

Darwall Versus Raz on Practical Authority

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I. RAZ'S NJT AND DARWALL'S COUNTEREXAMPLE

Let's begin, then, with Raz's (1986, 53) formulation of the NJT:

[T]he normal way to establish that a person has authority over another person involves showing that the alleged subject is likely better to comply with reasons which 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 which apply to him directly.

1] Certain (not unnatural) readings of Raz's reply would have him making a concession to Darwall or modifying the NJT – perhaps by restricting the NJT's scope of application by ukase. However, as I do not take this to be Raz's intention, a key respect in which my account of Raz's reply is charitable is that it does not involve any such concession or modification.

Darwall (2009, n.19) notes that though “Raz says here that this is the ‘normal way’ to establish authority, not that it is a necessary, or even a sufficient condition...I propose to understand it [as a sufficient condition]”. This proposal of Darwall’s makes more sense once we see Darwall’s (2009, 146) gloss on what it is, for Raz, to *accept* someone’s directives as *authoritatively binding*:

[B]y accepting an alleged authority’s “directives as authoritatively binding,” Raz means ...simply that the alleged subject takes the authority’s directives as preemptive reasons, that is, reasons that are “not to be added to all other relevant reasons when assessing what to do,” but that “exclude and take the place of [at least] some of them.” (Raz 1986: 46) Thus A acquires practical authority with respect to B if B would do better in actually complying with independently applicable reasons if B were to treat A’s directives as pre-emptive reasons in this sense.

This gloss enables Darwall (2009, 147) to present Raz’s NJT as a sufficient condition for authority thus:

III. If B would do better in complying with independently existing reasons were B to treat A’s directives as pre-emptive reasons, then A has authority with respect to B. (normal justification thesis)

And while Raz (2010, 297) re-emphasises the non-sufficiency (and non-necessity) of the NJT being met for authority,² this fact is not a dialectical feature of his reply to Darwall. For present purposes, then, we can take satisfaction of the NJT to be sufficient, for Raz, for authority. We can tie the foregoing together by means of a stock example. Suppose a legislator attempts to solve a general “coordination problem” of regulating road traffic by issuing a directive that drivers should drive on a particular side of the road. Plausibly, drivers would do better in complying with independently existing reasons by treating the legislator’s directive as a pre-emptive reason in this case. And, plausibly, the legislator thereby has authority with respect to drivers in this case.³

Now consider Darwall’s (2010, 259 – footnotes omitted) counterexample:

For example, I assume that I have prudential reasons to provide for my retirement that are independent of any obligations I might have, say, to provide for others whom I am answerable for supporting or of any obligation to support myself. It seems obvious that I do have such reasons and, moreover, that however important or valuable it might be for me to make my own choices, this latter value might not override (or sufficiently inform) the prudential reasons so that it could indeed make sense for me in prudential terms to put myself in the hands of a financial expert and simply follow her directives. Suppose, then, that I would better comply with the relevant prudential reasons if I were to do so and that there are no other reasons, or

2] Raz’s (1986, 47) *dependence thesis* does not explicitly feature as a point of contention in this Darwall/Raz debate, viz.: “All authoritative directives should be based on reasons which already independently apply to the subjects of the directives and are relevant to their action in the circumstances covered by the directive.” Likewise for Raz’s (2006, 1014) *independence condition* on authority, viz.: “that the matters regarding which the [NJT] is met are such that with respect to them it is better to conform to reason than to decide for oneself, unaided by authority”.

3] Though our focus will be on Darwall’s counterexample, upon introduction of the principles on which Raz’s reply seemingly depends, I will advert to our stock example (see nn. 7 and 9 *infra*).

at any rate no sufficient reasons, for me not to do so. (We should note that the kind of case we need is not just one where I would do better to follow an expert's advice, that is, by treating her as an epistemic authority on the theoretical question of what there is reason for me to do, but where I would do better if I were to treat her as having practical authority over me, hence the standing to issue legitimate directives to me, in other words, as being in a position not just to tell me what I should do, but to tell me to do it.)

