary Slaves, Natural Authority, and Known Domination

The intuitive power of the example of the happy slaves with which we began lies in the apparently obvious requirement that an internalist account be able to address such cases,

or else the account will *ipso facto* be inadequate. But to what extent does this hold? Two considerations are relevant here. First, that such examples are only ever imaginary. Second, that even in the imaginary cases it is easy to say what is going wrong.

The first consideration matters insofar as internalist accounts of legitimacy are offered as attempts to explain real processes of politics as actually experienced by human beings. Although it is a fair conceptual point that a theory of legitimacy that says simply 'legitimacy is whatever people think it is, and nothing more' is inadequate, and the example of the slaves can help to bring out why, this is hardly a particularly important sort of objection, because we know that human beings simply are not easily or straightforwardly manipulated into believing in the legitimacy of rulers through processes of conscious deception. Fantasy examples such as *1984* and *Brave New World* are, precisely, fantasy: the causal mechanisms (drugs, propaganda, surveillance, etc.) by which compliance and belief in legitimacy are secured are imaginary. In the real world, the causal efficacy of such techniques is far lower than would be required to generate the results depicted in fiction.

But even when remaining at the level of hypotheticals, the answer to what is wrong with such cases can easily be supplied from the most basic and minimalist tenets of critical theory, such as those adopted by Williams, and that anybody else may help themselves to without further conceptual baggage. Namely, that it is easy to say what is wrong with the happy slave cases by imagining what the *slaves themselves* would come to think if freed from the power of their master, and given adequate information to make an independent assessment of their situation. Freeing them from *Herrschaft* need not necessarily posit their adoption of an 'ideal' situation of perfect knowledge (as more elaborate and ambitious versions of critical theory suggest[25]), but simply a modest set of

[25] For example, as explicated by Raymond Geuss, *The Idea of a Critical Theory: Habermas and the Frankfurt School* (Cambridge: Cambridge University Press, 1981), 55-75.

assumptions about whether the slaves would be happy to endorse their situation if they knew it for what it really was. Assuming that they wouldn't – they are, after all, slaves – we can say easily what is wrong with any pre-critical belief of theirs that their situation is legitimate: that *they themselves* would reject such beliefs if properly informed about how their situation serves to promote the interest of another group (or groups), at their expense, and which has no justification other than in relation to that other group's interests.

So the internalist should not worry about happy slave type cases: the action is elsewhere. The interesting question, we can agree with Williams, is whether the basic insights of a minimalist critical theory can be extended to 'less blatant' cases. Yet to know this it is necessary to be clear on which of the 'less blatant' cases call for invocation of the CTP, and which do not. The following considerations are pertinent.

It is important to note that the mere presence of power inequalities, status hierarchies, and uneven distributions of burdens and benefits in a society does not automatically indicate that those subject to these inequalities must be deceived about their nature, and accept them only because they hold beliefs that are the product of power, and which they themselves would abandon if more fully informed. This point is stressed by Hume and Smith, who emphasise the importance of natural authority in explaining large-scale human associations run on hierarchical lines and exhibiting stratifications of power and status.[26] Although it may be an uncomfortable fact for many left-leaning egalitarian political philosophers, it is an observable truth that human beings have a predilection for deferring to authority, frequently generated by apparently non-rational sources, identified for example by Smith as including superiority of abilities, age, wealth, and hereditary descent, and explained by both Hume and Smith as originating in

[26] Hume, *Treatise*, 342-62; Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. R.L. Meek, D.D. Raphael, and P.G. Stein (Oxford. Oxford University Press, 1976), 708-23).

the human capacity to share affective sentiments, and in turn the tendency to admire and esteem, rather than hate and resent, the rich and powerful.[27] For present purposes, the important thing to note is that an internalist account of legitimacy should not posit that simply because there is political, social, or economic inequality, that the belief in the legitimacy of this state of affairs by those who are subject to it is necessarily unacceptably formed. Insofar as many human beings *willingly* submit to the power and authority of others, even when their material interests are harmed or retarded by that state of affairs (think, for example, of the mania in the UK – or for that matter, and even more bizarrely, America –surrounding British royal weddings), and would continue to do so even if 'fully informed' about their own interests and how their beliefs came about (which indeed they may already be), then that legitimacy is genuine, even if it offends the sensibilities of egalitarian observers.

