

University of Michigan Law School

University of Michigan Law School Scholarship Repository

Articles

Faculty Scholarship

2011

The Role of Authority

Scott A. Hershovitz

University of Michigan Law School, sahersh@umich.edu

Available at: <https://repository.law.umich.edu/articles/2240>

Follow this and additional works at: <https://repository.law.umich.edu/articles>



Part of the [Law and Philosophy Commons](#)

Recommended Citation

Hershovitz, Scott. "The Role of Authority." *Philosopher's Imprint* 11, no. 7 (2011): 1-19.

This Article is brought to you for free and open access by the Faculty Scholarship at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Articles by an authorized administrator of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

The Role of Authority

Scott Hershovitz

University of Michigan Law School

© 2011 Scott Hershovitz

<www.philosophersimprint.org/o11007/>

THE MOST INFLUENTIAL ACCOUNT OF AUTHORITY—Joseph Raz’s service conception—is an account of the *role* of authority. Most philosophers hold that authority (of the practical sort) consists in a right to rule, such that subjects are obligated to obey.¹ But they disagree over what it takes for a person to qualify as an authority in that sense. Raz’s answer is captured in the *normal justification thesis*, which says that a person has authority over another if her orders would help that person conform better to reason’s requirements than she otherwise would. He also argues for the *dependence thesis*, the view that an authority’s orders should be based on reasons that independently apply to those subject to them. On Raz’s account, authorities provide a service: They help subjects conform to reason. That is their role, their job, their point.²

Or maybe not. The service conception is under attack. One increasingly common objection is that the normal justification thesis fails to capture the conditions of political authority. Though this objection might take many forms, one way to put it is that the capacity to help subjects conform to reason does not ground political authority because political authorities have other roles to play. Another prominent objection poses a more fundamental challenge to the normal justification thesis. Stephen Darwall argues that the fact that a person would conform better to reason’s requirements by following another’s orders cannot establish the second person’s authority because it is insufficient to ground either a right to rule or an obligation to obey.

I am persuaded that both objections are sound. Raz is wrong to think that the role of authority is to help subjects conform to reason, and he is wrong to think that a claim to authority can be justified by an

1. Joseph Raz, “Authority and Justification”, in *Authority*, ed. Joseph Raz (New York: New York University Press, 1990), 115–141. Robert Ladenson is the most prominent dissenter; he argues that political authority consists in a right to rule, but he denies that subjects are under an obligation to obey. See his “In Defense of a Hobbesian Conception of Law”, in Raz, *Authority*, 32–55.
2. Joseph Raz, *The Morality of Freedom*, (Oxford: Clarendon Press, 1986), 56 (“[The normal justification thesis and the dependence thesis] articulate the service conception of the function of authorities, that is, the view that their role and primary normal function is to serve the governed.”).

ability to discharge that role. If I am right, we stand in need of a new account of authority. In the second half of this paper, I make a preliminary attempt to sketch one. The key move is to direct our attention to roles that people play, rather than roles that authority plays. That may sound mysterious, but I shall leave it so for now. Before we develop a new account of authority, we must put Raz's to rest.

I. The Service Conception of Authority

To understand the service conception, it helps to start where Raz did — with a purported paradox about the compatibility of reason and authority. Raz puts the problem this way:

To be subjected to authority, it is argued, is incompatible with reason, for reason requires that one should always act on the balance of reasons of which one is aware. It is of the nature of authority that it requires submission even when one thinks that what is required is against reason. Therefore, submission to authority is irrational.³

In responding to this alleged paradox, Raz observes that one is not necessarily required to act on the balance of *all* the reasons of which one is aware. This is because some reasons exclude others as proper grounds for action. Authoritative orders, Raz argues, are compound; they are both first-order reasons to act as the order requires and second-order exclusionary reasons not to act on (at least some) countervailing considerations.⁴ Raz captures the exclusionary effect of authoritative orders in his *preemption thesis*: "The fact that an authority requires performance of an action is a reason for its performance which is not to be added to all other relevant reasons when deciding what to do, but should replace some of them."⁵ If the preemption thesis is

3. Joseph Raz, *The Authority of Law: Essays on Law and Morality* (Oxford: Clarendon Press, 1979), 3. Another paradox has it that authority is incompatible with autonomy. Raz offers essentially the same answer to both.

4. *Ibid.*, 21–27.

5. Joseph Raz, *Ethics in the Public Domain: Essays in the Morality of Law and Politics*

true, authority and reason are not incompatible: one must act on the balance of non-excluded reasons, and an authoritative order does not require otherwise.

The preemption thesis tells us what an authoritative order does, but it does not tell us which claims to authority are legitimate (or, if you prefer, which authorities are legitimate). That is, it does not tell us whose orders have the power to preempt. Raz answers that question with the normal justification thesis: "The normal and primary way to establish that a person should be acknowledged to have authority over another person involves showing that the alleged subject is likely better to [conform] 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, than if he tries to follow the reasons which apply to him directly."⁶ That is a mouthful, but the idea is simple: a claim to authority is legitimate if the subject would better conform to reason by following the alleged authority's orders than by deciding what to do on her own. There are many ways an authority might help a subject conform to reason. Among the more important tools in an authority's kit are expertise, freedom from bias, and an ability to solve coordination problems.⁷

One final thesis rounds out the service conception. The normal justification thesis tells us that the legitimacy of an authority rests on its ability to help subjects conform better to reason's requirements than they otherwise would. It is hard to see how an authority would achieve that aim without taking into account the reasons that apply to its subjects. Thus, Raz's dependence thesis: "All authoritative directives should be based, among other factors, on reasons which apply to subjects of those directives and which bear on the circumstances (Oxford: Clarendon Press, 1994), 214.

6. *Ibid.* For reasons explained in Scott Hershovitz, "Legitimacy, Democracy, and Razian Authority", *Legal Theory* 9 (2003): 201–220, 206, I have substituted 'conform' where Raz originally had 'comply'.

7. These are the first, second, and fifth entries on Raz's list of "common reasons capable of establishing the legitimacy of an authority". Raz, *The Morality of Freedom*, 75.

covered by the directives.⁸ Taken together, the normal justification thesis and the dependence thesis articulate a vision of the role of authority: an authority considers the reasons that apply to its subjects and issues orders that help them conform better to those reasons than they could on their own.⁹

II. The Proceduralist Objection

Raz presents the normal justification thesis as a test for the legitimacy of an authority of any sort. It can be used to judge a doctor's authority over a nurse, a conductor's authority over players in her orchestra, and the state's authority over its citizens. The generality of Raz's account is attractive, but it may be a vice as much as a virtue. Consider this: many think that democracies have special claims on the allegiance of their citizens, yet the service conception does not admit such an argument. To be counted legitimate by the normal justification thesis, a democratic authority, like any other, must issue directives that help subjects conform to reason. Democracies, on Raz's view, have a leg up on other political arrangements only to the extent they produce better results.¹⁰

We might think, however, that well-constructed democracies can claim legitimacy on other grounds. In an earlier essay, I argued that in a political community, making decisions together is often more important than getting them right.¹¹ Resolving conflict through democratic procedures expresses and respects our "status as political equals"¹² as well as our shared interest in autonomously controlling our own

8. Raz, *Ethics in the Public Domain*, 214. Raz argues for the dependence thesis independently of the normal justification thesis and preemption thesis, but I find it more natural to think of it as following from them.

9. See Raz, *The Morality of Freedom*, 55–56.

10. Raz has good company here. See, e.g., Richard Arneson, "Democracy is Not Intrinsically Just", in *Justice and Democracy*, eds. Keith Dowding et al. (Cambridge: Cambridge University Press, 2004), 40–58.