For Darwall – and he invites us to concur – this is a clear case of the NJT being met without the financial expert being a practical authority (over Darwall).⁴ Now Darwall (2006) has his own reasons, rooted in the *irreducibly second-personal* nature of claims or demands of authority, for denying the financial expert the status of an authority. However, a key strength of Darwall's counterexample is that it does not rest on acceptance of his own irreducibly second-personal account of authority. Instead, it appears to have bite as a counterexample *by Raz's own lights*:

The exercise of coercive or any other form of power is no exercise of authority unless it includes an appeal for compliance by the person(s) subject to the authority. That is why the typical exercise of authority is through giving instructions of one kind or another. But appeal to compliance makes sense precisely because it is an invocation of the duty to obey. (Raz 1986, 25-6)

And, we may suppose, correlative to Raz's authority's invocation of a "duty to obey" is the invocation of a *right to obedience*.⁵ Darwall (2009, 149), however, notes, by way of reply:

But it should be clear that [the NJT] is not a thesis that entails anything about any *right to obedience* or about any *obligation to obey*, at least as we ordinarily understand rights and obligations.

In sum, Darwall's case has the NJT being met *without the presence of any* (invoked) right to obedience or obligation to obey – features *taken by Raz* to be involved in any exercise of authority.

II. RAZ'S REPLY

Raz's (2010, 300-301) reply to Darwall runs thus:

I agree with Darwall that his imagined expert has no practical authority over him. It is not entirely clear how this is meant to be a counterexample to my account...But why then does she

4] Cf. the similar *chinese-cooking* case discussed by Raz (1986, 64) and Darwall (2009, 147-8).

5] We should note that Raz (2010, 290) does not take his account of authority to be "in competition with" Darwall's irreducibly second-personal account of authority: "The sins of... [my] account... could be sins of omission. That is [it] may be right in what [it] say[s], but require supplementation. [It may] have to include the claim that only second-personal reasons can be duties, or rules made by authorities... But... I do not think that whatever its faults, my account of authority will be improved by [this] kind of augmentation." Clearly, thus, Raz's account does not rest on acceptance of Darwall's irreducibly second-personal account of authority.

not have authority? She has epistemic authority. He should believe that if he is to invest in a pension fund he should invest in the fund she designated, and he should believe that because that is her opinion and she is an expert.⁶ Suppose that Darwall believes that. In that case, she no longer meets the condition of the NJT. She believes that if he is to invest in a pension fund, he should invest in this particular one, and he believes the same. She does not know what he should do better than he does.

This leads me to think that the explanation of Darwall's example is that the NJT is not met when the *only* reason to think that an authoritative instruction is correct is that it represent an expert view about what is good to do, a view which is not based on the fact that the expert will so instruct, or has so instructed.

Suppose, then, A is a putative authority over B with respect to Φ -matters. We can distill the following claim from Raz's reply:

(*KNOWLEDGE-SYMMETRY*) When A instructs B with respect to Φ -matters, the NJT is not met with respect to the specific Φ -matter of A's instruction, if, on instruction, there is *knowledge-symmetry* between A and B with respect to this specific Φ -matter.⁷

For Raz, *knowledge-asymmetry* (in favour of A) is necessary for the NJT to be met: if there is *knowledge-symmetry*, it's not the case that B would do better in complying with independently existing reasons were B to treat A's directives as pre-emptive reasons than by following them directly. Instruction by A to B on a specific Φ -matter, however, can *break* a *knowledge-asymmetry*. How so? At this point we cannot, for Raz, validly infer *from* A's instructing B with respect to a specific Φ -matter *that* a *knowledge-asymmetry* between A and B can be broken on this matter. To make the inference valid, for Raz, a further condition must be met. And we can distill the required condition from the following remark from Raz (2010, 300): "However, that ... [A's] directives would be the directives one would give if one knew [everything one needs to know to be authoritative with respect to this specific Φ -matter] and made no mistakes ... is not enough to endow [A] with authority over [B]. [B] needs to be able to know that this is the case".⁸ Raz, thus, can be taken to commit to:

(*SUBJECT-KK*) In order for A to have authority over B with respect to the specific Φ -matter of A's instruction, not only must A *know* what B should do better

6] My note: Raz assumes Darwall's case has the expert giving a *conditional* directive, rather than the *unconditional*: "Invest in the fund I designate". To have expertise to give this unconditional directive requires ascribing to the expert a very broad range of knowledge.

