

Abstracts

Timothy Endicott, *Interpretation, Jurisdiction, and the Authority of Law*

People can be autonomous, if they are subject to authority. In particular, they can be autonomous if they are subject to the authority of law. I defend the first claim through a study of Joseph Raz's compelling account of authority; I claim that his work leads to the conclusion that autonomous judgment is needed to determine the jurisdiction of an authority, and to interpret its directives. I defend the second claim by arguing (contrary to remarks by Raz) that law does not claim unlimited jurisdiction, and need not claim unlimited scope for its directives. But the requirements of the rule of law create a standing risk that the law will not adequately recognize the autonomy of its subjects, because of its artificial techniques for controlling its own jurisdiction and for controlling the scope of its own directives.

Chaim Gans, *Mandatory Rules and Exclusionary Reasons*

This article discusses the concept of exclusionary reasons invented by Joseph Raz, and Raz's arguments for the claim that mandatory norms are exclusionary reasons. Exclusionary reasons are reasons not to act for some reasons. The first part of the article presents Raz's explanations of this notion and his arguments for the claim that mandatory rules are such reasons: the argument from various justifications for adopting rules; the argument based on the analogy between rules and requests; the argument from the analogy with decisions; and the argument based on the psychological phenomenology characteristic of conflicts between rules and simple reasons. The second part of the article, which is its major part, criticizes these arguments. The last part of the article criticizes the very notion of exclusionary reasons. It is argued that this notion equivocates between reasons for not investigating facts which give rise to reasons, reasons for not weighing reasons against other reasons, and reasons for not acting for reasons after weighing them. In their first two meanings exclusionary reasons are just first order reasons not to perform mental acts. In their third meaning they are just like every first order reason outweighing another reason, which is also a reason not to act for the outweighed reason.

Andrei Marmor, *An Institutional Conception Of Authority*

The question of legitimacy has taken central stage in the philosophical debates about authority. Discussions typically begin with the normative question of what it makes a practical authority legitimate. Here, Marmor argues the institutional conception of authority by explaining why authorities are essentially institutional in nature. He examines how this institutional conception bears on the question of legitimacy, drawing on the distinction between voluntary and nonvoluntary institutions. Finally, he answers some possible objections to the institutional conception, focusing on some of the normative aspects of authority-subject relations.

David Enoch, *Authority and Reason-Giving*

The phenomenon of authority – political and otherwise – has rightly generated much philosophical attention. But this literature has failed, I think, to fully appreciate that authority is a particular instance of the phenomenon I call robust reason-giving, the kind of reason-giving present also in cases of requests and promises. In this paper I place discussions of authority in the context of robust reason-giving, and then, utilizing an analysis of robust reason-giving that I develop in another paper, I draw some lessons about authority. In particular, I show why there is nothing metaphysically puzzling about authority, and how – in broad outline – authority may be justified. In the process I also critically evaluate Joseph Raz's influential service conception of authority, generalize his notions of exclusionary and protected reasons, and debunk the thought that authorities have a right to rule in the sense that the duty to obey the authority is owed *to* the authority.

Alon Harel, *What Demands are Rights and Why? Notes on the Relationship between Rights and Values*

This article critically examines the conjecture that rights are fully determined by the values underlying them, the primacy of values over rights hypothesis. It challenges this hypothesis and suggests instead the reciprocity hypothesis under which the realization of the values underlying some rights is made possible by entrenching the narrowly-defined rights designed to protect these values, so that, the relationship between these rights and the values underlying them is reciprocal. The rights are grounded in values, e.g., autonomy and dignity and are justified in terms of these

values. At the same time, the values underlying the legally or politically entrenched rights are also partly constructed by the rights so that the legal or political entrenchment of rights ultimately contributes to the construction of the values. The article has implications concerning the influential rationalist paradigm – the paradigm under which rights are redundant and ought to be replaced by the underlying values. Further, it also explains why it is important to actively protect and entrench rights and not merely ensure that they are not violated.

Gershon Gontovnik, *Thoughts about Interpretation, Contractual Interpretation and its Limits*

Any theory of legal interpretation must address two different levels of questions: What purposes should legal interpretation promote, and what weight should be given to each purpose in case of mutual collision. Therefore, the first part of the article traces the purposes promoted by legal interpretation and discusses the debate between Dworkin and Raz on the subject. The second part of the article addresses the issue of the *weight* to be allocated to the purposes promoted by legal interpretation. The fierce debate which accompanied the Israeli Supreme Court's decision in the *Apropim case*, regarding the interpretation of contracts, is highly relevant to this question. The literal, objective and subjective methods of contract interpretation is discussed. The subjective approach, which refrains from setting any preconditions for the admissibility of evidence in the subject, is highly appropriate to Israel which is a multicultural society. The contested *Apropim case* shows the extent to which Raz's analysis of legal interpretation is lacking in terms of the weight that should be accorded to the interpretive purposes. The third and final part of the article examines a deeper theoretical question. In light of the variety of purposes promoted by legal interpretation, and in light of the complex balance between them, one can ask whether a unified theory of interpretation can be developed, which is applicable to all legal texts, both private and public. Raz's answer to this question seems to be negative, while Barak showed that a mega structure of interpretation theory is possible in view of his claim that contractual interpretation, for example, must include the objective purpose of promoting the basic values of society and constitutional rights. However, this purpose is not appropriate for all democratic societies, and certainly not in ones that are divided multiculturally. These values and rights should be inserted into contractual relationships from the "outside" rather than

through interpretation. Thus, some proper limitation on contractual interpretation in a divided multicultural society can be achieved.

Itai Eliav, The Perfectionist Theory of Joseph Raz and Environmental Thought: How Can Perfectionism Be Environmental?

The article examines the liberal perfectionist theory of Joseph Raz from the environmental perspective. The central questions dealt with are whether and how, according to Raz's theory, the state can be sensitive to environmental problems. These questions arise, inter alia, given critical arguments raised against liberalism from an environmental point of view. The article presents an interpretation of Raz's perfectionism from an environmental perspective and shows that it can be considered sensitive towards environmental concerns. In this context, the article discusses Raz's views on a number of issues: personal autonomy, wellbeing, freedom, the harm principle, individual rights, collective rights, rejection of neutrality and the role of the state. The article shows how Raz's concept of these matters leads to environmental sensitivity. The general conclusion is that perfectionism not only permits relatively broad environmental action by the state, but also entails such action.