

## WHAT IS THE PROBLEM WITH AUTHORITY?

For Raz ‘the fundamental point about authority [is that] it removes the decision from one person to another’ (Raz 1999: 193). It is a question why you should allow someone else to decide for you what you are to do and one plausible response is to observe that by allowing someone else to decide for you, you are more likely to do what you ought to do anyway than if you decide what to do for yourself. That, in a nutshell, is the diagnosis of and solution to the problem of authority which Raz offers us.<sup>1</sup> I agree that Raz identifies an important issue here and I shall not critique his response; nor I shall query the propriety of calling this issue ‘a problem with authority’. I do maintain that there is narrower and perhaps less tractable issue which Raz’s characterisation misses, a problem with obedience. To assess what Raz and others say, we must bring this concern into clearer focus.

A paradigmatic exercise of authority is *command*. A command demands compliance and compliance involves obedience. Raz too highlights command (Raz 2009b: 134) but the characterisation of authority I just quoted blurs the focus. There are a range of speech acts which, when successfully performed, have the effect of removing a decision from one person to another. When I do as a friend *asks* me to do or what my doctor *advises* me to do, there is neither command nor obedience yet I allow my friend or my doctor to make the decision for me. Though one is often obliged to comply with a friend’s request or follow doctor’s advice, friends do not order friends around and talk of ‘doctors orders’ is a grumpy metaphor.<sup>2</sup>

Attending to command taps into our intellectual tradition. It is no coincidence that Locke’s *Second Treatise of Government* grapples first with property and the family before turning to political authority (Locke 1988). A parent can give instructions to their children, and a householder can order you not to enter a certain room, just as a king, minister, judge or policeman can require you to pay a tax or surrender your weapon. These utterances all go

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<sup>1</sup> For example (Raz 1986: Part 1) and (Raz 2009b: 134-7).

<sup>2</sup> In his last extended treatment of authority, Raz acknowledges the worry which animates this paper namely that ‘only authority involves subjecting our will of that of another, and that is not merely a matter of not deciding for oneself’ (2009b: 161).

well beyond making requests or offering advice and such pretensions have often been found offensive because they are an affront to our liberty. I doubt that highlighting the authority's greater wisdom completely soothes the sting of command.

In the first section, I'll characterise commands. Commands are often distinguished from requests and advice by reference to the fact that commands impose obligations but, as we shall see, what matters is rather the way in which they do so. Then I'll argue that when one obeys a binding command, responsibility for compliance is transferred from subordinate to superior, a transfer which involves more than Raz's 'removal of the decision from one person to another'. As we'll see in the final section, command is not the only device by which responsibility is transferred since coercion also demands our obedience. It is in virtue of this common feature that both command and coercion threaten our liberty conceived of as the ability to take responsibility for what one does. That is why what I'll call *directive authority* poses a special problem of legitimacy and why a solution which vindicates the power of command also removes a crucial objection to the coercive enforcement of those commands. Hence those with this form of authority typically have the right to enforce their commands.

## **Command**

Orders or imperatives are an exercise of normative power, of a power to change the normative situation by declaration. One change which may be looked for is in what those addressed have reason to do. For example, the robber may order the cashier to hand over the money, intending thereby to give them a reason to do so. The robber's order is best understood as a request backed up by a threat and the robber's use of an imperative is successful when (given the balance of power) it provides its audience with a decisive reason to comply. Following Hart, let's call the robber's utterance a *coercive order*.<sup>3</sup>

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<sup>3</sup> See (Hart 1994: 19-20). (Austin 1998: 13-8) defines 'command' in the way Hart (and I) define 'coercive order'. Austin holds that commands impose 'obligations' since they compel people to do things. See below for my own use of 'obligation'.

I'm concerned with a different kind of order, one which involves the exercise of a Razian *deontic* power, a power to change the deontic situation by declaration.<sup>4</sup> I call such orders *commands or instructions or directives*.<sup>5</sup>

To *command* someone to do something is to communicate the intention of hereby putting them under an obligation to do it, of obliging them to do it by the communication of this very intention (i.e. by *declaration*).<sup>6</sup>

Command involves an exercise of directive authority and where such orders bind this is because the speaker's authority ensures the recipient is under an obligation to comply (Raz 1986: 23-8). By contrast though bank robbers may employ the imperative mood they feel no need to present themselves as entitled to the money they demand, nor as imposing any obligation on those they address.

Command so understood covers not just imperatives like 'do this', 'stop that' but also verdicts ('I pronounce you guilty') and announcements ('I declare this meeting closed'), speech acts which impose obligations by declaration. Our characterization of command leaves many questions open. For one thing it does not settle what makes such an order genuinely binding, what makes it the case that (a) the speaker has the authority to command and (b) the exercise of their authority produces a binding directive on a particular occasion. Moreover, whilst non-compliance would be a *wrong qua* breach of an obligation, the definition remains silent on the precise significance of that wrong: does non-compliance wrong the authority, does it wrong anyone else, can it be excused or justified and if so

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<sup>4</sup> For a defence of the idea that there are such deontic powers, though one focused mainly on promise and consent, see (Owens 2012: Parts 2 and 3). For a defence of the idea that command involves an exercise of deontic power, see (Reinach 1983: 18-21) and (Enoch 2014).