7] Raz's (2010, 301) paradigm cases of instructions not-[meeting-this-sufficient-condition-and-thereby-failing-to-satisfy-the-NJT] are those involving "coordination [and] concretiz[ation] of indeterminate boundaries". Thus, for Raz, we must assume, our stock road traffic coordination example (see section I *supra*) does *not* meet (*KNOWLEDGE-SYMMETRY*)'s sufficient condition. Filling out why this is so is a good exercise.

8] Raz is here considering the *unconditional* directive mentioned in n.6 *supra*. But I see no reason why we cannot extract the ensuing general principle.

than B does with respect to this specific Φ -matter, but B must *be able to know* that A knows better.

We can best think of (*SUBJECT-KK*) as a *background necessary condition* on authority, which we can here, in the absence of defeating considerations, *assume is met (prior to instruction)* when coming to test for whether *the NJT itself is met (on instruction)*.⁹ While (*KNOWLEDGE-SYMMETRY*) pertains solely to *first-order* knowledge – in Darwall’s case, knowledge of the specific financial matter of instruction –, (*SUBJECT-KK*) pertains additionally to (the possibility of) *second-order* knowledge – in Darwall’s case, knowledge that the financial expert has superior knowledge of the specific financial matter of instruction. And, for Raz, if (*SUBJECT-KK*) is met – and only if (something like) it is met – the foregoing inference (viz. from instruction to the possibility of knowledge-symmetry) is valid. In sum, (*SUBJECT-KK*) is a (putative) background requirement on authority; however, for Raz, if (*SUBJECT-KK*) is met – and only if (something like) it is met – we can get cases of instruction breaking a knowledge-asymmetry; and, if we do get such cases, the NJT is *not met* with respect to Φ -matters.

Spelt out: As each (further) specific Φ -matter arises, and instruction thereon is given, *modulo* (*SUBJECT-KK*) being met, the sufficient condition contained in (*KNOWLEDGE-SYMMETRY*) can be (repeatedly) met, such that, if so met, the NJT is not met, and we’d resultantly have no reason to think A has authority over B with respect to Φ -matters *in general*. In sum, for Raz, this is precisely what happens in Darwall’s case: though the financial expert fails to be an authority over Darwall, *the NJT is not met in Darwall’s case*, and we have a badly formed counterexample to the NJT’s sufficiency for authority.^{10, 11}

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9] This enables preservation of our treatment of the NJT as a sufficient condition for authority. Moreover, I do not see a way of incorporating (*SUBJECT-KK*) (as a necessary condition) within the NJT itself (absent significant modification of the NJT). Cf. also Raz (2006, 1025-26) for more on this *knowability* constraint on authority. And, plausibly, our stock road traffic coordination example (see section I *supra*) meets (*SUBJECT-KK*)’s necessary condition.

10] It has become fairly standard (e.g. Darwall 2010) to object that Raz’s NJT is better suited to establishing the legitimacy of *epistemic* (or *theoretical*), rather than *practical*, authority. I don’t take a stand on this objection. But, now that we have introduced (*KNOWLEDGE-SYMMETRY*) and (*SUBJECT-KK*), it is clear that, given these two theses, Raz’s NJT will not, without more, classify the (uncontroversial) financial expert an epistemic authority.

11] Thanks to Lee Walters for stimulating discussion, and to a *Public Reason* referee for helpful comments.

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