11. Hershovitz, "Legitimacy, Democracy, and Razian Authority", 216–219.

12. Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge, MA: Harvard University Press, 1996), 18.

lives.¹³ Those values are so important, I suggested, that we have reason to prefer democracy even if decisions taken by other means might be superior.¹⁴

This is not the place to rehash those arguments.¹⁵ Whether I am right about democracy or not, the normal justification thesis is blind to the possibility that an authority's legitimacy may depend as much on how it makes decisions as on what those decisions are. In applying the thesis, one asks whether subjects will better conform to reason by following an authority's directives; one does not inquire into the process that shapes the authority's orders. Yet when we debate the legitimacy of a political authority, we spend a lot of time discussing procedural matters: eligibility to vote, qualifications for office, campaign finance, transparency of decision-making, and so on. Perhaps these conversations are misguided. That, however, is a substantive question of political morality. Our theory of authority should not rule out the possibility that legitimacy depends on process, in addition to (or instead of) substance. This is the *proceduralist objection* to the normal justification thesis.¹⁶

Though it is not always presented this way, the proceduralist objection challenges the fundamental claim of the service conception — that the role of authority is to help subjects conform to reason. Political

13. See Scott J. Shapiro, "Authority", in *The Oxford Handbook of Jurisprudence and Philosophy of Law*, eds. Jules Coleman and Scott Shapiro (Oxford: Oxford University Press, 2002), 382–439, 437–438.

14. Of course I have much company here. Arneson provides a helpful guide to such arguments. See his "Democracy is Not Intrinsically Just", 41–42, and the sources cited in the accompanying notes.

15. For a skeptical look at arguments like these, see *ibid.*, 48–58.

16. For other versions of the proceduralist objection, see Samantha Besson, "Democracy, Law and Authority", *Journal of Moral Philosophy* 2 (2005): 89–99; Thomas Christiano, "The Authority of Democracy", *Journal of Political Philosophy* 12 (2004): 266–290; Jeremy Waldron, "Authority for Officials", in *Rights, Culture, and the Law: Themes From the Legal and Political Philosophy of Joseph Raz*, eds. Lukas H. Meyer et al. (Oxford: Oxford University Press, 2003), 45–70, 63–66; and Shapiro, "Authority", 431–39. For a related argument, see Andrei Marmor, "Authority, Equality, and Democracy", *Ratio Juris* 18 (2005): 315–345, esp. 317–18, 342–44.

authorities, a proceduralist might say, have a different role to play. They respond to what Jeremy Waldron has called the *circumstances of politics* — “the felt need among the members of a certain group for a common framework or decision or course of action on some matter, even in the face of disagreement about what that framework, decision or action should be.”¹⁷ The role of a political authority, on this view, is to arbitrate disputes among subjects fairly, in ways that respect their autonomy and fundamental equality.¹⁸ It would be wonderful if, in the course of doing so, political authorities also helped subjects conform to reason, but that is not their primary purpose, and their legitimacy does not depend on their doing so. A political authority may be legitimate even if it fails to play the role Raz’s account envisions, and it may lack legitimacy notwithstanding the fact that it plays it well.¹⁹

Raz has recently offered two responses to the proceduralist objection. First, he says, “[i]t is ... no accident” that his “account of authority makes no special reference to democratic authority.”²⁰ This is because he considers it “of vital importance that we ... not fall prey to ... democratic rhetoric, and maintain a clear-sighted and critical perspective on the nature of democratic institutions.”²¹ We must, Raz says, “acknowledge the possibility that what pass for democratic regimes could completely lack legitimacy.”²²

Of course Raz is right. Any newspaper reader knows that elections do not guarantee good government; far from it. But we can sustain a clear-sighted view of real-world democracies without abandoning the proceduralist thought, well put by Scott Shapiro, that a political

authority’s legitimacy should not be “judged exclusively, or maybe even primarily, by its *output*, but rather by its *input*.”²³ Moreover, we can think that procedure matters without denying that a democratic regime which governs poorly lacks legitimacy. Indeed, there are strong reasons to think that an adequate test for the legitimacy of political authority will take into account matters of procedure *and* substance.²⁴

Raz’s second response to the proceduralist objection is more intriguing. Its proponents, he says, “underestimate” the service conception’s “suppleness.”²⁵ Democratic governments, he declares, may in fact “enjoy some qualified or limited authority ... because of their ability to give expression to people’s standing as free autonomous agents, or [because of] whatever other values they serve.”²⁶ At first glance, it is difficult to see what Raz could mean, as the normal justification thesis assesses the instrumental value of an authority’s directives, not the procedures that give rise to them. The key to understanding Raz’s claim lies in two examples he offers. “Some people believe,” he says, “that one has a duty to obey anyone who is elected by a majority... If that is so it simply shows that the conditions of the service conception are met regarding anyone who is so elected.”²⁷ Likewise, if members of a certain group have a duty arising from historical circumstances to obey a particular institution, Raz claims, the normal justification thesis is satisfied because “[b]y obeying that ... institution, one is discharging that duty.”²⁸

We can generalize the point behind Raz’s examples as follows: If one has a duty to obey an authority, the authority satisfies the normal justification thesis because obedience helps one to conform better to the reasons one has (which *ex hypothesi* mandate obedience) than one

17. Jeremy Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999), 102.

18. See Shapiro, “Authority”, 432–433.

19. Which is to say, satisfaction of the normal justification may be neither necessary nor sufficient for legitimate authority.

20. See Joseph Raz, “The Problem of Authority: Revisiting the Service Conception”, *Minnesota Law Review* 90 (2003): 1003–1044, 1031.

21. *Ibid.*

22. *Ibid.*

23. Shapiro, “Authority”, 434.

24. See Christiano, “The Authority of Democracy”.

25. Raz, “The Problem of Authority: Revisiting the Service Conception”, 1030.

26. *Ibid.*, 1031 n. 20.

27. *Ibid.*, 1031.

28. *Ibid.*, 1030.

otherwise would. On this understanding of the normal justification thesis, the proceduralist objection loses its force. If people are obligated to obey the directives of well constituted democratic political authorities (as the proceduralist contends), then they will better conform to the reasons they have (which *ex hypothesi* mandate obedience) by following the authority's directives than by going it alone.

But notice this: Raz's new approach blunts the proceduralist objection only at the expense of making the normal justification thesis nearly empty. To decide whether the thesis is satisfied, it is no longer enough to determine whether compliance with authoritative directives will allow a subject to conform better to the reasons she has *on the matter the directive regards*. We can no longer decide whether, for example, financial regulations are authoritative by asking if banks would conform better to what reason requires of them in their financial activities by following the regulations than by governing their affairs on their own. We must also consider, in this case and in every other, whether a further criterion of legitimacy (not specified by the normal justification thesis) gives rise to a duty for the subject to comply, irrespective of the instrumental value of the authority's directives. So understood, the normal justification thesis ceases to be a competitor with other theories of legitimacy; instead, it subsumes any theory of legitimacy that turns out to be true.²⁹

The best that can be said of the normal justification thesis, on this view, is that it reports a very general truth about legitimate authorities (*i. e.*, subjects will do better with respect to reason by conforming to their directives). However, Raz has grander ambitions for the thesis than that. He presents it as an answer to the question "How can it ever be that one person has a duty to subject one's will and judgment to those of another?"³⁰ But the normal justification thesis hardly answers that question if it can be satisfied simply because an authority passes some other test for legitimacy. In those cases, the fact that subjects

29. For another version of this objection to Raz's new view, see Hershovitz, "Legitimacy, Democracy, and Razian Authority", 219–220.

30. Raz, "The Problem of Authority: Revisiting the Service Conception", 1012.

conform better to reason by following orders is a consequence of the authority's legitimacy, not the ground of it. Of course people who are under a duty to comply with the directives of an authority will conform better to reason by doing so than by not. The question is what could make it the case that people are under such a duty. The normal justification thesis, as Raz now construes it, provides little guidance.³¹

Perhaps Raz is willing to accept a pyrrhic victory over the proceduralist objection. Remember that he conceived the service conception partly in response to the claim that authority and reason are incompatible. Not so, said Raz, because sometimes reason demands that one obey an authority, rather than act on the balance of all the reasons of which one is aware. Whether reason demands obedience to an authority in virtue of its inputs or outputs, the fact that reason demands obedience shows that reason and authority are compatible. That is all that is necessary to refute the paradox of authority, and perhaps that is all that Raz wants his account to do.