<sup>5</sup> For this use of 'command' see (Hart 1994: 19-20) and (Hart 1982: 251-5).

<sup>6</sup> 'In exercising authority we impose on others duties they did not have before, and we do so simply by expressing an intention to do so' (Raz 2009b: 135). Where command secures obedience, the subordinate's compliance is directly motivated by acceptance of the speaker's authority (Monti 2022: Section 4).

how?<sup>7</sup> Finally, it is left open whether the possession of directive authority involves having either the right or the power to enforce one's edicts. We'll return to that in the last section.<sup>8</sup>

Someone *obeys* a command when they are moved to comply with it simply by their recognition of the obligation it imposes on them in virtue of its source and not by the other merits of compliance (Weber 2019: 341). Now commands are usually issued in situations where the subordinate lacks sufficient independent reason to do the thing commanded. Still some subordinates *do* do the thing commanded for a reason other than respect for the superior's authority. Their reason may be altogether independent of the fact that a command has been issued; after all wise authorities frequently require us to do things that we ought to do anyway. Or else the command might move the subordinate regardless of its wisdom perhaps because they know everyone else will comply. In such a case hasn't the authority got what they want whether or not their command has, in my sense, been obeyed? Maybe but it is obedience so understood which undermines our liberty. I shall postpone further discussion of this point until the last section and treat commands as demands for obedience.

What is it to be under an obligation to comply with a command? A full treatment of obligation cannot be attempted here. In lieu of it, I shall identify two distinguishing marks of obligation. The first appears in Raz's own account of obligation and so may be assumed here. The second is not mentioned by him though it is widely associated with obligation. Let's start from the common thought that the fact you are obliged to do something is a reason to do it, is a consideration which makes sense of your doing it. Raz agrees but he and many others think that being so obliged involves more than having a reason – even a decisive reason – to do it. Obligation is a consideration with a special force and should play a

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<sup>7</sup> You obey someone in virtue of obeying a command they have issued but, even where the command binds, it is a further question whether you *owe* them obedience. Pace (Gilbert 2006: 247-9 and 253-5), a legitimate authority may have the power to issue binding commands without having any right to be obeyed. On this point see (Weber 2019: 344) and (Enoch 2014: 323-8).

<sup>8</sup> The 'someone' in the above characterization of command cannot be the person giving the order: there is no such thing as self-command and so no such thing either obeying (or disobeying) yourself *pace* (Gilbert 2006: 249-50). The grounds for this insistence will become clear. You can impose obligations on yourself by declaration, something we do every time we make a promise but, as we shall see, the power of command is bound up with the transfer of responsibility for action from one person to another. That transfer is not something anyone can do to themselves.

distinctive role in one's practical deliberations. It is not merely advisable or a good thing to fulfil one's obligations; rather this is *required* of one.

When an officer orders a soldier to confiscate a car, the officer declares that they are hereby obliging the soldier to confiscate this car. What does that mean? The answer given by Hart and many others is that breach of an obligation will make you vulnerable to blame reactions and perhaps to other forms of social pressure (Hart 1994: 82-91). That is what distinguishes an obligation from a mere 'ought'. Not so for Raz. Raz offers us a novel account of obligation according to which when we are obliged to do something, we don't merely have a first order reason to do it, we also have second order reasons – *exclusionary* reasons – not to act on certain other reasons which count against doing it, making the first order reason furnished by a command into what Raz calls a 'protected reason'. Thus, in deciding whether to comply, our soldier is not meant to consider the inconvenience to the motorist, the adverse effect of confiscation on relations between the army and citizenry etc. These are genuine reasons which really do count against confiscation of the car but respect for the officer's authority should prevent the soldier from acting on them – from considering them in their deliberations about what to do – thereby clearing the way for the soldier to comply with the reason for confiscation created by the command (Raz 1999: 38).

In the case of obligations created by command, the effect of the exclusion is to leave it up to the authority to weigh the excluded reasons on their subordinate's behalf. An officer should consider all the pertinent reasons for and against confiscation before issuing their command but 'mine not to reason why' is the attitude expected from a soldier. For Raz the law asks just the same of us.<sup>9</sup> When the law requires one thing and prudence, convenience or even morals suggest another, we are not meant to consider the case on its merits. True neither political nor military authority is absolute – some reasons recommending disobedience are not excluded (perhaps the car is needed to save the owner's life, a fact which must be taken into account) – but many genuine reasons are to be excluded from our deliberations about whether to obey.

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<sup>9</sup> (Raz 1999: 41-3), (Raz 2009a: 16-9), (Raz 2009b: 140-2 and 144) and (Hart 1982: 253-5).

I agree that obligation involves exclusion but there is more to something's being required of us than that. As Hart and others noted, when one breaches one's obligations, reactions such as blame, guilt and resentment are *prima facie* appropriate (*modulo* excuses etc.). Again, this is something that differentiates being under an obligation from having even a decisive reason for action. When you fail to do what you have decisive reason to do, people may think you foolish or irrational but they won't blame you unless you are obliged to be more sensible.<sup>10</sup> As we shall see, his omission of the reactive aspect of obligation, of its connection with what is called 'moral responsibility', distorts Raz's account of authority. The apparatus of exclusionary reasons may capture one aspect of 'the removal of the decision from one person to another' involved in an exercise of directive authority but it misses the transfer of responsibility.

