

The Values of Liberal Democracy: Themes from Joseph Raz's Political Philosophy

Conference Program

Friday, April 15th

14:00-15:00 Registration and Welcome

15:00-16:30 **Keynote Address**
Joseph Raz (Columbia University, King's College London)
'The Democratic Deficit': Introductory Reflections on the Legitimacy of International Authorities

(Venue: Monument Building, Popper Room)

16:30-17:00 Coffee Break

17:00-18:40 **Micha Glaeser** (Harvard University, University of Zürich)
Two Concepts of Preemption: Notes on the Raz-Darwall Debate

Kimberley Brownlee (University of Warwick)
The Problems with Participation: Revisiting Civil Disobedience

(Venue: Monument Building, Gellner Room)

19:30 Conference Dinner

Saturday, April 16th

- 09:30-11:10** **Mollie Gerver** (London School of Economics)
Denying Services to Prevent Regret
- Daniel Viehoff** (University of Sheffield)
Serving the Governed
- 11:20-13:00** **Ezequiel Horacio Monti** (King's College London)
The Authority of Law, Accountability and Protected Reasons
- Christopher Bennett** (University of Sheffield)
Authority, Democracy and the Tribunal
- 13:00-14:30** Lunch Break
- 14:30-16:10** **Bouke de Vries** (European University Institute)
Perfectionism á la Carte
- Steven Wall** (University of Arizona)
Autonomy as a Perfection
- 16:10-16:30** Coffee Break
- 16:30-18:10** **Michael Jewkes** (KU Leuven)
Political Equality or Social Control: A Razian Approach to Rethinking
the Value of Democracy
- Zoltan Miklosi** (Central European University)
Autonomy and Distributive Equality
- 18:15** Closing Remarks

(Venue: Monument Building, Gellner Room)

Abstracts

Christopher Bennett (University of Sheffield)

Authority, Democracy and the Tribunal

This paper looks at the authority that is claimed by the criminal law. I argue that this authority is not best thought of in Razian terms as an ability to create new binding reasons through authoritative directives. The reasons one has not to murder remain the same when murder is criminalised, and are not replaced or pre-empted by the criminal law. This fact is important to the expressive, condemnatory function of the criminal sanction. Nevertheless, the criminal law does claim authority, and this raises a question of how that authority should be conceived. I argue that the authority claimed in criminal law is a normative power to affect, by one's decision, the liability of those subject to one's authority to be called to a tribunal at which they will be asked to answer for their actions (the criminal trial), and sanctioned if their answer is not satisfactory. When an act is criminalised, citizens incur this liability, which they did not have before. If a state has an apparatus of criminal law, it therefore makes significant claims to the possession of authority, which is the possession of a distinctive normative power. I conclude with some considerations about how and whether such authority-claims could be vindicated, in particular by a democracy.

Kimberley Brownlee (University of Warwick)

The Problems with Participation: Revisiting Civil Disobedience

Bouke de Vries (European University Institute)

Perfectionism à la Carte

This paper addresses the following question: may a liberal state incentivise citizens to live (morally) better lives when this commits it to a sectarian conception of the human good? There are broadly two camps in the literature. Liberal neutralists such as Jonathan Quong (2010), Martha Nussbaum (2011), and Alan Patten (2014) maintain that the answer is (usually) 'no'. In their view, liberal states have strong pro tanto reason to be neutral amongst 'reasonable' comprehensive doctrines, i.e. doctrines that are compatible with liberal-democratic institutions. By contrast, liberal perfectionists such as Joseph Raz (1986) Richard Arneson (2003), and Steven Wall (2014) argue that it is permissible for liberal states to promote conceptions of the good that are controversial among reasonable citizens.

As I show in the paper, the different understandings of civic respect that underlie these views each have some merit. Rather than having to choose between them, however, I argue that there is an approach that does justice to them both. According to this approach, states

should give citizens and non-citizen residents the opportunity to voluntarily donate money to expert committees whose task is to help their donors flourish by giving perfectionist advice and making certain kinds of perfectionist goods and services available at discounted rates. These expert committees would be specialised in different areas of the human good – for example, some would help one with living more autonomous lives, others with living morally better lives, and yet others with living aesthetically superior lives. As this approach allows people to choose between perfectionism and non-perfectionism and, insofar as they choose to devote money to perfectionist purposes, among different kinds of perfectionist support, I call this approach ‘Perfectionism à la Carte’.

