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The Genealogy of Testimonial Justice

5.1 A THIRD FUNDAMENTAL VIRTUE OF TRUTH

In *Truth and Truthfulness* Bernard Williams makes use of a philosophical method that is traditionally employed only in political philosophy.[1] The method is to construct a fictional State of Nature scenario as the basis from which to draw philosophical conclusions about a given concept or institution. He constructs the State of Nature, however, not with a view to characterizing our most basic political needs but rather our most basic epistemic needs, with a view to illuminating the concepts of truth and truthfulness. His construction echoes that of Edward Craig in *Knowledge and the State of Nature*,[2] though his purpose is different. Craig's project (which I shall discuss more fully in the next chapter) is to illuminate the concept of knowledge by way of a practical explication of why we have that concept. Williams's chief purpose is to illuminate the concept of truthfulness through a practical explication of why it is a virtue, and how it comes to be an intrinsic value.

The State of Nature is to be considered as a minimal human society—a society of minimal social organization—in which people live in groups and therefore share some basic needs. Naturally, given the project, the focus is on epistemic needs, with other needs entering into the story only in so far as they are bound up with epistemic concerns. The construction of epistemic life in the State of Nature has three stages relating to three collective epistemic needs:

(1) the need to possess enough truths (and not too many falsehoods) to facilitate survival: that is, sufficient practically relevant information

[1] Bernard Williams, *Truth and Truthfulness: An Essay in Genealogy* (Princeton: Princeton University Press, 2002).

[2] Edward Craig, *Knowledge and the State of Nature: An Essay in Conceptual Synthesis* (Oxford: Clarendon Press, 1990).

regarding, say, which foods are good to eat, which are poisonous, and so on.

Obviously, it will be profoundly advantageous to have at one's disposal not only one's own eyes and ears, so to speak, but the eyes and ears of others too. An individualistic policy of self-reliance would be a bad survival strategy. Thus the first need immediately generates a second:

(2) the need to participate in an epistemic practice whereby information is shared or pooled.

The pooling of epistemic resources exploits whatever divisions of epistemic labour arise out of divisions of other sorts of labour. At the most basic level there will be a simple, unfixed division of epistemic labour arising from the fact that people will be in different places at different times, so that fellow inquirers can make use of the 'purely positional advantage' someone may have *vis-à-vis* a question on which the answer is sought. Such a positional advantage might be 'being up a tree', so as to be able to observe whether a predator is coming, or 'having been there at the time' and thus having occupied the requisite spatio-temporal positioning for observing what happened.

So far the construction is as Craig's and, like Craig, Williams observes that situations of scarcity and other types of competition, not to mention plain malevolence, can create motives for deception and concealment—an interest that Williams casts in terms of the advantage of being a selfish free-rider on an otherwise trustful and co-operative epistemic practice. But this is a problem that Craig and Williams handle slightly differently, so that the third stage of the State of Nature story marks a point of divergence between the two accounts. Craig's third stage involves an emphatic change of perspective from that of speaker to that of hearer or inquirer, and we shall discuss the significance of this below. By contrast, Williams's third stage retains the speaker perspective, for his concern is with speakers' truthfulness—something which does not depend on recognition by a hearer. He observes that the collective—whose members all have an interest in using the pool of information—has a basic need to generate a pressure to counter the interest in being a selfish free-rider on an existing trustful practice. Some action-guiding pressure must be created to encourage people to be truthful or trustworthy informants to their fellow inquirers even on those occasions when it

does not suit their individual interests. Thus Williams's third stage registers:

(3) the need to encourage dispositions in individuals that will stabilize relations of trust.

The requisite dispositions naturally fall into two kinds, as Williams explains:

> Since we are considering people, who have beliefs and desires and intentions, and who may or may not express their beliefs, it is already natural to think of these dispositions as falling into two different kinds. One kind of disposition applies to their acquiring a correct belief in the first place, and their [competence for] transporting that belief in a reliable form to the pool. The other desirable dispositions—desirable, that is to say, from the social point of view of those using the pooled information—are necessary because reflective creatures will have the opportunity within this structure for deceit and concealment; they will also have the motives for them, as when a hunter has found a prey which he would rather keep for himself and his immediate family. (This is the force of Voltaire's famous remark to the effect that men have language in order to conceal their thoughts.)[3]

Thus the virtues of Accuracy and Sincerity are born (the capitals acknowledge that these are somewhat abstracted versions of accuracy and sincerity), where each relates respectively to a certain set of dispositions that shore up the relations of epistemic trust that are needed for the practice of pooling information. Accuracy and Sincerity are indeed genuine virtues and not just skills, since both lie under the remit of the will. This is obviously so of Sincerity, but it is also true of Accuracy, as Williams notes, since whether or not one is Accurate in what one reports to fellow inquirers depends, for instance, upon how hard one tries, how tenacious one is in getting past mere appearances, how much care one takes, and on many other aspects of epistemic conduct.[4]

It is an interesting question how much the emergence of the virtues of Accuracy and Sincerity achieves. I believe it achieves rather more than Williams seems to give it credit for. To show that two cardinal intellectual

[3] Williams, *Truth and Truthfulness*, 44.