### **Requests and Advice**

With obligation nailed down, it would be convenient could we distinguish commands from other forms of persuasive speech simply by stipulating that though we are often bound by commands, we are never obliged to fulfil requests, follow advice or heed warnings. Raz is clearly tempted by this line of thought but, as he acknowledges, the truth is more complicated. Let's consider requests. As Raz notes, a request should not be confused with an expression of desire since one can express a desire for help without requesting it. For example, you might refrain from asking me for help because you've asked too many things of me recently whilst also making it perfectly clear that you'd love me to help. To *ask* someone to help is to exercise a normative power, namely the power to give them a reason to help by communicating the intention to hereby do precisely that. A request does more than merely draw attention to one's need for help; it makes sense to help someone *ceteris paribus* just because they have asked.<sup>11</sup>

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<sup>10</sup> Conversely, you may have decisive reason to breach a genuine obligation e.g. where obligations conflict (Owens 2012: Section 17).

<sup>11</sup> See (Raz 1986: 36-7) and (Raz 1999: 83). Hobbes tell us that 'Command is where a man sayeth *Do this* or *Do not this*, without expecting other reason than the will of him that says it' which fails to distinguish command from request (Hobbes 1994: 165)

Given this Razian understanding of request as a normative power, does the difference between requests and commands lie in the fact that the reasons furnished by requests never amount to obligations? No. When one friend asks another to help them move house, the latter may well be obliged to comply because this was asked of them by a friend.<sup>12</sup> Where Tom *asks* him for help, James may feel unable to avoid this burden in the way he would if James had simply let him know that he'd rather like some help. In the context of their relationship acceding to such a request might be a point of loyalty. What exactly this adds depends on one's view of obligation. For Raz where one is obliged to accede to a friend's request, and in those cases alone, one ought (within certain limits) to leave it to them to determine whether one should do as they ask. I suspect that exclusion is a feature of all requests, whether binding or not. When someone *asks* you to do something – rather than simply letting you know that they wish you to do it – they mean you to comply without considering a range of reasons that might count against compliance. In my view, what obligation adds to binding requests is the further feature that if you fail to comply, you'll be vulnerable to blame and perhaps resentment (Owens 2012: 85-7).

Regardless of who is right on this last point, the demands of friendship must be carefully distinguished from commands i.e. from exercises of a *deontic* power. A simple friendship excludes assertions of directive authority and instructions are out of place.<sup>13</sup> A command communicates the intention to *hereby* impose an obligation i.e. to do so by the communication of this very intention and that is not how even a binding request works. Though Tom may well appreciate the normative significance of his own request, Tom need not intend to bind James by asking him to help. And even if he does so intend, he is unlikely to communicate this to James. And even if Tom does (rather rudely) communicate it, that is not why his request binds. Rather it binds because Tom communicates the intention of hereby giving James a reason to help, a reason on which, in view of their friendship and the importance of what is requested, James is bound to act. Request involves the exercise of a normative power which is not a deontic power. This may seem like a nice distinction – after all, this request and this instruction both oblige James to comply – but form makes all the

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<sup>12</sup> (Owens 2012: 98-100), (Enoch 2014: 306-7) and (Glaeser 2019: 33-4).

<sup>13</sup> If your friend is also your commanding officer, things are different.

difference.<sup>14</sup> A binding request is not just a polite way of issuing a command, it is a different beast altogether. Faced with a bald instruction, James would be both puzzled and dismayed and might treat this as grounds for refusal. By contrast, even a binding request need be no affront between friends and provides no similar reason to decline.<sup>15</sup>

Commands retain their peremptory quality even in a context in which one party is perfectly entitled to issue an instruction. Suppose I have a good relationship with my boss and she asks me to perform a rather unpleasant task. My boss could order me to do it but, not to sour relations, she instead asks me to do it or else explains that I am the most suitable person available, that the job really needs to be done etc. allowing me to draw the conclusion that I ought in any case to do it. The phenomenon is familiar. Though hierarchy and authority are ubiquitous, commands are rather rare (outside the military) because our superiors prefer to get their way without invoking their authority, either by persuasive speech or other incentives; they keep their authority in reserve (Owens 2012: 206).

Thus far we have been considering requests. Taking someone's advice or heeding their warnings also involves deferring to their judgment. To offer someone advice is not just to try to influence their beliefs about what they ought to do.<sup>16</sup> Suppose my doctor successfully convinces me that I ought to visit the hospital but fear prevents me. Here I have failed to take her advice despite believing what she tells me. Advice, like request, is intended to offer the recipient a reason for action. Furthermore, at least in the case of expert advice where the recipient is either ignorant of the relevant reasons or incapable of weighing them himself, if he follows the advice, 'he is in fact excluding all the conflicting reasons of which he is aware from his considerations' (Raz 2009a: 22). Thus, such advice is also like a request

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<sup>14</sup> It is not always clear whether one is being asked or being ordered; constructive ambiguity on this point is a common tactic of employers, teachers, hosts etc. And where means of coercion are to hand, it may also be unclear whether one is being threatened.