Mollie Gerver (London School of Economics)

Denying Services to Prevent Regret

We often provide services to others, helping them reach their desired ends. Sometimes, most recipients of these services regret reaching their previously desired ends. A hospital may learn that most regret accepting a form of treatment. An abortion clinic may learn that most women regret having an abortion. The UN may learn that most refugees it has helped repatriate regret repatriating. A military recruitment officer may learn that most soldiers regret enlisting. A university may learn that most students regret enrolling. In these and other cases, service providers may be able to predict that future recipients of their services will feel similar regret. Is this prediction of future regret a reason to discontinue a service? I argue that it is, if three conditions are met. First, the likely regret must be all-things-considered. Such regret arises when one feels that the best life one could now live is worse than the worst life one could have lived, had one not accepted the service. Second, the regret must arise from the single choice to accept the service, and not from other choices made prior to and after the service. Finally, the likely regret must arise from a service that entails an “epistemically transformative experience.” This is an experience that is impossible to imagine ahead of time, like seeing the colour red for the first time, or experiencing a pain never previously felt. I argue that these three conditions are not met when women regret having an abortion, students regret enrolling in a university, and many other life choices. These conditions may be met when soldiers regret enlisting, refugees regret repatriating, and patients regret receiving some treatments.

Micha Glaeser (Harvard University, University of Zürich)

Two Concepts of Preemption: Notes on the Raz-Darwall Debate

In my paper I discuss Stephen Darwall’s recent critique of Joseph Raz’s “service conception” of authority. Darwall has two complaints about the service conception: first, that the normal justification thesis appeals to reasons of the wrong kind in ascribing to someone authority over another; and second, that the normal justification thesis appeals to reasons of the wrong kind in ascribing to someone the power to create preemptive reasons for another. I argue that, whatever the merits of the first criticism, the second criticism suffers

from a failure on Darwall's part to appreciate the "substantivist" nature of Raz's conception of the idea of preemption. Raz works with what I call a "content conception" of preemption, whereas Darwall's argument presupposes a "will conception" of preemption.

The distinction between these two concepts of preemption provides for a new take on the distinction between theoretical or epistemic authority on the one hand and practical authority on the other. Rather than conceiving of the distinction between theoretical and practical authority in terms of the distinction between reasons for belief and reasons for action or the like, my proposal is to think of theoretical and practical authority as governed by distinct forms of preemption, namely content preemption in the case of theoretical authority and will preemption in the case of practical authority. Since Raz invokes a "content" rather than a "will conception" of preemption, the service conception is better amenable to account for the notion of theoretical than for the notion of practical authority, or so I suggest.

Michael Jewkes (KU Leuven)

Political Equality or Social Control: A Razian Approach to Rethinking the Value of Democracy

One particularly prominent approach in recent democratic theory has been to explain both the value and authority of democracy in terms of a commitment to *political equality* (Christiano 1996; 2008; Kolodny 2014a; 2014b; Viehoff 2014). According to this school of thought, democracy involves providing each citizen with an *equal* opportunity to advance their interests publically; and this, in turn, reflects the equal moral value of the life each individual has to live.

In this paper, and with the help of the framework for thinking about equality provided by Joseph Raz's *The Morality of Freedom*, I aim to critically engage with and ultimately challenge the underlying principles of political egalitarianism.

I begin by outlining the independent interest that each individual has in exercising social control, in order to define the terms of their own private autonomy. However, given the scarcity of social control (due to its rivalrous nature), it is credible to understand the vote as an egalitarian attempt to divide this valuable resource equally between all of those who have a comparable claim to it. The trouble is, however, that in the case of modern democracies, social control is divided to such an extent that its independent worth is almost entirely undermined and it is transformed into a purely positional good.

