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## REVIEW ARTICLE

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### Joseph Raz as a Political Philosopher

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Joseph Raz, **The Roots of Normativity**, Oxford: Oxford University Press, 2022, 306pp, (hb), £30

*The Roots of Normativity* (*Roots*) is the last work Joseph Raz published before his death in May 2022. Like many of his books it is a collection of papers. Some focus on issues that will likely be of most interest to philosophers of mind and ethics, topics such as the nature of intention, the binding force of a promise, the components of human well-being and the theoretical significance of the notion of a reason. Others consider topics in social philosophy, topics on which Raz made an enormous contribution. In what follows I'll treat *The Roots of Normativity* as a point of entry to Raz's political and social philosophy in particular.

Across some dozen books and numerous articles, Raz laid out a distinctive and intricately structured philosophy of ethics, politics and law. He showed little interest in producing definitive statements – 'one is forever searching for understanding, and the further one travels the further off the goal appears'<sup>1</sup> – and in presenting his work as a cohesive whole I am engaged in a rather un-Razian project. Still Raz was a highly systematic thinker whose passing brought an end to his intellectual journey. Able now to review its entire course, we can discern its leading ideas and trace their interconnections.

What most clearly distinguishes Raz's social thought from its surroundings is the absence of *justice*. The agenda of Anglophone political philosophy of the last few decades was set by Rawls's '*A Theory of Justice*' when he wrote that 'justice is the first virtue of social institutions.'<sup>2</sup> Rawls thereby made justice the master value of political philosophy. By contrast, in the index of Raz's most

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\*Kings College London. Many thanks to Crescente Molina, Ezequiel Monti, Felix Koch, Sam Schefler, Sandy Steel, Amanda Greene, Sebastian Lewis, Daniel Viehoff, Ulrike Heuer, Sam Ishii-Gonzales and to two anonymous referees for their comments on an earlier draft.

1 Joseph Raz, *Ethics in Public Domain* (Oxford: OUP, 1994) (*Ethics*) v.

2 John Rawls, *A Theory of Justice* (Oxford: OUP, 1994) (*Justice*) 3.

realised work of political and moral philosophy ‘justice’ merits no entry.<sup>3</sup> What is at stake here? How does making justice your master value shape your thought about society and why would anyone take a different tack? The notion of justice has long been important to political theory and prevalent in political discourse but its current pre-eminence among Anglophone political philosophers is, at least in part, due to many of them conceiving of it as what I shall call a *formal* rather than a *personal* value.<sup>4</sup> Whilst I take the notion of ‘personal value’ from Raz, ‘formal value’ is my coinage. Raz’s theoretical motivations become clearer once we read him as denying the existence of formal values.

### FORMAL AND PERSONAL VALUES

When asked what sort of thing you value, you’ll likely mention benefits, ie things which are good for you and/or for others.<sup>5</sup> So, for example, living in a place with a temperate climate or pleasing architecture or a secure and supportive family structure is a good thing, one which makes all our lives go better. Such benefits are what Raz calls personal values.<sup>6</sup> By contrast, a formal value like justice is not necessarily of benefit to anyone. Making the distribution of wealth more just by, for example, making it more equal might well involve benefitting someone (by giving them money) but, if so, that is a contingent by-product of the removal of the injustice. (The same is true when justice is instantiated in formal values other than equality.) This appeal to justice is meant to solve a problem, namely that we either can’t or shouldn’t make social choices on the basis of personal values alone, so let’s first consider why one might doubt that social choice can be based on personal values, ie benefits.

The practical significance of personal value is no mystery, for a benefit is something worth having. So, when assessing the merits of social arrangements such as our climate policies, our planning regulations or our family structures, why not ask after the costs and benefits associated with those arrangements,

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3 Joseph Raz, *The Morality of Freedom* (Oxford: OUP, 1986) (*Morality*). Raz says that ‘a complete political morality must include a doctrine of justice’ (*ibid*, 2) but he tells us nothing about what form that doctrine will take nor whether he had in mind principles of commutative or procedural justice rather than social justice or distributive justice.

4 Raz himself contrasts ‘personal’ with ‘impersonal’ values and cites the aesthetic value of the Grand Canyon as a possible example of the latter. See *Roots*, 214. By calling justice (etc) a ‘formal’ value I aim to bring to mind a different idea, namely the Kantian notion that moral principles bind in virtue of their form. For Rawls formal values were to provide the foundations for a special morality of politics and would play that role regardless of whether the morality of everyday life could be based on formal values. On p. 4, Raz denies that there is such a ‘semi-autonomous political morality’.

5 In what follows I shall use ‘value’ and ‘good’ interchangeably and where a good is of benefit to someone, I shall also say that it serves their needs or their interests.

6 ‘I will proceed on the assumption that all values are personal. I will take it to entail that anything which is of value can be good for someone’ (*Roots*, 214). However, Raz does not believe that all that has value is good *because* it is good for someone (*ibid*). He maintains only that all goods can be good for someone, can be of benefit to someone. See also Joseph Raz, *Value, Respect and Attachment* (Cambridge: Cambridge University Press, 2013) (*Value*) 148–151 and *Ethics* n 1 above, 260 and 263.

weigh them up and act accordingly? Isn't a modern government meant to mould society in the public interest by engaging in such deliberations when it frames legislation and issues executive orders? Indeed, but there are several obstacles to the task of governance so conceived.