<sup>15</sup> Compare this account of the difference between requests and commands to that offered by Hart (Hart 1982: 250-61) and Raz (Raz 2009a: 14-15 and 23-4), (Raz 1999: 82-4), (Raz 1986: 36-7). Raz suggests that 'it is more presumptuous to order than to request' (2009a: 24) simply because commands bind and this leads him to underplay the importance of the distinction: 'In special cases one has a right that one's requests be granted. There the divide between requests and commands is thin indeed and does on occasion boil down to the choice of language.' (Raz 2009a: 14 n.15) We should ask why these modes of address would provoke such different reactions.

<sup>16</sup> Raz seems tempted to disagree but he concedes that the point is moot (Raz 2009a: 14 n.14).



(as I understand it) in that the advisor intends to offer the hearer a protected reason for action.

Given all this, it will come as no surprise that advice imposes an obligation where we are to blame for non-compliance. I can be obliged to follow my doctor's advice perhaps because I owe to my family to stay healthy, perhaps because I've promised the insurance company that I'll comply. Nevertheless, none of these suppositions puts our advisors, experts etc. into the same class as military officers or other directive authorities and for much the same reason as with requests. The obligation to take their advice or heed their warnings, where it exists, is not a product of the speaker's declared intention to bind us and so does not raise the spectre of command and obedience. The doctor may know that I am obliged to follow her advice and may even point this out but, unless we are both in the army, she cannot back up her advice with an order.

### **Transfer of Responsibility**

We are called upon to *obey* our superiors, to submit to their authority and not merely accede to their requests. This demand for obedience involves the imposition of an obligation by declaration. I've argued that there is a felt difference between commands on the one hand and binding requests or authoritative advice on the other but it may still be wondered why this difference should matter when the end result is much the same (Raz 2009b: 160)?

Actually the end result isn't quite the same for our superiors' assertion of authority over us, their claim to bind us, also involves an assertion of responsibility for what we do in obeying them. When I am ordered to confiscate a car by my commanding officer, they require me to confiscate the car on their authority.<sup>17</sup> Consequently, once I obey, I can refer anyone who queries the confiscation to my superior: it is no longer attributable to me. Where the confiscation is wrong or at any rate unwise, I can deflect criticism, be it blame or some

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<sup>17</sup> This is the converse of the idea (which Raz considers without endorsement (Raz 2009b: 162-5)) that a legitimate authority must act in the name of those under it.

milder comment, onto them. Should this car turn out to be superfluous to requirements, the harm caused by its confiscation is not my fault.

The point may be too readily conceded by someone who construes it as a mere consequence of the fact that one is *justified* in obeying a binding command. Isn't a person who makes it the case that you are justified in doing something (i.e. that this is the right thing for you to do) also responsible for your doing it? Indeed but they may come to *share* your responsibility for a certain act without *assuming* responsibility for your act. Sharing of responsibility is what happens where your act is justified as the fulfilment of a request. When Tom asks James for help, he often furnishes James with a reason sufficient to justify helping and thus for absenting himself from his family for the day. Should James's family decide that Tom's request is not entirely reasonable, they may blame both Tom and James for what then transpires. Whatever the merits of the case here, James can't transfer to Tom the responsibility for how he responds to Tom's request: he must answer for what he does.

Now suppose that Tom's request binds James as a point of loyalty. This might be so even if Tom's request were slightly unreasonable (he could have got the help he needs from a neighbour who is without family responsibilities) for one is sometimes obliged to defer to one's friends' judgement on such matters. James still can't respond to the complaints of his relatives by passing the buck to Tom. Tom's request may have placed James in a dilemma – obligations sometimes conflict; still, it is up to James to decide which he is to fulfil. James can indeed blame Tom for putting him into this bind but it is a bind nonetheless. Perhaps James's family, grasping his dilemma, will excuse him for deserting them. Nevertheless, James should feel compunction and seek their forgiveness.<sup>18</sup>

The soldier ordered to confiscate a car is in a different position. Suppose the officer first *asks* the soldier but, reluctant to arouse the resentment of the owner, the soldier hesitates to comply. The soldier may feel caught between the claims of the public served by the army and the property rights of the car owner. When an officer instructs the soldier to confiscate the car, the command will likely come as a relief, getting the soldier out of a bind by taking

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<sup>18</sup> For discussion of how different relationships generate conflicts of obligation, see (Owens 2022: 103-4).

the matter out of their hands. Even if the confiscation is unwise or unnecessary, it is no longer appropriate for the soldier to feel personal guilt or to seek the forgiveness of affected parties for what they must do, though they may well regret having to do it. The aggrieved should now direct their complaints to the officer and not to the subordinate. So long as the subordinate is acting within the jurisdiction of the superior and using the powers assigned to them, they are acting on their authority.<sup>19</sup> Here responsibility for the problematic act is not merely shared but transferred.<sup>20</sup>