Two claims follow from this: first, if voting is a purely positional good then we could just as easily satisfy it by universal *disenfranchisement* as by universal *enfranchisement*. Thus, the political egalitarian commitment to democracy would appear underdetermined. Secondly, we can ask whether a commitment to a purely positional equality might be

justifiably sacrificed in cases where doing so might provide a greater correspondence between the preferences of individuals and public policy.

Zoltan Miklosi (Central European University)

Autonomy and Distributive Equality

Ezequiel Horacio Monti (King's College London)

The Authority of Law, Accountability and Protected Reasons

In this paper, I argue that Raz's account of the normativity of law in terms of authoritative reasons fails to account for the role of legal directives in justifying demands and reproaches addressed to others and in adjudication.

Raz claims that legal directives are morally valid, when they are, in virtue of their authority. The point of authority is to serve its subjects by mediating between them and the reasons that apply to them. Authoritative directives are, on this view, protected reasons for action.

Legal directives are characteristically used to justify demands and reproaches addressed to others, that is, to ground *accountability*. I shall argue that Raz's account of legal directives in terms of protected reasons cannot accommodate this fundamental feature of legal practice. The argument proceeds in two steps. First, I argue that exclusionary reasons cannot play any role in the justification of demands addressed to others. Second, I argue that, if the exclusionary function of authoritative directives cannot play any role in the justification of demands, their first-order function cannot ground accountability either.

The account of legal directives in terms of protected reasons also fails, I shall claim, to account for their justificatory role in adjudication. The root of the problem is that the fact that an agent A has reason not to $\neg\phi$ for certain first-order reasons is not a reason *for the judge* not to consider them in deciding whether to order A to ϕ . In this regard, I argue that i) the fact that an agent A has an authoritative protected reason to ϕ cannot justify a judicial decision that orders A to ϕ ; and that ii) the fact that the judge has an authoritative protected reason to decide according to legal directives is not an adequate justification of the decision *to A*.

Daniel Viehoff (University of Sheffield)

Serving the Governed

It is a thought central to the Enlightenment, and to the now dominant view of political morality to which the Enlightenment has given rise, that our government ought to be our

servant rather than our master. The aim of this paper is to clarify this thought, and develop its implications for our understanding of political authority.

The paper develops three central arguments. First, even though the dominant view of practical authority in legal and political theory, Joseph Raz's service conception, purports to articulate "the view that [the] role and primary normal function [of authorities] is to serve the governed", it in fact doesn't fully capture what the service ideal requires. Second, once we properly grasp what the service requirement amounts to, we see that it is ultimately grounded in an anti-instrumentalization principle that governs how we may relate to our own and others' agency. Third, with the right understanding of service in place, we are in a position to defeat a variety of objections to service-based accounts of authority that have been raised by legal theorists and philosophers like Jeremy Waldron, Scott Hershovitz, and Stephen Darwall.

Steven Wall (University of Arizona)

Autonomy as a Perfection

Liberal perfectionism accepts the traditional understanding of political authority that is permissible in principle, and indeed fitting, for the state to promote, actively and intentionally, the good of its members. Acceptance of this traditional understanding of political authority places liberal perfectionism in opposition to other forms of liberalism, most notably Rawlsian political liberalism and various related versions of public reason liberalism. Liberal perfectionism is a form of liberalism, in part, because it recommends limited government. Defenders of liberal perfectionism often argue that we have good reason to accept the ideal of personal autonomy as a key constituent of the good life and that doing so helps to explain how one can embrace both the traditional understanding of political authority that perfectionists accept and a principled commitment to liberal government that liberals accept.

On this view of politics, then, autonomy is a perfection. It is a perfectionist good because, and insofar as, it contributes to the goodness of a human life. This paper discusses the extent to which autonomy, understood as a perfectionist good, supports a principled commitment to limited government. The discussion centers on two important challenges that can be pressed against this idea. I try to show that a successful response to the first challenge – a challenge that concerns autonomy and authority – makes it harder to give an effective response to the second challenge – a challenge that concerns autonomy and coercion. After discussing these two challenges, I return to liberal perfectionism and ask how we might think about its commitment to limited government in light of what we have learned about autonomy's standing as a perfectionist good.