If Raz wants us to read the normal justification thesis to say that one ought to obey an authority whenever reason demands that one do so, I see no possible objection. But I also do not see the theoretical appeal. I am inclined to stick with the narrower reading of the normal justification thesis, which keys an authority's legitimacy to its ability to help subjects conform to reasons that bear on the matter at hand.³²

31. When the thesis is satisfied directly, rather than derivatively by the satisfaction of some other test for legitimacy, it may do some explanatory work. In those cases (*i. e.*, the ones that satisfy the narrower reading of the thesis), the authority's legitimacy is straightforwardly a consequence of its ability to help subjects conform to reason. That is why I say that the normal justification thesis, as Raz now construes it, is nearly empty, rather than wholly so. David Enoch helpfully pressed me on this point.

32. In conversation, several people have proposed that Raz has not revised his understanding of the normal justification thesis — that his new gloss is the same as the old. I find that suggestion baffling. The normal justification thesis is so called because, according to Raz, it articulates the "normal and primary" way of justifying authority, and Raz has long marked some justifications as deviant. See *The Morality of Freedom*, 56. Yet, on Raz's new reading, the normal justification thesis is satisfied by any justification for authority. Thus, it is no longer possible to distinguish between authorities justified on deviant grounds and those that satisfy the normal justification thesis. In other words,

That reading leaves the service conception subject to the proceduralist objection. But as we shall see later the normal justification thesis, read narrowly, may play a part in a new account of authority that is not subject to that objection.

Before we move on, it is worth pausing to consider the impact the proceduralist objection has on the dependence thesis. That thesis, you will recall, holds that an authority should base its decisions at least in part on reasons that independently apply to subjects and bear on the matter at hand. As we saw earlier, that makes sense if an authority's role is to help subjects conform to those reasons. But if, as the proceduralist contends, some authorities have other roles to play, the argument in favor of the dependence thesis loses its force, at least as to them. Moreover, Raz's attempt to save the normal justification thesis hangs the dependence thesis out to dry. Raz now allows that an authority may be legitimate for reasons wholly unrelated to its ability to help subjects conform to reason on the matters its directive regard. That allowance undermines the best case for the dependence thesis — that an authority's legitimacy turns on helping subjects conform to "reasons ... which bear on the circumstances covered by [its] directives".³³ As I said, the normal justification thesis may play a part in an account of authority that avoids the proceduralist objection, and the dependence thesis might too. Before we get there, however, another objection to the service conception warrants our attention.

there is no reason to call it the *normal* justification thesis. Moreover, Raz's independence condition — which denies legitimacy to an authority that satisfies the normal justification thesis if it is more important that a subject make a decision for herself than make it well — is only necessary if one understands the normal justification thesis to be keyed to reasons that bear on the subject of the decision. If one takes the wider view and treats the thesis as encompassing reasons about how to make decisions, the independence condition is superfluous, as the normal justification thesis is never satisfied when it would be triggered. On the independence condition, see Raz, "The Problem of Authority: Revisiting the Service Conception", 1014–1016.

33. Raz, *Ethics in the Public Domain*, 214.

III. Darwall's Objection

The proceduralist objection says that political authorities may have roles to play beyond helping subjects conform to reason. But even if that is true, it seems equally true that helping people to do what reason requires is a good role for an authority to play. Thus, one might think that when no other role takes priority, authority may be grounded in an ability to help subjects conform to reason. But it turns out that is wrong. Stephen Darwall has developed an objection to Raz's account of authority that poses a more fundamental challenge than the proceduralist objection. Satisfaction of the normal justification thesis, Darwall argues, does not establish authority under any circumstance, because it is insufficient to ground a right to rule or an obligation to obey.

Darwall distinguishes three theses:

- I. If B would do better in complying with independently existing reasons were B to treat A's directives as pre-emptive reasons, then B has sufficient reason so to treat A's directives.
- II. If B would do better in complying with independently existing reasons were B to treat A's directives as pre-emptive reasons, then A's directives actually are such pre-emptive reasons for B.
- 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.³⁴

For purposes of argument, Darwall stipulates that the first and second theses are true. But Darwall says the third thesis, which is essentially the normal justification thesis, is false. Darwall draws on one of Raz's examples to make his case.

34. Stephen Darwall, "Authority and second-personal reasons for acting", in *Reasons for Action*, eds. David Sobel and Steven Wall (Cambridge: Cambridge University Press, 2009), 150.

Raz asks us to imagine that “John is an expert on Chinese cooking,” and that if one “want[s] nothing but to prepare the best Chinese meal ... then [one] should just follow John’s instructions.”³⁵ Darwall adds this supposition: A person, call her Sara, “has no reason to do anything other than prepare the best Chinese meal.”³⁶ If that is so, John’s instructions create preemptive reasons for Sara. But that does not mean that John has authority over Sara, in the sense that he has a right to rule and Sara an obligation to obey. Darwall explains as follows:

Of course, [Sara] would be foolish not to follow [John’s] instructions. But if [she] didn’t it is difficult to see why John would have any standing to complain or otherwise hold [Sara] to account. Raz says that those with practical authority “have the right to replace people’s own judgment on the merits of the case.” But what *right* could John have in such a case? ... It follows from our stipulations that John’s instructions are not mere advice; they provide pre-emptive reasons. But it is hard to see how that gives John any right to [Sara’s] compliance with his directives or [Sara] any obligation to comply with them.³⁷

We might put Darwall’s point this way: Sara has reason to act *as if* John has authority over her. But on these facts there is no reason to think John actually has a right to rule and Sara an obligation to obey. Moreover, there are practical differences between its merely being rational for Sara to act as if John has authority and his actually having it. Only if John actually has a right to rule will Sara’s failure to obey confer on him the special standing to seek redress that belongs to who has been wronged.³⁸

35. See Raz, *The Morality of Freedom*, 64.

36. Darwall, “Authority and second-personal reasons for acting”, 151.

37. *Ibid.*, 151.

38. Darwall’s objection echoes an objection Don Regan raised many years ago. See Donald H. Regan, “Authority and Value: Reflections on Raz’s Morality of Freedom”, *Southern California Law Review* 62 (1989): 995–1096.

In a draft paper, Raz has made a stunning concession to Darwall’s argument: “[N]o legitimate authority,” he says, “can be based on superior knowledge alone.”³⁹ Raz appears to have been persuaded on this score by another example Darwall deploys. Darwall imagines that he has reason to provide for his retirement and that he will do so best by following the directives of a financial expert. Here again, it seems that Darwall has reason to treat the financial expert as if she has authority over him, but it does not appear she has right to rule, or Darwall an obligation to obey. Raz concedes that there is no genuine authority here, but the reason he gives is surprising. Raz argues that authority is lacking because the normal justification thesis is not satisfied. Once the financial expert tells Darwall what he ought to do, Raz observes, Darwall knows just as well as she does how he ought to invest. Thus Darwall will not do better by following her directives than by deciding on his own, as he can take account of her expert opinion.⁴⁰

Though Raz no longer defends the claim that superior knowledge grounds authority, he does endeavor to defend his account with respect to a class of cases he says do satisfy the normal justification thesis — those where knowing “that this or that is the better thing to do is [not] independent of instructing people to do this or that.”⁴¹ Raz has in mind instances in which “what makes the action best is its role in a co-ordination scheme, and the co-ordination scheme is the one to follow because it is the one the authority instructed people to follow.”⁴² If I understand Raz correctly, his new view is that the normal justification

39. Joseph Raz, “The Possibility of Partiality” (unpublished manuscript, Columbia University), 21, available at <http://josephnraz.googlepages.com/ThePossibilityofPartiality-temp.pdf>. Raz has generously agreed to allow me to quote from and discuss this early, incomplete draft. Of course, caution is in order as the draft may not reflect his considered views.

