

Phil 116, January 29 and February 1
Raz, *The Morality of Freedom*

Authority in general:

X has authority over subject, Y, if Y is required to *act* as X commands, even if Y disagrees with the command. (Y isn't required to *believe* that the command is good, correct, etc.)

The authority's command is

- (i) *dependent*: based on reasons (\neq interests, since they can be moral) which *already independently apply* to the subject
- (ii) *pre-emptive*: *replaces* one's other reasons, not merely added to them.

Doesn't this imply the "*no difference thesis*": that authoritative commands make no difference to what subjects ought to do? No, some examples:

1. *Underdetermination*: The reasons may not settle the matter. No reason to pay taxes monthly rather than quarterly, or vice versa. But there is good reason for the authority to have a settled, uniform system.
2. *Coordination*: e.g., driving on the right side. The authority can determine which option the majority chooses.
3. *Prisoners' dilemmas*: e.g., overfishing. The authority changes the "payoffs."

The normal justification thesis:

The normal way to establish that a person has authority over another person involves showing that the alleged subject is *likely better to comply with the reasons that apply to him* (other than the alleged authoritative directives) if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons that apply to him directly.

A lot like doing what an expert (e.g., doctor, financial advisor, personal trainer) recommends.

Why is authority dependent?

- How else could the normal justification thesis be satisfied?

Why is authority pre-emptive?

1. Otherwise we would have a kind of *double counting*: both the reasons that support the directive and the directive itself. (Why is this a problem?)
2. Because we better conform to our reasons if we treat the authority's commands as pre-emptive.

Arguments for the legitimacy of an authority:

1. Authority knows better.
2. Authority has a steadier will (less likely to be tainted by bias, weakness, impetuosity, or to give in to temptation or pressures).

3. Sometimes individuals do best to follow an indirect strategy, guiding their action by one standard in order better to conform to another, and following the authority can be one such indirect strategy.
4. Deciding for oneself what to do causes anxiety, exhaustion, or involves costs in time or resources.
5. The authority is in a better position to achieve the relevant ends.
 - Coordination and prisoners' dilemmas.
 - Often requires *de facto* power (actual power, whether or not it is justified).
 - This is why we assume that *de facto* power is often necessary for political authority.

A flexible account of *political* authority:

- The law claims unlimited authority over all the citizens.
- But it lacks this authority.
- The law may have authority over *some* people, over *some* matters, both not over *other* people, or over *other* matters. It all depends on how arguments 1–5 apply to a particular person, over a particular matter.

Why should we follow the authority when it is mistaken?

“If every time a directive is mistaken, i.e., every time it fails to reflect reason correctly, it were open to challenge as mistaken, the advantage gained by accepting the authority as a more reliable and successful guide to right reason would disappear. In trying to establish whether or not the directive correctly reflects right reason the subjects will be relying on their own judgments rather than on that of the authority, which, we are assuming, is more reliable.”

- Is this coherent? One has most reason to follow the command, but one does not have most reason to follow the command?
- One has most reason to follow the general policy of following the commands, but not to follow this particular command?
- But doesn't this mean that, if one asks, do I have most reason to follow the command, the answer is actually “No”?

Legitimate authority may be overridden when it makes a *clear* mistake.

- *Clear* mistakes may not require trying to re-make the decision as the authority did.
- But the authority can make big mistakes that are not clear.
- “Governments may be acting within their authority when they act unjustly or immorally. But clearly some immoralities may be of a kind that no government has the authority to commit. There may, in other words, be general limits to the authority of governments, limits restricting governmental powers over any of their subjects.”

Relation to natural duty to support just institutions:

Similarities:

- Neither is based on consent,
- both based on moral reasons that one has independently of consent.

Differences:

- (i) Some just institutions, such as the BBC, do not even claim authority over anyone;
- (ii) some just institutions have authority only over others,

- (iii) supporting just institutions sometimes requires things other than obeying authority; and
- (iv) obeying authority sometimes requires things that are not necessary for supporting just institutions.

Relation to consent:

1. Would consent to political authority add anything?
2. Is consent to political authority even binding?
 - Is Simmons *assumes* that the answer is yes (but has trouble finding much actual consent to political authority).
 - But Raz believes there is a genuine question here.
 - Consent to political authority is binding *only if there is reason, on balance, to enable people to subject themselves* to political authorities by their consent.

Reason *against* bindingness of consent to political authority:

1. it may mislead people into obeying bad laws,
2. too constraining for individuals: permanent, open-ended, with wide-ranging effects.

Reason *for* bindingness of consent to political authority:

1. Consent may *reinforce* independently existing reasons to follow political authority.
 - But this alone does not extend the scope of authority justified by the NJT.
2. Consent is one way of *expressing an attitude of identification* with one's society.
 - Not morally required, but can still be valuable. (Compare marriage.)
 - Only valuable, and so binding, if the society is just. Because identification with an unjust society is not morally valuable.
 - So consent is binding only if the conditions of the NJT are already largely met, since most just governments have some authority for type 5 reasons. But, still, such consent can extend the scope of authority.
 - One can also express this attitude without consent (or choice), by developing an attitude of "respect for the law." (Compare friendship.)

Conclusions:

- Those who consent to the just political authority or respect their laws are subject. But not everyone does, or must, do this.
- The rest are subject to partial and qualified political authority, for type 5 reasons.
- Depending on the individual and the issue, some are subject to further political authority over some issues for type 1–4 reasons.
- There are reasons to obey the law that do not depend on recognizing its authority, e.g., to avoid embarrassing UC Berkeley while traveling in the U.K.
- The duty to support just institutions may sometimes provide a reason to obey the law in cases in which the law oversteps legitimate authority, e.g., against striking.
- A government's legitimate *power* often extends beyond its legitimate *authority*. In other words, a government is often permitted *to do* things *to* people, even when it has no power *to obligate them* to do things. For example, enforcing moral, pre-political rights.