On the other hand we also must not assume that simply because resistance is not manifest, and acquiescence to a regime or power-structure is openly observed, that a claim of legitimacy is therefore recognised and granted by a relevant subject population. The absence of open organised dissent is not a reliable indicator of legitimacy. Yet we can often say why without invoking the CTP.

Particularly helpful here is James C. Scott's work on identifying and explaining resistance amongst subordinated groups in societies where there are severe inequalities of power, some are explicitly dominated by others, and yet open resistance is not practised. In this regard, Scott's distinction between the 'public' and the 'hidden' transcripts of power is illuminating.[28] The 'public' transcript refers to the interactions that take place in sight of members of both dominators and the subordinated. In this arena both sides will normally observe the rituals, practices, modes of address, social roles, etc., that their

[27] Sagar, 'State Without Sovereignty'; Michael Rosen, *On Voluntary Servitude: False Consciousness and the Theory of Ideology* (Cambridge: Polity Press, 1996), 95-99, 115-29.
[28] James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990), 1-17.

group standing assigns to them. Those who are in a position of subordination will adopt the practices of deference, humility, subservience etc. (varying with context-dependent social formations and locations) that the dominators demand, and the reason for this is obvious: if they do not, they will be liable to retaliation from those who hold power, and this can be severe, potentially even life-threatening. But away from the eyes of dominators (who in public must also engage as their societal roles demand), the dominated are more or less free (depending on varying levels of control and opportunity), to engage in a *hidden* transcript with those who are in a like situation. The existence of the hidden transcript allows the dominated to air grievances, experience solidarity, and privately (i.e. in conditions of relative safety) denounce the activities, and ultimately the power and status, of the dominators. 'To put it crudely, it would ordinarily be suicide for serfs to set about to murder their lords…it is, however, plausible for them to imagine and talk about such aspirations providing they are discrete about it'.[29]

The important upshot of Scott's distinction for present purposes is that insofar as the dominated possess a 'hidden' transcript regarding their attitudes to power, then the real lived psychology of the subordinated is *far richer* than superficial observation would indicate. Insofar as the subordinated possess opportunities to discourse with each other away from the eyes and ears of superiors – and any actual society outside of fantasies of totalitarian control must give rise to such opportunities – then the hidden transcript will enable rejection of the legitimacy of the power of the dominators. Insofar as a subordinated group *recognizes* itself to be subordinated, the existence of the hidden transcript provides opportunities for resisting – even if only internally, only mentally – the legitimacy of the powerful. Crucially, however, the hidden transcript is *hidden*. The historical record – at least if the subordinated have done a good job of staying concealed in the service of their own self-protection – will typically show marks of it only at those

[29] Scott, *Domination*, 91.

relatively infrequent times when it erupts into public view. This can make it appear as though subordinated populations are quietly acquiescing in their subordination. But appearances are deceptive. 'To conclude that slaves, serfs, peasants, untouchables, and other subordinate groups are ethically submissive merely because their protests and claims conform to the proprieties of the dominant class they are challenging would be a serious analytical error'.[30]

Furthermore, it is also worth noting that many regimes that ape the outward trappings of legitimacy are in fact engaged in purposeful performances of power employed as mechanisms for controlling subject populations via a mere simulacrum of freely-given acquiescence – and that everybody involved knows this to be the case. This is brought out, for example, in Lisa Wedeen's study of Syria under Hafiz al-Asad. Simply because the subject population of Syria outwardly affirmed that al-Asad was the saviour of the nation (and also, as it happens, Syria's 'premier pharmacist', and that he 'knows all things about all issues'), it did not follow that either the ruled or the ruler(s) really believed this, or that the latter actually wanted the former to. Rather, in al-Asad's Syria not only was it 'impossible *not* to experience the difference between what social scientists, following Max Weber, might conceive as a charismatic, loyalty-producing regime and its anxiety-inducing simulacrum', but the continuous performance was not intended to achieve genuine legitimacy at all.[31] What was intended was 'a strategy of domination based on compliance rather than legitimacy…through enforced participation in rituals of obeisance that are transparently phony both to those who orchestrate them and to those who consume them'.[32] Wedeen's point generalizes beyond Syria, and is relevant to a great many oppressive regimes which disingenuously ape the trappings of legitimacy, and which are quite easily identified as doing so.