40. Raz’s argument assumes that Darwall knows that the person issuing directives is a financial expert and that he is disposed to defer to her expertise. Otherwise, he may still do better complying with her directives than he would deciding for himself.

41. Raz, “The Possibility of Partiality”, 20.

42. *Ibid.*

thesis is satisfied only where the act of instruction in part determines that the instructed act is the right thing to do. That it is best to invest money for one's retirement in a certain index fund is true independently of whether one has been instructed to invest in that fund. That it is best to drive on the right side of the road is true only in virtue of the fact that one's having been so instructed makes it likely that others will too.

Though I have doubts about Raz's concession,⁴³ there is no harm in restricting our attention to the set of cases that he now says satisfy the normal justification thesis. Darwall's objection poses the same challenge whether the ground for authority is expertise or coordination. To see this, suppose the legislature issues a directive requiring everyone to drive on the right side of the road. Of course, one would be foolish not to follow it; most everyone else will. Thus, one ought to treat the legislature's instruction as if it is binding. But the point of Darwall's argument is that the fact that one is justified in treating a directive as if it is binding does not entail that it actually is so. To establish that there is authority in these cases, Raz must explain how it is that an authority acquires the right to bind subjects simply in virtue of the fact that they would be foolish not to treat it as if it had that right.

Raz's draft contains a sketch of an argument that aims to do just that. Raz thinks that for a person to have a right, she must have an "interest ... sufficient to ground a duty to protect or secure that interest in a significant way."⁴⁴ Thus, he takes the task of establishing that a person has a right to rule to call for showing that the person has an interest in a subject's obedience. What interest will do the trick? As Raz sees it, "[T]he rights of authorities over their subjects do not derive from the interests of the people in authority. Rather they derive from the interests of the authority, which is to be a good authority."⁴⁵ Further, he says, the "[d]uty ... owed to [an] authority ... arises out of the right

of the authority to direct its subjects, which right is itself in the interest of those subjects, each and every one of them. It is in a manner of speaking a duty you owe to yourself because — according to the service conception — the authority is your servant, and in defying it you fail yourself."⁴⁶ If I understand these passages, Raz's argument runs like this: To show that John has a right to Sara's obedience, we must show that he has an interest in Sara's doing as he instructs. John has an interest in being a good authority. To be a good authority, John must help Sara conform to reason. He helps Sara conform to reason only if she follows his orders. Thus, John has an interest in Sara's obedience that is derivative of his interest in being a good authority.

I find this argument perplexing. Raz paints a picture in which an authority has interests that are derivative of the interests of its subjects, so that if it is in the interest of subjects to obey, it is in the interest of the authority to be obeyed. But Raz has long rejected the "claim that authorities should always act in the interest of their subjects."⁴⁷ Rather, he has argued, that authoritative orders "should reflect reasons that apply to their subjects, but they need not be reasons advancing their interests."⁴⁸ (He offers the example of a military commander who orders his soldiers to charge a hill, putting their reasons to defend their country above their personal interests.)⁴⁹ Thus, a premise in Raz's argument — that "the right of the authority to direct its subjects ... is itself in the interest of those subjects"⁵⁰ — seems, by his own lights, wrong.

But suppose we move past that and assume that subjects have an interest in obeying authorities that can help them conform to reason, and that those authorities have a derivative interest in their subjects' obedience. Raz's response to Darwall is still perplexing, as it is subject to Darwall's objection: That John has an interest in Sara's obedience

46. *Ibid.*

47. Raz, *The Morality of Freedom*, 48.

48. *Ibid.*

49. *Ibid.*, 43, 48.

50. Raz, "The Possibility of Partiality", 18.

43. See above, note 40.

44. Raz, "The Possibility of Partiality", 9.

45. *Ibid.*, 18.

does not entail that he has a right to it. I presume that Raz would agree, as he says that to have a right, one must have an interest “sufficient to ground a duty to protect or secure that interest in a significant way.”⁵¹ Thus, showing that John has an interest in Sara’s obedience does not establish that he has a right to it, even on Raz’s picture. Raz has never “offered a general characterization of what it takes for the interest of a person to be sufficient grounding for a duty to protect or promote it.”⁵² Sufficiency here cannot be a matter of weight alone, both because there is no reason to think that an authority’s interest in obedience is necessarily weighty, and because many weighty interests are not protected by rights.⁵³ Thus, the interests that are sufficient to ground rights must be different in kind from the interests that are not. But Raz does not explain why an authority’s derivative interest in a subject’s obedience is the kind that grounds a right. In the best case scenario, Raz’s answer to Darwall is incomplete. He cannot be judged to have overcome Darwall’s objection until he shows that the kind of interest an authority has in a subject’s obedience establishes a right to it.

Unfortunately, I do not think we are in best-case–scenario territory here, as Raz’s response to Darwall has a flaw quite apart from the fact that it too seems subject to Darwall’s objection. Raz’s argument is question-begging at the crucial step. Raz says that the rights of an authority do not derive from the personal interests of those in authority, but rather “from the interests of the authority, which is to be a good authority.”⁵⁴ But one only has the “interests of the authority” if one *is* the authority, and that is of course what is under debate. To establish John’s authority over Sara we cannot appeal to an interest we attribute to him on the ground that he is an authority. However, that is just what Raz’s argument does.

Raz might try to escape the charge that his argument is

51. *Ibid.*, 9.

52. *Ibid.*

53. For example, when I proposed to my wife, I had a strong interest in her saying “yes,” but no right that she do so.

54. *Ibid.*

question-begging by saying that John has an interest in being a good authority, not because he is an authority, but because he has an interest in being an authority. (Presumably one who has an interest in being an authority also has an interest in being a good one.)⁵⁵ But on the limited facts we have, there is no reason to think that John has any interest whatsoever in being an authority for Sara. True, he would be a good authority for her, but that does not entail that it is in his interest to be so. Suppose that among my colleagues, I would make the best Dean. That does not entail that I have an interest in being Dean. Indeed, being appointed Dean might be against my interests, even if I would be good at it. We confront a similar problem if we try to save Raz’s argument by positing that when he refers to the “interests of an authority”, he means the interest of a *de facto* authority, rather than a legitimate one. It might be true that one who has *de facto* authority ought to aim at being a good authority, though I doubt that it always the case. But even so, it does not follow that it is in the interest of all those who have *de facto* authority to exercise it well. If I happen to find myself Dean, my interests might be best served by flubbing the job so badly I get relieved of the post.

Raz’s response to Darwall’s objection is beset by problems, but an alternative approach might seem more promising. According to the normal justification thesis, a subject is obligated to obey an authority if doing so would help her conform to reason better than she otherwise would. Darwall points out that the fact that it is rational for a subject to follow orders does not entail that she is obligated to do so. But suppose we revise the normal justification thesis to say that one is obligated to obey an authority if doing so would help one discharge one’s preexisting obligations better.⁵⁶ We might be able to get an obligation out if we put an obligation in.⁵⁷

55. For example, Barack Obama had an interest in being President before he became President. Presumably, he also then had an interest in being a good President.