[4] For a broader discussion of the ways in which belief comes under the will, see Linda Zagzebski, *Virtues of the Mind: An Inquiry into the Nature of Virtue and the Ethical Foundations of Knowledge* (Cambridge: Cambridge University Press, 1996), P. I, sect. 4.2. For a contrasting perspective, defending the view that all virtues are skills, see Paul Bloomfield, 'Virtue Epistemology and the Epistemology of Virtue', *Philosophy and Phenomenological Research*, V 60, no. 1 (Jan. 2000), 23–43.

virtues come into being by springing directly from absolutely basic epistemic needs is to show that these two virtues *must* arise in human society. Not only naturalism, then, when it comes to Accuracy and Sincerity, but universalism too. This much is surely Williams's point. But what he seems to underestimate is the extent to which the advent of these two virtues comprising truthfulness already illustrates the emergence of truthfulness as a *non-instrumental or intrinsic* value, albeit from decidedly instrumental origins.[5] I think therefore that Williams concedes too much when says that a limitation of the story so far is 'that the values of Accuracy and Sincerity alike are *instrumental*: they are entirely explained in terms of other goods, and in particular the value of getting what one wants, avoiding danger, mastering the environment, and so on';[6] for this is not true. Part of their explanation has been that these values emerge as the response to the need for social pressure on individuals to be truthful *even when there are strong countervailing instrumental considerations*, so that those whose testimony is indeed accurate and sincere are revealed as moved by virtue and not merely by instrumental reasons.[7]

Considered as virtues, then, Accuracy and Sincerity contribute their own action-guiding power to the stabilization of relations of trust, and so their emergence already signals the transformation of truthfulness from a value that influences people's epistemic conduct only in so far as it is a useful means to their ends to a value whose influence is non-instrumental. That is to say, the action-guiding power of these virtues of truth is already enough to at least initiate the transformation of truthfulness from an instrumental value to an intrinsic one. Another way of putting it would be to say that the person who has the virtue of Accuracy, say, is distinguished by the fact that she is motivated to accuracy for its own sake: she is moved by the value of accuracy independently of whether it will serve her purposes on any particular

[5] Williams treats 'non-instrumental' and 'intrinsic' as broadly equivalent. What distinguishes non-instrumental/intrinsic values from merely instrumental ones is that while intrinsic values are explained by reference to instrumental interests, the explanation is not reductive; see *Truth and Truthfulness*, 90.

[6] Ibid. 58.

[7] There is an interestingly parallel debate relating to the pursuit and, so to speak, pooling of scientific knowledge in the real world, which turns on how far purely 'strategic' or instrumental trust (along with various institutional constraints such as replication of results and peer review) is sufficient for the sort of co-operation required to eliminate error and fraud. See Michael Blais, 'Epistemic Tit for Tat', *Journal of Philosophy*, 84 (July 1987), 363–75, for the view that it is sufficient, and John Hardwig, 'The Role of Trust in Knowledge', *Journal of Philosophy*, 88 (Dec. 1991), 693–708, for the view that it is not.

occasion (we shall return to this feature of virtue below). Williams, however, seems to give little weight to this aspect of the virtues, for he goes on to offer an independent argument specifically in favour of the idea that truthfulness is an intrinsic value.[8] Such an argument obviously has independent interest, but I doubt whether it is needed to bolster the virtues of Accuracy and Sincerity already established. Moreover, if these virtues as they stand cannot stabilize relations of trust sufficiently, it is doubtful that giving social articulation to the idea that the two virtues compose an intrinsic value would really help. Someone who remains unmoved by the idea that truthfulness is a value enshrined in certain virtues is unlikely to be much reformed by the moral emphasis afforded by its status as an intrinsic value. I suggest, therefore, that we take Williams's independent argument for truthfulness being an intrinsic value as detachable from concerns about stabilizing trust, and that we allow that relations of epistemic trust in the State of Nature are already stabilized, so far as it is socially realistic to try to do so, by the emergence of Accuracy and Sincerity as virtues. Or, putting the point differently, we might say that the pressure which these virtues put on people to be truthful for its own sake is already a significant pressure in the direction of regarding truthfulness as intrinsically valuable.

We are now in a position to inquire whether there is another virtue of truth that emerges alongside Accuracy and Sincerity in the State of Nature. To see that there is, it will help to switch over to Craig's third stage in the story, so that we can make explicit the requisite transfer from the point of view of the speaker to that of the hearer or inquirer.[9]

[8] Williams, *Truth and Truthfulness*, 92.

[9] Epistemology's undue preference for the former was something which, as Craig notes, Williams had flagged up as important to epistemology in *Problems of the Self*, where he presents the distinction by observing that there is

> a rather deep prejudice in philosophy, that knowledge must be at least as grand as belief, that what knowledge is, is belief plus quite a lot; in particular, belief together with truth and good reasons. This approach seems to me largely mistaken. It is encouraged by concentrating on a very particular situation which academic writings about knowledge are notably fond of, that which might be called the *examiner* situation: the situation in which I know that *p* is true, this other man has asserted that *p* is true, and I ask the question whether this other man really knows it, or merely believes it. I am represented as checking on someone else's credentials for something about which I know already. … But this is far from our standard situation with regard to knowledge; our standard situation with regard to knowledge (in relation to other persons) is rather that of trying to find somebody who knows what we don't know; that is, to find somebody who is a source of reliable information about something … . Our standard question is not 'Does Jones know that *p*?' Our standard question is