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[30] Scott, *Domination*, 92.
[31] Lisa Wedeen, *Ambiguities of Domination: Politics, Rhetoric, and Symbols in Contemporary Syria*. (Chicago: Chicago University Press, 1990), 3.
[32] Wedeen, *Ambiguities*, 6.

Given the above, therefore, in a great many cases we can say that a regime either possess or lacks legitimacy without needing to invoke the CTP at all, simply by paying attention to how subject populations actually view rulers and institutional systems of domination and/or power (although this may require looking beneath immediate performances and affirmations). There may often be no work for the CTP to do, either because (as in Hume and Smith 'natural authority' cases) a subject population is freely acquiescing to inequalities of power through processes of willing subjection to established authority, or (as in Scott or Wedeen type cases) because in conditions of actual domination the ruled aren't deluded about their situation, and do not believe in the legitimacy of their rulers anyway, even if they have to outwardly act as though they do.

Granted this, however, it is worth noting the consequences for Williams's position. Williams is explicit that although liberalism is the only form of rule that satisfies the BLD, and is thus legitimate, for people like us 'now and around here', he affirms that there manifestly have been, and maybe still are, non-liberal societies that are legitimate insofar as they satisfy the BLD on relevant local criteria.[33] Past forms of society – such as theocracies in which power-distributions and claims to authority were justified by appeal to divine law – may no longer be acceptable to us because the legitimation stories they relied upon no longer 'make sense', insofar we have repudiated (e.g.) the theistic outlook that made them intelligible. But in the past, and insofar as such outlooks widely obtained, then such legitimations did 'make sense', and hence non-liberal but legitimate states have previously existed. This necessarily follows as a matter of the logic of Williams's position regarding the BLD and the first political question. But what must be guarded against is the simplifying assumption that people in past societies were typically more easily reconciled to conditions of domination than we are now, say by invoking the vague

[33] Williams, *In the Beginning*, 7-11. We need not invoke an especially taxing understanding of liberalism; Williams's capacious formulation of it as a form of society which 'aims to combine the rule of law with a liberty more extensive than in most earlier societies, a disposition to toleration, and a commitment to some kinds of equality' will suffice (Williams, *Truth and Truthfulness*, 264).

notion of theocratic authority (or similar). Following Scott and Wedeen, we may come to suspect that a great many human societies have *not* satisfied the BLD *even on the local, non-liberal conditions*, for the basic reason that human beings tend to know pretty well when they are being dominated, and tend not to like that (even if they cannot actively or openly enact resistance). As a result, there may turn out to be more of a connection between legitimacy and liberalism on Williams's own position than some of his political writings appear to suggest. For although it does not follow that *only liberalism* is legitimate as a form of politics because of some moral or metaphysical criteria that the theorist delineates from the armchair, it may nonetheless be the case that liberal societies are far more likely to meet the BLD (on *any* standard) because they are less likely to engage in systematic domination than their alternatives (both present and historical). But as a result, and given the relatively recent rise of liberal modes of politics, the world may historically have contained fewer legitimate political orders than Williams suggests, and thus the widespread emergence of legitimate states may be a relatively recent phenomenon. The extent to which this is true, however, can be determined only by empirical evaluation, that is to say via careful historical analysis.