56. Darwall, “Authority and second-personal reasons for acting”, 151.

57. See Bernard Williams, *Ethics and the Limits of Philosophy* (London: Fontana

Unfortunately this strategy is doomed to fail, too. Go back to the financial expert. Presumably, Darwall does not just have reasons to adopt a good plan for retirement; he has an obligation to do so. Thus, it might seem that if a financial expert's instructions could help Darwall discharge this obligation better than he otherwise would, Darwall would be obligated to follow them (obligation-in, obligation-out). Perhaps, but the obligation Darwall has in this scenario is not owed to the financial advisor. The underlying obligation to plan for his retirement is (presumably) owed to his family. It may be that to discharge that obligation, Darwall is obligated to seek assistance from an expert, but given that there are many people who could help, there is no reason to think that he is obligated to follow the instructions of any particular expert. And even if Darwall had such unique financial circumstances that only one person had the expertise to plan his retirement, we would still fall short of establishing that person's authority over him. Remember that authority consists in a right to rule and a correlated obligation to obey. Here we would have an obligation on the part of Darwall to obey, but one pointed in the wrong direction, with no correlated right to rule for the financial adviser. Darwall's family might demand that he follow the financial expert's instructions, but the financial expert would have no claim on his obedience. If there is a lesson here, it is that an account of authority must address the normative status of both ruler and ruled.

IV. Raz as a Revisionist

We are close to being able to conclude that Darwall's objection is fatal to Raz's account, but there is one avenue of response we have yet to consider. To this point, we have left the notions of a right to rule and an obligation to obey unanalyzed. We have proceeded as if Raz and Darwall are joining issue on the question whether satisfaction of the normal justification thesis gives rise to the twinned pair. It is possible,

Press, 1985), 181 (discussing "the *obligation-out, obligation-in* principle"). See also Stephen Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, MA: Harvard University Press, 2006), 59 and n. 33.

however, that Darwall and Raz are talking past one another because they construe the components of authority differently. In fact, I think this is what is going on, but diagnosis of the disagreement does not aid Raz's case.

One might think that a person who possesses a right to rule has a claim on the obedience of those against whom they hold the right. That is, I think, the most natural interpretation of the phrase, and it is the one that Darwall adopts when he speaks of the right of an authority to a subject's compliance. Raz sometimes appears to have the same view: he says that authority involves an "appeal to compliance" which "makes sense precisely because it is an invocation of the duty to obey."⁵⁸ But Raz ultimately construes the right to rule as "a moral power to issue obligation- or duty-imposing directives", not as a claim on subjects.⁵⁹ That interpretation places the Chinese-cooking example in a different light. Recall that John is an expert in Chinese cooking and Sara has reason to do nothing but cook the best Chinese meal. Darwall stipulates that John's directions are preemptive reasons for Sara, but he argues that authority is lacking. For Raz, however, the ballgame is over once Darwall stipulates that John's instructions are preemptive reasons. This is because Raz understands obligations in essentially the same way as Darwall understands preemptive reasons: both are compounds of first-order reasons for action and second-order exclusionary reasons.⁶⁰ So in assuming that John's instructions are preemptive reasons for Sara, Darwall has assumed that John has the power Raz

58. Raz, *The Morality of Freedom*, 26.

59. Stephen Perry, "Political Authority and Political Obligation" (unpublished manuscript, University of Pennsylvania), 5, available at <http://www.kcl.ac.uk/content/1/c6/05/34/35/alpc2009perrypaper.pdf>. See also Raz, *The Authority of Law*, 16–20.

60. In Raz's terminology, obligations are categorical protected reasons. And Raz means by protected reasons what Darwall means by preemptive reasons. See J. Raz, "Promises and Obligations", in *Law, Morality, and Society: Essays in Honour of H.L.A. Hart*, eds. P.M.S. Hacker and J. Raz (Oxford: Clarendon Press 1977), 210–228; Stephen Darwall, "Authority and Reasons: Exclusionary and Second-Personal", *Ethics* 120 (2010): 257–278.

thinks authority consists in — the power to issue obligation-imposing directives.⁶¹

As Darwall acknowledges, Raz's account is more plausible if one thinks of it as an account of preemptive reasons.⁶² The problem comes in thinking that an account of a moral power to create preemptive reasons amounts to an account of authority. As Jules Coleman observes, for Raz, authority involves "a relationship between reasons and persons", whereas the "ordinary notion of authority ... is a relationship primarily between or among persons."⁶³ When a right to rule is understood as a claim on a subject's obedience, it structures a relationship between people: the subject owes obedience, which the authority has standing to demand; disobedience is ground for complaint, if not punishment. In contrast, when the right to rule is understood simply as a moral power to change others' reasons, it does not structure a relationship among people. That I have a moral power to change your reasons does not warrant my making any demands on you, nor give you any obligations to me. Intriguingly, Raz has suggested that some obligations are "constituent elements of special human relations (husband-wife, parent-child, leader-led)" whose existence is grounded in the "intrinsic desirability of forms of life in which people create or acknowledge special bonds between them."⁶⁴ However, when it comes to analyzing authority, Raz does not follow through on this suggestion.⁶⁵ He leaves the relationship between authority and subject by the wayside, and because he does, his account of authority is less an elaboration of the ordinary concept than a revision of it.

61. I have been helped here by conversation with John Gardner.

62. See Darwall, "Authority and second-personal reasons for acting", 153. However, Darwall thinks that his stipulation that John's directives create preemptive reasons is false. See Darwall, "Authority and Reasons: Exclusionary and Second-Personal".

63. Jules L. Coleman, "Beyond Exclusive Legal Positivism", (unpublished manuscript, Yale University), 18.

64. Raz, "Promises and Obligations", 228.

65. The account of authority I sketch in the next section takes up Raz's suggestion.

Perhaps revision is in order. Some think that we cannot give an account of authority that takes the traditional notions of a right to rule and an obligation to obey seriously.⁶⁶ I am not ready to give up yet. The rest of this paper is an attempt to elaborate the ordinary concept of authority in a way that avoids both the proceduralist objection and Darwall's.

V. Roles of Authority

I am persuaded that Raz is wrong to think that the role of authority is to help subjects conform to reason, and that he is wrong to think that an ability to play that role is sufficient to establish authority. Thus, we need a new start. I do not think it promising to cast about for an alternative role that authority might play. It may be true that authority always has some role to play, but Darwall's objection suggests that the capacity to play a role cannot ground authority. Even if someone is well suited to the role and proposes to play it, we can always ask, "Why is that your role to play?" This is true whether or not the role in question is helping subjects conform to reason, arbitrating disputes, or something else entirely. Moreover, the take-home lesson of the proceduralist objection is that different sorts of authorities play different roles. Thus, we cannot build a general account of authority on a claim about the role authority plays. I do, however, think that the key to understanding authority lies in roles, but it is in roles that people play, not in roles that authority plays. Authority is a feature of roles embedded in practices. To justify authority, we need to justify the practices in which roles of authority are embedded.

Take parental authority as an example.⁶⁷ Suppose we are asked to

66. See Regan, "Authority and Value: Reflections on Raz's Morality of Freedom", 1020.

67. Parental authority may seem an odd example, due to children's diminished rationality. Thus, one might worry that a demonstration that parental authority can be justified tells us little about other sorts of authority. Perhaps, but the aim here is not to justify parental authority. Rather, it is to develop a strategy for doing so, and the strategy can be transposed to other contexts, even if arguments in support of parental authority can not be.

explain why a mother has authority over her ten-year-old daughter. We might be tempted to give a Razian answer: She knows better. The daughter will conform better to reason's requirements by following orders (brush your teeth, go to bed at 8 p.m., don't talk to strangers) than by deciding how to act on her own. But the Razian answer proves too much. If relative competency established parental authority, a great many adults (nearly all, in fact) would have parental authority over any given child. Typically, of course, only one or two do. Here we see another challenge for Raz's account: If several people are able to play a role, we need a method of choosing among them. It is not clear that the normal justification thesis can account for the fact that children are subject to the authority of their parents, not to the authority of all those who could parent well.⁶⁸ Even if we could overcome the problem of tying children to their parents, the Razian explanation faces a further, and more decisive, problem — Darwall's objection. A daughter may be foolish not to follow her mother's orders, but that is not enough to establish the mother's authority.