The materials supplied by the State of Nature story, so far told from the speaker's point of view, do not include the materials needed for gathering truths from others. We have seen that the need to pool information makes certain demands on speakers—that they possess the virtues of Accuracy and Sincerity—but equally it makes demands on hearers, and we have not yet addressed the question as to what they might be. Clearly, hearers or inquirers in the State of Nature will need to be open to truths offered to them by their peers, and to be open without being credulous of testimony that is in fact false. Inquirers in the State of Nature, then, need to be able to distinguish trustworthy from non-trustworthy informants so that they can be responsibly discriminating in what propositions they accept as true. Now, if there were no residual inaccuracy or insincerity left in the State of Nature once the virtues of Accuracy and Sincerity had emerged, then clearly our hearer-inquirers would not be vulnerable to accepting non-truths as truths, and there would be no cost attached to being gullible (or rather, there would be no such thing as gullibility). But that would be to introduce mere fantasy into the State of Nature construction, rendering it too far from human nature to serve any explanatory function. The idea that Accuracy and Sincerity are virtues can only bring so much pressure to bear to ensure that pooled apparent information is genuine information, and so we confront the need for hearers to be discriminating as to whom they acquire information from. This collective epistemic need is as basic as any other we have mentioned, and it arises directly from the second. Thus the third stage in Craig's construction relates to the need to distinguish good from bad informants. It registers:

(3′) the need for potential informants to bear 'indicator properties': that is, properties which, by definition, reliably indicate that they are conveying the truth.

For Craig, an indicator property might be many things, from a property such as 'looking in the right direction at the time', to something that

rather 'Who knows whether *p*?' (Bernard Williams, 'Deciding to Believe' in *Problems of the Self: Philosophical Papers 1956–1972* (Cambridge: Cambridge University Press, 1973), 146)

Williams believed that the State of Nature account of the concept of knowledge indicated that knowledge was prior to belief; though Craig engineers his own account carefully to leave room for the traditional analytical commitment to the view that, at least in humans, knowledge involves a true belief plus (let us call it) warrant. For an independent case for the view that knowledge is prior to belief, see Timothy Williamson, *Knowledge and its Limits* (Oxford: Oxford University Press, 2000), chs. 1 and 2.

relates to individual expertise such as 'having a good track record of getting such things right'. In the State of Nature, indicator properties will naturally be fewer and simpler than indicators of authority might be in any actual, more institutionalized society; but we can add without distortion to Craig's conception such possible indicator properties as 'replying with confidence' or even 'seeming to know what she was talking about', given that such things as these are basic features of human discursive socialization, and that, for a range of quotidian subject matters not fraught by competitive interests and so on, such properties would indeed be reliable as indicators of epistemic trustworthiness.

We can say, then, that in the State of Nature the hearer must be appropriately responsive to indicator properties so that she can participate in the pooling of information and so share in knowledge. Hearers need dispositions that lead them reliably to accept truths and reject falsehoods. In other words, hearers in the State of Nature need dispositions that help ensure that their credibility judgements are not too wide of the mark. In earlier chapters I urged that real historical social settings throw up many pressures that are likely to distort our credibility judgements, and I focused on identity prejudice in particular. Our present focus on the State of Nature invites us to ask what sorts of original countervailing pressures exist there to distort the forming of proper credibility judgements. We already have it that people in the State of Nature live in groups, and these groups are characterized by divisions of labour that lead to divisions of specifically epistemic labour. But now we should push the conception a little further by envisaging the relations of insider and outsider that human groups generate, and the relations of allegiance and enmity that naturally spring from them. (Almost this much is implicit in Williams's and Craig's talk of competition, scarcity, and plain malevolence as motivations to deceive or conceal.) The human groups in the State of Nature, then, will consequently have among their concepts some equivalents of 'outsider' and 'insider', 'allies', 'enemies', and 'competitors', at the very least. And this means that social perception and judgement in the State of Nature will involve social categorization, which means that in the making of credibility judgements there will be some reliance on stereotypes. Once we consider that there must be some significant division of labour (without committing ourselves to any division in particular), it becomes even clearer that stereotypical social perceptions will inform credibility judgements in the State of Nature. Indeed, given my account of testimony, this is a proper part of how people in the State of Nature succeed in meeting the need stated as

stage (3′) of Craig's construction—the need to discriminate good from bad informants.

Thus the State of Nature, minimally social though it remains, contains both sufficient social identity concepts and sufficient practical pressures to produce some basic identity-prejudicial stereotypes (ignorant outsiders, rivals out to trick one, and so on). There will be some reliable stereotypes here, of course, but to insist that the State of Nature is a place where there is no pressure in the direction of prejudicial stereotyping would be to insist that people in the State of Nature were so psychologically well balanced that the normal basic human impulses that drive prejudice are entirely absent.[10] But this would simply be another way of introducing mere fantasy into our careful abstraction. Rather, we must allow that some restricted class of identity-prejudicial stereotypes will tend to be present in the State of Nature. This being so, it follows that hearers' powers to discriminate genuine from false information will need to include a certain anti-prejudicial sensitivity even in the State of Nature ('Just because he's not one of us doesn't mean he's a liar/a fool'). The complex of virtues that make for critical openness to the word of others in the State of Nature needs to include a specifically anti-prejudicial virtue such that the hearer reliably corrects for any counter-rational influence that identity power would otherwise have on his credibility judgements. This corrective anti-prejudicial virtue is already familiar to us from our previous discussion as the virtue of testimonial justice, but since here it relates only to those basic prejudices at work in the State of Nature, and is thus an abstraction of the real historical virtue, let us flag this (to harmonize with Williams's account) with capitals: Testimonial Justice. What the genealogical setting allows us to see is that from the point of view of pooling knowledge, this virtue in the hearer is the essential counterpart to the virtues of Accuracy and Sincerity in the speaker. Accuracy and Sincerity sustain trust as regards *contributing* knowledge to the pool; Testimonial Justice helps sustain trust as regards *acquiring* knowledge from the pool.