Some important qualifications. First, the subordinate remains answerable for accepting the authority of the commander, that is for identifying them correctly, listening carefully to their orders, confirming that they are not exceeding their remit nor making an unconscionable demand. Transfer of responsibility for obeying the order occurs only when we are dealing with a binding order. Wrongheaded orders are frequently valid though there are limits to how wrongheaded they can be: 'just obeying orders' does not excuse an atrocity. Discovering those limits would involve delving into the justification of authority, a matter beyond my present remit but I shall assume that some orders bind even though there is an obligation to do something else (e.g. leave the car alone). And once it is settled that such an order binds, the authority is accountable for your wrongdoing.<sup>21</sup>

Secondly, though our soldier can pass the buck for obeying the order, they are still answerable for matters not covered by the order e.g. the manner in which they execute the confiscation. Once a task has been delegated to me, I am responsible for the grace and efficiency with which I execute it. For example, should the officer leave it up to me to decide which car I confiscate, those who suffer from my inept choice get to complain to me about

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<sup>19</sup> If the soldier must break some promise in order to obey a binding order, the recipient of the promise can't blame them simply for complying, though they might be blamed for making the promise in the first place when they knew they weren't a free agent.

<sup>20</sup> On the other hand, responsibility is shared but not transferred if the officer asks without ordering the soldier to confiscate the car. Here it is left up to them what they do though the officer may still be blamed for influencing them.

<sup>21</sup> Can't one be justified in disobeying a binding order where it seems clear that the balance of reasons recommends disobedience? And isn't one responsible for declining to do so? As Raz notes, the function of an authority is to take such decisions out of your hands. It is one thing to allow yourself to judge the validity of a command, it is quite another to permit yourself to judge whether breach of a clearly valid command would be justified, at least in an 'ordinary case' (like confiscation) where one is not being asked to commit 'an atrocity' (Raz 1999: 38; see also 41-3). Such issues are a matter for the authority and the buck stops with them.

it. If they speak to my officer, the focus must shift to another topic e.g. why the officer left that decision to me. Here one might say that responsibility for my behaviour has been 'only partially transferred' but the following would be more accurate: my officer is fully responsible for there being a confiscation and I am fully responsible for its implementation.

Thirdly, suppose our soldier acting on their own initiative mishandles some dangerous explosives. Couldn't the military be responsible for their behaviour even though no one has ordered them to behave in this way? There are two cases to consider. First the misbehavior might have involved disobeying some military regulation. Second it might be a point on which the military have failed to issue regulations when they ought to have done so. In both cases, the army are responsible just in so far as they could have prevented the soldier from misbehaving in this way. Perhaps they could have issued a regulation, perhaps they could have attached penalties to breach of the regulations already in place to ensure compliance. The soldier retains responsible for what they do when their superiors neglect to control them, though that responsibility is also shared with the authority. It is transferred only when the soldier is ordered to mishandle the explosives and complies. Transfer of responsibility requires obedience to an actual command/regulation.<sup>22</sup>

I've criticized the idea that the transfer of responsibility involved in issuing an order works by furnishing the subordinate with a justification for compliance. Let's briefly consider the alternative suggestion that the order transfers responsibility by providing the subordinate with an excuse for compliance. An excuse shields you from blame without establishing that what you did was justified. Paradigmatic excuses include ignorance, exhaustion and various forms of external pressure. Consider our bank robber once more. Most tellers would feel justified in simply handing over the money but suppose that the gunman instead required them to seriously injure one of their colleagues. Though compliance would arguably no longer be justified, the gun might still provide the teller with an excuse for inflicting the

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<sup>22</sup> Is an officer personally responsible for an action they have ordered? Mightn't the buck stop with institution as a whole? The army will certainly hold the officer responsible (unless they were acting under orders) and it would be reasonable for both the subordinate and the victim to do the same. The case is even clearer with parental orders or the instructions issued by a landowner.

injury. When this is so, don't we speak of the bank clerk *obeying* the robber once they give into these threats?

The aptness the word 'obey' does indeed signal a transfer of responsibility for, in so far as their compliance is excused by the threat, the teller no longer need answer for what they do. Still the mechanism behind the transfer effected by the robber's is different from that effected by a valid command.<sup>23</sup> A conscientious subordinate obeys because they feel obliged to do so and not because they are terrified into compliance. True a command (whether valid or not) *can* be a form of psychological pressure and someone might obey because they feel overawed – *a fortiori* when the command is accompanied by threats of enforcement – but commands often succeed in extracting obedience when issued by an authority that is neither awesome nor threatening but simply legitimate.

I've claimed that an exercise of directive authority involves a transfer of what is often called 'moral responsibility' for an act from one party to another.<sup>24</sup> I've also argued that this transfer is achieved not by the superior's providing their subordinate with an excuse or a justification for compliance but rather by a declaration which communicates the superior's assumption of responsibility for their subordinate's act. Some may doubt the coherence of this proposal. Various forms of liability surely can be transferred but isn't blameworthiness a function of the knowledge and motivations of the agent or the consequences of their action, facts which are immutable by fiat? No mere declaration, it will be said, either from the agent or from another can make it the case that someone else is answerable for what they have done (Gardner 2019: 204-5).