One obstacle which comes readily to mind is the selfishness of individuals. It is often said that we each care most about our own personal interests and care about those of others much less, if at all. That's why the state must force people to pay their taxes and why, at election time, people tend to vote with their wallet and not in the public interest. For philosophers like Hobbes, solving this problem is the main task of both the politician and the political theorist but Raz does not see things that way. For Raz, my well-being is a function of how successfully I pursue various valuable goals (making friends, furthering my career, visiting interesting places, improving my golf handicap), of how well I'm performing worthwhile social roles (parent, teacher, tourist, sportsperson etc). My well-being so understood is bound up both with the value of things other than myself and with the well-being of other people. It is good *for me* if my students are inspired by my classes and bad *for me* when they are bored. My life goes better when my friends, my children, my travelling companions are happy rather than miserable. Raz agrees that on occasion furthering my own career may prevent the advancement of a colleague or that spending more time at work may conflict with the interests of my family – here pursuing one good hobbles the pursuit of another – but he denies that there is any pervasive clash between two kinds of good, namely those pertaining to my own interests and those pertaining to the interests of others. My welfare is simply too entwined with that of those around me for that sort of conflict to constitute a systematic and fundamental obstacle to collective decision making.<sup>7</sup>

What does create a real difficulty in Raz's eyes is the fact that the goods I care about tend to differ from the goods you care about, not because we are both selfish but because we value and so pursue different things.<sup>8</sup> For example, I may care a great deal about the aesthetic character of the built environment to which you are largely indifferent whilst your main hobby is competitive sport to which I have a positive aversion. Note Raz is not endorsing subjectivism about value (ie the view that the value of something for me is purely a product of my desires or preferences). Raz maintains that one can judge something to be genuinely valuable without wanting it or valuing it oneself. In my example, we might both agree that what each of us cares about is a real good and so genuinely beneficial to those who appreciate and engage with that good: you allow that I really benefit from living in a beautiful city whilst I allow that you really benefit from playing football. But that element of agreement won't help us decide how to spend public funds that might go to either purpose but cannot be used both for both.<sup>9</sup>

7 See *Roots*, 222–229, 255–259 and *Morality* n 3 above, 315–320.

8 *Morality* *ibid*, ch 12.

9 This shapes Raz's doctrine of toleration. For Raz we are called upon to tolerate those who care about quite different values rather than those who systematically disagree with us about what is valuable. See *ibid*, 401–407.

So much for our first obstacle. The second obstacle to basing social choice on personal value is best introduced by switching for a moment to individual choice. I value longstanding friendships and I also value my career. If I'm to progress in my career I must be prepared to move frequently but such mobility tends to undermine friendship. I might determine that I value career above friendship and reluctantly move around. Or I might make the opposite determination and reluctantly remain put. Raz argues that there is a third possibility: perhaps the options are *incommensurable*.<sup>10</sup> This is not to say that the alternatives are of exactly equal worth like two cans of baked beans where there is nothing to choose between them and we must simply plump for one or the other. There is plenty to choose between career and friendship – the difference matters. Raz's point is that where these options are incommensurable, there is no way of deciding between them by weighing up their relative value. You can't compare the worth of a career and a friendship as you can compare the merits of two different pension plans.

Incommensurability of value is not confined to the context of individual choice; it percolates up to the social level. Developing our earlier example, suppose you have come to care about the built environment and I have come to appreciate competitive sport. That won't solve our problem unless we can together weigh the value of urban beauty against the value of sport. But why assume that we can weigh such values at all, whether individually or as a group? And if we can't, how are we to decide where to put our limited funds? Often, as in the individual case, the answer is historical. Having tended to choose career over friendship, I became the kind of person who prioritises professional ambitions over social relations and having invested in sport more than in architecture, our society is on a path to athletic rather than artistic excellence. More on that in the final section.

Now the most influential political philosophers of the late 20th century – Rawls, Nozick and Dworkin – saw a third and even more fundamental obstacle to making social choices on the basis of personal values. They expected reasonable people to disagree systematically about personal values. Take competition. Some people regard rivalry as a poisonous element in human affairs, good neither for the victor nor the vanquished, one that should be tolerated only in so far as it generates extraneous benefits (for example greater prosperity). Other people relish rivalry for its own sake; for many of them life would be grim without it. Here it is not just our cares or personal preferences that diverge, it is our judgements about what is of value. Rawls et al claim that, regardless of whether there are objective truths about human good, regardless of whether one of us is right and the other is wrong, many such clashes of value judgement will resist any rational resolution.