It seems, then, that the virtue that prevents hearers from doing speakers a testimonial injustice is revealed to be a third basic virtue of truth, for the reason that it frees hearers in the State of Nature

[10] This conception of prejudices as a normal feature of human psychology is supported by Elisabeth Young-Bruehl's argument that prejudices are not pathological (*The Anatomy of Prejudices* (Cambridge, Mass.: Harvard University Press, 1996), see e.g. pp. 32 and 209).

from the prejudice that would cause them to miss out on truths they may need. The collective's need to stabilize relations of epistemic trust, then, is revealed as requiring pressures to be brought not only in the direction of Accuracy and Sincerity in speakers, but also in the direction of Testimonial Justice in hearers. For this anti-prejudicial virtue emerges, just as Accuracy and Sincerity do, from the basic need to pool information in a minimal social environment where there are none the less native human tendencies towards not only deception and concealment but also prejudice. We should note that the State of Nature as I have now depicted it marks a departure not only from Williams but also from Craig, for my story leaves little room for indicator properties *per se*. Indicator properties are guaranteed by definition to be reliable, and the presence of prejudice in the State of Nature encourages a conception on which there are no indicator properties as such, but only their defeasible counterparts—'markers' of authority, let us call them. (Let signs of trustworthiness be 'positive markers', and signs of non-trustworthiness 'negative markers'.) The practical-conceptual point behind Craig's indicator properties is that truthfulness is prior to deceit, trust prior to distrust—there must be *some* reliable markers of authority, or else the whole practice of pooling information will simply not get going. Quite so; but we can honour this point without insisting on indicator properties as such, simply by stipulating that markers in the State of Nature are reliable in the main. Any more than this would be a step too far in the direction of rational idealization, for it would obscure our very subject matter. The relevant picture of the State of Nature for the present project must not obscure the fact that human nature is such that, however simple the human groupings or societies, prejudice within and between groups is inevitably in the offing. If so, then even in the State of Nature, the human tendency to prejudice is present, alongside motivations to deception and concealment, as a significant counter-veridical pressure.

To recap, we took the point from Williams that, since human beings in the State of Nature will have motivations for deception and concealment, there is a need to encourage two kinds of disposition in speakers, one relating to Accuracy and the other to Sincerity; and these dispositions constitute two basic virtues of truth. What we have now discovered is that there is another disposition that is equally fundamental to the control of wayward motivations that would otherwise disrupt the sharing of knowledge in the State of Nature: the disposition in hearers to avoid prejudice in their judgements of credibility. Without this disposition

among users of the information pool, the epistemic community would be vulnerable to another systematic epistemic dysfunction, the risk of which is as profoundly built into structures of human motivation as is the dysfunction that arises from self-interested motivations to conceal or deceive. The risk of the dysfunction of testimonial injustice arises from the fundamental human proneness to prejudice, especially identity prejudice; the risk of the dysfunction of concealment or deception arises from the fundamental human proneness to act from self-interest. Given the plausible assumption that many identity prejudices are at root some sort of psychological defence mechanism, there is room to argue that the prejudices that occur in the State of Nature *are* a form of self-interest. But there is no need to insist that prejudice is every bit as basic in human nature as (other forms of) self-interest. All we need for the present argument is the idea that people in the State of Nature display a tendency not only to self-interest *per se* but also to those forms of identity prejudice most basic in human nature. Both represent natural patterns of human motivation that need controlling if the practice of pooling knowledge is to get going. Testimonial Justice is revealed as a third fundamental virtue of truth.

All this concerns the virtue of Testimonial Justice—the abstracted virtue proper to the State of Nature scenario. But of course the real historical virtue of testimonial justice has the very same structure. It grows out of the original basic version into some more layered historical form, where the precise form it takes—the place it has in moral and epistemic discourse, the importance and meaning attributed to it, indeed the degree to which it is distinguished or named at all—will vary depending on the historical-cultural moment. Perhaps in our time the nearest approximation we have is a notion of 'fair-mindedness', or else we employ negative formulations in terms of a hearer's not being biased or prejudiced. But neither approximation captures the essentially corrective nature of the virtue; and certainly we do not generally distinguish any such virtue as the antidote to the widespread and sometimes profound discrimination that testimonial injustice really is. History has not yet done very much for the virtue of testimonial justice.