I agree that any competent agent must answer for what they have done but a perfectly adequate answer may be to defer responsibility by pointing out that someone else is answerable for what you have done, that this other person must justify your action and this response may be acceptable because the locus of responsibility has been shifted by

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<sup>23</sup> One difference is that whilst excuses can be stronger or weaker, the transfer of responsibility for obedience is all or nothing. To think otherwise is to conflate the action of obeying a command with other issues for which responsibility is not transferred.

<sup>24</sup> Note 'moral responsibility' is not confined acts that are morally significant. It extends to morally indifferent acts and others that would have been blameworthy had they been wrong.

declaration. Raz rightly assumes that *content* of our obligations or responsibilities – the list of actions that would merit blame – can be altered by command. Given this, it should come as no great surprise that the locus of responsibility for their discharge can also be altered by command (Reinach 1983: 86).<sup>25</sup>

Not all exercises of deontic power transfer responsibility for compliance with the obligations they create. Suppose I promise to meet you at a certain place and time. There is a sense in which this puts you in authority over me for, once the promise is made, you can either require me to perform or release me (i.e. relieve me of this obligation by declaration).<sup>26</sup> Until I am released, the decision about whether I should keep the promise in the face of countervailing considerations (it is raining etc.) is, as Raz might say, ‘removed’ from me to you. The bindingness of the promise gives me reason to exclude such considerations from my deliberations, leaving it to you to assess their significance (Raz 1977: 219-28). Nevertheless, this is not a case of directive authority. When I fulfil this perhaps misguided promise by going to the relevant place, the buck stops with me. In going there to keep my promise I am not obeying you, nor do you assume responsibility for my performance. Objections to my behaviour are still addressed to me.<sup>27</sup>

Suppose instead that simply by promising to meet you in a certain place, I *could* make it the case that you were responsible for my being in that place. That would provide me with a handy way of escaping blame. One can’t evade responsibility for one’s actions so easily. The transfer of responsibility can’t be initiated by the person relieved of it in this way: the promisor retains responsibility for the fulfilment of their promise. By contrast, neither my becoming obliged to obey a given command nor my ceasing to be responsible for obeying it occurs at my own initiative.

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<sup>25</sup> Unlike Reinach, I maintain that deontic powers are conventional. (Owens 2024) makes a case for the idea that responsibility as such is partly conventional.

<sup>26</sup> This is why, in earlier work, I sought to ground promissory obligation in what I called an ‘authority interest’ e.g. (Owens 2012: Section 28). Here I was using ‘authority’ in a broader sense that involves deontic control but not demands for obedience.

<sup>27</sup> Thus it is misleading for Raz to compare subjecting yourself to an authority with binding yourself to another with a promise (Raz 2009b: 140). As Weber noted, though the employee can claim a salary from their employer on the basis of their contract of employment, relations of authority flow in the opposite direction (Weber 2019: 339).

This last observation highlights the special significance of the employment relation. It is sometimes said that the difference between an independent contractor and an employee lies in the amount of discretion they are given over how to discharge their respective obligations (Coase 1988: 53-4), yet I may have agreed the fine detail of the route in advance with the cab driver whilst giving my chauffeur broad discretion over how to get home. The real point is rather that once the journey has begun, I can't give the cab driver additional instructions about how to do their job whilst I am able to issue supplementary (or countermanding) directives to my chauffeur. Some of us remain self-employed precisely so as to remain 'our own boss' and escape the direction of others. My chauffeur is obliged to obey me and when they do so, I assume responsibility for what they do. When the cab driver agrees to take me home, they act to fulfil that promise and can't pass the buck to me for making the trip.<sup>28</sup>

## Liberty

In treating command as *the* expression of a claim to authority and in maintaining that obedience involves a transfer of responsibility, I subscribe to a tradition of thought reaching back at least to Hobbes:

When the actor doth anything against the law of nature by command of the author, if he be obliged by former covenant to obey him, not he, but the author breaketh the law of nature; for though the action be against the law of nature, yet it is not his (Hobbes 1994: 102).

Hobbes further maintained that where we have binding commands, their author has the power to enforce their edicts, to exact obedience by means of coercive threats or brute force. Each of these three aspects of authority – command, coercion and transfer of responsibility – has been found objectionable. In this final section I want to show how our

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<sup>28</sup> We can't explain this by reference to the voluntariness of a promise since employment is also voluntary. Someone can blame X for becoming my chauffeur but that does not render X responsible for taking me home by the prescribed route once they are my chauffeur.

three aspects might fit together. I'll suggest that transfer of responsibility is fundamental, tying the other two into the nexus and what any solution to the problem of directive authority must do is, first and foremost, to vindicate such transfers.

We have already connected the fact that commands impose obligations by declaration with the fact that they transfer responsibility for compliance to the commander. In the last section, I maintained that whenever you impose obligations by declaration, you must also assume responsibility for their fulfilment. That is why a device (like a promise) designed to enable X to make it the case by declaration that they are obliged to do A can't transfer responsibility for X's doing A to someone else. And that is why a device (like a command) designed to enable Y to make it the case by declaration that X is obliged to do A must render Y responsible for X's doing A if they obey.