An alternative strategy for justifying parental authority inverts Raz's. Instead of focusing on the child's reasons to do as the parent says, we might focus on the parent's reasons to make demands. Parents have reasons to promote their children's wellbeing, and parental authority helps them do so. Thus, we might say, parents will do better with respect to the reasons that apply to them if they make demands on their children, and this gives us a reason to recognize them as having the authority to make demands. This approach fares better than the Razian strategy, in that it ties particular parents to particular children.⁶⁹ But it has its own problems. *De facto* authority is probably sufficient to promote a child's welfare. No doubt parenting well requires some success securing compliance with one's orders, but success at that may

68. Children are often subject to the authority of other adults, but competence cannot ground a teacher or babysitter's authority any more than a parent's.

69. This assumes that parents have reasons to promote their own children's welfare, separate and apart from the reasons they have to promote the welfare of children generally.

be only loosely related (if at all) to the question whether the child is morally bound by those orders. And setting that aside, Darwall's objection rears its head yet again. That it is desirable for a parent to make demands on her child does not establish her authority to do so. As Darwall puts it, "The most that [desirability] can ground is the desire to be able to demand something, not any demand ... itself."⁷⁰

We cannot ground parental authority in the instrumental value of parents' making demands or of children's doing as they are told. The most that instrumental value can explain is why parents and children should behave as if parents have authority; it does not establish that parents actually have a right to rule and children an obligation to obey. So we need a new strategy. Let us start with this observation: 'Parent' and 'child' are descriptions of people that stand in certain biological, social, or legal relationships to one another. But 'parent' and 'child' also name roles that are embedded in a practice. Actually, they name roles that are embedded in many practices, but let us focus on just one — the family. Families are structured by roles — parent, child, brother, sister, uncle, aunt, etc. Roles have normative attributes — rights, powers, obligations, and so on.⁷¹ Some roles' normative attributes include the components of authority. Parents, as part of their role, have a right to rule; children, as part of theirs, an obligation to obey. In the practice we are imagining (but which should be familiar), it is built in that parents have authority over their children.

Of course the fact that there is a practice in which parents have authority over their children does not establish that a parental claim to authority is justified. The practice, after all, may not be. Here we can draw the distinction between *de facto* and legitimate (or *de jure*) authority. To say that one person has *de facto* authority over another is to say that both participate in a practice whose roles are such that the first person has a right to rule and the second an obligation to obey. A person with *de facto* authority also has legitimate authority if the practice

70. Darwall, *The Second Person Standpoint*, 312.

71. I have been influenced in this section by Michael O. Hardimon, "Role Obligations", *Journal of Philosophy* 91 (1994): 333–363.

and their participation in it is, in some sense, justified. The challenge is to figure out what kind of justification is necessary for socially constituted roles to have genuine normative bite. When do people actually have the rights and duties associated with roles they occupy?

We have to tread carefully here because we do not want to give an answer that is subject to Darwall's objection. We cannot, for example, show that the roles in a practice that structure a relationship of authority have genuine normative bite merely by showing that people would be better off if they occupied those roles. That a child would do better by following her mother's orders is reason, as we have seen, for the child to treat her mother as if she has authority, but it does not establish the mother's authority. To put the point another way, that it would be foolish not to occupy a role does not establish that one has the rights and duties associated with it.

To overcome Darwall's objection, we can adopt one of two strategies. If a practice is morally permissible and people have chosen to participate in it, then it makes sense to attribute the rights and duties associated with the roles in the practice to the people occupying them. Think here of people who have joined a soccer club, knowing that officers in the club have the right to set dues and decide where games shall be played. Of course, the instrumental value of a practice may play a part in determining whether it is morally permissible. However, this approach avoids Darwall's objection because our attribution of the rights and responsibilities associated with the roles does not depend solely on the instrumental value of the practice. It depends as well on people's choice to occupy the relevant roles, and on the absence of any moral considerations that negate or trump either the instrumental value of the practice or the choice to participate in it.

The alternative strategy covers cases where people have not chosen to participate in the relevant practice. Perhaps they do not participate in it at all, or perhaps they do, but not by choice. In those cases, it will not be enough to show that the practice is morally permissible. To ascribe the normative attributes associated with roles to people who have not chosen to occupy them, we must show that their participation

is mandatory, such that they are not free to reject the roles that the practice assigns them. Here again, the instrumental value of the practice may play a part in showing that it is morally obligatory that people participate in it. However, Darwall's objection teaches that the desirability of participating in a practice that structures a relationship of authority is not by itself sufficient to ground an obligation to do so. We need to locate the source of the obligation elsewhere.

With these thoughts in mind, we can again take up the question whether and how parental authority can be justified. I shall focus on the second strategy — showing that it is mandatory for parents and children (understood here biologically, socially, or legally) to participate in a practice that assigns them the roles of parent and child. This is because the first strategy often collapses into the second. In choosing to occupy a role, one may become obligated to occupy it, at least for a while. (An adoptive parent cannot just cast off responsibility for her child.) When that is not true, the normative consequences of occupying a role are tenuous, as one is free to leave it.

This is not the place for a full defense of parental authority, and I would not prejudge whether there is one. But I do want to sketch how the argument might work and note some hurdles that it would face. To this point, I have spoken as if there is a single practice called "the family", but of course 'family' is a family resemblance concept. Families differ across and within different cultures, and the roles involved vary in their normative attributes. Familial roles also shift as the people occupying them age. Identifying the rights and duties associated with the roles is an interpretive endeavor, sensitive both to how families around here operate, but perhaps even more to how *this* family operates, as the practice allows customization.⁷² There is no guarantee that

72. I use the phrase 'interpretive endeavor' because I am inclined to think of the process as akin to the one Ronald Dworkin describes in *Law's Empire* (Oxford: Hart Publishing, 1986), 45–86. If identifying the content of roles is an interpretive endeavor of that sort, the process is not wholly separate from justifying the roles. I have not presented things this way in the text, however, because I do not want to take a view here on whether we should be positivists or anti-positivists about practices that involve roles of authority.

we will form a clear picture of the rights and duties that attach to familial roles, as they may be difficult to discern or even indeterminate. But if we find that relations between two roles are structured so that one person has a right to rule and another an obligation to obey, we will have identified roles of authority and subject.⁷³

Once we have a handle on the normative attributes of the roles of parent and child, we can ask whether participation in a practice structured by those roles is mandatory, given the available options. The last phrase is important, because it might be mandatory for parents and children in one community to participate in a form of the practice, notwithstanding that fact that some other community has a better version. Or at a more fine-grained level, it might be mandatory for a person to occupy the role of daughter in her family, even though the arrangement of roles in a family down the street is superior. Which is not to say that people do not have choices about how roles in their family are structured. Of course they do, but change is hard, and the options available are likely path-dependent.

An argument that parents and children are obligated to participate in a practice that assigns them the roles of parent and child might take many forms. Though there are exceptions, families are not voluntary associations. Children are born into a family or adopted by one. Many parents choose the role, but many do not, either because they did not plan to have children of their own, or because circumstances have thrust others' children upon them. For parents that choose, we might ground an obligation to occupy the role in their commitment to do so. But we need an argument of another sort for children, and for many parents too.