So how are social choices to be made? How does the liberal state govern its citizens? For Rawls, Nozick and Dworkin, the liberal state should remain *neutral* on these issues. The interpretation of this notion of 'neutrality' and the precise role it plays in the thought of Rawls and others are topics of controversy. What is clearer is how Raz was interpreting the doctrine of liberal neutrality

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<sup>10</sup> *ibid*, ch 13.

when he rejected it.<sup>11</sup> On Raz's reading, liberal neutrality requires that no list of personal values or their relative weights form the basis for social choice in a liberal society, otherwise we are failing to respect citizens' capacity to live their own lives in accordance with their own conception of the good. It follows that decisions about whether to invest in urban architecture or competitive sport should be taken without adopting any view about whether competition is a wonderful or a poisonous thing.

This is where formal values come in. A formal value like justice has three crucial features. First, unlike a personal value, the practical significance of justice need not involve its being a benefit. Living in a just society might well be of benefit to its members in various ways but if so that is a contingent addition to its formal value. Justice so conceived would retain its practical significance even if by making the world a more just place we benefitted nobody. This means that we can rely on formal values in our collective deliberations without reliance on controversial assumptions about what is good for people. Second, formal values determine the right distribution of the costs and benefits of social cooperation. True, formal values need a list of costs and benefits to work on and it is a question how one is to differentiate costs from benefits without violating liberal neutrality. To address this worry, Rawls introduced the idea of a 'primary good', of something that people will want whatever else they want, stipulating that primary goods are what must be fairly distributed.<sup>12</sup> Other neutralists focus on what people actually want. In any case – and this is their *third* distinguishing feature – formal values dominate the personal values in play: social prosperity cannot compensate for injustice. As Rawls puts it 'laws and institutions no matter how efficient or well-arranged must be reformed or abolished if they are unjust'.<sup>13</sup> Whether people happen to *care* about justice is irrelevant and there is no question of justice being incommensurable with other values: at least over the long run, justice reigns supreme. Formal values, so understood, promise to solve the problem of social choice.

### RAZ'S REJECTION OF FORMAL VALUES

In much Anglophone political philosophy, justice acts as a formal value but 'justice' so construed is really an umbrella term for other formal values. Any theory of justice must be more specific. Calling to mind how our own (liberal) governments preserve the appearance of neutrality in arguing for the social choices they make, we find three values commonly invoked: utility, rights and equality. Perhaps justice conceived of as a formal value can take other guises but these are the most familiar. Raz argues that either the value cited is not really a formal value or else it is no value at all. Let's begin with equality.

11 For Raz's interpretation, see *Morality* *ibid*, Part II. The views of these writers on neutrality evolved and Raz's critique changed accordingly: *Ethics* n 1 above, chs 4 and 5.

12 *Justice* n 2 above, 78–81.

13 *ibid*, 3. These three features of formal values are surely connected. If living in a just society were a personal value like living in a prosperous society, why couldn't increased prosperity sometimes compensate for a certain amount of injustice?

Our rulers often claim to be treating us all *equally*. They might do this for various reasons. Perhaps treating people equally is a benefit because it has good consequences, because it promotes social cohesion or avoids envy or ensures that money goes to where it is most needed. In political debate demands for equal treatment are very often a way of pointing out that the needs of some group have been neglected. For Raz, the slogan ‘Marriage Equality’ is best understood as drawing attention to the fact that gay people as well as straight people need to have their relationships legally recognised. The claims of gay people would not have been satisfied by the total abolition of legal marriage though that would have put us all in the same boat.

True egalitarians hold that, though ensuring equality often gives people some further good or avoids some further evil (envy etc), the value of equality does not turn on whether this is so. Rather, they maintain, equality is valuable for its own sake. Such egalitarians should admit that equality is never the only value in play and other values may mean that one form of equality (legal marriage open to all) is preferable to another (no legal marriage). Still if justice is supreme that would ensure that other values come into play only once equality has been secured. In resisting gay marriage, certain conservatives argued that its recognition would exacerbate the demographic crisis in the West by reducing the social prestige of reproductive relationships and so that the happiness accruing to gay couples would be counterbalanced by the costs of further demographic decline. A true egalitarian responds that *even if that were true* the demand for equal consideration takes precedence.

Egalitarians differ over exactly how equality should be conceived – over what constitutes giving everyone equal consideration in distributing the costs and benefits of our social arrangements – but they agree that equality is essentially comparative. It is not a matter of how well people are doing, of whether they are happy or have what they need. Rather it is purely a matter of how well each person is doing relative to other people.<sup>14</sup> And such comparisons, Raz urges, provide *no reason whatsoever* for social choice. There is no case at all for abolishing marriage just because it might be the only way of ensuring straight people receive the same (unfavourable) treatment as gay people. And, if the conservative hypothesis is correct, we face a conflict between the needs of gay people and the needs of society. Raz himself was an early advocate of marriage reform<sup>15</sup> but the widespread impression that the case for gay marriage rests on a demand for equality is, Raz would argue, a product of confusing the purported value of equality with some personal value served by the pursuit of equality.<sup>16</sup>

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14 This is true of Rawls’s Difference Principle (see *Justice ibid*, 52–73) satisfaction of which could involve making some people worse off without improving the condition of anyone (*Morality* n 3 above, 229–233). All principles of distribution concern the distribution of goods but that does not make formal values like equality into personal values.