The other branch of the nexus – the connection between transfer of responsibility and the right to enforce one's edicts – is more tricky. This is only to be expected since, as Raz observes, the authority to command and the right to coerce are detachable. I have no authority to instruct my neighbours to stop filling my garden with smoke from their bonfire, nevertheless I may well have the right to force them to stop by lighting (or threatening to light) bonfires in retaliation (Raz 1986: 24). Conversely, whilst a parent may be entitled to tell their child to stay home, it is a further question whether they are entitled to use threats or brute force to detain them: sometimes they are, sometimes they aren't.

Their detachability notwithstanding, there is clearly an intimate connection between command and coercion: parents, property owners, employers, army officers and state authorities have not only the power of command but also the means of enforcement, means which they often have the right to employ. Here is one formulation of that link:

***Enforcement:*** authorities frequently have the right to exact obedience by coercion because they have the right to exact obedience by command.

*Enforcement* is fully consistent with someone having the one right without the other, either because they have the right to use force for a different reason or because the costs of



enforcing the instructions would clearly outweigh the benefits. But why is *Enforcement* true?

One strategy is to find some positive value which the power of command usually possesses only where it is backed up with the power to coerce and then argue that in so far as the bindingness of command rests on that value, it must come with the means of enforcement. This is the line that both Hobbes and Raz take in so far as they ground authority in the value of social co-ordination.<sup>29</sup> I shall take a different tack focusing on a disvalue shared by command and coercion, namely their character as demands for obedience and so deprivations of liberty. My proposal is that if we are justified in compromising someone's liberty in the one way, that will remove an important objection to compromising their liberty in the other. This proposal has the advantage of not tying the truth of *Enforcement* to any specific way of justifying authority, yet it also raises a question: being obliged to act under orders and being compelled to do something by force (or the threat of it) are very different; why should they both undermine our liberty?

Enforcement entails coercion and coercion comes in at least two forms. First *force* as when the state seizes a citizen's assets to pay a tax or carries the citizen off to jail. Second *sanction* as when the state issues a threat to use force if the citizen fails to comply. For many liberals, an authority's ability to impose obligations by declaration is objectionable *only* in so far as the authority claims the right to back up its demands for obedience with either force or sanction. Like Raz, I regard this as a mistake. Nevertheless, the focus on coercion is understandable. First, coercion is a distinctively problematic way of persuading someone to do something. Second, it is problematic because, like a binding command, it compromises our liberty.

Raz offers to explain these two facts about coercion by conceiving of liberty as what he calls autonomy. A choice is autonomous when the agent has both an adequate range of valuable options and the ability to choose between them (Raz 1986: 369-78). Adequacy is a function of the value of the options and of their variety; ability to choose is a function of the quality

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<sup>29</sup> (Hobbes 1994: Chapter 18), (Raz 1986: 75-6) and (Raz 2009b: 158-9).

of the information available and of the agent's capacity to use it in deliberation. I agree that autonomy so understood is an important human good but why should either coercion or command pose any special threat to it?

As to coercion, Raz himself acknowledges that though force may eliminate options and threats may reduce the value of options by attaching a penalty to taking them, it need not ensure that the remaining options are inadequate (Raz 1986: 377-8). (Imagine being told not to brush your teeth more than twice a day: an objectionable instruction though not especially constraining). Furthermore, where coercion is needed to ensure the payment of taxes to fund public goods or to deter self-harming behaviour, the overall effect may be to increase the range of worthwhile options and thereby promote autonomous living. Raz says that coercion 'has acquired a symbolic meaning expressing disregard or even contempt for the coerced' (op cit. 378) but it is hard to see why, on his account, that should be so if state coercion in support of autonomy involves no disrespect.<sup>30</sup> It is also a mystery why being subject to someone's commands should be thought inimical to autonomy. Even if binding commands eliminate or de-value options, the points just made about coercion apply. To grasp the problematic character of both command and coercion, we need another conception of liberty.

I propose that to act freely is to be answerable for what you have done, to be responsible for it. Command and coercion both undermine our liberty so understood by depriving us of responsibility for obedience.<sup>31</sup> Duress excuses, partially or fully absolving one from blame. As noted earlier, a bank clerk who seriously injures a colleague may be excused for so doing when subject to the gunman's threats: responsibility for the injury is transferred from the clerk to the gunman though by a mechanism different from that of command. And, in losing their standing as a responsible agent, the clerk's liberty is undermined.

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<sup>30</sup> For discussion of this point see (Raz 1986: 157, 419) and (Kolodny 2023: 73-4). Having laid it down that the autonomous person must be able to choose from an adequate range of options, Raz adds that 'his choice must be free from coercion and manipulation by others' (Raz 1986: 373) but Raz never really explains how this aspect of autonomy is connected to the others.

<sup>31</sup> About command Hobbes agrees saying that our liberty depends on the 'silence of the law' (Hobbes 1994: 143). On the other hand, Hobbes denies that sanction ever deprives you of responsibility claiming that actions done 'for fear of the law are actions which the doers had liberty to omit' (Hobbes 1994: 137).