Just as real historical virtues are usually more layered than their State of Nature counterparts, so are the stereotypes of epistemic authority more layered and potentially more unreliable than anything found in the State of Nature. Looking to history, Steven Shapin gives us a compelling example of a prejudicial stereotype of epistemic authority that was operative in seventeenth-century England. It seems that *being*

a gentleman constituted a positive marker of epistemic trustworthiness in both its aspects—competence and sincerity. Shapin tells us that the gentleman was, quite literally, accorded privileged competence, even in matters of perception:

> The first consideration implicated in the culture of gentlemanly veracity was rarely given explicit treatment in the practical ethical literature of early modern Europe. Nevertheless, it was an absolutely fundamental feature of the practical assessment of testimony, and one which might assist in discriminating the worth of testimony from gentle and nongentle sources. This was the ascription to gentlemen of *perceptual competence*.[11]

From Shapin's account we may also surmise that being a gentleman effectively functioned as a marker of sincerity too. The gentleman enjoyed the economic and social independence brought by social advantage, and this elevated social position meant that he was seen to be generally free from the sorts of beholdenness that might be thought to, and might actually, provide motivations for deceiving others. Further, the question of non-deception was shored up by a code of gentlemanly honour. Not only did his social privilege mean that he was seen to have little to gain from deception; it meant that he stood to lose a great deal if he were seen to flout the code—a noble track record was worth protecting.

If Shapin is right, it seems that there was a historical moment in England when being a gentleman was a key marker of epistemic trustworthiness, not with respect to any particular question or range of questions, but generally. If being a gentleman was a positive marker of authority, being non-gentle and/or female was a negative marker. Seventeenth-century women's economic and social dependence meant that their supposed lack of rational authority—like that of non-gentle men—went for the most part without saying:

> There were powerful institutions of exclusion that affected the cultural and political role of women, as well as of nongentle men. But precisely because those institutional systems were so effective, and because the justifications overwhelmingly picked out dependence as a disqualifying circumstance, the *literate culture* of early modern England was not nearly so significantly marked by identifications of gender disabilities as it was by commentary on 'ignobility,' 'servility,' and 'baseness'.[12]

[11] Steven Shapin, *A Social History of Truth: Civility and Science in Seventeenth-Century England* (Chicago and London: University of Chicago Press, 1994), 75; italics original.
[12] Ibid. 88.

Not that Elizabethan versifiers were exactly silent on the subject:

> A woman's face is full of wiles,
> Her tears are like the crocadill …
> Her tongue still chats of this and that,
> Than aspen leaf it wags more fast;
> And as she talks she knows not what,
> There issues many a truthless blast.[13]

Whatever form the prejudicial stereotypes of authority may take in history, the power of prejudice to corrupt discursive relations is markedly increased in the transition from the State of Nature to historical society, if only because any real society contains so much more social complexity to provide new motivations for prejudice. This means that the virtue of Testimonial Justice becomes an even more important feature of epistemic life in the transition. It may also become a more admirable virtue to possess in the context of the real-world social mêlée, since it is bound to become harder to achieve. I have been focusing on Testimonial Justice primarily as an *intellectual* virtue. But we must not forget that this virtue serves not one but two ultimate values: it simultaneously protects both truth and justice. The person who possesses the virtue reliably avoids epistemically undermining others, and she avoids missing out on truths offered too. But now this raises the question as to how we should categorize the virtue. Is testimonial justice to be considered primarily as an ethical defence against injustice or an intellectual defence against error?

5.2 A HYBRID VIRTUE: INTELLECTUAL-ETHICAL

Someone might wish to press the question whether testimonial justice is an intellectual or a moral virtue. If intellectual virtues generally have truth as their ultimate end,[14] and moral virtues have some form of the good as theirs, then it may legitimately be asked which value figures as

[13] Humfrey Gifford, in Norman Ault (ed.), *Elizabethan Lyrics* (New York: Capricorn Books, 1960); quoted in Shapin, *Social History of Truth*, 89.

[14] I take this idea to be relatively uncontroversial, but note the exception of Montmarquet. He argues for a conception of intellectual virtues such that they need not be truth-conducive, but rather are 'qualities that a truth-desiring person would *want* to have' (James A. Montmarquet, *Epistemic Virtue and Doxastic Responsibility* (Lanham, Md.: Rowman and Littlefield, 1993), p. x). See also his 'Epistemic Virtue', *Mind*, 96 (1986), 482–97.

the ultimate end of testimonial justice. Let us try to anchor the matter by reminding ourselves that the disposition at the heart of the virtue is such that the subject is motivated to neutralize the impact of prejudice in her credibility judgements, and that this serves equally both justice and truth. Maybe this shows that we should resist the dichotomous question of whether testimonial justice is an intellectual or a moral virtue. We should bring to mind the fact that the answer to this superficially weighty question simply hangs on whether truth or justice is featured as the ultimate end of the virtue. This surely lightens the burden of our question somewhat, in so far as it seems to leave room for the possibility that there is no definitive answer independent of context.