15 *Ethics* n 1 above, 93–94.

16 See *Morality* n 3 above, ch 9 and Joseph Raz, ‘On the Value of Distributional Equality’ *Oxford Legal Studies Research Paper* No 41 (2008). Many suppose that a formal demand for impartiality lies at the foundation of ethics. Raz rejects this idea as he rejects egalitarianism in politics. In his view, we have reasons to care in certain ways for perfect strangers and in other more involved ways for our friends. Neither reason is more fundamental than the other and both are based on what is good for the people involved (*Roots*, 241–242).



Moving onto the second of our formal values, governments often claim to be guarding the *rights* of their citizens or else giving their citizens something they have a right to be given. These commonly include rights to various liberties and rights to be protected against various harms, as well as rights to certain basic social resources (education and medical care etc). Indeed, the campaigners for marriage equality often expressed their demands in these terms, saying it was an injustice that the right to marry was not fully recognised. Let's suppose that the above-mentioned rights each rest on something other than a demand for equal treatment. Could such free-standing rights represent a formal constraint on social choice, one distinct from the value of equality but like it in not being based on any personal value?

Raz argued to the contrary that having a right to, say, education is a matter of having a need for education which is sufficiently important that others are obliged to satisfy it: all rights are based on personal values like education. Now some object that Raz misses what is special about rights. For these writers the function of a right is to protect a choice and very often a person has a right to make a choice even though, by giving them the choice, we may ensure that they will actually be worse off than if we made the choice for them. Take marriage once more. Don't adults have a right to determine who they marry and indeed whether they marry at all and isn't this so even if their parents could arrange a more suitable match? Such choice-rights look like formal constraints on our collective deliberations ungrounded in our other needs.

Raz denies that all rights are choice-rights. According to Raz's *interest theory of rights*, to have a right to something is just to have an interest in that thing which others are obliged to serve and choices are not the only things in which people have an interest (for example they need food).<sup>17</sup> Where we do have an interest in having a choice, perhaps about whom to marry, that is because it is good for us to have options and to be able to choose among those options even in situations where we are liable to make the wrong choice from the standpoint of other interests. The good in play here is the good of personal autonomy. Sometimes autonomy has instrumental value: even if your parents would choose a more suitable partner, the mere fact you preferred someone else will often mean that you can't make a go of it. In this instance the choice is valuable just as means to something else, namely a happy marriage. Raz claims that personal autonomy can also be good for you in its own right. Your life goes better because the way you live expresses your choices rather than those of other people and this is something to be said in its favour even where your decisions may be questionable from the standpoint of your other interests.

Basing choice-rights on a personal value like autonomy affects the status of those rights. Autonomy is central to our own individualistic, post-industrial civilisation. Consider those living under social, economic and technological conditions very different from our own. More rigid family structures might serve them better, all things considered. Ditto for choice of occupation, place of residence and so forth. It is indeed a virtue of our current social arrangements

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<sup>17</sup> *Morality ibid*, 166.

that they provide for personal autonomy in these domains but it does not follow that we can put such liberties on a list of human rights conceived of as formal constraints that all societies must either recognise or come to recognise in due course, regardless of the impact on other personal values. Personal autonomy might be just one among many human goods. More on this point in the last section.

Finally let's turn to *utility*. Where governments are inclined to adopt an economic idiom, they often claim to be guided by our preferences, to be giving their citizenry what it wants. That will involve either satisfying our desires directly (by laying on bread and circuses) or else enabling us to acquire the means to satisfy them ourselves (money). Such maximisation of utility might be represented as another way of meeting the demand for equal consideration.<sup>18</sup> For the preference utilitarian, to be just or fair to one's citizens is to treat everyone's desires as equally important, regardless of their content, and to seek to satisfy as many of them as possible and the state can do that without making any judgements about whether the things we actually want are good for us. This is justice in the form endorsed by many welfare economists.

Various objections have been raised to utilitarian theories of justice by Rawls and others. For one thing, many of us desire things which are directly harmful to other people: do these desires have any claim to be gratified? Furthermore, satisfying even the innocent desires of the majority may involve neglecting those of a minority. Raz's own objection to preference utilitarianism is more fundamental. For Raz, the mere fact that I desire or want or prefer something provides *no reason at all* for me to seek it (nor for others to give it to me). Why count the blades of grass on my lawn just because I feel a sudden urge to do so? Only when what I want is also something that strikes me as valuable will it make any sense for me to pursue it.<sup>19</sup> Where counting the blades would be a source of pleasure, I do have some reason to count but this is only because pleasure is itself a personal good and, notoriously, getting what you want does not always please. Since different values are incommensurable and reason cannot settle the matter, we do often go with our stronger desire but this is intelligible only when the thing we plump for possesses at least some apparent value, only because there seems to be some good in our getting it.

Here we encounter a fundamental divide between Raz and the advocates of formal values. Some of them maintain (like many preference utilitarians) that there are no objective personal values at all, only subjective desires and preferences. Others maintain that, in any case, reasonable people will differ in their judgements of personal value and so such values cannot be relied upon in social choice. Raz reckons (a) that there are objective facts about what is good for human beings and (b) that we can very often know these facts and base our choices upon them. Raz acknowledges our frequent ignorance of value and/or disagreement about it but the same is true of many things of great practical importance: we rightly base our plans on predictions about tomorrow's weather even though we often get it wrong or disagree about it.