Interestingly, such considerations may nonetheless strengthen another of Williams's suggestions. Namely, that the CTP might be mobilized to discredit non-liberal forms of political organization, and thus represent 'one of liberalism's most powerful weapons, because it does not depend on merely asserting liberalism's own set of values against a rival set but mobilizes the values of truth in a distinctive political interest'.[34] The idea here is that because the CTP privileges truth in assessing whether a belief is acceptably or unacceptably formed by power, then the CTP will be particularly effective against regimes that suppress truth with the aim of securing domination that would be rejected by agents' own lights if they knew how things really were. This point may be

[34] Williams, *Truth and Truthfulness,* 219-20.

developed as follows. Insofar as truth and truthfulness are connected to a reduction in domination and cruelty, and liberalism is connected to the promotion of truth and truthfulness, then liberalism turns out to have a special connection to legitimacy (at least vis-à-vis its historical and contemporary rivals, if not versus impossible imaginary utopias). That is, liberalism emerges as exhibiting a particular and desirable relationship to legitimacy, not because of any metaphysical or moral superiority as such, but because it is good at securing the avoidance of political evils associated with domination and cruelty. This is not a coincidence, but a function of liberalism being a form of politics that more than other experienced regime forms protects the virtues of truth and truthfulness via the maintenance of a relatively open society. As a result, considerations of legitimacy dovetail directly with Williams's advocacy of 'the liberalism of fear' as the proper basis of the superiority and desirability of liberalism.[35]

Problematic Beliefs: When the CTP is Required

Although the CTP may often not be required when assessing the (il)legitimacy of a political situation, there nonetheless exist cases when beliefs are problematically formed, and a minimalist critical theory along Williams's lines is helpful for making progress with regards to identifying what is going wrong. Two sorts of cases help to bring this out. These are imaginary idealisations, but are instructive so long as we bear in mind the injunctions of the previous section: in real cases look carefully, beneath the surface.

Imagine, first, the case of a group of villagers who defer to the authority of the local priest because they hold certain beliefs about religion (which tell them, in particular, to do as priests say), but who only hold these religious beliefs because the priest (and his

[35] Judith Shklar, "The Liberalism of Fear," in *Liberalism and the Moral Life*, ed. N. Rosenblum (Cambridge: Cambridge University Press, 1989); Sagar, 'Scepticism to Liberalism?'

ilk) have inculcated it in them from a young age.[36] Or consider, secondly, what we might call a 'total' patriarchal society, one in which all members of each gender (assuming for simplicity that there are only two) subscribe entirely to the prevalent gender norms. No external influences challenging those norms have yet been encountered or internally posited, and everybody – let us fancifully suppose – is happy with their assigned gender roles. Nonetheless, those roles are characterized by deep inequality, with burdens and advantages distributed unequally along gendered lines. These unequal distributions are accepted by those who suffer them – let us assume, rather less fancifully, that those who are subordinated are the women – because they seem natural or inevitable, or some mixture of both ('this is just how things have to be, how they have always been'). But then, these inequalities only seem natural or inevitable because nothing else has ever been experienced, posited, or considered, whilst the present structure of gender-based power ensures that nothing else is allowed to come up for consideration.

These examples are of course severe simplifications: no real society or human experience will ever be so easily characterized, especially regarding the causal mechanism by which belief is formed by structures of power. Nonetheless, they seem appropriate targets for the CTP. What, specifically, ought we to say about them?

Firstly, some terminological housekeeping is in order. In discussions of defective political belief formation, the terms 'false consciousness' and 'ideology' are sometimes used interchangeably.[37] Yet 'false consciousness' appears inappropriate in the cases we have just described, because it is unclear what, if anything, is *false* in the consciousness of the villagers or the women (or for that matter the priests or the men). Raised in a world in which people's identities are tightly constructed by the structures of power under which they live, their consciousness could only be considered 'false' as compared either

[36] Note that the priest(s) may believe everything they teach the villagers; we need not suppose that those in positions of power purposefully set out to deceive and manipulate subordinates – they may wholeheartedly believe in the legitimacy of the social order themselves.
[37] e.g. Geuss, *Critical Theory*; Rosen, *On Voluntary Servitude*.

to some 'true' self that is taken somehow to stand in the (metaphysical?) background waiting to be released or unveiled, or some idealized true personality that would come into being if exposed to the 'right' political circumstances, whatever they happen to be, and even if the oppressed individuals have no prospect of ever living under such conditions. I take it that both of these options are implausible, especially when we grant the truth of a high degree of social construction in explaining and understanding why and how people are who they are.[38] As a result, 'false consciousness' is a misleading way of engaging the relevant issues. What is at stake is not truth or falsity, but the normative acceptability of certain states of belief and attendant understandings of how agents should be and act in given social and political structures.[39]