But let us go more slowly. We need to consider how virtues are individuated, and to look more closely at how intellectual and ethical virtues compare in structure. A passage from Linda Zagzebski is helpful in both connections:

> A *virtue* … is a deep and enduring acquired excellence of the human person that includes both a motivational component and a component of reliable success in bringing about the end of the motivational component. A motivation is an emotion-disposition that initiates and directs action towards an end. The motivational component is distinctive of the particular virtue, but a complete taxonomy of the virtues will probably reveal that the immediate ends of the particular virtues are not ultimate, but that several virtues have the same ultimate end. For example, generosity, compassion, kindness and charity ultimately aim at the well-being of others, even though each of them has a more immediate end—in the case of compassion it is relief of the suffering of others; in the case of generosity it is increasing our neighbors' possession of the goods of life. Intellectual virtues ultimately aim at the truth, but each also has a more immediate end such as distinguishing reliable from unreliable authority, or gathering a sufficient amount of relevant evidence.[15]

Particularly helpful in the present context is the idea that individual virtues have a distinctive motivational component. Compassion, for instance, is distinguished by the immediate end of relieving the suffering of others, even while it may share with certain other virtues the ultimate end of the well-being of others. The view of how to individuate virtues that we may take from this (though Zagzebski is not explicitly proposing it) strikes me as obviously right. Given that clusters of virtues may share the same ultimate end—the ultimate end of truth is common to many

[15] Linda Zagzebski, Précis of *Virtues of the Mind, Philosophy and Phenomenological Research*, 60, no. 1 (Jan. 2000), 169–77, at 172.

intellectual virtues—the ultimate end cannot be what distinguishes one virtue from another. Only the more immediate end can do that, or, which comes to the same thing, the motive to the immediate end. This insight helps further lighten our superficially weighty question of whether the virtue of testimonial justice is intellectual or ethical. If we ask what is the immediate end of testimonial justice considered as an intellectual virtue, the answer is 'neutralizing prejudice in one's credibility judgements', and its ultimate end will be truth. For neutralizing prejudice is necessary for achieving the appropriate openness to truth that the subject is ultimately aiming at—if the hearer allows prejudice to influence her credibility judgement, she is liable to miss out on a truth. If we now ask what is the immediate end of testimonial justice considered as an ethical virtue, the answer is, once again, 'neutralizing prejudice in one's credibility judgements', and its ultimate end will be justice. For neutralizing prejudice is the necessary means to avoiding doing one's interlocutor a testimonial injustice. Thus testimonial justice considered either as an intellectual virtue or as an ethical virtue contains the very same individuating motivation: to neutralize prejudice in one's credibility judgement. I conclude that they are one and the same virtue, even while the ultimate end that is most appropriately attached (truth or justice) will change according to the context.[16] In contexts where the practical predicament is such that openness to the truth is paramount, it will be appropriate to consider the virtue under the aspect of an intellectual virtue. In contexts where ethical considerations are paramount, it will be most appropriate to consider it under the aspect of an ethical virtue.

Consider the following examples. If, for instance, the hearer is a detective who displays the virtue of testimonial justice as she tries to ascertain from a teenager with a track record of petty crime exactly what happened at the scene of some incident, then, although ethical considerations never lose their force, the main *point* of the detective's motivation to be unprejudicially open to whatever truths this teenager may convey is, clearly, to discover the facts. In such a discursive situation, epistemic considerations are paramount, because the hearer's chief practical purpose is to get at the truth. Consequently, it is most appropriate to consider the ultimate end of the virtue being exercised by the detective to be truth, and so the virtue she displays in neutralizing

[16] I am indebted to Andrew Chitty for a provocative emailed question and to Anne Kelleher for a helpful subsequent discussion of the issues raised, which together helped me see my way through these issues.

her prejudice against the teenager is testimonial justice as an intellectual virtue. By contrast, we might imagine an example in which it is a counsellor talking to the teenager. While she may care a great deal about how far he may or may not be telling her the truth, the reason she cares about this relates not to any interest in the facts *per se* but to a different practical purpose that she has in hearing what he has to say: she is trying to develop a relationship of (among other things) epistemic trust between them, in so far as his exclusion from that sort of trust, with all the alienation and resentment that goes with it, is a contributing cause of his anti-social behaviour. Above all, she must endeavour to neutralize any prejudice against him in her own credibility judgements in order that at least she, of all people, should avoid enacting prejudice against him by failing to believe him when he tells her the truth. She must distinguish herself from all those other adults in authority who don't believe a word he says. In such a case, it is most appropriate to regard justice as the ultimate end of the virtue displayed by the counsellor, and so what she exhibits is the virtue of testimonial justice considered as an ethical virtue.

These two examples illustrate the contextualist answer that I have proposed to the question of how to categorize the virtue of testimonial justice. But we should add that there may also be contexts in which the practical circumstances are indeterminate as to whether intellectual or ethical concerns are paramount, so that we simply cannot say under which aspect the virtue of testimonial justice figures—we cannot say whether its ultimate end is truth or justice. Consider, for instance, the scenario in which our teenager is talking this time to his social worker. She is engaged in an ongoing project of trying to encourage him to include himself and be included in the ordinary relations of trust (ethical and epistemic) that make for social inclusion and social functionality quite generally. This means that a paramount aim in her exchanges with him is to let him know that he is being given credit where credit is due, and that includes the credit of epistemic credibility. However, an equally important aspect of her particular purpose is that he should not be allowed to see her as a pushover, so she must show him that if he lies to her, she will know. He needs to learn that she will respect him, respect his word, so long as he merits it, and only so long as he merits it. This feature of her purpose reveals considerations of truth to be equally as important in the context as considerations of justice. Both ultimate ends have equal title, and so we should conclude that in such contexts truth and justice feature as a joint ultimate end, and that the virtue displayed

by the social worker is at once intellectual and ethical. The possibility of such contexts strongly encourages the more general thought that in testimonial justice we have discovered something of a novelty: a virtue that is genuinely hybrid in that it aims at both truth and justice. While this may be a philosophically intriguing idea, there is nothing suspiciously mysterious about it. The hybridity of the virtue stems from the fact that negative identity prejudice—the thing whose impact on judgement the virtue neutralizes—is both an intellectual and an ethical offence. With this in mind, it seems entirely fitting that the virtue which guards against it should turn out to be both ethical and intellectual in character, at once a virtue of truth and a virtue of justice.