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18 *Morality ibid*, 137–145.

19 *Roots*, 231–232.



Raz's critique of formal values bears directly on our political discourse. The social engineering undertaken in the post-war period was aimed at the achievement of equality, the protection of people's rights, the promotion of public welfare. If Raz is correct, these justifications are unsound at least in so far as they are informed by a wish to maintain a posture of neutrality about what is good for people. What if we now abandon that posture, and relinquish our reluctance to pursue the good by political means? Will that solve the problem of social choice? Is the way now open for Raz to adopt a form of objective (ie non-preference-based) utilitarianism, namely one which requires us all to create the best society, a society in which as many of us as possible live as well as we possibly can? Unfortunately not, for reasons already noted. Because the things we care about are often incommensurable and because we frequently care about different things, collective decision-making admits 'of a large degree of indeterminacy and many alternative resolutions may be plausible or rational. In such contexts, talking of maximisation, with its connotations of comparability of all options, is entirely out of place'.<sup>20</sup>

We've reviewed three candidates for being the formal value of justice and rejected each of them. Let's now ask how Raz approaches the problem of social choice without reliance on formal values. There are two elements to his political philosophy. First a general theory of political authority; second an account of how that authority is to be exercised in a liberal state. We must preface it all by asking why Raz is troubled by political authority; in the framing of a problem lies the shape of the solution.

### THE PROBLEM OF AUTHORITY

For Rawls, Nozick and Dworkin what makes political authority problematic and neutrality in its exercise necessary is the state's claim to be entitled to force its citizens to obey its laws and edicts. For them a special 'political morality' is required to regulate the use of force. Rawls (and Dworkin) tell us less than they might about what such coercion is, how it differs from other forms of social control and why it is peculiarly hard to justify. Raz does offer answers to these questions, endorsing a version of the Harm Principle (formulated by Mill and defended by Hart) according to which 'one may not use coercion except to prevent harm'.<sup>21</sup> But for Raz the exercise of political authority need not involve the threat of coercion; if there is a special problem about political authority, it lies elsewhere.

Our rulers claim that we are under an obligation to obey their laws and other edicts simply because they originate in an authoritative source. They may also threaten to punish us if we do not comply but the prior claim to obedience is, for Raz, the main thing that requires vindication. Let's take a

<sup>20</sup> *Ethics* n 1 above, 138. Furthermore, even where we can rank options according to some relevant standard, it does not follow that we have any reason to go for the best option, either as an individual or as a society, as opposed to some perfectly adequate alternative. For discussion of what is often called satisficing, see *Roots*, ch 5.

<sup>21</sup> John Stuart Mill, *On Liberty* (1859) ch 2 and *Morality* n 3 above, 425.

military order as our example of an exercise of authority. A command purports to impose an obligation on someone by declaration. When the officer orders the soldier to confiscate a car, the officer declares that they are hereby obliging the soldier to confiscate this car. What is it to be under such an obligation or duty? Most would agree that genuine obligations provide reasons for compliance and so that the officer must be purporting to give the soldier a reason for compliance which they previously lacked. But obligations are an especially demanding sort of reason. How so? The answer given by Raz's teacher H.L.A Hart and many others is that breach of an obligation will make you vulnerable to blame reactions and perhaps to other forms of social pressure. That is what distinguishes an obligation from a mere 'ought'.<sup>22</sup> Not for Raz.

Raz offers us an entirely novel account of obligation according to which when we are obliged to do something, we don't merely have a reason to do it, we also have a reason not to act on certain other reasons which count against doing it. Thus, in deciding whether to comply, our soldier is not meant to consider the inconvenience to the motorist, the adverse effect of confiscation on relations between the army and citizenry etc. These are perfectly genuine reasons which really do count against confiscation of the car but respect for the officer's authority should prevent the soldier from acting on them, thereby clearing the way for the soldier to comply with the reason for confiscation created by the command. As Raz puts it, a command provides *exclusionary* reasons, reasons for excluding certain (other) reasons from your practical deliberations.<sup>23</sup>

In the case of obligations created by command, the effect of the exclusion is to leave it up to the authority to weigh the excluded reasons on their subordinate's behalf and usually without the subordinate's agreement. Of course, an officer should consider all the relevant reasons for and against confiscation before issuing their command but 'mine not to reason why' is the attitude expected from a soldier. That it demands such a *surrender of judgement* is what makes political authority problematic for Raz and the law asks just the same of us. When the law requires one thing and prudence, convenience or even morals suggest another, we are not meant to consider the case on its merits. True neither political nor military authority are absolute – some reasons recommending disobedience are not excluded (perhaps the car is needed to save the owner's life) – but the mere fact that many serious reasons are meant to be excluded by them is enough to render orders and laws problematic.