Happily, we can make better recourse in this respect to the language of ideology, abandoning that of false consciousness. As Sally Haslanger makes clear, ideology in itself is not necessarily problematic when understood in a 'descriptive' sense as 'representations of social life that serve in some way to undergird social practices'. Ideology is ubiquitous for human beings precisely because 'We are not simply cogs in structures and practices of subordination, we enact them. And something about how we represent the world is both a *constitutive part* of that enactment and *keeps it going*'. In this sense, all human beings, living as they must in cultures and societies, and hence under structures of power and surveillance, are possessed of ideology, which is 'pervasive and unavoidable'. Yet this descriptive sense can be contrasted with a 'pejorative' understanding that refers 'to representations of the relevant sort that are somehow misguided, for example, by being contrary to the real interests of an agent or group of agents'. Agreeing with Haslanger that we can think of ideology in general as 'an element

[38] On this see especially Clare Chambers, *Sex, Culture, and Justice: The Limits of Choice,* (University Park: Pennsylvania State University Press: 2008).

[39] This remains true even though it may feel and seem, from the perspective of a subsequently emancipated villager or woman, that they previously labored under a falsity and have now been delivered unto truth. What has really occurred is a process of change, whereby one's identity evolves and repudiates what one earlier was, rather than moving from a 'false' consciousness to a 'true' one.

in a social system that contributes to its survival and yet that is susceptible to change through some form of cognitive critique', we can see that it is specifically *pejorative* ideology that is impugned by the CTP, and that ought to be focused upon accordingly.[40] The cases of the religious villagers and women under total patriarchy help to illustrate this. What is wrong with their (pejorative) ideology in these cases – what makes it normatively objectionable – is precisely that it is brought about by power that we have good reason to suspect the villagers and the women might themselves come to reject if they knew that they only believe what they believe because of the very powers that are being legitimated. In turn, they would likely come also to see that insofar as their *interests* are being harmed by the present arrangement, then they *ipso facto* have reasons (if not necessarily decisive ones) to desire change.

This last point brings us to the question of emancipatory potential. Here an important difference must be noted between Williams's approach and that given by Geuss in his reconstruction of Frankfurt-style critical theory. As will be recalled, Williams introduced the idea of a 'critical theory test' to help illustrate cases where oppressed individuals might come to question the status of their beliefs, in particular come to see them as formed by unacceptable power, and hence repudiate them accordingly. On Williams's presentation this is explicitly as an 'artificial rationalization' of processes that individuals are conceived of as undertaking independently, via their own critical engagements in situations of political evaluation and contestation. Geuss's characterization, by contrast, presents critical theory as itself necessarily generating an effect that 'is supposed to be emancipation and enlightenment'.[41] On this view, full knowledge of the critical theory is supposed to rationally compel individuals to reject structures of power that they previously believed to be legitimate, as a necessary

[40] Sally Haslanger, *Resisting Reality: Social Construction and Social Critique*, (Oxford: Oxford University Press, 2012), 411-2.
[41] Geuss, *Critical Theory*, 58.

consequence of having demystified themselves as to the real causes of their beliefs by coming to see them as the product of *Herrschaft*.