One assumption, however, that might lead someone to find my claim to hybridity for the virtue of testimonial justice suspiciously mysterious is the Aristotelian assumption that ethical and intellectual virtues are different in kind. The considerations that lead Aristotle to this view, however, are far from persuasive.[17] One of them is that while ethical virtues are acquired through practice and habituation, intellectual virtues are taught.[18] But this seems an over-statement at best. While intellectual instruction may help someone to acquire intellectual virtue, and may be crucial to the development of skills required for intellectual virtue (the skill, for instance, of doing long multiplication, of employing correct grammar, of formalizing an argument), none the less the business of cultivating the virtues themselves cannot fail crucially to involve learning by example, practice, and habituation, just as the moral virtues do. How else could one hope to learn and internalize how to resist the temptation to jump to a conclusion, or how to attain the non-egoism required for openness to challenge from alternative points of view, or how to persevere so far and no further in finding evidence for a controversial hypothesis? Such things are matters of judgement, and the honing of a person's judgement takes time and practice and habituation, in intellectual matters as in moral. Furthermore, the motivational component in many intellectual virtues will need to be firmly entrenched in the agent's psychology, as jumping to attractive conclusions on insufficient evidence, for instance, may sometimes be a very tempting prospect. It does not seem possible that teaching or instruction alone could entrench our motivations in this way; not unless

[17] See Zagzebski, *Virtues of the Mind*, Prt. II, sect. 3.2.

[18] Aristotle, *The Ethics of Aristotle: The Nicomachean Ethics*, trans. J. A. K. Thomson (London: Penguin, 1976), 91; II.1; $1103^{a}14-^{b}1$.

the teaching incorporated the requisite practice and habituation that is really doing the educational work.

This leads us to the second reason for scepticism that intellectual virtues can be taught: their acquisition clearly involves the training of the emotions. The point is therefore closely connected with Aristotle's other main claim in favour of intellectual and ethical virtues being of different kinds: namely, that the two sorts of virtue pertain to the two different parts of the soul, where one part concerns reason and the other emotion, most fundamentally feelings of pleasure and pain. He asserts that intellectual virtues 'belong to the part that has reason and prescribes to the soul in so far as it possesses reason, whereas the virtues of character belong to the part that is non-rational'.[19] But this conception seriously underestimates the involvement of emotions in the intellectual virtues. Emotional performance is a proper part of intellectual performance, so assessments of a person's emotions can be a proper part of an assessment of them *qua* knower. As Nancy Sherman and Heath White have argued:

> If diffidence or caution stands in the way of exploring new frontiers, of asking bold questions, of submitting one's work to public scrutiny or acclaim, then it is an emotional defect in a knower. Similarly, if love of self turns into a grandiosity that makes listening to competing viewpoints difficult, if it squashes collaborative effort and makes teamwork a matter of hierarchical command, then such narcissism is, again, an emotional defect in a knower.[20]

More generally, the motivation in an intellectual virtue may often be an emotion or have some emotional content. Consider the virtue of intellectual courage, or perseverance. It is hard to imagine these as containing a motivation that has no emotional content. For these reasons, then, Aristotle's conception of the difference between intellectual and moral virtues need not trouble us.

[19] *Eudemian Ethics*, II.1; 1220^{a}5–13; quoted in Zagzebski, *Virtues of the Mind*, 142. But note that Sarah Broadie argues, in *Ethics with Aristotle* (Oxford: Oxford University Press, 1991), that Aristotle's distinction between the non-rational desiderative and the rational parts of the soul does *not* in fact coincide with his distinction between virtues of character and virtues of intellect—although she acknowledges that he at one point writes as if they do and at no point states that they do not. She says that they are not coincident because the rational part of the soul prescribes to the other part and is 'desiderative in its own right'. Thus: 'The virtues of character are virtues of the desiderative: that is to say, they are virtues of the reason-responsive part of the soul, but also of the prescriptive part *qua* desiderative' (p. 71).

[20] Nancy Sherman and Heath White, 'Intellectual Virtue: Emotions, Luck, and the Ancients', in M. DePaul and L. Zagzebski (eds.), *Intellectual Virtue: Perspectives from Ethics and Epistemology* (Oxford: Clarendon Press, 2003), 42.

Aristotle's particular conception could have made it difficult to suggest that testimonial justice was a hybrid virtue because he held that they were so fundamentally different in kind. But in itself the idea that ethical and intellectual virtues are two different sorts of virtue, permitting some non-trivial categorical differences, is no obstacle to the idea that there might be some exceptional hybrid cases. Julia Driver, for instance, has, proposed that intellectual and ethical virtues can be distinguished by reference to the source of their primary value, so that intellectual virtues derive their primary value from the value of truth, whereas ethical virtues derive theirs from the value of the well-being of others.[21] This is a persuasive idea and fits well with our claim that testimonial justice functions in some contexts as an intellectual virtue and in others as an ethical one, having as an ultimate end now truth and now justice. It seems that there is no obstacle in principle to the claim that testimonial justice is a hybrid virtue.