Raz's response to the problem of political authority comes in two parts. On the positive side he argues that, at least in many circumstances, we are obliged to do what the authorities require us to do.<sup>24</sup> We are so obliged precisely when *by complying with the command rather than deciding the case on its merits, we better conform with those reasons for action that we have independently of the command*. This is Raz's famous Normal Justification Thesis. The thesis is meant to capture the

22 H.L.A. Hart, *The Concept of Law* (Oxford: OUP, 1994) 82–91. In a later essay, Hart appears to adopt Raz's view of obligation.

23 Raz's most detailed discussion of exclusionary reasons is to be found in Joseph Raz, *Practical Reason and Norms* (Oxford: OUP, 1999) ch 1 and Postscript.

24 For the positive story see *Morality* n 3 above, Part 1.

normal (though not the only) way of justifying someone's claim to authority and so establishing that the addressee of their command is under an obligation to comply. The reasons we have independently of the command reflect the personal values bearing on the case ie the costs and benefits of confiscation (not just to ourselves). Often, the way to ensure that you choose the best option is not to try and think things through for yourself but rather to defer to the authority's judgement and where this is so you should obey. One such circumstance is where the authority is better placed to make the call. They might have more knowledge and expertise, as was hopefully the case with COVID pandemic regulations, or they may be invulnerable to certain biases that affect any individual's judgement, for example in constructing a tax code. Another such circumstance is where social coordination is of overwhelming importance, where what really matters is that we march in step. The government is little better placed than the rest of us to decide which side of the road we should all drive on but we must all drive on the same side of the road and thus we should all follow the edict of a single co-ordinator, even if the other side of the road might be slightly better given the way our cars are designed.

The second part of Raz's response to the problem of authority is more anarchistic.<sup>25</sup> Raz denies that we have any general obligation to obey the law (or the edicts of an authority). Legal authorities do claim to bind us by declaration but, Raz says, this claim is false. They normally bind us only when the Normal Justification Thesis applies. In this regard, our rulers are in the same boat as other social authorities to whom we should defer only where we better conform with reason by so doing. The government's orders are like doctor's orders. Wherever I am more likely to get it right by taking the advice of experts or by following the lead of social influencers around whom we can all coordinate, I should comply for exactly the same reason, even though these people do not usually demand my obedience. Commands and laws which do are just a special case of that much more general phenomenon.

Many writers in the liberal tradition from the 17th century onwards have denied that the *benefits* of obedience alone could justify deference to authority. For writers such as Locke and Rousseau, expecting your fellow citizens to obey your commands (rather than follow your advice or accede to your requests) is an affront to their autonomy and the only way to remove that affront is to ask for their *consent* to your authority. Liberal states alone have genuine authority because they alone are based on a foundation of consent, either original consent (as with the classical contractarians) or hypothetical agreement (as with modern contractarians like Rawls) or the intermittent acquiescence elicited by a democracy. And once the citizen's consent is secured, they are indeed obliged to obey the law because they have agreed to do so.

The grounds for thinking consent is required to legitimise political authority are unobvious. Some might be tempted to extend this demand to the whole of

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25 See Joseph Raz, *The Authority of Law* (Oxford: OUP, 2009) ch 12. Raz also thinks that it is sometimes appropriate to adopt an attitude of respect for the law or trust in the government and that those with such attitudes will feel obliged to obey. However, Raz denies that we are ever *obliged* to adopt such an attitude even though our rulers claim that we are obliged to obey them regardless of whether we trust them. See *ibid*, ch 13.

human life by insisting that only those inter-personal relationships we choose to enter into impose obligations on us. Raz rejects this notion: 'It is far from clear why anyone should think that relationships and membership in groups provide reasons or impose duties only if undertaken or maintained by choice.'<sup>26</sup> Few imagine that children owe their parents nothing because they never agreed to be brought up by them and, for Raz, parents have authority over their children provided they satisfy the Normal Justification Thesis. Raz also denies that liberal states alone possess authority. In so far as any government satisfies the Normal Justification Thesis, we are bound to obey its edicts regardless of whether we have consented to its rule. For Raz, what is special about a liberal state is not that it derives its authority from consent but rather that it aims to realise the good of personal autonomy. In the final section we'll scrutinise his theory of autonomy.

### THE LIBERAL STATE

Raz allows the liberal state to rely on judgements of personal value but he insists on what he calls *pluralism* about value. A monist thinks that all values are reducible to a single value. For example, a hedonist regards pleasure as the basic good and pain as the basic evil. Raz rejects monism in any form maintaining that beauty, kindness, love, friendship together with many other goods specific to particular cultures (for example opera or cricket) are all distinct and mutually irreducible. Their irreducibility comes out in two facts already noted. First, one can care for some of them and not others (for example aesthetes without friends). Second, different values are often incommensurable and impossible to weigh against one another.