I do not have a quick argument to offer, and it is not clear that there is a general one. (The case of a parent who has a child accidentally

is different from the case of a parent who inherits responsibility for children from a deceased sibling.) One possibility is that parents and children have associative obligations, of the sort described by Ronald Dworkin. That would depend on whether the families in which they find themselves are communities that show equal concern and respect for their members.⁷⁴ Associative obligations are not role obligations, as they are premised on membership in a social group, not on occupancy of a role.⁷⁵ But one might have an associative obligation, arising out of membership in a community, to participate in a practice of that community that assigns one a role to which further obligations attach. Another possibility is that we can ground an obligation through a contractualist argument that aims at the conclusion that parents and children cannot reasonably reject participating in a practice that assigns them those roles. An argument of that form might emphasize that an intrinsic good — a distinctive form of love — is realizable only in the context of a parent-child relationship. Surely there are other arguments to pursue as well. It bears note that any conclusion that parents and children are obligated to participate in a practice that assigns them those roles will be defeasible. A parent might vacate her role if she finds someone else suitable to occupy it; a child might reject her role if her parent is abusive. And, importantly, we should not lose sight of the fact that in some families the roles of parent and child are so poorly constituted, or so thoroughly abused, that people are not obligated to occupy them.⁷⁶

If we find that parents and children are obligated to occupy the roles of parent and child, we are close to showing that parents have authority over children, but we are not necessarily there yet. We are finished if the parent and child in question actually occupy their respective roles. In that case, the parent's *de facto* authority is legitimate (*i. e.*, the roles have genuine normative bite), on account of the fact

73. The relations between such roles will be captured, in part, by Raz's preemption thesis: orders issued by a party with a right to rule will be first-order reasons for action and exclusionary reasons not to act on other considerations. Raz has this aspect of the structure of authority right, and his answer to the paradox surrounding the compatibility of reason and authority is sound, even though the service conception is not.

74. See Dworkin, *Law's Empire*, 196–216.

75. See Hardimon, "Role Obligations", 335.

76. See *ibid.*, 350 and n. 28.

that participation in the practice is mandatory. However, one who is obligated to occupy a role may fail to do so, and when that happens, we are left with a question as to whether such a person has the rights and duties associated with the role they have wrongfully rejected. (In effect, the question here is whether one can have legitimate authority without having *de facto* authority.) We can safely attribute an obligation to obey to those who are obligated to occupy the role of child, whether or not they occupy it. This is because, in general, one cannot avoid the obligations of a role one is obligated to occupy by refusing to inhabit it. In contrast, we cannot attribute a right to rule to a parent who is obligated to occupy the role of parent yet does not, as one only has the rights, powers, and privileges associated with a role if one occupies it. A deadbeat dad retains a father's obligation to support his child, but he is not fully a father, and cannot claim the rights and powers that come with the role. Thus, to show that a parent has authority over a child, we need to show that she actually occupies the role.

It is a tricky question what one must do to occupy a role, and I shall say less than the issue merits here. Some roles are occupied through ceremonial acts — oaths, investiture, and the like. Others, including the role of parent, are inhabited informally. Clearly, one need not identify with a role to occupy it (one can be alienated from one's role), nor does one have to discharge all of the role's obligations. But to occupy a role one must make some effort to act as the role requires; the difficult questions are what kind of effort and how much. It is also possible that one must either hold oneself out as occupying the role or be taken by others to do so.⁷⁷

We have spent a lot of time on parental authority, but the approach we developed is easily generalized. Return to John and Sara. On the thin story we have been considering, all we know is that John is an expert in Chinese cooking and that Sara has reason to do nothing but

77. This last condition bears close similarity to Raz's claim that "[a] person needs more than power (as influence) to have *de facto* authority. He must either claim that he has legitimate authority or be held by others to have legitimate authority" (Raz, *The Authority of Law*, 9).

prepare the best Chinese meal. That, as we have seen, is not enough to establish John's authority over Sara. But suppose that John is the executive chef and Sara a line cook in a Chinese restaurant. In that case, John and Sara are participating in a practice structured by roles, which it is easy to imagine have the attributes of authority (*i. e.*, a right to rule and an obligation to obey). If the roles are so structured, the question we must ask is whether John and Sara are obligated to participate in the practice. Importantly, Sara and John's participation may be mandatory as a result of their choice to work in the kitchen. Unless Sara has signed up, it seems unlikely she is obligated to obey John's instructions.⁷⁸ Her commitment grounds her obligation. A commitment of this sort is not, of course, forever. Sara can withdraw from her role as line cook, but perhaps not immediately, and until she does, she must occupy the role, with its attendant obligations.

The upshot of the last example is that we can now see the part that consent plays in justifying authority. Raz famously rejects consent as a basis for the authority of the state, taking the view that consent is likely to be effective only if the normal justification thesis is satisfied.⁷⁹ But there are many areas of life where we are bound to obey others because we have signed up to a practice that assigns us that role. Consent is neither a necessary nor a sufficient condition for regarding a person as subject to authority. It is not necessary because there are practices that we are obligated to participate in even if we have not chosen them. It is not sufficient because consent alone is not enough — the practice the person has signed up for must be valuable such that commitment creates an obligation.⁸⁰ However, consent (or,

78. Sara was not born into the role of line cook, so if she has not signed up for it, she has been forced into it. It is difficult to imagine a justification for a practice that forces people into the role of line cook.

79. Raz, *Ethics in the Public Domain*, Ch. 16.

80. The value in question might be either instrumental or intrinsic. In the Chinese-cooking case, the value is likely instrumental: the practice in which the executive chef has authority helps get good food to the table. Where consent plays a role in the parent-child case, as in adoption, there are instrumental and intrinsic values in play. The practice in which a parent has authority is

as I prefer, commitment) is often an ineliminable part of the story of why one person is subject to the authority of another. Moreover, apart from the state and family, most roles of authority are embedded in practices that people sign up for. That suggests that the most ready route around Darwall's objection will often be to show that those occupying roles of authority and subject committed to participate in the practice assigning them those roles.

Commitment is, of course, not a promising way around Darwall's objection when it comes to political authority. To justify political authority, we need to show that people are obligated to occupy roles they are born into, rather than ones they choose. The first step is to identify the normative attributes of the roles involved in the political practice, so that we know what we are attempting to justify. It is possible that the roles of state and citizen encompass the components of authority — a right to rule and an obligation to obey. The proceduralist objection proceeds as if they do, but suggests that if the practice involving those roles is justified, it may be on the ground that orders are arrived at through an appropriate process, rather than on the ground that they are helpful to subjects. But it is also possible that the roles in a political practice are structured differently, so that they share something in common with the financial-advisor case considered above. There, recall, we concluded that Darwall had duties to his children to do as the financial advisor instructed, but the financial advisor had no right to his compliance. Similarly, the role of citizen in a modern democracy may encompass an obligation to fellow citizens to follow the edicts that result from democratic decision procedures, without conferring on anyone a right to do the instructing. Where that is true, and where the roles are justified, we would not have political authority in the classic sense, though we would have an obligation to obey the law.⁸¹

valuable both because it aids in the upbringing of children and because an intrinsic good — a distinctive kind of love — is realizable only in the context of a parent-child relationship.

81. If this seems odd, note that much democratic theory denies the distinction between ruler and ruled that lies at the heart of the concept of authority.

Thus, the question whether there are legitimate political authorities depends both on the roles involved in political practice and on the justifications we might give for those roles. That question, however, must be left for another day.

VI. Why Roles?

In discussing the proceduralist objection, I complained that Raz's maneuvering made the normal justification thesis nearly empty, as it now amounts to the claim one is obligated to obey an authority if reason demands that one do so. But now I have come awfully close to saying the same thing. I have said that one is obligated to obey an authority if one is obligated to participate in a practice that assigns one a role, an attribute of which is an obligation to obey. I have used more words than Raz, but it is not clear that my view is any less empty, for it might be elliptically described as follows: One is obligated to obey an authority if reason demands one do so. So, why all the rigmarole about roles?

Well, first it is important to note that my account of authority has more modest aims than Raz's. As we saw at the outset, the service conception is an account of the role of authority — in Raz's view, helping people conform to reason. That role is reflected in the test Raz presents for evaluating whether one person has authority over another. I do not think that authority has a characteristic role to play, and as a consequence, I do not think that we can develop a general test that will tell us whether one person has authority over another. My aim is to describe the sort of argument one might use to justify authority. Thus, it matters that my view is only the same as Raz's when stated elliptically.