It is important that the gunman's threats should constitute an excuse and not a justification for compliance. People constantly provide one another with reasons for action and often come to *share* responsibility for what other people do. Here the agent remains fully answerable for what they do, though the justification may be enough to deflect blame by providing them with an answer. Excuses deflect blame without demonstrating that what was done was in fact the right thing to do, rather they deprive the agent of responsibility, ensuring that they need not answer for what they have done. The perpetrator answers for them. The point is even more obvious when the coercion takes the form of not of threats but of brute force, by-passing the subject's will altogether.<sup>32</sup>

These claims are controversial. Many recent writers treat coercion (and other excuses) as justifying compliance, as when our gunman requires the clerk to hand over the bank's money.<sup>33</sup> In my view this makes it hard to explain why the gunman wrongs the clerk in threatening them but I can't argue that case now. What is clear is that, by conceiving of coercion as a form of excuse which transfers responsibility to the coercer, we can offer to explain the truth of *Enforcement*. Though excuse deprives the object of responsibility, if you are already entitled to do so by means of a binding command the transfer is no longer objectionable at least for that reason. Your possession of a right to exact obedience by command helps to explain why you are entitled to exact obedience by coercion.

A right of command enables the authority to create by declaration circumstances in which it may also be justified in using force. Indeed, we might think of a command as a conventional device for generating the responsibility-depriving effect of a coercive threat by fiat and so as a more sophisticated and less costly instrument of social control. Still the entitlement to command and to coerce do not stand or fall together. There are further objections to being forced to do things beyond the fact that it compromises our liberty. For example, force is often physically damaging to person or property and threats may terrify as commands do

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<sup>32</sup> I'd say that force provides an exemption rather than an excuse, though both transfer responsibility (Owens 2024).

<sup>33</sup> For example, (Scanlon 1998: 279-80 and 291-2). Raz says that coercion can provide either a justification or an excuse for compliance (Raz 1986: 150).

not. On these grounds a pacifist might object to coercion but not to command. In responding to this pacifist we must find some positive value in coercion, perhaps invoking the Hobbesian story about the need for social coordination.

Finally let's return to an issue flagged earlier. One is deprived of responsibility for complying with a command or giving in to a threat only if one actually obeys the order in question i.e. does what the command requires because it requires it. Thus it looks as if, contrary to what has been implied so far, an authority does nothing to undermine anyone's liberty merely by issuing a command or a threat. True commands or threats are usually issued where the authority suspects that at least some recipients will not otherwise comply but it does not follow that the authority must be trying to exact obedience from anyone in particular. The criminal law provides a familiar illustration of this point. We all have reason to avoid committing murder and most people would refrain regardless whether murder was illegal. Furthermore, the authorities have no wish to be dealing with bad men who require the law to stop them from killing each other.

One might conclude from this that most people's liberty is unaffected by such laws since they do not require our obedience but merely tell us to do what are inclined to do anyway. That would be an exaggeration. The law against murder does (at least purport to) change the situation even of decent people by imposing on us a further obligation not to murder, an obligation which it claims the right to enforce.<sup>34</sup> Thus, the law is prepared to compel our obedience if necessary – by command and by coercion – and that imposes a limitation on our liberty, a readiness to deprive us of responsibility for compliance, one the case for which is often much harder to make than in the instance of murder.

## **Conclusion**

Mill maintains that we are putting hierarchies of command behind us: 'Already in modern life, and more and more as it progressively improves, command and obedience become

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<sup>34</sup> In Raz's view, the law merely (though also necessarily) *purports* to do so since in his view there is no obligation to obey the law as such (2009a: Chapter 12).

exceptional facts in life, equal association its general rule' (Mill 1991: 449). Yet due to dense social integration, the growth of knowledge and the division of labour, Razian surrender of decision and judgement is ever more prevalent. Mill's progressivism rings true of liberal modernity only in so far as command and obedience pose a further problem. I have tried to say what that problem is.

Many questions remain open. First, I've passed no comment on whether we can ultimately dispense with the power of command, or else ground any ineliminable reliance on it in 'equal association' or else on the forms of promise or consent favoured by contractarians.<sup>35</sup> Second, I've not asked how bad it is to be subject to will of another in this way and how we should go about weighing this evil against the value of directive authority as a method of securing compensating benefits, both individual and social. Third, I've not considered authoritarians who hold that, at least under certain conditions, being subject to a directive authority is an intrinsically good thing. Raz himself floats the idea that where you trust in or else identify with an authority, that attitude might ground the obligation to obey them, perhaps by making it good for you to be subject to their will.<sup>36</sup> Finally I have not addressed the views of those who complain that 'in political thought and analysis we still have not cut off the head the of the king' (Foucault 1981: 88-9), who regard other methods of social control as far more pervasive and worthy of our attention. What I have argued is that in so far as the simple fact of being subject to the authoritative commands of another is objectionable that is because one should regret the loss of liberty implicit in their assumption of responsibility.<sup>37</sup>

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<sup>35</sup> One might develop Hobbes's suggestion that provided the Sovereign acts in our name, we can't object to the Sovereign's demand for obedience (Hobbes 1994: 112-3).

<sup>36</sup> (Raz 2009a: Chapter 13) and (Raz 2009b: 162-5). Raz compares respect for the law to a non-instrumental good, namely friendship.

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