Pluralism about value underwrites the value of personal autonomy as Raz understands it. An autonomous life is a life which contains significant choices (choice of life partner, choice of career) and the autonomous person shapes their life by making those choices, by basing their lives around some values rather than around others. Now a real choice presupposes options that are importantly different, that realise distinct combinations of value, like a choice between a career as a teacher and as a journalist. I do not enjoy much autonomy if I must decide between labouring in the fields and tending to the cattle. A liberal society furnishes its citizens with a range of importantly different options between which they can choose.<sup>27</sup>

It is easy to miss the difference between Raz's picture of the value of autonomy and individualistic or voluntaristic views which are rather more familiar to us. According to the latter, autonomy is fundamentally a matter of non-interference with the life of the individual and each individual has a right to autonomy because they each have a right to lead their own lives in accordance with their own conception of the good. Raz conceives of autonomy as a positive good rather than a mere absence of interference and he also denies that any

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<sup>26</sup> *Roots*, 263.

<sup>27</sup> Raz's most detailed discussion of autonomy is to be found in *Morality* n 3 above, Part 5.

individual has a right to be provided with an adequate menu of options that is a precondition of that good. In fact, furnishing us with those options will involve extensive intervention in the lives of individuals (for example educating us and taxing us all to fund public services). Personal autonomy is a product of social practices which are supported, in a liberal society, by collective action.

Consider the options between which the autonomous person decides. A meaningful choice of careers will be available only where a wide range of social practices have evolved, various forms of education and occupational training, trade unions and other professional organisations, labour markets configured in a certain way, and all the infrastructure of buildings, utilities and transportation needed to make them function. A given individual might sensibly ask to be left alone but they can hardly demand, on their own account, that society be arranged in all of these ways just to provide them with a meaningful choice of careers. The liberal state is obliged to support education, regulate labour markets and so forth (ie to support the infrastructure of autonomy) but it owes that support to society as a whole and not to any individual.<sup>28</sup>

On Raz's account, the availability of a valuable choice presupposes such a complex social background and it is a background that is largely unchosen, at least by any one person. For instance, in the modern world most people have a fair amount of control over their occupation. The fact that they chose to be a teacher rather than a lawyer or a homemaker and didn't automatically follow in the footsteps of their parents is one of the things that makes being a teacher good for them. Yet that occupation was available only because they were involuntarily given a certain sort of education and raised in a social environment which moulded both them and their options in countless ways. Indeed, Raz reckons that all values beyond those which directly reflect our biological needs and nature are constituted by social practices.<sup>29</sup> Thus, almost any choice whose availability contributes much to our autonomy will present itself only after a long process of involuntary socialisation.

Given these facts, how should a liberal state go about promoting the good of autonomy and the other goods required to furnish the necessary alternatives (education etc)? Here we confront once more the problem of social choice and, it might seem, dropping the demand for neutrality has made precious little difference. The pluralism of value means there is a great variety of goods and no sure way of choosing between them. But to think like this is to equate society with a hypothetical individual who is starting from scratch and must decide *ab initio* what values to care about and what decisions to make in the light of incommensurable values. That is not our situation. Any individual old enough to make a decision has a character and a temperament which leads them to care about some goods and not others; they are already inclined towards books rather than sport let's say. When the values they care about are incommensurable, they must choose which to pursue and those choices will set the agenda for their later life. Once such a decision is made, it generally makes sense to continue

<sup>28</sup> See *ibid*, chs 8 and 10 and 307–313.

<sup>29</sup> Though not so as to compromise their objectivity. See Joseph Raz, *The Practice of Value* (Oxford: OUP, 2003) 15–36.

on in that direction, even if you could as well have chosen the opposite. As one's life takes shape one's options narrow – or deepen – and the scope for *actes gratuits* gradually disappears.

In a similar way, a liberal state does not start from scratch. The richness and stability of social practices of the sort that support a real choice of occupation (etc) will depend on their being widely shared within a given society. Employment structures imposed by bureaucratic edict will be thin and unstable unless they are incremental modifications of those already embedded in our social forms. Like the adult individual, a social group has a climate and temperament which makes it easier to promote some values over others. And, like the adult individual, it will already have made a long series of choices, adopting and absorbing social conventions, either by formal collective decision or more likely informal mutual accommodation, choices which constrain what it now makes sense to do. States are composed of one or more such groups, a fact that should guide their rulers and inform their laws. And liberal states, in seeking to secure the autonomy of their citizens, will cultivate and support a wide variety of forms of life, encouraging various groups and assembling a diverse array of social practices. Thus, history fills the deliberative gaps left by pluralism about value in the life of society as in that of the individual.

Some may wonder whether, in his defence of liberalism, Raz has – his conservative and collectivist tendencies notwithstanding – conceded too much to both voluntarism and individualism. Personal autonomy is a good and, for Raz, the distinctive merit of a liberal society is its promotion of that good but what of non-liberal societies or non-liberal communities within our own society? Pluralism suggests that these might also be worthy social formations though they involve much less in the way of personal autonomy. Most of us know people who, we imagine, would flourish in a guild system or a system of arranged marriage more easily than in our own restless and competitive if exhilarating employment and dating markets. Their temperament seems better suited to the stability and integration of a traditional society than the fluidity and dynamism of our own.