Yet as Geuss makes clear it is remarkably difficult to make good on this strong claim of the inherently emancipatory tendency of critical theory, requiring as it must a great many controversial assumptions about the nature of critical theory itself (in particular as contrasted with scientific theory), the way in which human agents can be rationally compelled, the epistemic world-view that must be presupposed, the ways in which agents can be said to understand their own interests, and what it would mean for them to definitely know what their beliefs and interests would be if free from *Herrschaft*.[42] Fortunately, however, it seems that the internalist theorist needs only something like Williams's position if attempting to adequately explicate the content of political legitimacy, and can do so without excess Frankfurtian baggage. The internalist need only try and make a reasonable set of assumptions about why people believe what they believe, and whether they would continue to believe that if they knew where their beliefs (actually) come from. Once that is done the internalist can pass judgement on a relevant situation when attempting to say whether it represents a case of genuine legitimacy or not. It is likely that in real life cases there will be considerable ambiguity and indeterminacy as to whether or not legitimacy can be said to genuinely obtain, and we may only be able to say *in principle* what would count as cases of genuine legitimacy, whilst finding real life cases much more difficult to adjudicate. The internalist may not be able to be more specific than this – but then, it is not clear why they should need or want to be. Real life cases will vary in complexity, and anyway real emancipation will need to be achieved by the actual people living in relevant cases. If we abandon (as we should) the vain (in both senses) hope that it is *philosophers alone* who will do the emancipating of these people by simply telling them, from the armchair, that their beliefs are malformed, then the task of

[42] Geuss, *Critical Theory*, 55-75.

the internalist theorist may accordingly be accepted as the suitably modest (and yet difficult enough) one of being able to explain what is going on in the world, and why some of that is normatively acceptable and some of it isn't.

As it happens, however, we can actually go beyond this, and admit into the internalist picture the fact that philosophical critique need not confine itself only to 'artificial rationalizations', whilst stopping short of the 'inherently emancipatory' ambitions of Frankfurt-style approaches. In this regard Halsanger is again instructive. Articulating a more moderate vision of critical theory than that depicted by Geuss, for Haslanger a critical theory is one that is 'situated' both epistemically and politically.[43] That is, whilst a critical theory must aspire to describe the world accurately, and is subject to the norms of truthful enquiry that govern other kinds of empirical research, it is also in the business of effecting political change in the name of certain causes, and hence the epistemic focus will be tailored to bring about political goals (ideally, assisting the emancipation of a subjugated group). As a result, in assessing a critical theory we must ask not only whether it accurately reports the world (where this includes socially-constituted phenomena), but whether it has successful practical pay-outs in terms of promoting emancipatory change. Given that the purpose of critical theory is both epistemic and political, a critical theory that achieves the former but not the latter is inherently lacking in some way (although exactly how and why it is lacking will need to be determined on case-by-case bases). Importantly, Haslanger stresses that such a critical theory is not the preserve of an intellectual elite, because 'anyone can engage in critique', although it may be the case that the critical theory is strengthened by the contributions of intellectuals who help give sharper or more compelling articulation to arguments for what is wrong with a present distribution of power, and by extension why belief in that

[43] Haslanger, *Resisting Reality*, 22.

power's legitimacy is unacceptable.[44] Looking at things this way helpfully breaks down an artificial, unnecessary, divide between theorists and practioners when it comes to thinking about the role of critical theory. On the one hand, it allows us to move beyond dubious visions of a critical theory as itself inherently the source of emancipation. On the other, the relegation of theoretical thinking to simply reconstructing what non-theorists allegedly do for themselves in isolation is also avoided. The result is a more realistic picture of how arguments for social change are developed and deployed in processes of political contestation, where social and political structures are critiqued using vocabularies that draw upon (as well as contributing to) theoretic and abstract analyses.

Haslanger is clear, however, that unlike Geuss's articulation of critical theory as inherently emancipatory, it does not follow that a good critical theory must *necessarily* enlighten and emancipate those who are its target and are accordingly exposed to it. Although a critical theory 'must be judged, in part, by its practical pay-off', nonetheless 'critique may fail to garner broad endorsement not because the theory itself is unacceptable or because the inquirers are epistemically at fault, but because the social context does not provide for ways of being that are necessary in order to find value in the critique'.[45] More generally, there may be many different kinds of critical theory aimed at many different kinds of injustice, and these will vary in their efficacy and adequacy according to both the quality of the theory and the conditions to which it is being applied. For example, the ways our hypothetical villagers might be brought to criticize the authority of the priests will be different to the ways in which women in the 'total' patriarchy come to reject and resist that social structure, not least because the differing nature of the belief-formations and social legitimations in play will make for differing capacities (and willingness) to reject (or go on endorsing) the old order, if or when its

[44] Haslanger, *Resisting Reality*, 26.
[45] Haslanger, *Resisting Reality*, 29.

true nature becomes apparent. The same will also be true within groups, not just between them. History offers ample evidence that individuals of the same group (either 'villagers' or 'women') can respond in very different ways to exposure to facts that challenge (e.g.) religious authority or patriarchy – which is one reason why both institutions persist in the real world, in varying forms, throughout the West and beyond, long after processes of critique have been applied to them and made available to (many of) the relevant subject populations.