Someone might, however, remain suspicious that our virtue should exhibit quite such a happy harmony between epistemic and ethical ends. Taken generally, after all, there is no guarantee that epistemic and ethical ends will harmonize.[22] If some down-trodden schoolteacher is told in no uncertain terms by the unscrupulous head teacher that when the school inspector visits the classroom, he must ask the pupils a question and make sure that he picks from among the sea of raised hands someone who will come out with the right answer, this epistemic aim might be best served by a policy that is not remotely just. It might be best served, for instance, by picking the pupil who, notoriously, always gets her big brother to text her the answers on her mobile. There is no general guaranteed harmony between epistemic ends and ethical ends, and my characterization of the virtue of testimonial justice does not rely on any such romanticism. My argument that the virtue of testimonial justice is a hybrid virtue depends simply on the fact that when we look and see, we find that correcting for prejudice is necessary for avoiding missing out on truths offered by an interlocutor *and* necessary for avoiding doing them an injustice in their capacity as a knower. Let me, finally, bring these claims home with a couple of illustrations. The illustrations isolate the different ends of truth and justice respectively in

[21] See Julia Driver, 'The Conflation of Moral and Epistemic Virtue', in Michael Brady and Duncan Pritchard (eds.), *Moral and Epistemic Virtues* (Oxford: Blackwell, 2003), 101–16.

[22] I thank Alex Voorhoeve for this point.

order to show as starkly as possible why the subject who is motivated to either of these ends will, other things being equal, be motivated to neutralize prejudice in her credibility judgement.

First, the epistemic end. The claim is that the purely epistemic end of not missing out on truths offered by an interlocutor requires one to neutralize prejudice in one's credibility judgements. To illustrate the point, let us imagine a character we might call the *ruthless truth-seeker*: someone who (in the local context) is highly motivated to the truth, but not at all to justice. As the tyrannical boss of a large advertising company, she cares not at all about the well-being as such of her employees; yet she is wholly committed to being unprejudiced in her judgements of their credibility, because she recognizes that this is what is required for an efficient harvest of their knowledge and creative ideas. Second, let us isolate the ethical end. Here the claim is that the purely ethical end of avoiding doing an injustice to an interlocutor requires one to neutralize prejudice in one's credibility judgement. For example, we might stretch our imaginations a little further to envisage the character of the *fair-minded conversationalist*: an anxious host whose sole aim is to avoid causing offence to any of his guests, which he may do if he greets their word with prejudice. He may have no interest whatever in the truth or falsity *per se* of what he is told in the course of dinner party chat, but he is very concerned to avoid doing an injustice to any guest. This solitary motive requires him to neutralize any prejudice in his credibility judgements. The purely ethical motive to justice, then, just like the purely epistemic motive to truth, is on its own sufficient to require the subject to neutralize prejudice in his credibility judgements.

Before we take leave of these two peculiar characters, we ought briefly to inquire whether either of them possesses the virtue of testimonial justice. I take it that if any virtue were displayed, then the ruthless truth-seeker would display testimonial justice as an intellectual virtue, and the fair-minded conversationalist would display it as an ethical virtue. Certainly what they *do* seems all right (they both neutralize any prejudice in their credibility judgements, as is required by their ultimate ends of truth and justice respectively); yet one would certainly be very reluctant to attribute the *virtue* to either of them. What agents do is important, but virtue is equally concerned with the motivational states that lie behind actions. As Aristotle says:

> Virtuous acts are not done in a just or temperate way merely because *they* have a certain quality, but only if the agent also acts in a certain state, viz. (1) if he

knows what he is doing, (2) if he chooses it, and chooses it for its own sake, and (3) if he does it from a fixed and permanent disposition.[23]

Neither of our characters is such that we could safely attribute either the second or the third requirement to them, and so neither has the proper commitment to neutralizing prejudice in their credibility judgements. The ruthless truth-seeker cares only about harvesting information and ideas, so that the slightest shift of context is likely to reveal her as not remotely concerned to eradicate her prejudices as such. One senses, for instance, that were the profit motive not served by non-prejudice in her credibility judgements, she would readily dispense with her anti-prejudicial self-discipline. The fair-minded conversationalist is depicted principally as an anxious host whose primary concern is to avoid insulting his guests in any way, detectable by them or not, so that a shift of context might once again reveal quite a different attitude to his prejudices. One senses that once the evening has passed over without incident, he might be relieved to free himself of his anti-prejudicial self-discipline along with the other burdens associated with the role of host. Even though our obviously artificial characters' actions are perfectly in tune with the dictates of the virtue of testimonial justice (considered now as an intellectual virtue, now as an ethical one), none the less our ruthless truth-seeker certainly does not exhibit the virtue, and probably nor does the fair-minded conversationalist, for the requirements of choosing the action for its own sake and of stability of disposition are not fulfilled, or not fulfilled clearly enough.

I hope it is now evident that the virtue of testimonial justice is indeed a hybrid, and that its hybridity depends on no over-optimism about general harmony among epistemic and ethical values. Its hybridity depends only on the demonstrated harmony of epistemic and ethical ends in the specific case of neutralizing prejudice.

[23] Aristotle, *Ethics of Aristotle: The Nicomachean Ethics*, 97; II. 4; $1105^{a}9-^{b}2$.