Putting the problem in terms of roles helps in three ways. First, it encourages us to see the whole field. The components of authority — a right to rule and an obligation to obey — do not exhaust the roles to which they attach. In addition to their right to make demands on children, parents have powers and obligations. As to the latter, they are at a minimum required to love and support their children. Perhaps

we could justify the normative relations between parents and children piecemeal, but it seems both more natural and less daunting to justify the roles in their entirety. A parent's obligation to love and support a child makes her authority over the child considerably less jarring than it might be otherwise. Indeed, failure to love and support a child may vitiate a parent's claim to authority.⁸² Moreover, it seems unlikely that the story we would tell about parental powers (*e.g.*, to punish or make medical decisions) could be isolated from the story we would tell about parental obligations.

Another reason to view authority through the prism of roles is that doing so underscores that authority is not a feature of the world apart from our practices. If John has authority over Sara, we can always re-describe that fact in terms of roles — the chef has authority over the cook, the general has authority over the private, the boss has authority over the employee, etc. The normal justification thesis allows that you might have authority over me simply in virtue of the fact that you can direct my behavior better than I can myself. That strikes me as seriously wrong. If John, our expert in Chinese cooking, wanders into a mediocre Chinese restaurant and starts barking orders at the cooks, it is entirely reasonable to eject him from the kitchen, notwithstanding the fact that the cooks have reasons to prepare good food and would benefit from John's instruction. Helping cooks in that kitchen is not John's role to play, at least not until someone invites him in. In the face of a claim to authority, one can always ask, "What right do you have to make demands on me?" "I'm John" is not an adequate answer, nor is "I know better than you." But "I'm your boss" might be. Roles structure relationships of authority.

This marks an important difference between theoretical and practical authority. If you know more than I do, you can give me reasons for belief, whatever our place in the social hierarchy. A theoretical authority need not occupy a role of authority. In contrast, no personal attribute can ground practical authority. We long ago abandoned the

82. A parent who does not love and support her child is not fully occupying the role.

thought that some people are entitled to rule because they are naturally superior by birth. The only personal attribute which seems even a candidate for grounding practical authority is the one Raz draws on — the ability to direct others' behavior better than they can themselves. But, as we have already seen, that is not enough. Authority attaches to roles, not to people.⁸³

What then of the hoary example of the passenger who seizes the initiative and directs people to lifeboats on a sinking ship? Clearly other passengers ought to do as she says, if she can fill the desperate need for coordinated action. So this might seem like a counterexample — an instance of authority that is not attached to a role in a practice. But that is too fast. As we have seen, not every instance in which someone ought to do as someone else instructs involves authority. So too, I think, with our passenger who seizes control. Those she is bossing around may well be obligated to follow orders, but their obligation runs to other passengers, not to the person who has taken charge, except in her capacity as a fellow passenger. She has no special standing to complain about those who ignore her instructions over and above the standing every passenger has.

Finally, it is worth emphasizing that authority is a feature of roles because people can come to identify with them. As Michael Hardimon explains, a person identifies with a role if she "conceive[s] of [herself] as someone for whom the norms of the role function as reasons."⁸⁴ Thus, if you are a parent who identifies with the role, the fact that *this*

83. Darwall says we have the authority to make the demands of daily life — get out of my way, get off my foot — in virtue of our membership in the moral community. See Darwall, *The Second-Person Standpoint*. It is not clear to me that "authority" is here used in the same sense we have been using it. Practical authority seems to consist in something more stable than the right to make one-off demands like "Get off my foot." But if there is only one sense of authority in play, we can modify the thought that authority attaches to roles, not persons: we might have limited authority over one another merely in virtue of our personhood — you may demand that I get off your foot, but not that I prepare my rice thread noodles as you instruct — while more extensive, non-reciprocal authority attaches to roles embedded in practices.

84. Hardimon, "Role Obligations", 358.

is something parents do (in the normative sense) will give you a reason for doing it.⁸⁵ Role identification is important because the roles we identify with mediate our interaction with the world. We act as a dutiful son would, or as a responsible parent would. We can (and sometimes should) step back and ask whether we ought to occupy the roles we do, but much of the time we are (and probably should be) engaged with, rather than detached from, the roles we inhabit. For one who identifies with a role, occupying it is its own reason for discharging the obligations of the role, separate and apart from the reasons that justify the role. As Hardimon puts it,

If, for example, I am a teacher, the fact that I am a teacher gives me a reason for grading a set of papers when I am tired and it is late at night. The fact that I signed on for the role of teacher gives me one reason for carrying out its tasks. The fact that I am a teacher gives me another.⁸⁶

So too with roles of authority. A private may follow a sergeant's orders because he signed up for military service, but he may also follow orders because he is a private, and that is what privates do. Recognizing that authority attaches to roles allows us to appreciate that one might obey a parent, chef, or conductor because one *is* a daughter, cook, or cellist.

VII. Reviving the Normal Justification Thesis

Darwall's objection teaches us that satisfaction of the normal justification thesis does not establish authority. But Raz's theory of authority has been influential in part because the normal justification thesis articulates something that seems right, if defeasibly so: People ought to follow another's instructions if doing so will help them conform better to reason. The problem for Raz's account is that he over-claims. To say that it is rational for you to do as someone else orders is not to say that

85. I borrowed this sentence from Hardimon, substituting 'parent' for 'judge'. See *ibid.*

86. *Ibid.*, 360.

person has a right to make demands on you or that you have an obligation to comply. However, now that we have built up an alternative picture of authority, we can accommodate the insight that underlies the normal justification thesis.

In some practices, the role of authority is, as Raz says, to help subjects conform to reason, and one may not have authority in that kind of practice unless one can play that role. Coaching often fits this model. A tennis coach's authority over an adult athlete is conditional on whether her instructions are helpful. That is not the only condition; otherwise, people would be subject to the authority of intermeddling tennis coaches. To be subject to a tennis coach's authority, an adult must have signed up for the lessons. But if, having signed up, one discovers that the coach's instructions are of no help, then the coach's claim to authority is vitiated. There is no longer an obligation to do as the coach commands, for the practice in which one is so obligated has lost its point. The upshot is that if the role of authority in a practice is helping people conform to reason, satisfaction of the normal justification thesis may be a condition of one's possessing authority within that practice. In that respect, the normal justification thesis has a role to play in a role-based account of authority.⁸⁷

VIII. Conclusion

Raz's account of authority is an account of the role of authority, in that it is an account of the point or function of authority. But authority does not have a characteristic role to play, and even if it did, the ability to play a role is not, by itself, sufficient to establish authority. The aim of this essay has been to shift our focus from roles that authority plays to roles that people play — which we can also call roles of

87. The normal justification thesis does not, however, exhaust a role-based account of authority. One recurring theme of this paper has been that authorities may have roles to play besides helping subject conform to reason. When we considered the proceduralist objection, for example, we noted that some think that the role of a democratic authority is to arbitrate disputes among subjects fairly. When we considered parental authority, we noted the possibility that the justification for the roles of parent and child lies in the distinctive form of love that is available to people who occupy those roles.

authority — such as chef, teacher, and parent. To justify authority, we need to justify the practices in which roles of authority play a part.⁸⁸

88. Thanks to Mike Allers, Eli Best, Sarah Buss, Jules Coleman, Steve Darwall, Bill Edmundson, David Enoch, John Gardner, Daniel Halberstam, Don Herzog, Andrei Marmor, Stephen Perry, Richard Primus, Peter Railton, Don Regan, Dale Smith, Ekow Yankah, and especially Scott Shapiro for helpful comments and conversations. Two referees for this journal made valuable suggestions as well. I also benefited from discussion with participants in the 2009 Analytic Legal Philosophy Conference at King's College, London. Finally, thanks to Les Green, Fred Schauer, George Letsas, Nicos Stavropoulos, and the other participants in the 2007 Oxford-UCL Colloquium in Legal Philosophy for feedback on an early ancestor of this paper.