It is perfectly true that, in a liberal society, we all remain free to follow our parents' professions or their advice about whom to marry should we wish but this observation misses the conservative's point. I don't much alter the nature and value of two varieties of sandwich by allowing you to choose between them: the Reuben tastes the same and remains as nutritious whether or not you could have gone for a bacon roll instead. Marriage and career are not like that. As Raz emphasises, the move from arranged to unarranged marriage transformed the nature of the good.<sup>30</sup> In a traditional society, people don't decide whether to marry, when to marry or whom to marry any more than we decide whether to be born, when to be born and whom to be born to. The peculiar depth and meaning of a child's relationship to a parent is rooted in its involuntary character. Once marriage becomes a matter of choice it provides a new opportunity for self-expression which some can joyfully take advantage of, whilst others

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<sup>30</sup> *Ethics* n 1 above, 23.



miss out on the security of a system of kinship. Similarly for career, country of residence, even gender. When what matters most in life is mostly a matter of choice, we are not in a neutral space where everyone charts their own course but rather in one filled with options tailored to a particular character type.

To some extent liberalism has created its own customers by cultivating an appreciation of goods whose peculiar value depends on their having been chosen. Yet the existence of communities of Orthodox Jews, Amish, Mennonites etc in our midst indicates that many still wish to live in another way and Raz's attitude to these communities remains unclear to me. In one place he says that if their culture 'enables the members of that society to have an adequate and satisfying life' then its 'continued existence should be tolerated despite its scant regard for autonomy' and despite the fact that 'their culture is inferior to that of the dominant liberal society in which they live'.<sup>31</sup> Elsewhere he strikes a less tolerant note, postulating a general requirement that 'everyone have an adequate range of options realistically available to him' something that will presumably necessitate state intervention in, for instance, children's education, intervention which is bound to be corrosive of traditional communities. Raz goes on to say that 'the need to secure adequate access ... overrides any fondness for existing forms of activity and relationship ... No one should be denied adequate access to valuable options on the ground that to allow access would lead to the transformation or the disappearance of a much-cherished existing form of a valuable activity or relationship'.<sup>32</sup>

*The Roots of Normativity* sketches an argument which might support this less tolerant attitude. He claims (i) that we have reason to respect other people (ii) that respect for people requires giving them the chance to develop and exercise their capacity for making rational decisions (iii) that this in turn requires securing access to an adequate range of options amongst which they can choose.<sup>33</sup> This view, never fully developed by Raz, raises questions which can only be touched on here. One concerns the status of 'reasons of respect for persons'. Such reasons (or indeed duties) are, he says, to be grounded in the value of persons and so we must ask after the nature of that value. Is the value of a person a personal rather than a formal value?<sup>34</sup> If a formal value, we may be back in Rawls's hands.

Another issue concerns the notion of an 'adequate' range of options. Raz emphasises that 'adequacy' is relative to social and historical context, so that 'in the Stone Age it was possible for people to have rich and rewarding lives, in which their capacity for rational agency enabled them to express the emotional, imaginative, creative, physical and other aspects of their nature'.<sup>35</sup> How then are we to think about life in contemporary China or Dubai with their vastly greater

31 *Morality* n 3 above, 423.

32 *Ethics* n 1 above, 24.

33 *Roots*, 233–234. Compare Mill, n 21 above, ch 3.

34 Raz says that 'on some views the value of valuers, for example of persons, is impersonal. But arguably their value is purely personal' (*Roots*, 214). Raz suggests that the value of a given person is a personal value in that people can benefit by engaging with the person who has that value. See also *Value* n 6 above, 158–160.

35 *Roots*, 233.

material and intellectual resources? Is it acceptable for them have rather less in the way of personal autonomy than ourselves? Raz says that 'there are many valuable options, many routes to the good life. The fact that any one society makes realisation of only a small fraction of them possible is inevitable. The fact that other societies have options not sustainable in ours is no cause for moral concern.'<sup>36</sup> The pluralistic conservative applies this thought to autonomy itself, insisting that an autonomous life is only one form the good life can take. In their eyes, a community in which personal autonomy is already fully realised usually has strong reason to continue to promote autonomy (ie to be liberal) whilst other communities and societies need have no similar reason to move (or be moved) in the same direction.

Raz leaves us as liberalism is under attack both intellectually and politically, from within the Western world and from without. Perhaps inspired (or provoked) by these developments, he had recently resumed work in political philosophy after a two decade intermission, setting aside his doubts about whether the subject can contribute to liberalism's defence.<sup>37</sup> Though almost entirely unread outside the academy, Raz's work has much to contribute and should receive the public attention that Raz himself avoided. I have neglected several major themes in Raz's political and social philosophy, eliding many questions of interpretation and ignoring the bulk of his contribution to adjacent areas of philosophy. Still I hope to have outlined one approach to what is among the most considerable and impressive intellectual achievements of our era.

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<sup>36</sup> *ibid.*, 23.

<sup>37</sup> In an interview given midway through that intermission he remarked 'I am not sure that countries, like contemporary France, which do not have much political philosophy in the analytical style (Rawls, Nozick, Kymlicka, Dworkin etc.) necessarily miss much.' 'An Interview with Joseph Raz' (2005) 8 *Imprints* 195, 196-197.