Finally, we can take from Haslanger a sense of the *purpose* of a moderate critical theory (i.e. one that accepts that whilst emancipation may be the goal, it is not a guaranteed outcome), and join this to a sense of justified optimism regarding the capacity for some theory to interact successfully with the goal of improving practice. Haslanger suggests that 'Social critique is a process of rethinking the practices that we constitute partly through our thinking, of trying out new responses to the world in place of the old responses that have come to seem problematic. The task is to situate ourselves differently in the world, not just to describe it more accurately'.[46] One way of situating ourselves (and others) differently in the world is to ask if we and others would continue to believe what we do if we knew the truth – and, just as importantly, were being truthful with ourselves – about why we believe what we do, and change our views and practices accordingly. Insofar as philosophers and other academic theorists can help others who engage in social struggles to do and see this better, then the internalist theorist can aspire to do more than simply provide 'artificial rationalisations' of processes of critique that happen in the real world. We may be able to help improve and strengthen those critiques, not just for ourselves, but on behalf of others too. After all, in recent history some critical theories have proved remarkably effective in securing change, and have benefited directly from the support lent to them by academic, in some cases philosophical,

[46] Haslanger, *Resisting Reality*, 29.

argument. 'Clear examples include critical reframing of marital rape, domestic violence, hate speech, and sexual harassment. These are cases in which feminist critique has been incorporated into law'.[47] Although it is wise to be sceptical of the power of philosophy for effecting change in the real world all by itself, the power of philosophy may not be inconsiderable if it is put to the service of making clear when domination is occurring, and why the dominated themselves should (and maybe thereby will) come to repudiate their domination. As Geuss reminds us, it does not follow that objectionable power structures will simply or automatically cease to exist because (some section of) the subjugated population repudiates their legitimacy, not least because those who benefit from such structures and are in positions of power have a strong vested interest in blocking change.[48] Nonetheless, insofar as change is the desired outcome, the withdrawal of support by those who previously acquiesced unquestioningly to structures they now find objectionable may be a vital step in enabling change to come about.

Conclusion: A Realistic Fable?

By way of conclusion, I want to ask what, if anything, is necessarily missing from an internalist theory of legitimacy as I have tried more fully to explicate it here. This can be furthered by taking one of our earlier examples – that of 'total patriarchy' – and imagining how such a society might undergo normatively approvable change. The following is a fable, but a potentially instructive one.

We can imagine change in both normative evaluation, and perhaps in turn wider political structure, coming about in our 'total' patriarchy in at least two ways. Firstly, the society may come into contact with *outside* values, as held by some other society which is not (or is at least, less) patriarchal, and where women experience a greater range of

[47] Haslanger, *Resisting Reality*, 29.
[48] Geuss, *Critical Theory*, 73-5.

advantages and equalities. Knowledge that such a society exists would (at least for the relatively open-minded) help to dislodge belief in the naturalness and/or inevitability, of the 'total' patriarchy. Contact with such outside values, however, would immediately render them candidate *inside* values: 'if they have that there, why can't we have it here?' In this way change may come about due to contact with different ways of organizing society, the sheer knowledge that difference is practically possible leading to the invalidation of inequalities previously legitimated through a belief in their necessity or naturalness.

But it is also possible to conceive of change arising from *within* such a society, without external prompt. For example, imagine that after a period of economic development some women in the 'total' patriarchy are freed from onerous labouring, and have more time to contemplate the dynamics of their society. In so doing they perform an internal evaluative critique and ask, for example, if the principle 'only equals should be treated equally' in fact supports the present distribution of advantages. If thinking carefully and truthfully about how their society is organised, they will surely conclude that the principle does *not* support such a distribution, because all of the putative distinctions between men and women that supposedly legitimate their different treatment are at best misconceptions and falsehoods, and at worst lies and fraud.[49] Once that realisation is made, the standard internal to the 'total' patriarchy – treat equals as equals – can be turned *against* the patriarchy, by asserting the truth that men and women are not on any truthful metric unequal as such. Certainly practical, i.e. political, battles will have to be fought, not only to prove this truth, but also to have it accepted and have institutions reformed in light of that acceptance. In waging those battles we can imagine various philosophically-inclined thinkers trying to articulate more exact statements of what is wrong with the patriarchal form of social organization, and these statements being of help to those who wish to better understand their own rejection of the

[49] Williams, *In the Beginning*, 99-105.

prevailing patriarchal norms, as well as emancipating and enlightening others who may not have yet begun the process.

This fable is, of course, a simplification (not least because both the 'internal' and 'external' critiques will in reality intermingle over time). Nonetheless, I believe it approximates to a basically correct explanation of how women have, to greater and lesser degrees, begun to escape from patriarchy across the globe in relatively recent human history. But if so, what if anything is the internalist theorist of legitimacy missing? We can say why the 'total' patriarchy was not genuinely legitimate before the process of emancipation began (and may indeed continue not to be for a long time after). And we can explain processes of change as arising from within that society in various ways, some of which may be assisted by theoretical or abstract contributions. What we don't seem to need is any appeal to moral values that exist independently of the ideas that are actually available, or which could become available, to those individuals who inhabit the societies in question (remembering the point that contact with initially 'outside' values held by some other society immediately makes them candidate 'inside' values). Assuming (as seems plausible) that we could put the necessary detail into our fable, and make it something like a real history, is the internalist missing anything at all? If not, might an internalist perspective – at least, one properly worked out and built up beyond the mere sketch I have offered here – not turn out to be everything we need?

It remains finally to make explicit something that has been left implicit in the above: the connection between what I have been calling an internalist theory of legitimacy and a 'realistic' approach to politics, found for example in Williams's suggestion that we adopt an approach that 'gives greater autonomy to distinctively political thought'.[50] I take it that the basic objection to internalist approaches is that they cannot provide adequate standards by which to judge of whether legitimacy does or does

[50] Williams, *In the Beginning*, 3.

not obtain, because without some external moral standard to act as a final site of adjudication, the reasoning brought to bear must inevitably be either question-begging or secretly dependent upon a prior moral standard. The implication of this is that morality must, after all, be made prior to politics if we are to make concepts like legitimacy intelligible, and hence – the charge ultimately runs – realism is a non-starter.[51] One thing this paper hopes to have shown, by a somewhat different route than is commonly taken, is that this is not true.

Internalist accounts of legitimacy have more going for them than might initially be supposed, and a direct consequence of this is that internalists need not feel put on the back foot in terms of either explaining or advocating social and political change when faced with externalist critics who claim that these things can only be done if bringing to bear moral values that are somehow prior to real practices of politics. On the contrary, when we come to see how much the internalist can account for, we may rather come to wonder what distinctive contribution the externalist is supposed to be making, and if that isn't simply surplus to requirements.

[51] This is the raw impulse – if not the exact articulation – behind many of the earliest responses to Williams's political theory. For example Matt Sleat, "Bernard Williams and the Possibility of a Realist Political Theory," *European Journal of Political Theory* 9, no. 4 (2010): 485-50; Jonathan Floyd, "From Historical Contextualism, to Mentalism, to Behaviourism," in *Political Theory versus History? Contextualism and Real Politics in Contemporary Political Thought*, ed. J. Floyd and M. Stears, (Cambridge: Cambridge University Press, 2011), 38-64. Michael Freeden, "Interpretative Realism and Prescriptive Realism," *Journal of Political Ideologies* 17, no. 1 (2012): 1-11; Charles Larmore, "What is Political Philosophy?" *Journal of Moral Philosophy* 10, no. 3 (2013): 276-306. For a reply to these attacks on Williams's behalf, see Hall, 'A Defence'.